



Memo

Date: 26 June 2025
To: Mayor, City Council and Staff
Cc: File
From: Brad Wilson, City Recorder
RE: Change Orders

Council Member Drury recommended restrictions on contract change orders. The request was precipitated by the change orders to the North Center Street Trail, Water, and Sewer Improvements Contract, which increased the contract amount from \$2,675,675 to \$6,851,289.

The Midway City Municipal Code states the following regarding change orders:

4.02.010(C)(4)

4. Change Order. A written order signed by the purchasing agent, directing the contractor to suspend work or make changes, which the appropriate clauses of the contract authorize the purchasing agent to order without consent of the contractor or any written alteration in specifications, delivery point, rate of delivery, period of performance, price quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract.

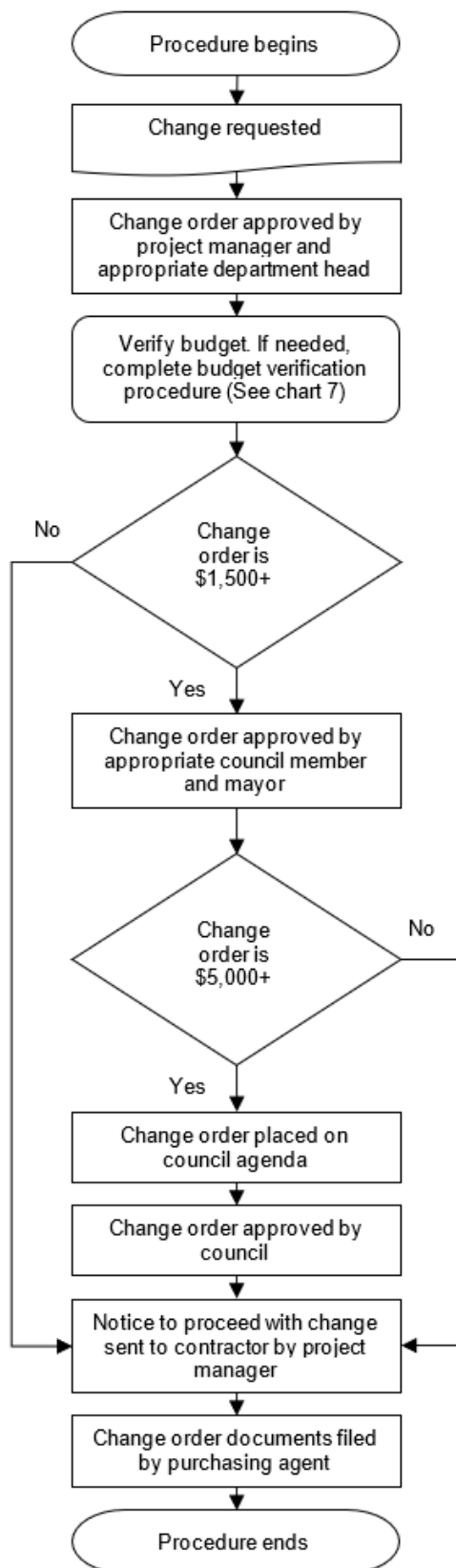
4.02.010(E)

E. Source Selection. The City Council shall set forth policies for a purchase, or the encumbrance of funds for a purchase, of any commodity or professional service. These policies shall provide guidance for:

1. Small purchases that do not require formal bids or proposals.
2. Purchases or contracts that require formal competitive sealed bids.
3. Contracts for services that can be executed through a request for proposal processes.
4. Capital improvement projects.
5. Budget verification.
6. Draw requests.
7. Release of warranty funds.
8. Contract change orders. All purchases should provide for the greatest possible economy in City procurement activities.

The Midway City Policies and Procedures includes the following charge regarding change orders:

Chart 10: **Change Order Procedure**



These are the only references to change orders in the Municipal Code and the Policies and Procedures. Any changes to the Municipal Code must be made by ordinance. Any changes to the Policies and Procedures must be made by resolution.

Change orders may be restricted with the following and other options:

- Limit the cost of an individual change order as a percentage of the original contract cost.
- Limit the cost of all change orders to a percentage of the original contract cost.
- Limit the number of change orders.
- Require that change orders costing over a certain percentage of the original contract cost be a separate project with a separate bid process and contract.

Following is an email from Council Member Drury regarding change orders.

Please contact me if you have any questions.

Brad Wilson

From: Celeste Johnson
Sent: Wednesday, June 25, 2025 3:20 PM
To: Jeff Drury
Cc: Brad Wilson
Subject: RE: July 1st Meeting

Follow Up Flag: Follow up
Flag Status: Flagged

Thanks for letting me know you're schedule...would you like to see the two items you discussed be on the July 17 so you can be a part of it?



Celeste Johnson

Mayor

P: 435-654-3223 ext 102

E: cjohnson@midwaycityut.gov

75 N 100 W – P.O. Box 277
Midway, UT 84049

www.midwaycityut.gov

From: Jeff Drury <jdrury@midwaycityut.gov>
Sent: Wednesday, June 25, 2025 3:16 PM
To: Celeste Johnson <cjohnson@midwaycityut.gov>
Subject: July 1st Meeting

Celeste,

I will be out of the country in Africa starting this Saturday and coming back on the 12th of July. I won't be able to make the July 1st council meeting. I didn't see the will serve letter item on the draft agenda, is this coming?

It also looks like I will miss an item on the contract change orders. I know I was the one that threw a fit on this. At a minimum I think we need to have a policy in place that if a change order value is in excess of 100% on the original awarded contract, we need to re-bid the items in the change order. I think 100% is pretty generous and would love to see 50%. I want to stress that I don't think there has been any shady behavior on the part of the City, and the intention is to get better prices. With that being said if I was someone who bid on a project at one level, and it changed drastically or increased the award amount >100% I would absolutely contest the contract and process. Not sure where state law sits on this but I have seen several RFP awards contested recently for far less. I think the City can avoid any implications

of impropriety by having a set limit on change orders. Happy to discuss before Saturday if there are any questions.

Let me know if there is anything else I missed or I need to follow up on.

Thanks,



Jeff Drury

Midway City Council

jdrury@midwaycityut.org

Phone: 1-435-714-1425

Midway

75 North 100 West

P.O. Box 277

Midway, Utah 84049-0277