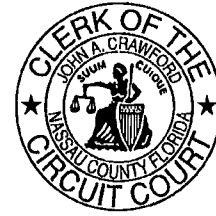




John A. Crawford
Clerk of the Circuit Court
Nassau County



April 3, 2006

The Honorable Tom Branan, Chairman
Nassau County Board of County Commissioners
Post Office Box 1010
Fernandina Beach, FL 32034

Dear Chairman Branan and Commissioners:

I am in receipt of the April 12 Agenda Request for considering amending your policy for approval of "change orders" on capital projects. I appreciate the opportunity in advance of your meeting to discuss the implications of changing policies that have such potential far-reaching impact on the public we serve. It helps protect both the public, and you, as our elected legislators, if we can collaborate and collectively evaluate if the public trust will be best served and best protected by amending policies that the public views as protective controls created for their benefit.

Because the taxpaying public is rightfully sensitive to public fund expenditures, let me recommend that you proceed cautiously when delegating to any staff member or group of staff the ability to allow expenditures at their discretion that exceed an original sealed bid amount. Additionally, I recommend a great deal of caution because the policy amendment as currently proposed by your staff recommends that a change order and expenditure will take place without a prior vote of the Board, outside of clear public view and debate, and with NO NOTICE TO THE CLERK excepting, as "reported" and "entered into its official minutes serving as notification to BCC and Clerk of approved change orders." As the old saying goes, "it is too late to close the barn door once the horses are out." I strongly recommend against adopting this policy in its present form. In its present form, I consider this to be adverse public policy and not clearly designed to benefit the public.

In any event, be advised that suggesting that adequate notification to the Clerk of change orders post de facto will be achieved by entering the change order into the minutes of a future Board meeting is not satisfactory and will most likely result in delays in payments until minutes are approved by the Board. As "custodian of county funds," and as Chief Financial Officer, it is my position that every effort must be made to protect the public's (and the Board's) right to have the checks and balance oversight by the Clerk of the "legal expenditures" the Board has deemed necessary for the public's benefit.

There are ample regularly scheduled Board meetings at which change orders should be discussed before the Board and in the public's full view. Additionally, if an emergency condition develops that creates the need for an emergency change order, the Board can be legally and quickly convened to take the necessary action. The public must always have confidence that the Board is not using the proposed change order policy amendment to possibly circumvent bid policy or statutory requirements, or for avoiding the public's oversight and input.

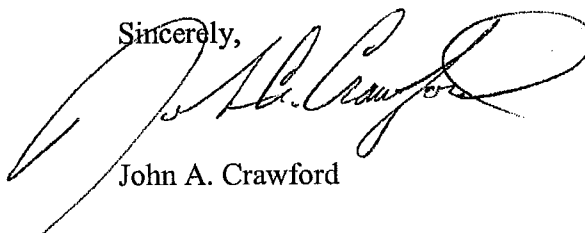
If the Board determines that it is in the best interest of the public to amend the change order policy, I would like to make the following recommendations to be established by ordinance, restricting the definition of "capital" in this instance to mean "construction." The County Administrator is authorized to approve and execute any construction contract change order which will decrease the construction contract amount or which will increase the construction contract amount ten thousand dollars (\$10,000.00) or less, provided the approval is documented to be in the best interest of the public. To assure that the public receives quality work and maximum value, changes in the work shall be placed out for bid, except under the rarest emergency circumstances. Each approval shall be reported by the County Administrator to the Board and entered in the official minutes at the next regular Board meeting. Each change shall also be reported to the Clerk as soon as possible, but in all cases before the work commences.

1. Any change order which will increase the construction contract amount by more than ten thousand dollars (\$10,000.00) shall be submitted by the County Administrator to the Board for review and action thereon. No such change order shall be binding until it is approved and executed by the Board.
2. Requested change orders concerning the same subject shall not be split in the event that the sum total of the initial requested change increases the contract amount by more than ten thousand dollars (\$10,000.00).
3. With all requested change orders the Contractor shall provide, prior to commencing the work involved, accurate cost data in sufficient detail to enable any architect or engineer to evaluate and confirm its accuracy and the fair market value of all labor, materials, equipment, and incidentals required to accomplish the change.
4. With all requested change orders the Architect or Engineer of Record for the project shall certify in writing to the County Administrator and the Board that the cost of the requested change is fair, reasonable, and in proper proportion to the cost of the original work of the contract and shall recommend action thereon.
5. The cumulative total of all approved change orders on any project shall not increase the original construction contract amount by more than eight percent (8%) or fifteen thousand dollars (\$15,000.00), whichever is less, without prior Board approval.

6. The Administrative Services Director shall serve in the County Administrator's capacity for change order authorization whenever the County Administrator is absent from Nassau County or is ill. It is the intent of the Board that this provision be used sparingly. When construction changes can wait for the County Administrator's return, without undue harm or project delay, the approval shall wait for the County Administrator's personal review and signature. All change orders shall be in compliance with Florida Statutes.

Please let me know if I can provide additional information or assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "John A. Crawford". The signature is written in a cursive style with a large, looping initial "J".

John A. Crawford

jgb

cc: Nassau County Administrator
Nassau County Attorney

Agenda Request For: April 12, 2006

Department: County Administration

Background: The County has numerous capital projects for which they are engaged in at any point in time. Instances have arisen where change orders have been requested for minor contract changes and amounts. Presently, all change orders require Board approval no matter the circumstance or dollar amount. Definition of minor contract change is a change that is deemed not to have material impact on existing contract. Changes to contract amount must be within funding plan total project amount previously approved by Board.

Financial/Economic Impact to Future Years Budgeting Process or Effect on Citizens: Allows County Management to be more responsive to change orders so as not to delay continuation of project.

Action requested and recommendation:

Request BCC to approve authority of County Staff: Project Manager, Contracts Manager, Administrative Services Director, and County Administrator to approve change order amounts up to \$25,000 without Board approval. If said change orders include contract language changes, the County Attorney must also approve. All contract change orders must be properly approved before actual change order work is initiated and change order is effective.

The purpose of this policy is to continue with work in progress, avoiding stoppages and potential resulting financial ramifications. All contract change orders shall be reported to the Board and entered into its official minutes serving as notification to BCC and Clerk of approved change orders.

Is this action consistent with the Nassau County Comprehensive Land Use Plan? Project could be associated with comprehensive plan as adopted.

Funding Source: Funding plan total project amount as approved by BCC before change order request.

Reviewed by:

Department Head _____

Legal _____

Administrator _____

Finance _____

Administrative Services _____

Grants _____

Revised 09/05