

CITY OF CONCORD
1950 Parkside Drive, MS/01
Concord, California 94519-2578
FAX: (925) 798-0636

OFFICE OF THE MAYOR
Telephone: (925) 671-3158



7.a
CITY COUNCIL
Timothy S. Grayson, Mayor
Ronald E. Leone, Vice Mayor
Edi E. Birsan
Daniel C. Helix
Laura M. Hoffmeister

Thomas J. Wentling, City Treasurer
Valerie J. Barone, City Manager

June 17, 2014

The Honorable Lou Correa
Chair, Senate Governmental Organization Committee
California State Senate
Sacramento, CA 95814
Via FAX: 916-323-2323

**RE: AB 2471 (Frazier) Public contracts: change orders. (As amended May 23, 2014)
Notice of Opposition**

Dear Senator Correa:

The City of Concord is opposed to AB 2471, related to change orders for public works projects. AB 2471 would place unreasonable requirements on our city and raise the financial risk associated with public works construction.

Current law provides flexibility for cities to design public works contracts that best fit the specifics of projects. This ranges from requiring governing body approval before issuing a change order, to either requiring a change order before extra work begins or allowing work on a project to continue while the change order is negotiated.

AB 2471 would require us to issue a change order to a public works contract no later than 60 days after extra work is performed; if this timeframe is not met, we would be liable for the work and prejudgment interest of 10 percent would accrue. Requiring the issuance of a change order within 60 days places an unreasonable burden on our city and may lead to ineffective contracting, higher costs and legal risks. While Concord always works to approve and issue change orders in a timely manner, the proposed 60 day deadline is unreasonable because it is not uncommon for contractors to delay in getting us cost information, particularly for subcontractor work, or appropriate paperwork to negotiate final costs or accept the change work as complete. Additionally, depending on the project, governing body or grant funder approval may be required prior to formal issuance of the change order.

The Honorable Lou Correa

June 17, 2017

Page 2

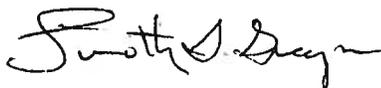
AB 2471 would also create fertile ground for litigation by allowing a contractor to enforce the bill's provisions through a writ of mandate, significantly adding to the costs of public works projects, and potentially squandering scarce financial resources.

Further, AB 2471 states the timeline begins once the extra work is performed. This implies that the extra work is already completed before the issuance of the change order, suggesting that we can no longer require that a change order be in effect prior to beginning any extra work. This could leave the public on the hook for work conducted without our knowledge or consent.

The penalties and enforcement provisions in the bill are overreaching. The bill requires prejudgment interest to accrue on any amount for which we fail to issue a change order promptly or make a payment. Finally, authorizing the filing of a writ of mandate to require us to issue a change order would create unnecessary and costly litigation that will further delay project completion and increase our costs.

For these reasons, the City of Concord opposes AB 2471.

Sincerely,



Timothy S. Grayson
Mayor
City of Concord

cc: Senator Mark DeSaulnier
Assemblywoman Susan Bonilla
Eric Figueroa, League of CA Cities
Meg Desmond, League of CA Cities, mdesmond@cacities.org
Concord City Council
Mary Rae Lehman, City Clerk