

Merrin Gerety

From: Kiana Buss
Sent: Wednesday, November 10, 2010 2:13 PM
To: Kiana Buss
Cc: Merrin Gerety; Johannes Hoevertsz2
Subject: Survey Results: Interpretation Public Contract Code Section 20395

In September we conducted a survey regarding the interpretation of Public Contract Code, Section 20395 and change orders per the request of Madera County. Other counties were interested in the results. Please see the email below summarizing the survey results. I hope this information is useful to you. Thanks to Johannes for collecting and summarizing the feedback!

Kiana

From: Johannes Hoevertsz2 [mailto:jhoevertsz2@madera-county.com]
Sent: Monday, November 08, 2010 4:26 PM
To: Kiana Buss
Cc: Merrin Gerety
Subject: RE: Time Sensitive: Quick Survey: Interpretation Public Contract Code Section 20395

Kiana,

Here is a brief summary:

- 1.) From the information received Counties are not consistent on this issue. Some use section 20395 and some 20142, they are similar but 20395 is specific to Road Commissioner.
- 2.) Seven of the eleven Counties that responded treat the limits on the Public Contract Code as individual change orders, the rest as cumulative. Treating the limit individually expedites construction.
- 3.) Most go to the Board on large projects for special higher change order limits prior to construction and set up some kind of contingency fund. All agree that the Board has theoretically no limits on change orders as long as the budget allows it.
- 4.) County Counsel has a big impact on the decision whether to go cumulative or individual.
- 5.) The Board may reduce the 150k limit by resolution. (Madera County has 100k)

This really seems like a good subject to include in one of our committees. Please let me know if I you need anything else.

Thank you,

Johannes

From: Kiana Buss
Sent: Thursday, September 02, 2010 12:15 PM
To: Kiana Buss
Cc: jhoevertsz2@madera-county.com
Subject: Time Sensitive: Quick Survey: Interpretation Public Contract Code Section 20395

To: Public Works Directors
CEAC Transportation Committee

Re: Time Sensitive: Quick Survey: Interpretation Public Contract Code Section 20395

11/10/2010

Please see email below from Madera County Public Works Department regarding the interpretation of Public Contract Code, Section 20395 related to Change Orders. Specifically Madera County has the following two questions:

1) Is the \$150,000.00 cap per individual change order or cumulative?

2) How are other agencies interpreting the Code Section and paying more than \$150,000.00 on change orders on contracts?

Please review the issue/concern and respond directly to Johannes Hoevertsz at jhoevertsz2@madera-county.com.

Your prompt response would be most appreciated. Thanks in advance for your assistance.

Sincerely,
Kiana

From: Johannes Hoevertsz2 [mailto:jhoevertsz2@madera-county.com]

Sent: Thursday, September 02, 2010 10:39 AM

To: Kiana Buss

Subject: Public Contract Code

We are in need of an interpretation of the public Contract Code for payment of Change Orders. Typically we budget 10% of the contract items for contingencies on our construction projects. Based on the red font section of the Public Contract Code attached we are being limited to those two parameters when approving change orders. We believe that that the intent of that section is per individual change order rather than cumulative for the project. On large projects exceeding 1.5 million dollars it would not be prudent to go out to construction with less than the 10% contingency. We have contacted the State on this issue as well because the State routinely on very large projects issues change orders exceeding that amount. Our two questions are: 1) Is the \$150,000.00 cap per individual change order or cumulative? 2) How are other agencies interpreting the Code and paying more than \$150,000.00 on change orders on contracts?

20395. In any county that has appointed a **road commissioner** pursuant to Section 2006 of the Streets and Highways **Code**, or in any county that has abolished the office of **road commissioner** and complied with Section 2006.1 of the Streets and Highways **Code**, the board may authorize the **road commissioner**, or a registered civil engineer under the direction of the county director of transportation, to have any work upon county highways done under his or her supervision and direction. The work may be done in any of the following ways:

(a) By letting a **contract** covering both work and material. In that event, the **contract** shall be let to the lowest responsible bidder as provided in this article.

(b) By purchasing the material and letting a **contract** for the performance of the work. In that event, the material shall be bought at the lowest possible cost and the **contract** let to the lowest responsible bidder as provided in this article.

(c) By purchasing the material and having the work done by day labor, in which case advertising for bids is not required.

(d) (1) By authorizing the county **road commissioner** or a registered civil engineer under the direction of the county director of transportation to execute changes for any **contract** pursuant to this section in an amount not to exceed five thousand dollars (\$5,000) for contracts of fifty thousand dollars (\$50,000) or less, or 10 percent for contracts over fifty thousand dollars

(\$50,000) but not to exceed two hundred fifty thousand dollars (\$250,000). In no event shall any change exceed a net total addition of twenty-five thousand dollars (\$25,000).

(2) For contracts whose original cost exceeds two hundred fifty thousand dollars (\$250,000), the extra cost for any change or addition to the work so ordered shall not exceed twenty-five thousand dollars (\$25,000), plus 5 percent of the amount of the original contract costs in excess of two hundred fifty thousand dollars (\$250,000). In no event shall any change or alteration exceed one hundred fifty thousand dollars (\$150,000).

(e) By purchasing the material and letting a **contract** for the work or by letting a **contract** covering both work and material without advertising for bids when the estimated cost of emergency work necessitated by the imminence or occurrence of a landslide, flood, storm damage, or other emergency exceeds twenty-five thousand dollars (\$25,000) and the public interest and necessity demand immediate action to safeguard life, health, or property.

Johannes J. Hoevertsz, P.E.
Road Commissioner
Madera County Road Dept.
2037 W. Cleveland Ave., MS#D
Madera, CA 93637
559-675-7811 ext. 551
559-675-7631 FAX

Follow us on Twitter: twitter.com/maderaroads

Download our iPhone app: <http://www.govoutreach.com/>