

MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

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TO: MIKE EDWARDS, Public Works Director  
FROM: MARGIE WILLIAMS, Clerk of the Board *mw*  
SUBJECT: Authority to Award and Execute Agreements; Issue Contract Change Orders and Issue Notice of Completion; Res. 98-130

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THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,

ADOPTED THIS Order on April 14, 1998

ACTION AND VOTE:

Mike Edwards, Public Works Director;

A) Resolution Rescinding Resolution Nos. 91-390 and 92-554 and Grant the Public Works Director Authority to Award and Execute Contracts of \$75,000 or Less; Issue Contract Change Orders and Issue Notice of Completion for Public Construction Projects and Professional/Technical Services (Continued from Policy on 4/7/98)

**BOARD ACTION:** Discussion was held concerning the request. Supervisor Parker requested that the Board be kept informed relative to the status of projects. (M)Parker, (S)Balmain, Res. 98-130 adopted approving request with change to grant authority to the Public Works Director to award and execute contracts of \$25,000 or less, and with inclusion of direction for the Public Works Director to present informational items on the projects to keep the Board informed of their status/Ayes: Reilly, Balmain, Stewart, Parker; Excused: Pickard.

cc: Jeff Green, County Counsel  
Ken Hawkins, Auditor  
Board of Supervisor Policy Book  
File

DEPARTMENT: Public Works

By: Michael Edwards

Phone: 966-5356

**RECOMMENDED ACTION AND JUSTIFICATION:**

(Policy Item: Yes  No )

Resolution rescinding Resolution No. 91-310 (Attachment #1) and Resolution No. 92-554 (Attachment #2) and grant the Public Works Director the following authority:

1. Award and execute contracts on behalf of the County for construction projects and professional/technical contracts if the amount is \$75,000 or less; is budgeted within a County budget unit assigned to the Public Works Department (such as the Capital Improvement Program, Roads, Solid Waste, Facilities Maintenance, Special Districts, etc.); has been developed in accordance with County policy regarding procurement (such as bidding and solicitation procedures); the contract has been reviewed and approved as to legal form and sufficiency by County Counsel and with the written concurrence of the County Administrative Officer.
2. Issue contract change orders provided that:
  - a. Adequate funds are available within the affected budget unit line item.
  - b. On contracts for construction of more than \$75,000, the cumulative change orders do not exceed more than 10% of the cost of the original contract or the amount of any construction contingency established by the Board of Supervisors, whichever is less.
  - c. On construction contracts of \$75,000, or less, the cumulative change orders do not cause the project budget to be exceeded when all costs are taken into account.
3. Issue a "Notice of Completion" on public construction projects as agent for the County.

Refer to the justification as shown on Attachment #1 which is still applicable. This actions clarifies the existing policy and makes it consistent with County Code Section 3.12.090 "Public Projects Bidding" (Attachment #3) which already authorized the Public Works Director to award public construction contracts of \$75,000 or less (as allowed in Public Contract Code Section 22032-Attachment #4).

With regard to contract change orders, many small projects cannot be completed within the current 10% limitation. Often, these projects are well under budget but the nature of the work requires larger change orders to be issued to meet field conditions not known when the project was bid. An example was the recent Woodland Park Well (PW 97-10) where the project required change orders to increase the contract by about 30% with the project still about 25% under budget afterwards. In such cases, Board concurrence would delay completion of the project and add re-mobilization costs.

**BACKGROUND AND HISTORY OF BOARD ACTIONS:**

On August 20, 1991 the Board approved Resolution No. 91-390 which authorized a greater authority than the current recommended action, but with a smaller contract maximum of \$10,000.

On October 22, 1992 the Board approved Resolution No. 92-554 which rescinded all contract authority for the Public Works Director due to conflicts with County Code regarding purchases and leases. The current recommended action does not change authority for purchases and leases and implements existing authority with County Code.

On July 16, 1996 the Board approved Resolution No. 96-319 (Attachment #5) which authorized department heads to execute contracts which contain substantially the same terms and conditions as the prior year. The current recommended action does not conflict with that policy.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

1. No action. Existing authority contained in County Code could not be implemented. Delays to projects would continue due to the need to bring routine contractual issues back to the Board for approval. Project costs will also increase.
2. Modify the recommended authority as the Board feels is appropriate.

<p>COSTS: ( x ) Not Applicable</p> <p>A. Budgeted current FY&gt; \$ _____</p> <p>B. Total anticipated Costs&gt; \$ _____</p> <p>C. Required additional funding&gt; \$ _____</p> <p>D. Internal transfers&gt; \$ _____</p> <p>COSTS: ( ) 4/5th Vote Required</p> <p>A. Unanticipated revenues&gt; \$ _____</p> <p>B. Reserve for contingencies&gt; \$ _____</p> <p>C. Source description: &gt; _____</p> <p>Balance in Reserve Contingencies, If Approved: \$ _____</p>	<p>SPECIAL INSTRUCTIONS:</p> <p>List the attachments and number the pages consecutively:</p> <p>1. Resolution No. 91-390 _____</p> <p>2. Resolution No. 92-554 _____</p> <p>3. County Code Section 3.12.090: "Administrative Authority for Public Project Bidding" _____</p> <p>4. Public Contract Code Section 22032: "Award of Contract" _____</p> <p>5. Resolution No. 96-319 _____</p> <p>_____</p> <p>_____</p>
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**CLERK'S USE ONLY**

Res. No.: 98-130 Ord. No.: \_\_\_\_\_

Vote - Ayes: \_\_\_\_\_ Nocs: \_\_\_\_\_

Absent: \_\_\_\_\_ Abstained: \_\_\_\_\_

Approved  Denied

Minute Order Attached  No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office

Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_

MARGIE WILLIAMS, Clerk of the Board

By: \_\_\_\_\_

Deputy

**ADMINISTRATIVE OFFICER'S RECOMMENDATION:**

This item on agenda as:

\_\_\_\_\_ Recommended

\_\_\_\_\_ Not Recommended

For Policy Determination

\_\_\_\_\_ Submitted With Comment

\_\_\_\_\_ Returned for Further Action

Comment: \_\_\_\_\_

\_\_\_\_\_

C.A.O. Initials: Jr

DEPARTMENT: Public Works BY: D. Randall, Administrator PHONE: 966-5356

RECOMMENDED ACTION AND JUSTIFICATION: (Policy Item: Yes X No    )

We recommend that the Board of Supervisors allocate the following authority to the Director of Public Works.

1. Authority to authorize change orders provided:
  - a. There are adequate funds in the budget for the project.
  - b. On contracts in excess of \$10,000, the change order is not more than 10% of the contract amount.
  - c. All change orders will be reported as part of the Directors Monthly Report to the Board.
2. Authority to issue a "Notice of Completion" as agent for the County.
3. Authority to sign and execute contracts on behalf of the County for services, rentals, leases, etc., provided the contracts are approved as to form by County Counsel; the amount does not exceed \$10,000 and is allocated in the department's budget.

JUSTIFICATION: Most contracts for construction will have some type of change required. In the past, we have had to ask repeatedly for authorization on each project to issue change orders and approve a notice of completion at the end. We could eliminate the staff time necessary to prepare the Board items and the delays to the projects.

The diversity of projects conducted by Public Works requires us to contract for specialized services for numerous small tasks. However, each of the contracts necessary to utilize specialized service currently require that we have the Board approve the contract. We feel that when the Board has given us the direction to perform a task or project, that they would desire that we pursue it in the most time efficient manner and not waste their time with the formality of the Board reviewing minor contracts. This would also eliminate the staff time necessary to prepare the Board items and the delays to the projects.

**BACKGROUND AND HISTORY OF BOARD ACTIONS:**

N/A

**LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

Take no action and continue with the existing procedures.

<p><b>COSTS:</b> ( ) Not Applicable</p> <p>A. Budgeted current FY \$ _____</p> <p>B. Total anticipated costs \$ _____</p> <p>C. Required Add'l funding \$ _____</p> <p>D. Source: _____</p>	<p><b>SPECIAL INSTRUCTIONS:</b></p> <p>List the attachments and number the pages consecutively:</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>
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**SOURCE:** ( ) 4/5ths Vote Required

A. Internal transfers \$ \_\_\_\_\_

B. Unanticipated revenues \$ \_\_\_\_\_

C. Reserve for contingency \$ \_\_\_\_\_

D. Description: \_\_\_\_\_

Balance in Reserve for Contingencies, if approved: \$ \_\_\_\_\_

ATTACH #1

DEPARTMENT: Administration

BY: McCamman

PHONE: 966-3222

RECOMMENDED ACTION AND JUSTIFICATION: (Policy Item: Yes \_\_\_ No X)

Resolution rescinding that portion of Resolution 91-390 relating to delegation of authority to Public Works Director to execute contracts und \$10,000.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Board of Supervisors authorized delegation of change orders and notice of completion to the Public Works Director. In addition, the Board was asked for and approved delegation of contract execution from the Board to the Public Works Director in certain circumstances.

"Authority to sign and execute contracts on behalf of the county for services, rentals, leases, etc., provided the contracts are approved as to form by County Counsel; the amount does not exceed \$10,000 and is allocated in the department's budget."

~~\$10,000~~  
\$5000

This action asks the Board to rescind that delegation as an inappropriate delegation of the budgetary authority, and due to its conflict with the County Code as it relates to purchases and leases.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

If not approved, this delegation will remain in conflict with the County Code.

COSTS:	(X) Not Applicable	
A.	Budgeted current FY	\$ _____
B.	Total anticipated costs	\$ _____
C.	Required additional funding	\$ _____
D.	Internal transfers	\$ _____
SOURCE:	( ) 4/5ths Vote Required	
A.	Unanticipated revenues	\$ _____
B.	Reserve for contingencies	\$ _____
C.	Source description:	_____
Balance in Reserve for Contingencies, if approved: \$		_____

SPECIAL INSTRUCTIONS: List the attachments and the pages consecutively

R E C E I V E D	OCT 23 1992
MARIPOSA COUNTY DEPARTMENT OF PUBLIC WORKS	

CLERK'S USE ONLY:

Res. No.: 92-554	Ord. No. _____
Vote - Ayes: _____	Noes: _____
Approved: _____	Abstained: _____
( ) Minute Order Attached	( ) Denied
	( ) No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office.

Date: \_\_\_\_\_  
ATTEST: MARGIE WILLIAMS, Clerk of the Board  
County of Mariposa, State of California  
By: \_\_\_\_\_  
Deputy

ADMINISTRATIVE OFFICER'S RECOMMENDATION:  
This item on agenda as:

- Recommended
- Not Recommended
- For Policy Determination
- Submitted with Comment
- Returned for Further Action

Comment: \_\_\_\_\_

A.O. Initials: AM

ATTACH #2

to the construction trade journals specified by the California Uniform Construction Cost Accounting Commission.

- (2) If the product or service is proprietary in nature such that it can be obtained only from a certain contractor or contractors, the notice inviting informal bids may be sent exclusively to such contractor or contractors. (Ord.886 Sec.I, 1995)

**3.12.090 Administrative authority.**

The public works director, with the written concurrence of the county administrative officer, is hereby authorized to award contracts pursuant to the informal procedures established in this Article, subject to the requirement that the current adopted County budget provides for the work. (Ord.886 Sec.I, 1995)

**3.12.100 Limitations.**

Nothing in this Article shall prohibit, or be construed to prohibit, the Mariposa County board of supervisors, the public works director, the Mariposa County roads commissioner, or any other County department head from utilizing the alternative procedures set forth in (1) Article 25 (commencing with section 20390) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code, or (2) in Article 7 (commencing with section 25500) of Chapter 5 of Part 2 of Division 2 of Title 3 of the Government Code. (Ord.886 Sec.I, 1995)

ATTACH #3

set forth in this article, the procedures set forth in Article 25 (commencing with Section 20390) of Chapter 1.

Added Stats 1983 ch 1054 § 1 as § 21201. Renumbered by Stats 1986 ch 248 § 188 (ch 1019 prevails), ch 1019 § 52.

**Cross References:**

Boards of Supervisors — County Highways: Pub Con C §§ 20390 et seq.  
 Applicability to certain public agencies: Pub Con C § 22030.  
 Informal bidding ordinances: Pub Con C § 22034.

**Collateral References:**

Cal Digest of Official Reports 3d Series, Public Works and Contracts § 2 et seq.

**§ 22032. Award of contract**

(a) Public projects of twenty-five thousand dollars (\$25,000) or less may be performed by the employees of a public agency by force account, by negotiated contract, or by purchase order.

(b) Public projects of seventy-five thousand dollars (\$75,000) or less may be let to contract by informal procedures as set forth in this article.

(c) Public projects of more than seventy-five thousand dollars (\$75,000) shall, except as otherwise provided in this article, be let to contract by formal bidding procedure.

Added Stats 1983 ch 1054 § 1 as § 21202. Amended Stats 1984 ch 758 § 3. Renumbered by Stats 1986 ch 248 § 189 (ch 1019 prevails), ch 1019 § 53. Amended Stats 1989 ch 241 § 2.

**Amendments:**

**1984 Amendment:** (1) Substituted “, by negotiated contract, or by purchase order” for “or by negotiated contract” in subd (a); (2) amended subd (b) by substituting (a) “fifty thousand dollars (\$50,000)” for “twenty-five thousand dollars (\$25,000)”; and (b) “informal” for “purchase order”; (3) deleted former subd (c) which read: “(c) Public projects of more than twenty-five thousand dollars (\$25,000) but less than one hundred thousand dollars (\$100,000), may be let to contract by informal bidding procedures.”; (4) redesignated former subd (d) to be subd (c); and (5) substituted “more than fifty thousand dollars (\$50,000)” for “one hundred thousand dollars (\$100,000) or more” in subd (c).

**1989 Amendment:** Substituted (1) “twenty-five thousand dollars (\$25,000)” for “fifteen thousand dollars (\$15,000)” in subd (a); and (2) “seventy-five thousand dollars (\$75,000)” for “fifty thousand dollars (\$50,000)” in subs (b) and (c).

**Cross References:**

Prohibition against splitting or separating projects: Pub Con C § 22033.

Informal bidding ordinances: Pub Con C § 22034.

States of emergency: Pub Con C § 22035.

Publication of notice inviting formal bids: Pub Con C § 22037.

Adoption of plans, specifications, and details for certain projects: Pub Con C § 22039.

Public buildings for juvenile camps, homes, or ranches: Pub Con C § 22041.

**Collateral References:**

Within Summary (9th ed) Contracts § 79.

Cal Jur 3d Public Works and Contracts §§ 16 et seq.

Cal Digest of Official Reports 3d Series, Public Works and Contracts § 3.

**§ 22033. Prohibition against splitting or separating projects**

It shall be unlawful to split or separate into smaller work orders or

MARIPOSA COUNTY  
BOARD OF SUPERVISORS

AGENDA  
ACTION FORM

DATE: 7/16/96  
AGENDA ITEM NO.: 1/

DEPARTMENT: Administration

BY: Mike Coffield

PHONE: 966-3222

RECOMMENDED ACTION AND JUSTIFICATION:

(Policy Item: Yes \_\_\_ No X)

Approve the 1995-96 Budget as the 1996-97 Proposed Budget in accordance with Government Code Section 29064, and authorize Department Heads to execute contracts which contain substantially the same terms and conditions as the prior year, subsequent to the review and approval of County Counsel and the County Administrative Officer.

**BACKGROUND AND HISTORY OF BOARD ACTIONS:** On May 21, 1996, the Board approved the 1996-97 Budget Outlook Report, which authorized the issuance of budget instructions, suggested budget guidelines and a calendar for deliberations to take place during the second and third week of September. The department's budget requests have now been received; in round numbers they seek increases which exceed available revenues by more than \$1.5 million. Baseline requests are approximately at the level expected but one cautionary note is the early summer softness in tourism revenues. If this trend does not improve by budget deliberations, the revenue estimate in the Budget Outlook Report will have to be reduced, and very few program adjustments will be affordable.

Authorizing Department Heads to execute contracts will allow projects such as the Fair Parade, which will take place prior to deliberations, to proceed without further action by the Board. Also, while sufficient appropriations are available in the Advertising Fund, at the current rate of expenditure the Courthouse Guide's line item will be overspent by \$601 by the end of September. During deliberations, we will be proposing an increase in this line item of \$3,644 to fully fund it.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

If the Board fails to adopt a Proposed Budget, the County automatically operates on the prior year budget until adoption of the Final. If the Board does not authorize Department Heads to execute contracts which are substantially the same as the prior year, each will require prospective authorization by the Board.

<b>COSTS:</b> ( ) Not Applicable A. Budgeted Current FY \$ B. Total Anticipated Costs \$ C. Required Additional Funding \$ D. Internal Transfers \$ <b>SOURCE:</b> ( ) 4/5ths Vote Required \$ A. Unanticipated Revenues \$ B. Reserve for Contingencies \$ C. Source Description: _____ Balance in Reserve for Contingencies, if approved: _____		<b>SPECIAL INSTRUCTIONS:</b> List the attachments and number the pages consecutively: Resolution adopting 1996-97 Proposed Budget _____ _____ _____ _____ _____ _____
<b>CLERKS USE ONLY:</b> Res. No. <u>96-319</u> Ord. No. _____ Vote - Ayes: <u>5</u> Noes: _____ Absent: _____ Abstained: _____ Approved ( ) Denied ( ) Minute Order Attached ( ) No Action Necessary ( ) The foregoing instrument is a correct copy of the original on file in this office Date: _____ <b>ATTEST:</b> _____ MARGIE WILLIAMS, Clerk of the Board County of Mariposa, State of California BY: _____ Deputy		<b>ADMINISTRATIVE OFFICER'S RECOMMENDATION:</b> This item on agenda as: <input checked="" type="checkbox"/> Recommended <input type="checkbox"/> Not Recommended <input type="checkbox"/> For Policy Determination <input type="checkbox"/> Submitted with Comment <input type="checkbox"/> Returned for Further Action Comment: _____ _____ CAO's Initials: <u>MC</u>

ATTACH #5