

RESOLUTION NO. 2017-__

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO ESTABLISHING PROCEDURES FOR THE APPROVAL OF CERTAIN CONTRACT CHANGE ORDERS, ADDITIONAL BID QUANTITIES, AND EXTENSIONS OF TIME, FOR PERFORMANCE; AND RESCINDING RESOLUTION 84-142, 89-470, 94-114, AND ARTICLE VI OF THE CONSTRUCTION MANAGEMENT ACT AS ADOPTED BY RESOLUTION 2015-82

WHEREAS, Resolution 84-142, dated April 24, 1984, and as amended by Resolution 89-470, dated December 12, 1989, and 94-114, dated May 17, 1994, established procedures for the approval of certain contract changes orders including the dollar amounts; and

WHEREAS, it is also in the best interest of the City of Fresno to rescind Resolution 84-142, as amended by Resolution 89-470 and 94-114, to update the established procedures; and

WHEREAS, it is in the best interest of the City of Fresno to rescind ARTICLE VI of the Construction Management Act as adopted by Resolution 2015-82, to update the established procedures for larger capital projects; and

WHEREAS, during the course of performance of contracts, awarded by the Council of the City of Fresno, unforeseen conditions occasionally arise which are not contemplated by the plans or specifications for the project and additional work or extension of the time for performance become necessary for proper completion or construction of the whole work contemplated; and

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Date Adopted:
Date Approved:
Effective Date:
City Attorney Approval: BC

Resolution No.

WHEREAS, such unforeseen conditions may require additional compensation for the contractor to complete the project in a proper manner; and,

WHEREAS, such unforeseen conditions require that direction must be given to the contractor in an expeditious manner to avoid costly interruption of the contractor's work; and

WHEREAS, the establishment of procedures for processing and approval of contract change orders is necessary for management and control of contracts and for timely direction to the contractor.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Fresno as follows:

The following procedures shall be applied to contract change orders for additional work, additional bid quantities, and extensions of time for performance of contracts awarded by the Council:

A. FOR CONTRACTS OTHER THAN REQUIREMENTS CONTRACTS

1. ADDITIONAL WORK. Contract change orders shall be prepared for all additional work not contemplated by the plans or specifications.

2. ADDITIONAL BID QUANTITIES. Contract change orders shall be prepared for all additional bid quantities required to complete the work contemplated by the plans or specifications which in aggregate exceeds 2% of the total contract price or which individually exceed \$7,500, whichever is greater. Bid quantities shall include unit costs and lump sum bid items.

3. TOTAL CONTRACT PRICE FOR SEGMENTED PROJECTS. The total contract price as applied to segmented or fast track projects shall be defined

as the total sum of the multiple contracts awarded under a single major project title.

4. EXTENSION OF TIME FOR PERFORMANCE. Contract change orders shall be prepared for all extensions of time for performance except as provided below for delays due to weather.

5. AVAILABILITY OF FUNDS. No contract change order shall be approved unless there are sufficient unencumbered funds appropriated to pay the cost of the additional work or additional bid quantities.

6. AUTHORITY TO APPROVE ON CONTRACTS UNDER \$10 MILLION. The Public Works Director (Director) is authorized to approve contract change orders subject to the following restrictions:

a. Approval of individual contract change orders which exceed \$50,000; and multiple change orders which aggregate more than 5% of the total contract price or \$50,000, whichever is greater, shall be subject to prior written consent of the City Manager.

b. Approval of individual contract change orders which exceed 1% of the total contract price or \$100,000, whichever is greater; and multiple change orders, which aggregate more than 10% of the total contract price or \$100,000 whichever is greater, shall be subject to prior authorization from the Council.

c. More than one matter may be dealt with on a given contract change order. The net cost shall be subject to (a) and (b) above. Each

contract change order must specify the underlying need for the change order.

d. Approval of a contract change order which provides a contract time extension of more than twenty days or 10% of the total time allowed under the contract, whichever is greater; or which, together with increased time allowed under previous contract change orders aggregates up to thirty days, or 20% of the total time allowed under the contract, whichever is greater, shall be subject to the prior written consent of the City Manager.

e. Approval of a contract change order which by itself or aggregated with time increases allowed under previous contract change orders provides a contract time extension equal to or exceeding thirty days or 20% of the total contract time allowed under the contract, whichever is greater, shall be subject to prior authorization from the Council.

f. Notwithstanding (d) and (e) above, wherein the Director or designee's judgment sole and absolute discretion, the weather conditions on a given day were such that the contractor was substantially prevented from performance of the work or the weather conditions were such that a delay is in the best interest of the City in obtaining quality workmanship the Director may authorize, in writing, a corresponding increase in the time allowed by the contract for completion of work.

g. The base contract amount shall determine if a contract is below the \$10 million threshold. Any changes to the contract shall not

apply to the contract amount in regards to the contract change order requirements herein.

7. AUTHORITY TO APPROVE ON CONTRACTS EXCEEDING \$10 MILLION. The Director is authorized to approve contract change orders subject to the following restrictions:

a. Approval of individual contract change orders which exceed \$100,000; and multiple change orders which aggregate more than 5% of the total contract price or \$100,000 whichever is greater shall be subject to prior written consent of the City Manager.

b. Approval of individual contract change orders which exceed 1% of the total contract price or \$1,000,000 whichever is greater; and multiple change orders, which aggregate more than 10% of the total contract price or \$1,000,000 whichever is greater, shall be subject to prior authorization from the Council.

c. More than one matter may be dealt with on a given contract change order. The net cost shall be subject to (a) and (b) above. Each contract change order must specify the underlying need for the change order.

d. Approval of a contract change order which provides a contract time extension of more than twenty days or 10% of the total time allowed under the contract, whichever is greater; or which, together with increased time allowed under previous contract change orders aggregates up to thirty days, or 20% of the total time allowed under the contract,

whichever is greater, shall be subject to the prior written consent of the City Manager.

e. Approval of a contract change order which by itself or aggregated with time increases allowed under previous contract change orders provides a contract time extension equal to or exceeding thirty days or 20% of the total contract time allowed under the contract, whichever is greater, shall be subject to prior authorization from the Council.

f. Notwithstanding (d) and (e) above, wherein the Director or designee's sole and absolute discretion, the weather conditions on a given day were such that the contractor was substantially prevented from performance of the work or the weather conditions were such that a delay is in the best interest of the City in obtaining quality workmanship the Director may authorize, in writing, a corresponding increase in the time allowed by the contract for completion of work.

B. FOR REQUIREMENTS CONTRACTS

1. REQUIREMENTS CONTRACT DEFINED. A requirements contract is one for which precise locations and amounts of work are not defined on the plans and specifications. Such contracts usually cover an annual or other time period. Specific written direction is issued by the relevant department director (Department Director) before the contractor may begin work at any location; the written order includes the bid items of work to be performed at the location and the quantities of each.

2. **ADDITIONAL WORK.** Contract change orders shall be prepared for all additional work not contemplated by the plans or specifications.

3. **VARIATIONS IN BID QUANTITIES.** The Department Director may vary the bid quantities of individual items without a change order; but change orders shall be prepared if the total contract price is exceeded.

4. **EXTENSION OF TIME FOR PERFORMANCE.** Contract change orders shall be prepared for all extensions of time for performance except as provided below for delays due to weather.

5. **AVAILABILITY OF FUNDS.** No contract change order shall be approved unless there are sufficient unencumbered funds appropriated to pay the cost of the additional work or additional bid quantities.

6. **AUTHORITY TO APPROVE.** The Department Director is authorized to approve contract change orders subject to the following restrictions:

 a. Approval of individual contract change orders which exceed \$50,000; and multiple change orders which aggregate more than 5% of the total contract price or \$50,000 whichever is greater, shall be subject to prior written consent of the City Manager.

 b. Approval of individual contract change orders which exceed 1% of the total contract price or \$100,000 whichever is greater; and multiple change orders, which aggregate more than 10% of the total contract price or \$100,000 whichever is greater, shall be subject to prior authorization from the Council.

c. Approval of a contract change order which by itself or aggregated with time increases allowed under previous contract change orders provides a contract time extension equal to or exceeding six months or 5% of the total contract time allowed under the contract, whichever is greater, shall be subject to prior authorization from the City Manager.

d. Approval of a contract change order which by itself or aggregated with time increases allowed under previous contract change orders provides a contract time extension equal to or exceeding one year or 10% of the total contract time allowed under the contract, whichever is greater, shall be subject to prior authorization from the Council.

e. Wherein the Department Director or designee's judgment, the weather conditions on a given day were such that the contractor was substantially prevented from performance of the work pursuant to a duly issued order at an individual location or the weather conditions were such that a delay is in the interest of the City in obtaining quality workmanship at that location, and that such delay would cause the contractor to overrun the final date for completion of all work under the contract, the Department Director may authorize, in writing, a corresponding increase in the time allowed by the contract for completion of work.

It is further resolved that Resolution No. 84-142 approved on April 14, 1984, amendment Resolution No. 89-470 approved on December 12, 1989, and amendment Resolution No. 94-114 approved on May 17, 1994, are rescinded in their entirety; Article

VI of the Construction Management Act as adopted by Resolution 2015-82 is rescinded in its entirety.

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STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing resolution was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____, 2017.

AYES :
NOES :
ABSENT :
ABSTAIN :

YVONNE SPENCE, CMC
City Clerk

By: _____
Deputy

APPROVED AS TO FORM:
DOUGLAS T. SLOAN
City Attorney

By: _____
Brandon M. Collet Date
Deputy