

# CITY OF MINNEAPOLIS

## Amendments to Construction Contracts Policy

([Link to Procedures](#))

**Applies to:** All City Staff that manage formally bid Construction Contracts (currently any construction bid over \$50,000)

**Synopsis:** Establishes a change management system for formally bid construction contracts

**Council Approval Date:** TBD

**Effective Date:** TBD

**Links to Related Regulations:** Uniform Contracting Law, City Charter, City Ordinance

**Administering Department:** Finance and Property Services (Procurement)

**Phone:** TBD

### POLICY STATEMENT

The City of Minneapolis is committed to delivering high quality and cost effective construction projects. Change management is a critical element to achieving these goals. Despite the best efforts of the Project Manager, changes in project scope and schedule may be required due to unforeseen conditions. Any change to a construction contract requires City Council approval via a construction contract amendment.

It is the policy of the City of Minneapolis that changes to construction contracts are done in a timely, legal, and informed manner. In the interest of meeting the goals of delivering high quality and cost effective projects, it is in the City's best interest to have a documented change management process that provides project and contract managers the authority to authorize project changes within the parameters of these policy and procedures. This policy applies to all City of Minneapolis construction projects.

The Purchasing Director (Agent) or designee is responsible for the development, establishment and maintenance procedures of this policy, and to ensure that the procedures are in compliance with applicable laws, City ordinances policies and rules.

# CITY OF MINNEAPOLIS PROCEDURE ON AMENDMENTS TO CONSTRUCTION CONTRACTS POLICY

([Link to Policy](#))

**Governing policy:** All City Staff that manage formally bid Construction Contracts (currently any construction bid over \$50,000)

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**Synopsis:** Establishes a change management system for formally bid construction contracts

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## SCOPE

This policy applies to all City of Minneapolis construction projects, including but not limited to building projects and infrastructure projects.

## DEFINITIONS

- A. **Change Order:** Document in which agreed upon Construction Change Directives are summarized for review and approval to modify (change) conditions of the contract (scope, price or time). The form and format shall be consistent whenever possible.
- B. **Change Order Form:** Documents prepared by Project Manager or by Architect/Engineer for approval by Project Manager that consists of a narrative describing the necessity for the change order and estimated impact on the project conditions, time, deliverables, and costs.
- C. **Contract Amendment:** A Change Order that has received Council/Mayoral Authorization is an amendment to the Construction Contract.
- D. **Construction Change Directive:** A directed change in scope of work (either requested or required due to unanticipated conditions) that is formally described and is usually quantifiable in terms of units, price and schedule/time. Construction Change Directives are categorized as follows:

Level 3: Construction Change Directives valued in excess of \$50,000.

Level 2: Construction Change Directives valued between \$15,000 and \$50,000.

Level 1: Construction Change Directives valued below \$15,000.

- E. **Construction Contract:** An agreed upon set of terms and conditions, time, deliverables, and costs associated with the scope of construction activities.
- F. **Project Manager:** The primary staff position responsible for all aspects of the project.
- G. **Project Budget:** Council/Mayor and/or Department approved spending authority (limit) in terms of dollars.
- H. **Project Budget Contingency:** A percentage of the Project Budget set aside for costs associated with unanticipated conditions and changes in the scope of the project and associated Construction Contract(s).
- I. **Architect/Engineer:** Design professional who is working on the project. This is internal City staff or external consultant/contractor to the City.

**ROLES AND RESPONSIBILITIES**

<b>Role</b>	<b>Responsibility</b>
Project Manager	<ol style="list-style-type: none"> <li>1. Understand and comply with City policy and procedures.</li> <li>2. Facilitate Change Management Process</li> <li>3. Review all Construction Change Directives and approve Level 1 requests.</li> <li>4. Coordinate review by others for Construction Change Directives over \$15,000.</li> <li>5. Ensure contract changes are:               <ol style="list-style-type: none"> <li>a. Made in good faith.</li> <li>b. Are consistent with the basic character and purpose (scope) of the original contract.</li> <li>c. Consider if work should be separately bid instead of adding thru Change Order.</li> <li>d. Will not unreasonably increase the contract price.</li> <li>e. Do not violate the letter or spirit of the Uniform Municipal Contracting Law</li> </ol> </li> <li>6. Process meets Grant Requirements if applicable</li> <li>7. Insurance and Bond Requirements are met</li> </ol>
Division directors and/or supervisors	<ol style="list-style-type: none"> <li>1. Review and approve Level 2 Construction Change Directives</li> <li>2. Review of Construction Change Directive summary form.</li> <li>3. Ensure contract changes are:               <ol style="list-style-type: none"> <li>a. Made in good faith.</li> <li>b. Are consistent with the basic character and purpose (scope) of the original contract.</li> <li>c. Will not unreasonably increase the contract price.</li> <li>d. Do not violate the letter or spirit of the Uniform Municipal Contracting Law</li> </ol> </li> </ol>
Department Head	<ol style="list-style-type: none"> <li>1. Review and Approve Level 3 Construction Change Directives.</li> <li>2. Ensure contract changes are:               <ol style="list-style-type: none"> <li>a. Made in good faith.</li> <li>b. Are consistent with the basic character and purpose (scope) of the original contract.</li> <li>c. Will not unreasonably increase the contract price.</li> </ol> </li> </ol>

	d. Do not violate the letter or spirit of the Uniform Municipal Contracting Law
Purchasing Director (Agent)	<ol style="list-style-type: none"> <li>1. Develop and recommend updates to the policy and procedures.</li> <li>2. Provide subject matter expertise procurement laws and regulations.</li> <li>3. Support Contract Managers</li> <li>4. Review Construction Change directives over \$50,000</li> <li>5. Approve if the request is in scope and not separate work that should be separately bid</li> </ol>
Civil Rights	<ol style="list-style-type: none"> <li>1. Review Construction Change directives over \$50,000</li> </ol>
City Attorney	<ol style="list-style-type: none"> <li>1. Review and provide Signature to Contract Amendment.</li> </ol>

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## **CHANGE MANAGEMENT PROCESS**

### **Change Identification**

1. A need for a change on a project can be identified by the Project Manager, the Architect/Engineer or the Contractor. This should normally be done in writing or as part of a regularly scheduled project meeting that is recorded in meeting minutes.

### **Change Initiation (Construction Change Directive)**

1. The change process is initiated by a Construction Change Directive issued by the Architect/Engineer or Project Manager if there is no Architect/Engineer. The Construction Change Directive shall be in a standardized form as established for the given project. The Construction Change Directive may also require additional or updated design documents and specifications to be provided to help define the scope of the intended change.

### **Change Response**

1. The contractor shall submit a response to the Construction Change Directive in terms of hard and soft costs and credits, time, and material changes. Supporting documentation is required but can be waived for minor changes. The response shall address all scope, timeline and cost changes outlined in a pricing request.

### **Review and Recommendation**

1. Architect/Engineer shall review and make recommendation (or approve if appropriate) to the Project Manager. Architect/Engineer and/or Project Manager may need to negotiate as required.
2. Project Manager shall sign a Change Management Order Form and secure approval based on the value of the Construction Change Directive.

Level 3: The Department Head has the delegated authority to review and approve Construction Change Directives valued in excess of \$50,000.

Level 2: The Division Director of Project Manager has the delegated authority to review and approve Construction Change Directives valued between \$15,000 and \$50,000.

Level 1: The Project Manager for the City has the delegated authority to review and approve individual Construction Change Directives valued below \$15,000.

### **Construction Change Directive Reporting**

1. Often times it is in the best interests of the City that changes be implemented through the issuance of a Construction Change Directive prior to the conclusion of the authorization process. In those instances, direction to proceed will be given at the Project level upon receiving the applicable level of approval under this Change Management System.
2. On a regular basis to be determined by the applicable Department Head, the Project Manager will report (in a format to be agreed upon by appropriate City Council staff) to the applicable home

Council Committee and the Ways & Means/Budget Committee on and receive and file basis for all Construction Change Directives issued.

3. Project Manager will prepare the Construction Change Directive Summary Form for all outstanding approved Construction Change Directives to date.
  - a. Submit Draft to Division Director for review and comment.
  - b. Final Draft sent to Division Director
  - c. Final Report forwarded to Council.
4. Purchasing Department/Clerks Office shall maintain a standard format Request for Council Action letter format that will be utilized for a Construction Contract Amendments.

#### **Change Order Approval, Rejection or Direction to Staff**

1. As soon as practicable under the circumstances, the Project Manager shall formalize and reach agreement with the contractor on the final cost of the Construction Change Directive(s). Such agreement shall be included in an amendment to the Construction Contract. The amendment to the Construction Contract will be referred to as a Change Order and be numerically identified (i.e. Change Order No. 1) to distinguish between prior approvals.
2. Several Construction Change Directives can be brought forward (batched) together as a single Change Order for Council/Mayor Authorization. The Change Order will be referred to as a Construction Contract Amendment and be numerically identified (i.e. Contract Amendment No. 1) to distinguish between prior approvals.
3. Generally, once the Construction Change Directives on a project exceed the lesser of \$100,000 or 5% of the current Construction Contract amount, or if the Project Budget Contingency is exceeded, the Construction Change Directives should be reduced to a Change Order for Council/Mayor Authorization.
4. Department Head will submit staff letter (Request for Council Action) requesting approval of the Change Order into the agenda setting processes for the next Project home Council Committee and the next Ways and Means/Budget Committee.
5. The City Council will either approve (either individually or collectively) Change Order(s) or give direction to staff.

#### **Amending Contract**

1. Architect/Engineer or Project Manager as appropriate shall prepare for approval the written Change Order Form and supporting documents and Project Manager will prepare or request the City Attorney to prepare as a Contract Amendment.
2. Project Manager will route the Contract Amendment for signatures and it will be delivered to the City of Minneapolis Procurement Division and be recorded as an amendment to the original Construction Contract.