



Legislation Details (With Text)

**File #:** ID17-873      **Version:** 1      **Name:**

**Type:** Action Item      **Status:** Passed

**File created:** 6/7/2017      **In control:** City Council

**On agenda:** 6/15/2017      **Final action:** 6/15/2017

**Title:** Actions pertaining to contract change orders and amendments for various City Contracts:  
 1. RESOLUTION - Establishing procedures for the approval of certain contract change orders, additional bid quantities, and extensions of time for performance; and rescinding Resolution 84-142, 89-470, 94-114, and Article VI of the Construction Management Act as adopted by Resolution 2015-82  
 2. RESOLUTION - Establishing procedures for the approval of certain amendments to product contracts

**Sponsors:** Public Works Department

**Indexes:**

**Code sections:**

**Attachments:** 1. 17-873 Resolution for Contract Change Orders.pdf, 2. 17-873 Resolution for Amendments to Product Contracts.pdf, 3. Supplement - Updated Title and Resolution.pdf

Date	Ver.	Action By	Action	Result
6/15/2017	1	City Council	approved	Pass

**REPORT TO THE CITY COUNCIL**

**June 15, 2017**

**FROM:** SCOTT L. MOZIER, PE, Director  
Public Works Department

**BY:** ANDREW BENELLI, PE, Assistant Director / City Engineer  
Public Works Department

RANDALL MORRISON, PE, Deputy City Engineer  
Public Works Department

**SUBJECT**

Actions pertaining to contract change orders and amendments for various City Contracts:

- RESOLUTION - Establishing procedures for the approval of certain contract change orders, additional bid quantities, and extensions of time for performance; and rescinding Resolution 84-142, 89-470, 94-114, and Article VI of the Construction Management Act as adopted by Resolution 2015-82
- RESOLUTION - Establishing procedures for the approval of certain amendments to product contracts

## **RECOMMENDATION**

In order to reconcile the previous four resolutions that establish contract change order procedures, staff recommends that the City Council adopt a resolution establishing procedures for the approval of certain contract change orders, additional bid quantities, and extensions of time for performance; and rescinding Resolution 84-142, 89-470, 94-114, and Article VI of the Construction Management Act as adopted by Resolution 2015-82.

Staff also recommends that the City Council adopt a resolution establishing procedures for the approval of certain amendments to product contracts, which differentiates the procedures for product contracts from public works of improvement contracts.

## **EXECUTIVE SUMMARY**

On May 21, 2015, the Council adopted the Construction Management Act by resolution, in order to provide more effective fiscal management of all City construction projects. Major projects such as the Recharge Fresno program, Fulton Street and Bus Rapid Transit are being successfully delivered by utilizing these principles. In order to even further solidify these practices and improve clarity, staff recommends that a thorough update and consolidation of the current change order guidelines set forth in the aging change order resolutions, and the more recent Construction Management Act would be beneficial. It is prudent to incorporate the additional change order threshold requirements set forth in Article VI of the 2015 Construction Management Act, while also updating the threshold requirements for the typical City contracts.

The contract change order resolution will update the approval thresholds on contract change order amounts and extensions of time for performance with both construction contracts and requirement contracts. Furthermore, the resolution will differentiate the requirements for construction projects below and above the \$10 million threshold, and incorporate the policy requirements consistent with the Construction Management Act.

The resolution for amendments to product contracts establishes the procedures for processing and approving product agreement amendments. These procedures are necessary for management and timely response to staffs needs for the products. The resolution also provides the relevant Department Director authority to approve minor amendments to maintain efficient and timely performance.

## **BACKGROUND**

Contract change orders are prepared when unforeseen conditions arise that were not considered at the time the original contract is executed or when the addition of work or time extension for performance becomes necessary for the contractor to properly complete the project. When these unforeseen conditions transpire it is crucial that direction be provided to the contractor in an expedited manner in order to avoid extra costs due to delayed work. It is also crucial to have approval thresholds consistent with today's dollar amounts and standard practices. Therefore, it is essential to establish procedures that allow for efficient processing and approval of contract change orders.

The procedures included in the approval process of contract change orders, as well as the specifics

defined in them, have been amended multiple times over the last 33 years. Resolution 84-142, which was approved on April 20, 1984, was amended by Resolution 89-470 on December 12, 1989. Resolution 89-470 increased the amount a contract change order could exceed from \$15,000 to \$25,000 before it required the approval of authorization by the City Council (Subsection 6 of Section "A" of Contracts Other Than Requirements Contracts). This amount was amended again on July 24, 1994 with Resolution 94-114. Resolution 94-114 increased this same amount from \$25,000 to \$100,000 and also increased the amount a contract change order could exceed, before it required the authorization by the Chief Administrative Officer, from \$7,500 to \$50,000.

The proposed contract change order resolution will maintain the current existing amounts that a typical construction contract change order can exceed before requiring additional authorization. The resolution does however, update the dollar amount and time extension thresholds that requirements contract change orders can exceed before requiring additional authorization. These new thresholds will be similar to the amounts that are specified in the section regarding other contracts. The proposed resolution will also classify procedures for contracts that are below the \$10 million threshold and establish new procedures for contracts that exceed \$10 million; pursuant to what was amended by Article VI of the Construction Management Act of Resolution 2015-82. This change is necessary to provide a more efficient and defined procedure to the contract change order approval authority based on size of the project.

The following list below summarizes the substantial changes and additions provided by the proposed contract change order resolution:

- Added Section A, Subsection 7 to establish the approval authority for contracts exceeding \$10 million. Thresholds are consistent with Article VI of the Construction Management Act.
- Updated Section B, Subsection 6 by increasing approval thresholds on requirement contract change orders to be consistent with other contract change orders on contracts less than \$10 million. The approval thresholds were updated to be consistent with today's typical contract amounts.
- Added Section B, Subsection 6(c) and 6(d) to provide provisions for contract change orders for time extensions to the contract period. These provisions are essential to City business to maintain service contracts in place if a new contract is not yet in place or if services have not yet been fully rendered.

The resolution for certain amendments to product contracts will establish the procedures necessary for staff to efficiently manage product contracts. The resolution will help differentiate the procedures for product contracts from public works of improvement contracts. Within the resolution, the approval thresholds are defined for the relevant Department Director, City Manager and City Council. These individual thresholds are summarized below:

- Relevant Department Director - Individual amendments less than \$50,000; Multiple amendments less than 5% or \$50,000 whichever is greater
- City Manager - Individual amendments less than 1% or \$100,000 whichever is greater; and Multiple amendments less than 10% or \$100,000 whichever is greater
- City Council - Individual amendment exceeding 1% or \$100,000 whichever is greater; and Multiple amendments exceeding 10% or \$100,000 whichever is greater

Staff recommends adoption of both proposed resolutions to reconcile old resolutions and help clarify the procedures for contract change orders and amendments to product contracts.

The resolutions have been reviewed and approved as to form by the City Attorney's Office.

### **ENVIRONMENTAL FINDINGS**

This is not a project for the purposes of CEQA pursuant to CEQA guidelines section 15378(b)(5), as it is an administrative action that will not result in direct or indirect changes to the environment.

### **LOCAL PREFERENCE**

Local Preference was not considered because this is an administrative action that does not include a bid or an award of a City construction contract.

### **FISCAL IMPACT**

There will be no impact to the General Fund by this Resolution.

#### Attachments:

Resolution for Contract Change Orders

Resolution for Amendments to Product Contracts