

## RESOLUTION NO. 2019-03

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA AMENDING THE PROCUREMENT CODE MANUAL, ARTICLE 25, CHANGE ORDERS, SECTION 25.1 CHANGE ORDER PROCESS, SECTION 25.2 CHANGE ORDER CONDITIONS, AND SECTION 25.3 CHANGE ORDER MEMBERSHIP, AND ESTABLISHING AN EFFECTIVE DATE.**

### RECITALS:

WHEREAS, the City of Flagstaff has adopted a process for the procurement of goods and services set forth in the Procurement Code Manual; and

WHEREAS, the Flagstaff City Council desires to amend the *Procurement Code Manual* by adding additional language and revising existing language related to Article 25, *Change Orders*, Section 25.1, *Change Order Process*, Section 25.2, *Change Order Conditions*, and Section 25.3, *Change Order Membership*.

### ENACTMENTS:

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:**

That the *Procurement Code Manual*, Article 25, *Change Orders*, Section 25.1, *Change Order Process*, Section 25.2, *Change Order Conditions*, and Section 25.3, *Change Order Membership*, are hereby amended as follows:

#### **Section 25.1      *Change Order Process***

A ~~e~~Change ~~e~~Order shall be in written form for any and all changes in the contract's time, conditions or compensation. This written change shall be submitted to the Change Order Committee.

- A. Exception 1 – A Field Order, which is a written and limited change order that is issued under the Contract Allowance provision **OR OWNER (CITY) AND CONTRACTOR CONTINGENCIES**, does not require Change Order Committee action.

Staff shall have the following field order authorities:

Project Manager – **CHANGE BY AN AMOUNT UP TO \$10,000 and UP TO AND THROUGH 10** calendar days.

Section Head – **CHANGE BY AN AMOUNT UP TO \$25,000 and UP TO AND THROUGH 30** calendar days.

Division Head – **CHANGE BY AN AMOUNT UP TO THE full ~~contract~~ CONTRACT allowance amount and UP TO AND THROUGH 60** calendar days.

Field Orders that exceed \$100,000 or 60 calendar days require the Change Order Committee to approve the field order. The Change Order Committee can approve extensions with a “no time limit” cap, if it is a no cost change.

- B. Exception 2 – A Task Order, which is a written and limited order for a scope of work and is issued under the “On-Call” Consultant Contract, does not require Change Order Committee action.

Staff shall have the following Task ~~e~~Order authorities:

Project Manager – ~~CHANGE BY AN AMOUNT UP TO~~ \$10,000 and ~~UP TO AND THROUGH~~ 10 calendar days.

Section Head – ~~CHANGE BY AN AMOUNT UP TO~~ \$25,000 and ~~UP TO AND THROUGH~~ 60 calendar days.

Division Head - ~~Contact allowance,~~ ~~CHANGE BY AN AMOUNT~~ up to \$100,000 and ~~UP TO AND THROUGH~~ 120 calendar days.

Task Orders that exceed \$100,000 or 120 calendar days require the Change Order Committee to approve the task order. The Change Order Committee can approve extensions with a “no time limit” cap, if it is a no cost change.

- ~~CD.~~ Change Orders that increase the total expenditure commitment from the informal to formal procurement limit are subject to approval through the formal contract award process as required in Section 26.1 ~~“Notice Of Intent To Award”~~ ~~“AWARD OF CONTRACT”~~.

- ~~DE.~~ ~~ANY SINGLE No eChange eOrder(s) OF \$50,000 OR MORE FOR ANY CONTRACT PREVIOUSLY APPROVED BY COUNCIL SHALL BE SENT WITH A RECOMMENDATION FROM THE CHANGE ORDER COMMITTEE TO COUNCIL FOR FINAL APPROVAL shall exceed 25% of the original contract amount of a professional services contract, 15% of the original contract amount of a construction project, 25% of the original contract amount for all other types of contracts OR \$50,000; whichever is greater without Council approval.~~

- ~~EG.~~ A Contractor may proceed with approved work only upon receipt of a fully executed Change Order and direction of the Purchasing Agent or Project Manager. Due to extenuating circumstances, confirming Change Orders are allowed upon ~~PROJECT MANAGER’S AND~~ Director’S ~~and Project Manager~~ approval.

- F. The City’s Project Manager shall be responsible for routing of the Change Order form and obtaining Contractor approval. One (1) original of the completed and approved Change Order(s) shall be included in the contract file maintained by the Purchasing Agent. Copies shall be sent to Purchasing immediately after all applicable reviews and approval.

- G. ~~FOR CONTRACT DOCUMENTATION PURPOSES,~~ A copy of any Change Order shall be sent to the Purchasing Office for inclusion in the procurement file. ~~When applicable,~~ ~~a~~A memo citing the original Purchase Order number shall be attached to the Change Order to authorize increase/decrease to the encumbrance ~~ON THE PURCHASE ORDER~~ by the amount needed to make the new contractual commitment.

## **Section 25.2 Change Order ~~Conditions~~ THRESHOLDS**

- A. Contract Allowance - Contract allowances (CA) ~~SHALL ONLY BE INCLUDED FOR DESIGN/BID/BUILD CONSTRUCTION PROJECT DELIVERY METHODS THAT UTILIZE A FORMAL SOLICITATION, INVOLVING DESIGN AND CONSTRUCTION CONTRACTS FOR RECOMMENDATION OF AWARD BY CITY COUNCIL.~~ CA of UP TO 5%, 7.5% or

10%, SHALL BE BASED ON THE CONTRACT AMOUNTS REFERENCED BELOW, AND ~~will~~ MAY be added to all DESIGN/BID/BUILD design and construction contracts. ~~The allowance is based on the engineer's estimate OR THE RESPONDENT'S BID, WHICHEVER IS LOWEST. and will be included in design contracts for recommendation of award by City Council. The allowance will also be included in the bid for construction contracts for recommendation of award by City Council.~~

<u>Contract amount*</u>	<u>Contract Allowance</u>
<del>e</del> Over \$1,000,000 in value	<del>allowance of</del> UP TO 5%
<del>f</del> From <del>\$999,999.99 to</del> \$250,000 TO \$1,000,000	<del>allowance of</del> UP TO 7.5%
BELOW <del>from</del> \$250,000 <del>249,999.99 or lower</del>	<del>allowance of</del> UP TO 10%

- B. Administrative Change ORDERS – ADMINISTRATIVE CHANGE ORDERS (ACO) MAY ONLY BE INCLUDED FOR DESIGN/BID/BUILD CONSTRUCTION PROJECT DELIVERY METHODS THAT UTILIZE A FORMAL SOLICITATION, INVOLVING DESIGN AND CONSTRUCTION CONTRACTS FOR RECOMMENDATION OF AWARD BY CITY COUNCIL. CONSTRUCTION MANAGER AT RISK AND DESIGN/BUILD CONSTRUCTION PROJECT DELIVERY METHOD CONTRACTS SHALL NOT INCLUDE AN ACO. THE USE OF ACO IS APPLICABLE WHEN A COUNCIL-APPROVED CA DOLLAR AMOUNT HAS BEEN FULLY EXPENDED AND ADDITIONAL FUNDS ARE NECESSARY TO COVER UNANTICIPATED CHANGE ORDERS. ~~A ten-percent (10%) Administrative Change Order (ACO) amount may be included in all design and construction contracts to be considered by the City Council.~~ WHEN ACOS ARE DEEMED APPROPRIATE, ~~the~~ ACO amount ~~is~~ PERCENTAGE CAN BE UP TO 10% of the total contract less the Contract Allowance amount. The ACO shall not exceed \$500,000.

Administrative Authorization

<u>Contract Amount</u>	<u>Allowance</u>	<u>Administrative CO.</u>	<u>Total</u>	<u>Total Percentage</u>
\$12,000,000	\$600,000	— \$500,000	\$1,100,000	9.2%
— 5,000,000	— 250,000	— 500,000	— 750,000	15.0%
— 1,000,000	— 50,000	— 100,000	— 150,000	15.0%
— 500,000	— 37,500	— 50,000	— 87,500	17.5%
— 100,000	— 10,000	— 10,000	— 20,000	20.0%

~~Task order~~ — These are authorized scopes of engineering/design work issued to consultants who have approved on-call contracts with the City.

- C. OWNER'S AND CONTRACTOR'S CONTINGENCIES – THE USE OF AN OWNER'S (CITY) AND CONTRACTOR'S CONTINGENCY SHALL ONLY BE ALLOWED FOR CONSTRUCTION MANAGER AT RISK AND DESIGN/BUILD CONTRACTS. THESE CONTINGENCIES ARE NEGOTIATED DURING THIS PROCUREMENT PROCESS.
- D. JUSTIFICATION DOCUMENTATION – IF A CONTRACT ALLOWANCE, ADMINISTRATIVE CHANGE ORDERS, OR OWNER (CITY) AND CONTRACTOR CONTINGENCY IS RECOMMENDED FOR A CONSTRUCTION PROJECT, THE PROJECT MANAGER SHALL COMPLETE A "CA/ACO/CONTINGENCY JUSTIFICATION FORM" FOR REVIEW AND APPROVAL BY THE SECTION OR

DIVISION HEAD. THE FORM SHALL INCLUDE DETAILS TO WHY THE RECOMMENDATION IS BEING MADE INCLUDING ESTIMATED COST FOR EACH REQUEST. THIS FORM SHALL BE ATTACHED TO THE STAFF SUMMARY FOR COUNCIL REVIEW.

- E. SUMMARY OF CHANGE ORDER THRESHOLDS – THE FOLLOWING MATRIX ILLUSTRATES THE USE OF CONTRACT ALLOWANCE, ADMINISTRATIVE CHANGE ORDERS, AND OWNER (CITY) AND CONTRACTOR CONTINGENCY AND WHICH OF THE CONSTRUCTION PROJECT DELIVERY METHODS EACH OF THESE ARE APPLICABLE TO:

TYPE OF CONSTRUCTION PROJECT DELIVERY METHOD	CONTRACT ALLOWANCE	CHANGE ORDER AUTHORITY (*)	OWNER CONTINGENCY	CONTRACTOR CONTINGENCY
DESIGN/BID/BUILD: FORMAL SOLICITATIONS	PERCENTAGE BASED ON CONTRACT AMOUNT, WITH JUSTIFICATION	UP TO 10%, WITH JUSTIFICATION	NOT ALLOWED	NOT ALLOWED
CMAR: REQUEST FOR STATEMENTS OF QUALIFICATIONS	NOT ALLOWED	NOT ALLOWED	NEGOTIATED	NEGOTIATED
DESIGN/BUILD: REQUEST FOR STATEMENTS OF QUALIFICATIONS	NOT ALLOWED	NOT ALLOWED	NEGOTIATED	NEGOTIATED

\*NOT TO EXCEED \$500,000

**Section 25.3 Change Order COMMITTEE Membership**

The Change Order Committee Members will consist of the following:

1. Public Works Director or designee
2. ~~Utilities~~ WATER SERVICES Director or designee
3. City Attorney or designee
4. City Engineer or designee
5. Purchasing Director or ~~Purchasing Agent~~ DESIGNEE

THREE COMMITTEE MEMBERS MUST BE PRESENT FOR THE MEETING TO OCCUR. SIGNATURES OF ABSENT COMMITTEE MEMBERS MAY BE OBTAINED AT A LATER TIME.

- A. The City Manager shall designate a Chair who shall preside over all the meetings, establish agendas, and distribute meeting minutes. THE CHANGE ORDER COMMITTEE MEETINGS ARE OPEN TO THE PUBLIC, BUT ARE NOT FORMAL PUBLIC MEETINGS FOR OPEN MEETING LAW PURPOSES.

- B. The Change Order Committee ~~WILL~~ meets as necessary ~~on Thursdays (as necessary) at 7:15 a.m. (during summer work hours) and 8:15 a.m. (during winter work hours)~~ AT A TIME AGREED UPON BY THE MEMBERS in the Council Conference Room, OR OTHER LOCATION IDENTIFIED IN THE AGENDA.
- C. An electronic copy of all ~~eChange eOrders~~ SHOULD be submitted to the Committee Chair~~person~~ by noon on Monday to be scheduled for the following Thursday's meeting. HOWEVER, URGENT REQUESTS MAY BE BROUGHT BEFORE THE CHANGE ORDER COMMITTEE AS WALK-ON ITEMS.
- D. Three original ~~eChange eOrders~~, signed by the Project Manager and Department Head shall be given to the Committee Chair~~person~~ after the ~~eChange eOrder~~ has been approved. The Committee Chair~~person~~ will obtain all other necessary signatures including the contractor or consultant and distribute copies to the Project Manager.

SECTION 3. Effective Date.

This resolution, and the amended Procurement Code Manual established herein, shall become effective 30 days after its adoption.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 16<sup>th</sup> day of April, 2019.

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MAYOR

ATTEST:

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CITY CLERK

APPROVED AS TO FORM:

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CITY ATTORNEY