



City of Las Cruces®

PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 5Ordinance/Resolution# 17-032For Meeting of _____
(Ordinance First Reading Date)For Meeting of September 6, 2016
(Adoption Date)

Please check box that applies to this item:

 QUASI JUDICIAL LEGISLATIVE ADMINISTRATIVE

TITLE: A RESOLUTION TO ADOPT A CHANGE ORDER POLICY TO SUPPLEMENT THE CITY OF LAS CRUCES PROCUREMENT CODE, CHAPTER 24 OF THE LAS CRUCES MUNICIPAL CODE, 1997, AS AMENDED (LCMC).

PURPOSE(S) OF ACTION:

To adopt a policy for change orders.

COUNCIL DISTRICT: ALL		
<u>Drafter/Staff Contact:</u> Deb Smith	<u>Department/Section:</u> Finance/Purchasing	<u>Phone:</u> 541-2527
<u>City Manager Signature:</u>		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The previous Standard Operating Procedure, City Council Policy Number 0100-14 that covered change orders to City procurements, was repealed; therefore, no formal change order policy is in place specific to (LCMC) Chapter 24, Procurement Code. Through collaboration of staff, a new change order policy was created to address changes in contingency, time, and cost to a contract. At this time, staff is recommending to establish a change order policy via Resolution as opposed to Ordinance, for a period of one year, to ensure that the change order policy will meet the City's needs. If after the one-year period, the policy is deemed feasible, staff will recommend amending the Procurement Code.

SUPPORT INFORMATION:

1. Resolution.
2. Exhibit "A", Change Order Policy.
3. Attachment "A", Standard Operating Procedures, City Council Policy Number 0100-14.

SOURCE OF FUNDING:

Is this action already budgeted? N/A	Yes	<input type="checkbox"/>	See fund summary below
	No	<input type="checkbox"/>	If No, then check one below:
	<i>Budget Adjustment Attached</i>	<input type="checkbox"/>	Expense reallocated from: _____
		<input type="checkbox"/>	Proposed funding is from a new revenue source (i.e. grant; see details below)
		<input type="checkbox"/>	Proposed funding is from fund balance in the _____ Fund.
Does this action create any revenue? N/A	Yes	<input type="checkbox"/>	Funds will be deposited into this fund: _____ in the amount of \$ _____ for FY _____.
	No	<input type="checkbox"/>	There is no new revenue generated by this action.

BUDGET NARRATIVE

N/A

FUND EXPENDITURE SUMMARY:

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
N/A	N/A	N/A	N/A	N/A	N/A

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will approve the Resolution and adopt a change order policy.
2. Vote "No"; this will disapprove the Resolution and not adopt a change order policy.
3. Vote "Amend"; this action would modify the Resolution, based on direction by City Council.
4. Vote "Table"; this action would delay the Resolutions consideration to a future date and would require direction by City Council to staff.

REFERENCE INFORMATION:

The resolution(s) and/or ordinance(s) listed below are only for reference and are not included as attachments or exhibits.

N/A



City of Las Cruces®

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COUNCIL ACTION AND EXECUTIVE SUMMARY PACKET ROUTING SLIP

For Meeting of _____
 (Ordinance First Reading Date)

For Meeting of September 6, 2016
 (Adoption Date)

TITLE:

A RESOLUTION TO ADOPT A CHANGE ORDER POLICY TO SUPPLEMENT THE CITY OF LAS CRUCES PROCUREMENT CODE, CHAPTER 24 OF THE LAS CRUCES MUNICIPAL CODE, 1997, AS AMENDED (LCMC).

Purchasing Manager's Request to Contract (PMRC) {Required?} Yes No

DEPARTMENT	SIGNATURE	PHONE NO.	DATE
Drafter/Staff Contact	<i>Deb Smith</i>	541-2527	8-5-16
Department Director	<i>Victoria Zedrick</i>	541-2080	8/5/16
Management & Budget Manager	<i>Victoria Zedrick</i>	541-2080	8/5/16
Assistant City Manager /CAO	<i>Dequell Williams</i>	541-2078	8/5/2016
Assistant City Manager/COO	<i>[Signature]</i>	541-2271	8/11/16
City Attorney	<i>[Signature]</i>	Ext 2128	11 August 2016
City Clerk	<i>[Signature]</i>	X2115	8-18-16

RESOLUTION NO. 17-032

A RESOLUTION TO ADOPT A CHANGE ORDER POLICY TO SUPPLEMENT THE CITY OF LAS CRUCES PROCUREMENT CODE, CHAPTER 24 OF THE LAS CRUCES MUNICIPAL CODE, 1997, AS AMENDED (LCMC).

The City Council is informed that:

WHEREAS, previous Standard Operating Procedure, City Council Policy Number 0100-14, related to change orders to City procurements, was repealed; and

WHEREAS, no formal change order policy is currently in place specific to the LCMC, Chapter 24, Procurement Code; and

WHEREAS, through collaboration of staff, a new Change Order Policy was created to address changes in contingency, time, and cost to a contract; and

WHEREAS, at this time, staff is recommending to adopt the Change Order Policy by Resolution for a period of one year; and

WHEREAS, after a period of one year, if the Change Order Policy is deemed feasible, recommendation will be made to amend the Procurement Code.

NOW, THEREFORE, Be it resolved by the governing body of the City of Las Cruces:

(I)

THAT the Change Order Policy as shown on Exhibit "A", attached hereto and made a part of this Resolution, is hereby adopted.

(II)

THAT City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE AND APPROVED this _____ day of _____, 20____.

APPROVED:

Mayor

ATTEST:

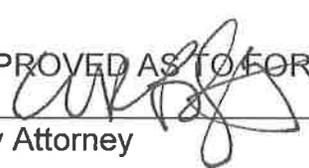
City Clerk

(SEAL)

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:



City Attorney

VOTE:

Mayor Miyagishima: _____

Councillor Gandara: _____

Councillor Smith: _____

Councillor Pedroza: _____

Councillor Eakman: _____

Councillor Sorg: _____

Councillor Levatino: _____

Change Order Policy

Contingency

All projects shall be budgeted with a contingency fund, as budgets allow.

Time

Extensions of time on construction or professional service contracts may be granted by the Project Manager, subject to appropriate approvals, on a case-by-case basis for the following reasons:

1. One additional day for each weather day delay, as defined in General Conditions for Construction Contracts, 2004, during the term of the contract;
2. City-requested changes to project specifications that incur time as a result;
3. Other circumstances in which the City believes such an extension of time is in the best interest of the project and must be approved by the Department Director;
4. Limitations on extensions of time addressed by this policy are as follows:
 - a. Up to 10% of the original contract time, or up to 30 contractual days, whichever is less, shall be approved by the appropriate Administration;
 - b. Greater than 10% and less than 25% of the original contract time, or 31 to 60 contractual days, whichever is less, shall be approved by the appropriate Department Director and the Purchasing Manager;
 - c. Greater than 25% of the original contract time or more than 60 contractual days, shall be approved by the Office of the City Manager upon recommendation by the Department Director and the Purchasing Manager.

Exceptions

Due to reasons beyond the contractor's or consultant's control or conditions exist which will impair the quality of the work, and upon recommendation by the Department Director and the Purchasing Manager, the Office of the City Manager shall have the authority to suspend a construction or consultant project indefinitely.

Changes in cost

1. Any changes in contract cost which includes base contract amount, contingency, and NMGRT, require the following approvals:

Change	Approver
Less than 1%	Section Administrator
More than 1% less than 2%	Department Director
More than 2% less than 10%	Assistant City Manager
More than 10%	City Manager
Exceeds approved budget amount	City Council

2. Budgetary Authority: In no case does City staff or Management have the ability to increase the budget at the fund level, including usage of unbudgeted fund balance, without City Council approval.
3. Proposed construction work that deviates from the contract drawings and/or specifications shall be initiated with a field notice followed by a duly authorized change order when there is a change in cost and approved by the appropriate Administrator and based on current thresholds in accordance with the Las Cruces Municipal Code, 1997, as amended, Procurement Code Sec. 24-99 and Sec. 24-228.

STANDARD OPERATING PROCEDURE**CITY COUNCIL POLICY****POLICY NUMBER 0100-14****CONTRACT LIMITATIONS AND CHANGE ORDERS****PURPOSE:**

To assure that all contracts entered into by the City of Las Cruces do not exceed the contract limitations placed by City Council, and to reduce costs and delays associated with changes during construction of professional and special service contracts.

POLICY:

Personnel involved in drafting and execution of all construction contracts shall include wording in the contract that payment cannot exceed a cap in amounts as defined below for unexpected and unpredictable work required to complete the original intent of the project -- such approval limits not including applicable taxes.

All construction and consultant contracts shall be awarded with a Contingency Fund, in amounts as defined below, for unforeseen work required to complete the project. The City Manager, or his/her designated representative, shall be responsible for approving Change Orders up to the amount of the Contingency Fund.

Time extensions on construction or consultant contracts less than ten percent (10%) of the original contract time, or thirty (30) calendar days, whichever is less, may be approved by the Division Director. The Division Director shall have the authority to suspend

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 CONTRACT LIMITATIONS AND CHANGE ORDERS
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a construction or consultant project indefinitely due to reasons beyond the contractor's or consultant's control, or if conditions exist which will impair the quality of the work.

All contract changes that exceed the Contingency Fund amount or the limits of the time extensions as authorized above shall be submitted to the City Manager for approval by the City Council before the work is incorporated into the project.

All contract changes are to be submitted to the City Manager who will then inform the Mayor and City Council of the changes and reasons for the Change Order.

CONTINGENCY FUND:

Contingency Fund amount (as a percentage of the original contract amount as shown below or the appropriate contrasting dollar amount, whichever is less):

a. Underground Construction	10%	or	\$30,000
b. Above Ground/Surface Construction	5%	or	\$30,000
c. Building Rehabilitation	10%	or	\$15,000
d. Building - New Construction	5%	or	\$15,000
e. Professional Consultant Services	5%	or	\$15,000

Construction project work that deviates from the contract drawings and/or specifications shall be initiated with a field order with a duly authorized Change Order immediately following when there is a change in cost.

For consultant projects, work that is not included in the awarded Services Agreement under Basic Services shall be initiated with a Contract Addendum when there is a change in cost.

A copy of the Contract Change Order, or notice of work suspension, with supporting documentation shall be provided at the time of approval to the City Manager for his information.

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CONTRACT LIMITATIONS AND CHANGE ORDERS
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All contract changes shall be documented during the project and submitted in a contract recap to the City Manager before final payment is made. A copy of the final document will be sent to the City Council.

COST OVERRUNS:

User departments shall notify vendors, the City Manager and Legal Department immediately if a request for payment exceeds the authorized limit. Under such circumstances, the Legal Department shall review the appropriate contract and advise the City Manager as to appropriate action.

EFFECTIVE DATE:	SUPERSEDES: CM Policy 1001-3
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APPROVED: _____

DATE: _____