

ORDINANCE NO. _____

**AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA,
AMENDING SECTION 2.21.060 OF THE MONTEREY COUNTY CODE
REGARDING RISK MANAGER APPROVAL OF DEVIATIONS FROM, OR
MODIFICATIONS TO, STANDARD COUNTY INSURANCE AND
INDEMNIFICATION CONTRACT PROVISIONS**

County Counsel Summary

This ordinance amends Section 2.21.060 of the Monterey County Code to provide that the County's Risk Manager shall have the discretion to approve deviations from or modifications to the County's standard contract insurance and indemnification requirements in appropriate circumstances.

The Board of Supervisors of the County of Monterey ordains as follows:

SECTION 1. FINDINGS AND DECLARATIONS.

A. Pursuant to Article XI, section 7 of the California Constitution, the County of Monterey may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its citizens.

B. The Risk Management functions for the County of Monterey were transferred to the County Counsel's Office from the Administrative Office in 2012.

C. Chapter 2.21 of the Monterey County Code ("Code") was added in 2018 to more fully set forth the duties of the County Counsel.

D. Section 2.21.060 of the Code was amended in 2023 to provide that the County Counsel shall designate the County's Risk Manager, a position that requires particularized knowledge and experience.

E. The County has standard contract provisions including insurance and indemnification requirements, and any deviation from those requirements requires approval by the Board of Supervisors even if the contract amount is within the authority of the County Administrative Office, Contracts/Purchasing Officer, or department head.

F. Not all vendors either can or need comply with the County's standard provisions, for example: a sole proprietor with no employees need not have worker's compensation insurance; a vendor providing information technology services from a location in another state and who will not be travelling in California need not have automobile insurance; and a sole proprietor providing educational or entertainment services at County libraries during the summer months need not have \$1 million of commercial general liability insurance.

G. In such cases, the County's Risk Manager should have the discretion to

approve deviations from or modifications to the County standard provisions so such contracts need not require Board approval unless otherwise required due to the fiscal provisions of the contract.

H. It is therefore appropriate to amend Section 2.21.060 of the Code to provide that the County Risk Manager have the discretion to approve deviations from or modifications to the County standard provisions regarding insurance and indemnification in appropriate circumstances exercising the Risk Manager's professional judgment.

SECTION 2. Section 2.21.060 of the Monterey County Code is amended to read as follows:

A. Risk management functions for the County of Monterey shall be discharged in the County Counsel's Office. The County Counsel shall appoint and supervise the County's Risk Manager, who shall discharge the duties of Risk Manager, including as set forth in the County Code, either directly or through designees. The County Counsel may organize the County Counsel's Office in a manner the County Counsel deems appropriate for the discharge of the County's risk management functions.

B. The Risk Manager is authorized to approve deviations from or modifications to the standard insurance and indemnification requirements for County contracts if, in the Risk Manager's opinion, and with the concurrence of the County Counsel and the Department processing the contract, the deviations or modifications are in the best interests of the County, are consistent with standard industry practice, are appropriate for the particular contract, and do not expose the County to any undue or inordinate risk of liability.

SECTION 3. SEVERABILITY. If any subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance, which shall remain in full force and effect. The Board of Supervisors hereby declares that it would have adopted this Ordinance and each and every subsection, sentence, clause and phrase thereof not declared invalid or, without regard to whether any portion of the article would be subsequently declared invalid or unconstitutional. The courts are hereby authorized to reform the provisions of this Section in order to preserve the maximum permissible effect of each subsection herein.

SECTION 4. EFFECTIVE DATE. This Ordinance shall take effect on the thirty-first day following its adoption.

PASSED AND ADOPTED this ____ day of ____ 2024, by the following vote:

AYES:

NOES:

ABSENT:

Glenn Church
Chair, Monterey County Board of Supervisors

A T T E S T:

VALERIE RALPH
Clerk of the Board of Supervisors

By: _____
Deputy

APPROVED AS TO FORM

Kelly L. Donlon
Assistant County Counsel