

# City of Calistoga

## Staff Report

**TO:** Honorable Mayor and City Council  
**FROM:** James M. Smith, Senior Civil Engineer  
**VIA:** Dan Takasugi, Public Works Director/City Engineer  
**DATE:** May 20, 2008  
**SUBJECT:** Consideration of a Resolution Authorizing an Update to the Change Order Procedures and Approval Thresholds in the Construction Procedures Manual

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**APPROVAL FOR FORWARDING:**

*James C. McCann (Signed by Sr. Sneddon)*  
 James C. McCann, City Manager

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**ISSUE:**

Consideration of a Resolution authorizing an update to the change order procedures and approval thresholds in the Construction Procedures Manual.

**RECOMMENDATION:**

Adopt the Resolution.

**BACKGROUND/DISCUSSION:**

The City of Calistoga maintains a Construction Procedures Manual (Manual) as a guide and aid to staff in the implementation of contract construction projects. The most recent version of the Manual was completed in February 1999. The Manual was formally adopted by the City Council via Resolution 99-06, and a copy of said resolution is provided at the end of this report for reference purposes. {Note that Attachment 'A' to the resolution includes the specific procedures under review now.} Given that the 'current' procedure is in its tenth year of use, staff has evaluated portions of the Manual to determine if it would be beneficial to be updated. Based on this assessment, staff recommends that the contract administration procedures, in particular the authorities required to approve change orders, be updated.

23 In order to assist the Council and public understand construction contract change orders  
24 on a project, the following details the types and purpose of contract change orders. The  
25 construction of public projects begins with a detailed project design. While we would  
26 desire that an engineer or architect's design be flawless, it can rarely be so. To produce  
27 a near flawless design would increase design costs substantially, requiring the  
28 engineer/architect to take many more soil borings, more exhaustive investigations of  
29 existing facilities and conditions, more peer reviews, more constructability reviews, and  
30 more labor-intensive research into old records. Performing such a very highly detailed  
31 and expensive design effort is not the industry standard, and therefore construction  
32 contract change orders should be anticipated during project construction.  
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34 Construction change orders generally occur in 3 categories:  
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- 36 1. Unforeseen Site Conditions: Problems with existing site conditions that were not  
37 foreseeable or anticipated during design. Typically there are more unforeseen  
38 site condition problems in underground work with utilities and excavations. But  
39 they are also very common in renovation work. An example would be  
40 encountering Native American artifacts during pipeline excavation.  
41
- 42 2. Design Errors and Omissions: Problems caused by a design error or a design  
43 omission. The engineer or architect of record will typically perform a redesign at  
44 no cost to correct the problem. But it is rare that the engineer or architect will pay  
45 for the associated change order costs until the change order rate for design  
46 errors and omissions exceeds a customary "standard of care".  
47
- 48 3. Owner-Requested Changes: This is a scope change (extra work added to the  
49 project), which is not necessarily required for the project's primary objective.  
50 While we desire to avoid these changes, they may often be necessary to avoid  
51 greater costs in the future. As an example, in a new water line project, an  
52 additional valve might be added where staff recognizes a future need to isolate a  
53 section of the line. To add the valve later would double or triple the cost and  
54 disrupt service.  
55

56 The Industry average change order rate for Public Works projects is approximately 8%  
57 of initial contract value for all change orders in a project. Yet the average is somewhat  
58 misleading, because projects often have either a high number of changes or a low  
59 number of changes. Projects that are small, or include extensive underground,  
60 renovation, or plant operations work typically have the highest change order rates  
61

62 The current procedure establishes the approval authority for change orders up to  
63 \$5,000 for the Public Works Director and up to \$10,000 for the City Manager. Further,  
64 the current policy allows for the review of larger-sized construction change orders by a

65 committee composed of the Mayor and the Finance (Administrative Services) Director, if  
66 such change orders are found to be 'critically needed to prevent delay' to a project. All  
67 other change orders are required to be brought to the full City Council for approval.  
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69 The existing procedure is somewhat limiting, and poses unnecessary administrative  
70 burdens on staff, due to a few reasons. First, due the passage of time and the  
71 escalating costs of construction work, the dollars limits from 1999 have very little  
72 effective value today, and the erosion of buying power will continue into the future.  
73 Unfortunately, \$5,000 to \$10,000 of construction work buys very little today, which  
74 means that staff are required to go to Council for any but the very smallest of change  
75 orders. Also, it is frequent practice in the construction industry to combine a few work  
76 items into a single change order, to achieve administrative efficiency for all concerned,  
77 but this becomes less possible if small-dollar approval limits exist. A second concern is  
78 the requirement in the current policy that a proposed change order must be found to be  
79 'critically needed to prevent delay'. Staff believes that the pace of work during  
80 construction is such that changes to the contract are essentially always time-critical, and  
81 as such, staff suggests simplifying the procedure to eliminate the need to make such a  
82 finding in each change order situation.  
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84 Lastly, the current change order authorization procedure does not recognize and  
85 account for the procedure by which construction projects are budgeted and approved.  
86 Typically, the City Council is presented with a final/updated project budget after the  
87 contract has been bid, as the Council considers that award of the construction contract  
88 to the apparent low bidder. At that time, the Council is asked to approve the total cost  
89 of the construction contract plus a contingency amount. This contingency amount,  
90 which is typically 5% to 15% of the original construction contract amount (depending on  
91 the size, nature, and anticipated risks of the project), serves as the source of the  
92 funding for contract change orders. Given that the full Council approves the  
93 contingency fund, staff believes that the Public Works Director and City Manager should  
94 have increased authority to approve change orders that are within the Council-approved  
95 change order 'budget'.  
96

97 Staff recommends that the Public Works Director be given authority to approve change  
98 orders of up to \$20,000, and that the City Manager be given authority to approve  
99 change orders of up to \$50,000, provided that the change orders are within the change  
100 order contingency fund as previously approved by the City Council.  
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102 Staff further recommends that attached new Resolution be adopted, as an update to  
103 Resolution 99-06, to implement the updated construction administration procedures.  
104

105 The timing of this proposed policy change is driven in part by the impending onslaught  
106 of major capital projects, including the Community Pool, Mt. Washington Water Tank,

107 Fire Station Seismic Retrofit and Renovation, Kimball WTP Improvements, and Logvy  
108 Recreation Facilities.

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110 **ENVIRONMENTAL REVIEW**

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112 Staff has reviewed this proposed action from the perspective of CEQA. Under the  
113 CEQA guidelines at Section 15378, this action is not a 'project'. It is merely a  
114 government administrative activity, which does not cause a direct or reasonably  
115 foreseeable indirect physical change in the environment. Activities that are not a project  
116 are not subject to any further review or action under CEQA.

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118 **FISCAL IMPACT:**

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120 This action streamlines an administrative procedure. Staff expects that there will real,  
121 though difficult to quantify, savings by simplifying the procedures under which staff  
122 implement construction projects.

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124 **ATTACHMENTS**

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- 126 1. Resolution  
127 2. Resolution 99-06 (for reference)

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**RESOLUTION 2008- \_\_\_\_\_**

**Exhibit "A"**

**CITY OF CALISTOGA  
Department of Public Works**

**CITY COUNCIL ADOPTED POLICIES AND PROCEDURES FOR  
CONSTRUCTION CONTRACT ADMINISTRATION  
Update: May 2008**

**1. Bid Opening**

Construction contract bids shall be publicly opened and read by the City Clerk or designated representative, at the time and place established in the project specifications. City engineering Staff, assisted by consultants, as appropriate, shall review and check the bids and make report and recommendations to the City Council concerning award of contract. Before submission to the City Council, the report and recommendation may be processed for concurrence by an appropriate committee of the City Council or a special committee appointed by the City Council.

**2. Progress Payments**

Progress payment requests for construction contract work are usually made by the contractor on a monthly basis. The progress payment amount is established by the contract provisions. Within the scope of approved contract amounts, including authorized change orders or amendments, the Director of Public Works is hereby authorized to approve Progress Payments.

**3. Change Orders**

Concurrently with bringing forward a construction contract for consideration of award by the City Council, staff shall prepare and submit for approval an updated construction budget for the project. Said budget shall include a contingency fund, as appropriate to the size, nature, and anticipated level of risk of the project, to provide a source of funds for change orders that may be necessary during the course of construction. Upon City Council approval of a Change Order Contingency Fund (Fund), staff may approve contract change orders that are within the Fund limits, according to the following further limits:

- a. The Director of Public Works is authorized to approve Change Orders not exceeding \$20,000.
- b. The City Manager is authorized to approve Change Orders not exceeding \$50,000.

87 For those Change Orders not provided for above, approval of Change Orders is  
 88 hereby authorized to be made by a committee composed of the Mayor, City  
 89 Manager, and the City's Finance Director, if the change is time-sensitive, or else by  
 90 the full City Council. The Committee may be called into session at the request of  
 91 the City Manager, and if said Committee approves a Change Order of more than  
 92 \$100,000, it shall be announced at the next City Council meeting.

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94 **4. Change to Required Time of Contract Completion**

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96 Construction project schedule changes, which change the required time of contract  
 97 completion, may be approved by the authorized individual or committee in  
 98 conjunction with approval of a cost Change Order. For a time extension only (no  
 99 money cost change) the Director of Public Works may approve.

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101 **5. Resolution of Day to Day Construction Project Issues**

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103 City engineering staff and/or project consultants are authorized to pursue resolution  
 104 of the myriad of problems and issues which arise during construction of a project,  
 105 within the context of City Council approved plans, specifications and contract  
 106 documents. This includes the negotiation of time delays, change order costs, etc.,  
 107 which will subsequently be presented to the Director of Public Works, the City  
 108 Manager, the Committee, or the City Council as provided in Section 3, above, for  
 109 approval.

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111 **6. Status Reports to City Council**

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113 As noted in Section 3 above, Change Orders exceeding \$100,000.00 each shall be  
 114 reported to the City Council at the next regular City Council meeting. Status reports  
 115 on other (smaller) Change Orders shall be made to the City Council on a quarterly  
 116 basis.

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118 **7. Matters Reserved For City Council Action**

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120 The following are Construction Contract related matters which shall be reserved for  
 121 City Council action:

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- 123 a. Approval of project plans, specifications and contract documents, and
- 124 authorization to advertise for bids;
- 125 b. Approval or rejection of bids, and award of contract;
- 126 c. Approval of Change Orders greater than the limits established at Section 3,
- 127 above;
- 128 d. Approval and acceptance of completed projects and authorization of filing of
- 129 Notice of Completion;
- 130 e. Disposition of all construction contract related legal claims.

RESOLUTION NO. 99 - 06

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALISTOGA, COUNTY OF NAPA, STATE OF CALIFORNIA APPROVING AND ADOPTING POLICIES AND PROCEDURES FOR ADMINISTRATION OF CONSTRUCTION CONTRACTS

WHEREAS, the City of Calistoga enters into many contracts to accomplish construction of city projects; and,

WHEREAS, there is need for Construction Contract Administration Policies and Procedures to promote prompt and effective administration of such contracts, to reduce costs, and to reduce potential for contractor claims.

NOW, THEREFORE BE IT RESOLVED BY the City Council of the City of Calistoga as follows:

"City Council Adopted Policies and Procedures for Construction Contract Administration," dated February, 1999, attached hereto, is hereby approved and adopted, and made a part hereof as Exhibit "A".

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Calistoga at a regular meeting held this 16<sup>th</sup> day of February, 1999, by the following vote:

AYES: Councilmembers Byrne, Cinocco, Dunsford, Dohring, and Mayor Callegari

NOES: NONE

ABSTAIN/ABSENT: NONE



MARIO CALLEGARI, Mayor

ATTEST:

  
PATT OSBORNE, City Clerk



RESOLUTION NO. 99 - 06

Exhibit "A"

CITY OF CALISTOGA  
Department of Public Works

CITY COUNCIL ADOPTED POLICIES AND PROCEDURES FOR CONSTRUCTION  
CONTRACT ADMINISTRATION  
February 16, 1999

1. Bid Opening

Construction contract bids shall be publicly opened and read by the City Clerk or designated representative, at the time and place established in the project specifications. City engineering Staff, assisted by consultants, as appropriate, shall review and check the bids and make report and recommendations to the City Council concerning award of contract. Before submission to the City Council, the report and recommendation may be processed for concurrence by an appropriate committee of the City Council or a special committee appointed by the City Council.

2. Progress Payments

Progress payment requests for construction contract work are usually made by the contractor on a monthly basis. The contract amount is established by contract provisions. Within the scope of approved contract amounts, including authorized change orders or amendments, the Director of Public Works is hereby authorized to approve Progress Payments.

3. Change Orders

(a) The Director of Public Works is authorized to approve minor Change Orders, not exceeding the additive amount of \$5,000.00, for each such Change Order. The cumulative amount of such Change Orders shall not exceed 10% of the original contract amount without further authorization by the City Council.

(b) For critically needed Change Orders, to prevent delay in prosecution of the project, the City Manager is authorized to approve Change Orders not exceeding the additive amount of \$10,000.00 for each such Change Order. The cumulative amount of such Change Orders as provided for herein in sections a and b shall not exceed 10% of the original contract amount without further authorization by the City Council.

(c) For those Change Orders not provided for under (a) or (b) above, approval of critically needed Change Orders, to prevent delay in prosecution of the project, is hereby authorized to be made by a committee composed of the Mayor and the City's Finance Director. The Committee may be called into session at the request of the City Manager.

If time permits, Change Orders more than \$10,000.00 should be brought to the City Council for approval. A Change Order of more than \$10,000.00 if authorized by the Committee, will be announced to the City Council at the next City Council meeting, together with the reason that the Change Order was deemed critical and time sensitive. In any event, the amount of a Change Order approved by the Committee shall not exceed fifteen percent (15%) of the original approved contract amount.

4. Schedule Change (Required Time of Completion)

Construction project schedule changes (required time of completion) may be approved by the authorized individual or committee in conjunction with approval of a cost Change Order. For a time extension only (no money cost change) the City Manager may approve.

5. Resolution of Day to Day Construction Project Issues

City engineering staff and/or project consultants are authorized to pursue resolution of the myriad of problems and issues which arise during construction of a project, within the context of City Council approved plans, specifications and contract documents. This includes the negotiation of time delays, change order costs, etc., which will subsequently be presented to the Director of Public Works, the City Manager, the Committee, or the City Council as provided in Section 3, above, for approval.

6. Status Reports to City Council

As noted in Section 3(c), above, cost Change Orders exceeding \$10,000.00 each shall be reported to the City Council at the next regular City Council meeting. Status reports on other (smaller) Change Orders shall be made to the City Council on the first regular Council meeting each month.

7. Matters Reserved For City Council Action

The following are Construction Contract related matters which shall be reserved for City Council action:

- (a) Approval of project plans, specifications and contract documents, and authorization to advertise for bids.
- (b) Approval or rejection of bids, and award of contract.
- (c) Approval of Change Orders greater than \$10,000.00, if not critical and time-sensitive.

(d) Authorization of Notice of Substantial Completion of a construction contract, or Notice of Partial Occupancy of a construction project.

(e) Approval and acceptance of completed project and authorization of filing of Notice of Completion.

(f) Disposition of all construction contract related legal claims.