

**Governance & Accountability Committee**  
**Monday February 22 – 12:00 noon**  
**Rm 280**

Committee Members:      Kenny Smith, Chair  
                                    LaWana Mayfield, Vice Chair  
                                    John Autry  
                                    Greg Phipps

Staff Resource:              Randy Harrington, Chief Financial Officer

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**AGENDA**

**I.      Council’s Rules of Procedure Revisions**

*Staff Resource: Bob Hagemann*  
*Attachment A*

**II.     City Audits**

*Staff Resource: Greg McDowell*

- a) Employee Expense Reimbursements  
*Attachment B*
  
- b) Construction – Change Orders  
*Attachment C*

**III.   Hotline Summary (July – December 2015)**

*Staff Resource: Greg McDowell*  
*Attachment D*

**IV.   Next Meeting**

**Monday, March 28<sup>th</sup> at 12:00 noon in Room 280**

**Distribution:**

Mayor and City Council  
Council Team  
Greg McDowell  
Sheila Simpson

City Manager’s Executive Team  
Bob Hagemann  
Cheryl Brown  
Robert Campbell

Corporate Communications  
Stephanie Kelly

# **Council's Rules of Procedures Revisions**

## **Attachment A**

**CITY OF CHARLOTTE  
OFFICE OF THE CITY ATTORNEY  
Memorandum**

TO: Governance & Accountability Committee  
FROM: Robert E. Hagemann, City Attorney *REH*  
DATE: February 16, 2016  
RE: Council Rules of Procedure

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After reviewing the current Council Rules of Procedure at your January meeting, the Committee asked me to prepare a red-line version of clean up amendments. That document is attached.

The Committee also asked me to identify the more substantive items that I deem worthy of closer consideration. The list of issues along with some options follows.

Finally, the Manager and I have taken the liberty of preparing a clean copy draft that incorporates the red-line clean up amendments as well as our recommendations regarding the issues listed below.

**Issues and Options**

Citizen Forum – Rule 4(d)

- When?

Currently held at the end of the first Monday workshops with unlimited speakers, and fourth Monday with ten speakers

- Frequency of speaking. Currently once per month and priority given to those who have not spoken in the last 12 months.

Consider simply limiting to once per quarter or two times a year.

- Signing up to speak

May currently do so during the meeting. Consider establishing a deadline.

- Power point/video

Current practice is not to allow. Consider formalizing in the rules.

### Speaking on Agenda Item/Public Hearing – Rule 4(b) and (c)(2)

- Currently there are different rules for agenda items and public hearings.  
Consider establishing the same rules for an agenda item and public hearing.
- For agenda items, there's a ten minute total when four or more citizens sign up.  
Consider eliminating. This rule is never invoked.
- Yielding time - currently allowed for agenda item but prohibited for public hearing.  
Consider prohibiting for both.
- Mayor may shorten time for agenda item but extend time at public hearing.  
Consider making consistent to allow less time if unusually large number of speakers.
- Power point/video  
Current practice is not to allow. Formalize in the rules?

### Motions – Rules 14 and 15

- defer/revive consideration – Rules 14(e) and (j)  
Rules are never used. Consider deleting.
- rescind or repeal – Rule 14(l)  
Rule is never used. Consider deleting.
- renewal/prevent reconsideration – Rule 15 and 14(n)  
Rules are never used. Consider deleting.

### Electronic attendance – Current Rule 30

- Currently allowed only for committee meetings when the member is unable to attend due to illness or injury  
Consider adding a provision allowing for emergency meetings.

Consider adding a provision allowing for regular/special meetings where: (i) necessary to achieve a quorum; (ii) attendance is precluded due to weather, civil unrest, emergency, etc.; and (iii) meeting needs to be continued (*e.g.*, need to open and continue zoning public hearings to avoid need to readvertise) or to take action on matters that cannot be delayed.

enclosures

**RULES OF PROCEDURE  
for the Charlotte City Council**

**1. Regular Meetings**

At its organizational meeting, the City Council shall fix the time and place of its regular meetings. Its regular meeting schedule may be changed by the Council at any time upon compliance with the notice provisions of the open meetings law.

**2. Special Meetings**

Upon compliance with the notice provisions of the open meetings law, the Mayor, or in the absence of the Mayor, the Mayor Pro Tempore, or a majority of the members of the City Council may at any time call a special meeting by causing a written notice, stating the business to be transacted and the time and place of holding such meeting and signed by the person or persons calling the same to be delivered ~~in hand~~ to each member ~~or to be left at his usual dwelling or place of business~~ at least six (6) hours before the time of such meetings. Only the business stated in the written notice may be transacted at the special meeting so called, except when the Mayor and all members of the Council are present and consent to the transaction of other business.

**3. Organizational Meeting**

At the first regular meeting in December following a general election in which Council members are elected, the Mayor and Council members shall take and subscribe the oath of office as the first order of business. As the second order of business, the Council shall elect from its members a Mayor Pro Tempore who shall hold office at the pleasure of the Council.

**4. Agenda: Procedures**

(a) The ~~City Clerk and the office of the~~ City Manager shall prepare the agenda for the meeting. The Mayor or City Manager may place an item on any agenda. The Mayor and each member of the Council shall receive a copy of the agenda and it shall be available for public inspection when it is distributed to the Mayor and Council.

(b) During its consideration of the agenda, Council members shall confine their discussion and comments to only those items that appear on the agenda. For purposes of this subsection, any issue which is raised by a speaker at a Citizens Forum shall be considered an agenda item for purposes of questions and discussion, but not for action, unless all Council members agree in accordance with subsection (c) below.

(c) Any matter which is not on the agenda may be discussed upon the completion of the agenda. The Council may not take formal action on any non-agenda matter unless all Council members, in accordance with Section 3.23 (a) of the Charter, vote to add the

matter to the agenda. A motion to suspend the rules shall not be in order if the purpose of the motion is to suspend the requirement of unanimity necessary to add a non-agenda matter to the agenda.

(d) ~~The Mayor or a~~Any member of Council may request the City Manager to place an item on a future agenda by making such a request at a Council meeting. Unless a Council member or the City Manager objects, the requested item shall be included. If a Council member or the City Manager has an objection, the item in question shall not be included on a future agenda, unless a majority of the Council votes in favor of including the item.

(e) The City Council ~~shall~~may periodically hold policy agenda meetings to discuss issues of a policy nature and to determine the necessity for further action. Policy agenda meetings will be considered informal sessions of City Council ~~and no formal policy decisions shall be made at these meetings. The office of the City Manager shall prepare an agenda for the meeting and the City Clerk shall record and provide minutes of the meeting.~~

## 5. Addressing Council

(a) Persons desiring to address the City Council shall call the office of the City Clerk and give their name, address and subject matter to be discussed. Any person unable to give advance notice prior to a Council meeting, shall fill out the card available for this purpose and hand it to the City Clerk. Persons desiring to speak on a non-agenda matter ~~will be recognized to~~may speak at ~~the~~Citizens Forum ~~preceding most Council meetings. If there is no Citizens Forum, those persons desiring to speak will be recognized upon the completion of the agenda.~~ Persons desiring to speak on an agenda item will be recognized to speak when the agenda item is reached.

(b) No person in addressing the City Council, except as otherwise provided herein, shall be allowed to speak more than three (3) minutes unless the Mayor allows an extension of time. The Mayor, as the presiding officer, ~~may in his~~shall have the discretion, subject to appeal, ~~to~~shorten the time for speaking when an unusually large number of persons have registered to speak. Citizens may yield their time to another person or to a spokesperson for a group when addressing a scheduled agenda item, except during public hearings which are subject to Section (c) below. When four or more citizens wish to address the Council about the same scheduled agenda item, the time allotted to that presentation will be ten (10) minutes. The Council may allow an extension of this time as they deem appropriate.

(c) Public hearings:

(1) Zoning. At hearings involving amendments to the zoning ordinance, ~~proponents of the amendment shall be heard first and shall be provided a total of three (3) minutes or ten (10) minutes according to subsections B and C below. Opponents of the amendment shall be heard after the proponents and shall be provided a total of ten (10) minutes notwithstanding the number of persons desiring to be heard. Proponents may speak a total of (2) minutes in rebuttal. the time~~

allotted for speakers and the order of presentation is set forth below. The time of proponents or opponents may be extended by an affirmative vote of a majority of the Council members present.

- ~~A.~~
  - ~~1. If petitioner does not wish to speak, and~~
  - ~~2. If Council has no questions, and~~
  - ~~3. If no one wishes to speak in opposition:~~
    - ~~(a) Dispense with staff presentation.~~
    - ~~(b) Dispense with petitioner's presentation.~~
    - ~~(c) Let rezoning hearing stand on written material.~~
  
- BA.
  - ~~1. If there is~~speakers are signed up in opposition, or
  - ~~2. If Council feels written material by petitioner and staff does not answer all questions:~~if staff opposes the petition:
    - ~~(a) Full hearing will be held.~~Staff makes presentation.
    - ~~(b) Proponents and opponents will be allowed 10 minutes each; proponents will be allowed 2 minutes rebuttal.~~
  
- CB.
  - ~~1. If there is no~~speakers are signed up to speak in opposition and staff recommends approval, ~~but petitioner wishes to speak:~~
    - ~~(a) There will be a staff presentation.~~Staff makes presentation.
    - ~~(b) Petitioner will be allowed~~ up to 3 minutes.

(2) Other hearings. At public hearings other than zoning hearings, each person addressing Council is limited to three (3) minutes. The Mayor ~~may, at his~~shall have the discretion, to extend the time for speaking. Citizens may not yield any of their time allotment to another person or to a spokesperson for a group when addressing Council at hearings subject to this subsection.

(3) Once a matter has been the subject of a public hearing, persons will not be allowed to address the Council on the matter at a subsequent Council meeting, or at a subsequent informal session devoted to hearing from citizens. Citizens may respond to questions or inquiries for information from Council members or the Mayor after the close of a public hearing.

**(d) Scheduling Citizen Forum**

~~The~~A Citizens Forum shall be held at least once a month ~~on the first Monday of each month beginning at 7 p.m. pursuant to the procedures herein.~~ To enable all

citizens an opportunity to speak, a citizen may only speak at the Citizens Forum once each month. At any Citizens Forum where the number of speakers is limited, citizens who have not spoken at Citizens Forums in the preceding twelve (12) months shall be given preference over citizens who have spoken within the preceding twelve (12) months.

## 6. Office of Mayor

The Mayor shall preside at all meetings of the Council. In order to address the Council, a member must be recognized by the Mayor. At such Council meetings, the Mayor shall have the following powers:

- (a) To rule motions in or out of order, including any motion patently offered for obstruction or dilatory purposes. ~~The City Attorney shall serve as parliamentarian and may offer advisory opinions or advice to the Mayor;~~
- (b) To determine whether a speaker has gone beyond reasonable standards of courtesy in his~~their~~ remarks and to entertain and rule on objections from other members on this ground;
- (c) To entertain and answer questions of parliamentary ~~law or~~ procedure (the City Attorney may offer advisory opinions or advice to the Mayor);
- (d) To call a brief recess at any time;
- (e) To adjourn in an emergency;
- (f) To vote in cases of a tie and as otherwise authorized by Section 3.23(b) of the Charter and on zoning amendments that are the subject of a valid protest as defined in G.S. 160A-385; and
- (g) To veto any action adopted by the City Council except those actions set forth in Section 3.23(b) of the Charter.

## 7. Office of Mayor Pro Tempore

~~At the organizational meeting, the Council shall elect from among its members a Mayor Pro Tempore to serve at the Council's pleasure. A Council member who serves as~~The Mayor Pro Tempore shall be entitled to vote on all matters and shall be considered a Council member for all purposes, including the determination of whether a quorum is present. In the Mayor's absence, the Mayor Pro Tempore shall preside, and when presiding, shall have the right to vote upon all questions, but shall have no additional vote in case of a tie.

## 8. Presiding Officer When the Mayor is in Active Debate

The Mayor shall preside at meetings of the Council unless ~~he becomes~~ actively engaged in debate on a particular proposal, in which case ~~he~~ the Mayor may designate another Council member to preside over the debate. The Mayor shall resume the duty to preside as soon as the debate on the matter is concluded and prior to a vote on the matter.

## 9. Action by the Council

~~a. — During formal business and Zoning meetings, t~~The Council shall proceed by motion, ~~but each member may be recognized once for the purpose of discussion of any agenda item prior to a motion being made pertaining to that item. — The Mayor or a majority of Council may permit additional discussion as necessary for the edification of the Council and the public.~~ Any member after being recognized may make a motion. All motions require a second ~~as prescribed by Robert's Rules of Order.~~

~~b. — During informal meetings such as workshops, dinner meetings and retreats, the Council may proceed without motions. — During such informal meetings where the dissemination of information is the primary purpose, the Council and Mayor should proceed in such a manner that will best facilitate the free flowing exchange of ideas and information.~~

~~c. — During general public hearings and public hearings for zoning petitions the Council may proceed without motions. —~~

## 10. One Motion at a Time

A member may make only one motion at a time.

## 11. Substantive Motion

A substantive motion is out of order while another substantive motion is pending.

## 12. Adoption by Majority Vote

A motion shall be adopted if it receives ~~if it receives~~ at least six (6) affirmative votes ~~of the Council members or five (5) such affirmative votes together with the affirmative vote of the Mayor in case of a tie vote,~~ unless otherwise required by the Charter, or the laws of North Carolina.

## 13. Debate

~~Once a motion has been made and seconded, T~~he Mayor shall ~~state the motion and then~~ open the floor ~~to~~ for debate ~~on it~~. The Mayor shall preside over the debate according to the following general principles:

- (a) The introducer (the member who makes the motion) is entitled to speak first; and
- (b) A member who has not spoken on the issue shall be recognized before someone who has already spoken.

#### **14. Procedural Motions**

In addition to substantive motions, the following procedural motions, and no others, shall be in order. Unless otherwise noted, each motion is debatable, may be amended, and requires a majority vote for adoption.

- (a) To adjourn. The motion may be made only at the conclusion of action on a pending matter; it may not interrupt deliberation of a pending matter. This motion is not debatable.
- (b) To take a recess. This motion is not debatable.
- (c) To suspend the rules. The motion requires a two-thirds (2/3) vote to pass.
- (d) To divide a complex motion and consider it by paragraph.
- (e) To defer consideration. A substantive motion whose consideration has been deferred expires one hundred (100) days thereafter unless a motion to revive consideration is adopted. A public hearing (including a zoning hearing) deferred to a future meeting shall be re-advertised for the meeting at which the meeting is deferred to; a public hearing which is continued (including a zoning hearing) is deemed to have been opened, and need not be re-advertised for the continuation meeting.
- (f) Call of the previous question. The motion is not in order until all Council members, who have indicated a desire to be recognized, have had an opportunity to speak once. Requires a two-thirds (2/3) vote and is not debatable.
- (g) To postpone to a certain time or day.
- (h) To refer to a committee. Sixty (60) days after a motion has been referred to a committee, the introducer may compel consideration of the measure by the entire Council, whether or not the committee has reported the matter to the Council.
- (i) To amend. An amendment to a motion must be pertinent to the subject matter of the motion, but it may achieve the opposite of the intent of the motion. A motion may be amended, and that amendment may be amended, but no further amendments may be

made.

(j) To revive consideration. The motion is in order any time within one hundred (100) days after the day of a vote to defer consideration. A substantive motion on which consideration has been deferred expires one hundred (100) days after the deferral unless a motion to revive consideration is adopted.

(k) To reconsider. This motion must be made by a member who voted with the prevailing side, and only at the meeting during which the original vote was taken. The motion cannot interrupt deliberation on a pending matter but is in order at any time before actual adjournment.

(l) To rescind or repeal.

(m) To ratify.

(n) To prevent reconsideration for three (3) months. The motion shall be in order immediately following the defeat of a substantive motion and at no other time. The motion requires a vote equal to the number required for a quorum for adoption and is valid for three (3) months or until the next regular election of Council members, whichever occurs first.

(o) To substitute. A motion to substitute may seek the opposite result of the original motion, but it must be pertinent to the subject matter of the original motion. It shall not be necessary for the Council to vote a second time on the same subject matter if a motion to substitute is approved.

## **15. Renewal of Motion**

A motion that is defeated may be renewed at any later meeting unless a motion to prevent reconsideration has been adopted.

## **16. Withdrawal of Motion**

A motion may be withdrawn by the introducer at any time before a vote. Permission of the member seconding the motion is not required. Once a motion is withdrawn, the same motion cannot be remade by the same Council member in the form of a substitute motion.

## **17. Duty to Vote**

Every member must vote unless excused by the remaining members as authorized or required by law pursuant to Section 3.23(a) of the City Charter and Section 2-54 2-74 of the City Code.—A member who wishes to be excused from voting shall so inform the Mayor, who shall

take a vote of the remaining members. ~~No member shall be excused from voting except upon matters involving the consideration of his own financial interest or official conduct.~~ In all other cases, a failure to vote by a member who is physically present in the Council chamber, or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as an affirmative vote.

## **18. Adoption of Motions, Resolutions and Ordinances**

Six (6) affirmative votes ~~of the Council members, or five (5) of such affirmative votes, together with the affirmative vote of the Mayor, in case of a tie vote,~~ shall be required for the passage of any motion, resolution or ordinance. Motions, resolutions and ordinances granting special franchises and special privileges must be voted on and passed at not less than two regular meetings of the City Council. Except as provided in this section, motions, resolutions and ordinances will be deemed adopted if passed upon one reading.

Except for Council appointments to committees, boards and commissions; its employment of the City Manager, the City Attorney and the City Clerk; its internal affairs; and matters which must be approved by the voters, the Mayor may veto any action adopted by the City Council. The veto must be exercised at the meeting at which the action was taken. An action vetoed by the Mayor shall automatically be on the agenda at the next regular or special meeting of the Council, but shall not become effective unless it is re-adopted by the Council with at least seven (7) members voting in the affirmative.

## **19. Closed Sessions**

The Council may hold closed sessions as provided by law.

## **20. Quorum**

A majority of the actual members of the Council shall constitute a quorum. A member who leaves a meeting, whether excused or unexcused, shall be counted as present for purposes of determining whether a quorum is present.

## **21. Quorum at Public Hearings**

A quorum of the Council shall be required at all public hearings required by law.

## **22. Minutes**

Full and accurate minutes of the Council proceedings shall be kept and shall be open to the inspection of the public. The results of each vote shall be recorded in the minutes.

## **23. Council Committees**

The following rules shall be applicable to all Council committee meetings:

- (a) A quorum shall be required consisting of a majority of the members of the committee.
- (b) The chairman of the committee shall have a vote on all matters coming before the committee.
- (c) Minutes of committee meetings shall be kept and open to the inspection of the public. The results of each vote shall be recorded in the minutes.

**24. Reference to Roberts Rules Of Order**

To the extent not provided for in these Rules, and to the extent it does not conflict with North Carolina law, the Council shall refer to Roberts Rules of Order, Revised, to answer unresolved procedural questions.

**25. Contacts With City Staff**

With regard to the Council-Manager relationship, Section ~~4.234.03~~ of the Charlotte City Charter provides as follows: “The Council shall hold the City Manager responsible for the proper management of the ~~affairs of the~~ City and the City Manager shall keep the Council informed and shall make reports and recommendations as requested by Council or as the Manager determines necessary. ~~The~~Neither the Mayor ~~and, the~~ Council ~~members shall not~~nor any member thereof shall direct the conduct or activities of any City employee, directly or indirectly, except through the City Manager.”

Council members shall contact the City Manager or a member of the City Manager’s Office staff on any item or question of a policy nature, or if the Council member is seeking additional information, briefing or analysis which is not readily available. The City Manager will refer requests which require more than four hours of staff time to the City Council for approval.

Routine requests for information shall be directed to the Manager’s staff or to the appropriate ~~department head~~Key Business Executive. Council members are encouraged to direct citizens who have routine service requests to ~~311 the Customer Service Center (336-7600).~~ ~~Council members may also use the council call-in tape system (336-2777) for requests for service.~~

**26. Communications With Citizens Committees and Other Parties**

In contacts with appointed Citizens Committees or other individuals or groups, Council members shall not represent their individual views as being representative of the full City Council unless Council has formally authorized them to do so.

If the City is entering into negotiations with another party on a matter which could result in a formal contractual arrangement, Council will normally direct the City Manager ~~and his staff~~ to conduct those negotiations and come back to the Council with a recommendation. The Council

may ask one or more of its members, or a Council Committee, to work with the City Manager during negotiations but may only do so at a Council meeting. The Mayor may make such a request if time is of the essence, with notification to the Council immediately thereafter, and confirmation by the Council at its next meeting.

Unless a Council member's participation has been authorized as outlined above, Council members shall not participate in formally authorized negotiations with any outside parties.

## **27. Council Contacts With Media**

Council members shall not represent any contacts they have with the media as being representative of the full City Council unless Council has formally taken a position on the matter.

Individual Council members shall not release information to the media or the public when that information has been provided to them by the City Attorney as part of a Confidential Attorney-Client memorandum or as part of a City Council closed session held in compliance with the Open Meetings law (see Sec. 3.a. of the Mayor and Council's Code of Ethics – "They should also not disclose confidential information, including the premature disclosure of what transpired in a closed session."). The Council may choose to designate a spokesperson, such as the Mayor or City Attorney, to release appropriate information to the media or the public.

## ~~**28. Protested Zoning Petitions**~~

~~If a Council member or the Mayor is absent from a meeting at which a protested zoning petition is considered, the petition shall automatically be deferred to the next business or zoning meeting when all 12 members are present. If the petitioner, at his discretion, requests that the petition not be deferred, it shall be acted upon by the members present.~~

## ~~**2928. Nominations for Boards and Commissions by Absent Council Members**~~

~~A Council ~~M~~member who will be absent from a ~~regular or special Council~~ meeting at which nominations for boards and commissions will be accepted, may make nominations in writing by submitting those written nominations to the City Clerk at any time prior to the scheduled beginning time of the meeting at which the nominations will be accepted.~~

## ~~**3029. Electronic attendance at Council Committee meetings.**~~

~~Council members may attend committee meetings by telephone or other electronic means when they are unable, by reason of illness or injury, to attend in person. Members who plan to attend by electronic means shall notify City staff at least 48 hours in advance to allow for arrangements to be made. Members attending electronically are entitled to vote and fully participate in the business of the committee meeting.~~

**RULES OF PROCEDURE  
FOR THE CHARLOTTE CITY COUNCIL  
Adopted \_\_\_\_\_**

**1. Regular Meetings**

At its organizational meeting, the City Council shall fix the time and place of its regular meetings. Its regular meeting schedule may be changed by the Council at any time upon compliance with the notice provisions of the open meetings law.

**2. Special Meetings**

Upon compliance with the notice provisions of the open meetings law, the Mayor, or in the absence of the Mayor, the Mayor Pro Tempore, or a majority of the members of the City Council may at any time call a special meeting by causing a written notice, stating the business to be transacted and the time and place of holding such meeting and signed by the person or persons calling the same to be delivered to each member at least six (6) hours before the time of such meetings. Only the business stated in the written notice may be transacted at the special meeting so called, except when the Mayor and all members of the Council are present and consent to the transaction of other business.

**3. Organizational Meeting**

At the first regular meeting in December following a general election in which Council members are elected, the Mayor and Council members shall take and subscribe the oath of office as the first order of business. As the second order of business, the Council shall elect from its members a Mayor Pro Tempore who shall hold office at the pleasure of the Council.

**4. Agenda: Procedures**

(a) The City Manager shall prepare the agenda for the meeting. The Mayor or City Manager may place an item on any agenda. The Mayor and each member of the Council shall receive a copy of the agenda and it shall be available for public inspection when it is distributed to the Mayor and Council.

(b) During its consideration of the agenda, Council members shall confine their discussion and comments to only those items that appear on the agenda. For purposes of this subsection, any issue which is raised by a speaker at a Citizens Forum shall be considered an agenda item for purposes of questions and discussion, but not for action, unless all Council members agree in accordance with subsection (c) below.

(c) Any matter which is not on the agenda may be discussed upon the completion of the agenda. The Council may not take formal action on any non-agenda matter unless all Council members, in accordance with Section 3.23 (a) of the Charter, vote to add the matter to the agenda. A motion to suspend the rules shall not be in order if the purpose of

the motion is to suspend the requirement of unanimity necessary to add a non-agenda matter to the agenda.

(d) Any member of Council may request the City Manager to place an item on a future agenda by making such a request at a Council meeting. Unless a Council member or the City Manager objects, the requested item shall be included. If a Council member or the City Manager has an objection, the item in question shall not be included on a future agenda, unless a majority of the Council votes in favor of including the item.

(e) The City Council may periodically hold policy agenda meetings to discuss issues of a policy nature and to determine the necessity for further action. Policy agenda meetings will be considered informal sessions of City Council

## **5. Addressing Council**

(a) Persons desiring to address the City Council shall call the office of the City Clerk and give their name, address, telephone number, and subject matter to be discussed. Any person unable to give advance notice prior to a Council meeting, shall fill out the card available for this purpose and hand it to the City Clerk prior to the time the agenda item is reached. Once an agenda item has been called, a person may not sign up to speak. Notwithstanding the forgoing, for matters where an unusually large number of persons are expected to speak, the Mayor may set an earlier deadline for speakers to register with the City Clerk.

(b) For agenda items and public hearings other than zoning public hearings, persons who have signed up to speak shall be allowed to speak for up to three (3) minutes. The Mayor, or the presiding officer in the absence of the Mayor, shall have the discretion, subject to appeal to the Council, to shorten the time for speaking when an unusually large number of persons have registered to speak. Speakers may not yield their time to another person.

(c) Zoning public hearings. At hearings involving amendments to the zoning ordinance, the time allotted for speakers and the order of presentation is set forth below. The time of proponents or opponents may be extended by an affirmative vote of a majority of the Council members present.

- A. If speakers are signed up in opposition, or if staff opposes the petition:
  - (i) Staff makes presentation.
  - (ii) Proponents and opponents will be allowed 10 minutes each; proponents will be allowed 2 minutes rebuttal.
- B. If no speakers are signed up to speak in opposition and staff recommends approval:
  - (i) Staff makes presentation.

(ii) Petitioner will be allowed up to 3 minutes.

(d) Once a matter has been the subject of a public hearing, persons will not be allowed to address the Council on the matter at a subsequent Council meeting, or at a subsequent informal session devoted to hearing from citizens. Citizens may respond to questions or inquiries for information from Council members or the Mayor after the close of a public hearing.

(e) The provisions of this rule shall not apply to speakers addressing Council on awards and recognitions or for staff or other individuals expressly invited to address Council on a matter.

(d) Scheduling Citizen Forum. A Citizens Forum shall be held at least once a month during which persons may speak on matters not on the agenda. To enable all citizens an equal opportunity to speak, a citizen may only speak at the Citizens Forum once each quarter. The number of speakers at a Citizens Forum shall be limited to ten (10) unless otherwise agreed to by a majority of Council.

## **6. Office of Mayor**

The Mayor shall preside at all meetings of the Council. In order to address the Council, a member must be recognized by the Mayor. At such Council meetings, the Mayor shall have the following powers:

(a) To rule motions in or out of order, including any motion patently offered for obstruction or dilatory purposes;

(b) To determine whether a speaker has gone beyond reasonable standards of courtesy in their remarks and to entertain and rule on objections from other members on this ground;

(c) To entertain and answer questions of parliamentary procedure (the City Attorney may offer advisory opinions or advice to the Mayor);

(d) To call a brief recess at any time;

(e) To adjourn in an emergency;

(f) To vote in cases of a tie and as otherwise authorized by Section 3.23(b) of the Charter; and

(g) To veto any action adopted by the City Council except those actions set forth in Section 3.23(b) of the Charter.

**7. Office of Mayor Pro Tempore**

The Mayor Pro Tempore shall be entitled to vote on all matters and shall be considered a Council member for all purposes, including the determination of whether a quorum is present. In the Mayor's absence, the Mayor Pro Tempore shall preside, and when presiding, shall have the right to vote upon all questions, but shall have no additional vote in case of a tie.

**8. Presiding Officer When the Mayor is in Active Debate**

The Mayor shall preside at meetings of the Council unless actively engaged in debate on a particular proposal, in which case the Mayor may designate another Council member to preside over the debate. The Mayor shall resume the duty to preside as soon as the debate on the matter is concluded and prior to a vote on the matter.

**9. Action by the Council**

The Council shall proceed by motion. Any member after being recognized may make a motion. All motions require a second.

**10. One Motion at a Time**

A member may make only one motion at a time.

**11. Substantive Motion**

A substantive motion is out of order while another substantive motion is pending.

**12. Adoption by Majority Vote**

A motion shall be adopted if it receives at least six (6) affirmative votes unless otherwise required by the Charter, or the laws of North Carolina.

**13. Debate**

Once a motion has been made and seconded, the Mayor shall open the floor for debate. The Mayor shall preside over the debate according to the following general principles:

- (a) The introducer (the member who makes the motion) is entitled to speak first; and
- (b) A member who has not spoken on the issue shall be recognized before someone who has already spoken.

## 14. Procedural Motions

In addition to substantive motions, the following procedural motions, and no others, shall be in order. Unless otherwise noted, each motion is debatable, may be amended, and requires a majority vote for adoption.

- (a) To adjourn. The motion may be made only at the conclusion of action on a pending matter; it may not interrupt deliberation of a pending matter. This motion is not debatable.
- (b) To take a recess. This motion is not debatable.
- (c) To suspend the rules. The motion requires a two-thirds (2/3) vote to pass.
- (d) To divide a complex motion and consider it by paragraph.
- (e) Call of the previous question. The motion is not in order until all Council members, who have indicated a desire to be recognized, have had an opportunity to speak once. Requires a two-thirds (2/3) vote and is not debatable.
- (f) To postpone to a certain time or day.
- (g) To refer to a committee. Sixty (60) days after a motion has been referred to a committee, the introducer may compel consideration of the measure by the entire Council, whether or not the committee has reported the matter to the Council.
- (h) To amend. An amendment to a motion must be pertinent to the subject matter of the motion, but it may achieve the opposite of the intent of the motion. A motion may be amended, and that amendment may be amended, but no further amendments may be made.
- (i) To reconsider. This motion must be made by a member who voted with the prevailing side, and only at the meeting during which the original vote was taken. The motion cannot interrupt deliberation on a pending matter but is in order at any time before actual adjournment.
- (j) To substitute. A motion to substitute may seek the opposite result of the original motion, but it must be pertinent to the subject matter of the original motion. It shall not be necessary for the Council to vote a second time on the same subject matter if a motion to substitute is approved.

**15. Withdrawal of Motion**

A motion may be withdrawn by the introducer at any time before a vote. Permission of the member seconding the motion is not required. Once a motion is withdrawn, the same motion cannot be remade by the same Council member in the form of a substitute motion.

**16. Duty to Vote**

Every member must vote unless excused by the remaining members as authorized or required by law. A member who wishes to be excused from voting shall so inform the Mayor, who shall take a vote of the remaining members. In all other cases, a failure to vote by a member who is physically present in the Council chamber, or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as an affirmative vote.

**17. Adoption of Motions, Resolutions and Ordinances**

Six (6) affirmative votes shall be required for the passage of any motion, resolution or ordinance. Motions, resolutions and ordinances granting special franchises and special privileges must be voted on and passed at not less than two regular meetings of the City Council. Except as provided in this section, motions, resolutions and ordinances will be deemed adopted if passed upon one reading.

Except for Council appointments to committees, boards and commissions; its employment of the City Manager, the City Attorney and the City Clerk; its internal affairs; and matters which must be approved by the voters, the Mayor may veto any action adopted by the City Council. The veto must be exercised at the meeting at which the action was taken. An action vetoed by the Mayor shall automatically be on the agenda at the next regular or special meeting of the Council, but shall not become effective unless it is re-adopted by the Council with at least seven (7) members voting in the affirmative.

**18. Closed Sessions**

The Council may hold closed sessions as provided by law.

**19. Quorum**

A majority of the actual members of the Council shall constitute a quorum. A member who leaves a meeting, whether excused or unexcused, shall be counted as present for purposes of determining whether a quorum is present.

**20. Quorum at Public Hearings**

A quorum of the Council shall be required at all public hearings required by law.

**21. Minutes**

Full and accurate minutes of the Council proceedings shall be kept and shall be open to the inspection of the public. The results of each vote shall be recorded in the minutes.

**22. Council Committees**

The following rules shall be applicable to all Council committee meetings:

- (a) A quorum shall be required consisting of a majority of the members of the committee.
- (b) The chairman of the committee shall have a vote on all matters coming before the committee.
- (c) Minutes of committee meetings shall be kept and open to the inspection of the public. The results of each vote shall be recorded in the minutes.

**23. Reference to Roberts Rules Of Order**

To the extent not provided for in these Rules, and to the extent it does not conflict with North Carolina law, the Council shall refer to Roberts Rules of Order, Revised, to answer unresolved procedural questions.

**24. Contacts With City Staff**

With regard to the Council-Manager relationship, Section 4.03 of the Charlotte City Charter provides as follows: “The Council shall hold the City Manager responsible for the proper management of the affairs of the City and the City Manager shall keep the Council informed and shall make reports and recommendations as requested by Council or as the Manager determines necessary. Neither the Mayor, the Council nor any member thereof shall direct the conduct or activities of any City employee, directly or indirectly, except through the City Manager.”

Council members shall contact the City Manager or a member of the City Manager’s Office staff on any item or question of a policy nature, or if the Council member is seeking additional information, briefing or analysis which is not readily available. The City Manager will refer requests which require more than four hours of staff time to the City Council for approval.

Routine requests for information shall be directed to the Manager's staff or to the appropriate department head. Council members are encouraged to direct citizens who have routine service requests to 311

**25. Communications With Citizens Committees and Other Parties**

In contacts with appointed Citizens Committees or other individuals or groups, Council members shall not represent their individual views as being representative of the full City Council unless Council has formally authorized them to do so.

If the City is entering into negotiations with another party on a matter which could result in a formal contractual arrangement, Council will normally direct the City Manager to conduct those negotiations and come back to the Council with a recommendation. The Council may ask one or more of its members, or a Council Committee, to work with the City Manager during negotiations but may only do so at a Council meeting. The Mayor may make such a request if time is of the essence, with notification to the Council immediately thereafter, and confirmation by the Council at its next meeting.

Unless a Council member's participation has been authorized as outlined above, Council members shall not participate in formally authorized negotiations with any outside parties.

**26. Council Contacts With Media**

Council members shall not represent any contacts they have with the media as being representative of the full City Council unless Council has formally taken a position on the matter.

Individual Council members shall not release information to the media or the public when that information has been provided to them by the City Attorney as part of a Confidential Attorney-Client memorandum or as part of a City Council closed session held in compliance with the Open Meetings law (see Sec. 3.a. of the Mayor and Council's Code of Ethics – "They should also not disclose confidential information, including the premature disclosure of what transpired in a closed session."). The Council may choose to designate a spokesperson, such as the Mayor or City Attorney, to release appropriate information to the media or the public.

**27. Nominations for Boards and Commissions by Absent Council Members**

A Council member who will be absent from a meeting at which nominations for boards and commissions will be accepted, may make nominations in writing by submitting those written nominations to the City Clerk at any time prior to the scheduled beginning time of the meeting at which the nominations will be accepted.

**28. Electronic attendance at Council Committee meetings.**

- (a) Committee meetings. Council members may attend committee meetings by telephone or other electronic means when they are unable, by reason of illness or injury, to attend in person. Members who plan to attend by electronic means shall notify City staff at least 48 hours in advance to allow for arrangements to be made. Members attending electronically are entitled to vote and fully participate in the business of the committee meeting.
  
- (b) Council meetings. Council members may attend Council meetings by telephone or other electronic means for emergency meetings. In addition, Council members may attend regular and special meetings by telephone or other electronic means where:
  - (i) necessary to achieve a quorum;
  - (ii) attendance is precluded due to weather, civil unrest, emergency, etc.; and
  - (iii) the meeting needs to be continued (*e.g.*, need to open and continue a public hearing to avoid the need to readvertise) or to take action on matters that cannot be delayed.

City Audits

**Employee**

**Expense**

**Reimbursements**

**Attachment B**



**CHARLOTTE**<sup>SM</sup>

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**INTERNAL AUDIT**

**Audit Report  
Employee Expense Reimbursements  
April – June 2015  
February 4, 2016**

**City Auditor's Office  
Gregory L. McDowell, CPA, CIA**

**Audit Report**  
**Employee Expense Reimbursements**  
**April – June 2015**  
**February 4, 2016**

**Purpose and Scope**

The intent of this audit was to determine whether the City's revised employee travel and reimbursement policy is effective and if employees' reimbursements were in compliance with City policies. For the audit period April 1, 2015 to June 30, 2015, we reviewed 100% of expense reimbursement transactions for 20 executives and 23 non-executive employees who were reimbursed the most from all departments.

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

This report is intended for the use of the City Manager's Office, City Council, and all City Departments.

**Conclusion**

The revised Employee Travel and Reimbursements policy, effective January 2015, has begun to achieve improved effectiveness and efficiencies. Employees, supervisors, Finance staff and Internal Audit need to continue their efforts to achieve a higher rate of compliance.

**Summary Recommendations and Actions**

As detailed beginning on page 2, the following findings, recommendations and action plans resulted from the audit.

1. Employees complied with expense reimbursement policies for 92% of tested reports.
2. Travel advances should be restricted to address the unintended processing inefficiencies, which resulted from the January 2015 policy revision re. City-wide meal per diems.
  - o After a full year of experience with the revised policy, Management & Financial Services (M&FS) is reviewing the policy for any further changes which may be warranted.
3. Errors have continued to occur, requiring future audit follow-ups.
  - o Employees reimbursed the City or provided supplemental documentation to resolve the audit findings. M&FS will work with departments to achieve a higher rate of compliance. Internal Audit will conduct regular follow-ups to track the expected improvements over time.

### **Background**

The Employee Travel and Reimbursements Policy (FIN18) was revised and became effective on January 1, 2015. Its stated objective is “to establish uniform regulations governing authorization for employee travel and other employee reimbursements. These regulations are intended to be consistent with efficient operation while permitting sufficient flexibility on the part of the Department Director and his or her employees in the conduct of City business.”

The new policy addresses the use of per diems based on the General Services Administration (GSA) guidelines for meals and incidental expenses, priority airline boarding and upgraded seating, and internet usage charges.

In the audit period, most of the employee expense reimbursements (totaling \$77,290 City-wide) were posted to the following accounts:

- Training, conferences
- Travel
- Project Expense
- Auto, other allowances (mileage)
- Other Materials/Supplies

### **Audit Findings and Recommendations**

**1. Employees complied with expense reimbursement policies for 92% of tested reports.**

The new policy has brought consistency to the employee travel expense reporting process. Employees are required to follow per diem meal rates based on the GSA guidelines, therefore eliminating the submittal of receipts for meals, tips or incidental charges. The expense reports reviewed were reimbursed according to the GSA guidelines, with a 92% compliance rate. Some types of errors are avoidable. Compliance and reporting accuracy should improve over time, as employees become more familiar with the revised policy. Exceptions are noted below.

**2. Travel advances should be restricted to address the unintended processing inefficiencies, which resulted from the January 2015 policy revision re. City-wide meal per diems.**

Rather than reducing administrative processing, the actions by some departments’ employees (and approved by supervisors) has resulted in additional work – by the department and by the Finance Office. A reasonable restriction of advances to major out-of-pocket expenditures (specifically, airfare and registration fees) would ensure that employees are not negatively impacted, while reducing the burden and inefficiencies which have been introduced unintentionally.

The January 2015 policy provided meal and incidental per diems to departments that had previously reimbursed actual expenses. Some departments reacted to the change by approving advances which covered only the per diem amounts, resulting in an increase of travel advances and a doubling of processing effort (advance and reimbursement) for travelers who newly began requesting advances. Using the Finance Office's records of eighty-eight travel advances (during the period April-July 2015), we noted the following:

- Thirty-three advances tested (38%) were “per diem only” advances. The average of the per diem only advances was \$159, with nine of them less than \$50.
- Fourteen per diem only advances (16%) were unused due to trip cancellation. Twelve advance checks were voided, while two had been cashed and subsequently repaid.
- Twenty travel advances (23%) resulted in unused funds totaling \$3,564. Eight of the 20 travelers complied with the policy which requires submittal of an expense report, including repayment of unused funds, within four days. One repayment of \$532.29, (prompted by auditor inquiry during this audit) was 189 days late. After omitting this outlier, eleven travelers made repayments an average 23 days later than the requirement.

#### Summary Rationale for Restricting Advances

- As noted above, the use of advances has resulted in avoidable processing inefficiencies, errors and untimely repayments. Over the past several months, departments have been requested by internal auditors and Finance Office staff to take action to reduce the unintended consequences of the new policy; however, the workload for the Finance Office was not reduced.
- Employees have not been adequately motivated to submit timely expense reports. When reimbursements are minimized or eliminated by use of advances, motivation to comply is further decreased.
- Untimely processing increases the chance of errors, due to the timing difference already existing between registration and travel to conferences. The already cumbersome manual process required to reconcile P-card transactions involving travel is exacerbated.
- Alternate payment methods are available.
- As previously identified in the audit of FY13 expense reimbursements, policies can prohibit employees from submitting claims for previously paid expenses, but policies alone cannot prevent such errors. One duplicate reimbursement of \$1,599.96 was reported for FY13, and this report notes a similar error of \$431.70.
- Reducing the amount of effort surrounding meal per diem advances should increase the efficiency of the Finance Office, allowing an increased concentration on travel expense report reviews.

**Recommendation:** Travel advances should be restricted to major out-of-pocket expenditures made by employees, which in the opinion of department management cannot be efficiently paid by alternate methods.

***M&FS Response:*** After a full year of experience with the revised policy, M&FS is reviewing the policy for any further changes which may be warranted. We agree that more efficient processing is a desired outcome, and we will consider options for implementing the recommended change.

3. ***Errors have continued to occur, requiring future audit follow-ups.***

Policy violations and administrative errors have continued to occur. While these can best be corrected by improved departmental attention and Finance Office enforcement, Internal Audit will continue regular follow-ups to track the expected improvements over time.

Policy violations and administrative errors during the period audited are detailed below, along with corrective actions taken.

- A. An employee purchased airfare of \$431.70 with a personal credit card and was reimbursed for the cost in advance of travel. The final expense report did not deduct the previously claimed amount.

***Action Taken:*** After the error was brought to the traveler's attention by Audit staff, the employee reimbursed the City.

- B. An employee was provided an advance of \$1,071.97, properly supported by estimated expenses for mileage, hotel, parking and per diems. The final expense report included \$59.36 for miscellaneous. However, City Policy does not allow such expenses without receipts.

***Action Taken:*** After the error was brought to the traveler's attention by Audit staff, the employee reimbursed the City.

- C. An employee submitted an expense report claiming a full per diem when the travel day ended early. City Policy FIN 18 states "Meals which are not part of the travel day, or which were included in the training/conference expense should be deducted, using the GSA allocation." Therefore, the dinner allocation of \$29 should not have been claimed.

***Action Taken:*** After the error was brought to the traveler's attention by Audit staff, the employee reimbursed the City.

- D. An employee submitted an expense report claiming a full per diem; however, the lunch for one day had been paid by another employee traveling to the same event. Therefore, the \$18 lunch per diem should not have been claimed.

***Action Taken:*** After the error was brought to the traveler's attention by Audit staff, the employee reimbursed the City.

- E. An employee obtained a \$5,072 advance for a group of eight in May 2014. The final expense report was not completed until April 2015, and required a payment of \$310 to the employee. Departments' not reconciling expense reports timely increases the City's risk of loss of funds and creates inefficiencies within the accounts payable process.

**Action Taken:** The Department has expanded the management oversight process to ensure compliance with the City Travel Policy.

- F. Several employees' travel-related expenditures were not adequately documented or were not submitted timely. It is not possible to determine whether missing documentation was submitted, or improperly processed. During the transition to the new Policy, insufficient attention has been given to timely submittal of expense reports. Only when employees are held to the strict interpretation of the Policy can the City expect to achieve the highest level of compliance. For improved results, documentation for the following types of travel-related documentation and specific policy issues need closer attention by employees, supervisors and Finance staff:

- P-card expenditures and cash advances should be deducted from claims
- All receipts should be attached to expense reports
- Receipts submitted via P-card transactions should be uploaded to MUNIS TCM (Tyler Content Management, for the MUNIS computer system)
- The business purpose of airline change fees should be explained
- Missing receipts should be noted and fully explained

**Action Taken:** As noted above (A-E), errors have been corrected. Administrative deficiencies (F, above) have been brought to the attention of all staff involved in handling the paperwork, since it is often not possible to determine where the process broke down.

**Recommendations:**

- Departments should review employees' reimbursement claims to ensure they comply with City Policy, prior to submittal to Finance.
- Finance staff should reject any claim which does not comply with the Employee Travel and Reimbursements Policy.
- M&FS should consider whether the current four-day requirement for expense report submittal should be revised, or if it should be enforced.

**M&FS Response:** M&FS agrees and will work with departments to achieve a higher rate of compliance. Staff will also evaluate the four-day requirement and implement any changes by the end of the fiscal year.

**Action Plan:** Internal Audit will conduct regular follow-ups, emphasizing employees' and departments' primary responsibility to submit fully compliant reimbursement requests.

# City Audits

## **Construction – Change Orders**

### **Attachment C**



**CHARLOTTE**<sup>SM</sup>

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**INTERNAL AUDIT**

**Audit Report  
Construction – Change Orders  
February 11, 2016**

**City Auditor's Office  
Gregory L. McDowell, CPA, CIA**

**Audit Report**  
**Construction – Change Orders**  
**February 11, 2016**

**Purpose and Scope**

The purpose of this audit was to determine whether departments have established effective controls for the identification, pricing and approval of change orders and whether the City has established consistent practices City-wide for tracking and managing change orders and contingency balances.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

This report is intended for the use of the City Manager's Office, City Council and all City Departments.

**Conclusion**

Four City departments' independent approaches to construction have led to inconsistent change order management, exposing the City to potential unnecessary costs. The City could benefit from a policy to establish a best practices framework to guide a consistent construction change order process. Such a framework would reduce the risk of excessive contingencies and out-of-range overhead and profit rates.

**Summary Recommendations**

1. A City-wide policy should guide all departments' approach to negotiating and pricing change orders and work change directives.
2. The disclosure of contingency balances should be consistent and transparent.
3. Specific terms should be included within contracts to establish the basis for pricing additional work and to establish the right to examine change order pricing data.
4. Change order pricing review guidance should be established for City-wide consistency.
5. City departments should utilize independent cost estimates and records of negotiations to justify the reasonableness of change order pricing.

### **Action Plan**

The Contracts Officers Community of Practice (COCOP) will address change order policies, procedures and best practices related to disclosure, contractual terms, materiality and documentation. The attached memo (Attachment B) indicates that COCOP has begun addressing the audit recommendations and anticipates completion of its plan in May 2016.

### **Background**

There are usually hundreds (currently over 400) of open construction contracts throughout the City, mostly administered by one of four departments – Aviation, Charlotte Area Transit System (CATS), Engineering and Property Management (E&PM) and Charlotte Water. The City policy that governs construction contracts is EPM 1 “Citywide Policy for Procurement of Design and Construction Services.” EPM 1, issued in July 2014, establishes authority limits for approving change orders but does not provide specific guidance or policy for pricing, documenting and negotiating extra work and change orders. COCOP is a team of contracts and procurement representatives established to guide the City organization in the acquisition of construction and construction related services. The roles and responsibilities of COCOP are outlined in a charter that is included as Attachment A to this report.

Best practices are referenced throughout this document. The source of these best practices include documentation from the American Institute of Architects (AIA); the Federal Transit Administration (FTA); the North Carolina Department of Transportation (NCDOT); industry experts such as Baker Tilly and Moss Adams LLP; and from audit reports and discussions with various colleagues across the nation. While the City is not mandated to follow guidance provided by these sources, the practices referenced form a reasonable basis for establishing policies and procedures for pricing change orders, extra work and contingency spending.

### **Audit Findings and Recommendations**

**1. A City-wide policy should guide all departments’ approach to negotiating and pricing change orders and work change directives.**

Auditors reviewed a judgmentally selected sample of 20 construction contracts which required change orders and/or work change directives. The sample included contracts from Aviation, CATS, E&PM and Charlotte Water which were active in FY15. These four departments were selected because they comprise the nucleus of COCOP. While change orders must go through a formal process outlined in City policy and normally result in an increase to contract value, work change directives are less formal requests for extra work normally defined in the contract general conditions. Work change requests are often funded by available contingency balances.

From the sample selected by auditors, it was evident that departments took different approaches to establishing practices for the review of change orders, including the extent to which contractor proposals would be scrutinized for reasonableness during negotiations. The departments also utilized different methods for documenting and reporting the use of contingency balances.

City-wide policies and procedures should provide a uniform change order control process. Consistent management of the change order process is essential to ensure change orders processed in conjunction with construction projects are accurate, complete and in the best interest of the City. Although there is not a formal City-wide policy on change orders, departments have created their own as outlined below:

- Aviation developed a change order policy and created a checklist to document completion of the steps outlined in the change order process. The policy addresses signature authority levels and describes the negotiation process. Aviation incorporates North Carolina Department of Transportation's (NCDOT) "Standard Specifications for Roads and Structures" and the American Institute of Architects' (AIA) document A201 "General Conditions of the Contract for Construction" into their construction contracts. Aviation also references various federal standards and requirements.
- CATS' Change Control Procedure provides a detailed process for review of change orders, cost authority levels for contingencies and change orders, contractors' proposal requirements, record of negotiations, dispute resolution and records retention. The use of project management software (e-Builder) allows CATS to enforce each element of the policy while documenting each process electronically. CATS' internal policy and execution of each element most closely aligns with best practices.
- Charlotte Water is developing a formal change order and work change directive policy. The department does have informal procedures that provide for the authorization of change orders and the order of preference for how change order work should be valued. Many of Charlotte Water's construction contracts incorporate standard general conditions published by the Engineers Joint Contract Documents Committee (EJCDC). According to Charlotte Water staff, EJCDC contract documents will be used more regularly in the future.
- E&PM does not have a department-specific policy for change orders, but is spearheading COCOP, which has discussed developing a City-wide policy for change orders and contingency spending. Like Aviation, most E&PM construction contracts reference standard general conditions published by the AIA or NCDOT.

Certain policy elements considered to be best practice have been included in construction contracts through the incorporation of standard conditions published by

AIA, EJCDC and NCDOT. Audit staff compared existing City policies and procedures to best practices, as described in the Background section above. The most significant elements not addressed by City-wide policy include:

- negotiation guidelines,
- requirement for records of negotiation,
- auditing of change order pricing after the fact,
- reporting/disclosing the amount and use of contingency balances,
- limits on the amount or percentage of contingency to include in contracts,
- time limits for responses to requests for information (RFI) and work change directives, and
- evaluation of the lessons learned after each project.

Auditors noted that departments modify, delete or omit various clauses in the AIA, EJCDC and NCDOT standard conditions referenced in construction contracts. In addition to the standard general conditions, the referenced organizations also have published guides for supplementary conditions. For example, the AIA Document A503 “Guide for Supplementary Conditions” provides model language and guidance related to establishing overhead and profit percentages for changes in work. This language was often not included in City construction contracts (in some cases, federal requirements may supersede standard language). While the referenced documents are intended to be modified for individual entity use, a standardized approach may direct that specific clauses or language included in the standards should not be allowed to be modified, deleted or omitted without explanation, review and/or approval.

**Recommendation:** Establish a City-wide policy for change orders based on best practices and review of the remainder of this report.

**Actions Taken:** COCOP has established a sub-committee to review the audit recommendations and develop recommended policies and procedures for City-wide use.

## **2. The disclosure of contingency balances should be consistent and transparent.**

Construction contingency allowances are added to contracts to provide a predetermined sum of money designated for potential issues which are unknown at the start of construction. The City uses contingency funds to cover overruns and scope changes. (Based upon interviews, auditors noted that the definition and application of a “scope change” is not consistent throughout the City.) Construction contingency amounts typically range 5-10% of anticipated construction costs. Any unused contingency amounts at contract close-out remain with the City and are available for funding other projects. During the construction phase, there are four major change of scope categories:

- Unknown Conditions
- Building Inspector’s Modifications

- Project Owner Requested Changes (including tenant requests at Aviation)
- Design Clarifications or Modifications

City policy (EPM 1 “Citywide Policy for Procurement of Design and Construction Services”) requires that contract modifications (including construction change orders) be approved by City Council if they add more than \$100,000 to the contract. The City Manager must approve a contract modification when, combined with all other modifications, it exceeds the approved contract amount by \$100,000. In this case, the City Manager will decide to approve the modification or refer the modification to City Council for approval.

Departments do not specifically disclose the contingency amount included in contracts when seeking Council approval nor do the departments prepare periodic reports of the contingency used on projects. Auditors reviewed a judgmentally selected sample of 20 contracts City-wide. For the contracts reviewed, contingency percentages ranged from 2.5% to 15% of the contract amount. All but three of the contracts reviewed by auditors included an amount for contingency. The exceptions were three older contracts administered by Aviation, which only recently began including contingency amounts.

Based upon discussions with department representatives, the amount of contingency is determined by professional judgment, taking into consideration such factors as the size of the project, the type of construction, the probability of unknown circumstances and the likelihood of owner requests. Although the ability to use professional judgment is necessary, the lack of a policy indicates that a consistent approach within an established framework may not be utilized in establishing contingency amounts. This could result in contingency amounts outside desired ranges, which have not yet been established in City-wide guidance.

Contingencies are typically included in construction contracts, in recognition that additional costs are likely to be identified during construction, which cannot be known in advance. Based upon current policy and practice, a potential risk exists for a project manager to include a large amount of contingency allowance for a contract and then utilize the contingency balance for a significant contract change order that is not required to be disclosed or approved by City Council or the City Manager. For example, a five percent contingency allowance on a \$20 million contract would be \$1 million, resulting in a contract value of \$21 million. A change order for \$350,000 would therefore not need to be disclosed as the \$350,000 would not result in the contract value increasing above \$21 million. A set of circumstances such as these did occur, as follows:

- At Charlotte Water in 2014, a significant change on the Briar Creek Sewer Relief project resulted in a \$689,000 change directive being processed on the \$17.6 million dollar contract, which Council approved in FY12. Because the amount of the change did not exceed the available contingency balance, department management, City Manager and City Council approval was not

obtained. While this was in line with current City practices, a risk exists that significant scope changes to contracts could be processed using contingency funds without additional review. Executive management and/or City Council may expect that scope changes above a certain threshold should require additional review and approval – regardless of the availability of contingency funding.

Departments were inconsistent in how they handled additional work. CATS processed all changes to construction contracts as change orders in their e-Builder project management system, requiring that each be formally documented and approved. Other departments processed contract changes as change directives unless an increase in contract value occurred, in which case they followed a more formal change order process. E&PM had separate documentation requirements for changes resulting in the spending of contingency balance as opposed to changes requiring an increase in contract value, which were processed as formal change orders.

In reviewing available data in Munis, the City's system of record, auditors were not able to identify those contracts that had large contingency balances. Auditors were able to identify contracts with change orders that had been approved by City Council, but extra work paid with contingency funds does not have the same level of transparency.

Only CATS was able to readily provide a list of change orders and contingency spending by contract. The remaining departments indicated that the information could be produced, but it would require a manual, time-consuming effort to prepare.

It is possible that contingency amounts for contracts could be recorded in Munis through user-defined fields in the contract entry screen. User-defined fields allow users to record specific information in Munis for which a pre-defined field is not available. This may allow procurement staff to record the amount of contingency funds available for each contract. In defining the field, the user is also able to make the selection to have the field input be mandatory. Because some controls over change orders were found to be inadequate, the ability to readily identify contingency amounts and extra work is necessary to ensure that proper oversight is achieved.

Departments tracked contingency spending using software, personal spreadsheets or the payment application. In Aviation, Charlotte Water and E&PM, individual project/construction managers are responsible for tracking contingency usage; making it difficult to create a universe of such spending. There were instances where the contingency was not tracked at all. Rather, it was considered to be a part of the contract like any other line item – an approach which limits the effectiveness of contract management. Without a City policy to provide guidance on reporting of contingency spending, auditors were unable to categorize the scope of the changes or summarize lessons learned at project completion.

Auditors noted that project managers added contingency amounts to five change orders or work change directives. This is not considered best practice as it increases the risk that contractors will receive payment for the contingency amount by including the amount in a change order pay item on payment applications. Auditors noted an example where a \$50,000 contingency was added to a \$2.5 million change order for the Remote Rental Car Facilities contract (approved by City Council in February 2015). No separate authorization was provided to the contractor to spend the contingency amount, which was subsequently allocated among various line items on the resulting pay application. The contractor then received payment for those line items as work was completed.

**Recommendation 2A:** Determine whether the following should be addressed by City-wide change order policy:

- Dollar or percentage limitations on contingency amounts
- Disclosure of contingency amounts at contract approval (by Council or CMO)
- Periodic internal (Department management, City Manager) and/or external (City Council) reporting of contingency funds used and lessons learned
- Requiring change orders (significant scope changes) above an established threshold to go through the established approval process regardless of the availability of contingency funding
- The inclusion of contingency amounts on change orders

**Recommendation 2B:** Work with the ERP Support team to identify a method to record contingency amounts for contracts in Munis.

**Actions Taken:** As noted above, COCOP's sub-committee has been formed to address the recommendations.

3. **Specific terms should be included within contracts to establish the basis for pricing additional work and to establish the right to examine change order pricing data.**

Establishing the basis for pricing change orders within construction contracts would help ensure that the City does not pay more than is necessary for extra work. Contract language can also establish vendor expectations regarding the amount of documentation that will be required to support change order proposals. This can be particularly useful in establishing labor burden rates, overhead rates and profit percentage.

Referenced standards and contract language in the majority of sampled City contracts allow for flexibility in the negotiation and establishment of overhead and profit rates for change orders. For example, Article 11 of the EJCDC standard general conditions details how cost should be calculated for "extra work" – but this only applies if the contractor and owner cannot mutually agree on a lump sum (commonly referred to as "force account"). EJCDC allows a contractor's fee of 15% on work performed by the contractor and 5% for work performed by subcontractors. Only Charlotte Water

referenced EJCDC general conditions in the sampled contracts. While auditors did not note any change orders or change directives for Charlotte Water that exceeded these percentages, the contract language actually allows the Construction Manager to negotiate rates higher than those published in the EJCDC standard general conditions.

In vertical construction, City contracts usually incorporate AIA A201-2007 "General Conditions of the Contract for Construction." While not all vertical City construction contracts include reference to change order pricing, auditors noted the following example (see Exhibit A) where the allowable contractor and subcontractor overhead and profit percentages were detailed in the contract documents. Not only does this contract language establish overhead and profit percentages, it also indicates those items that will be considered as paid from the stated percentages.

### Exhibit A – Contract Excerpt Overhead and Profit

§ 7.2.3 Overhead and Profit: Ten percent (10%) of net increase of labor and material for work performed by the Contractor's own forces and five percent (5%) on net increase of subcontractor's work. Bonuses; sick leave; vacation and holiday pay; bookkeeping, clerical, estimating, superintendence, project management, or other items of indirect costs or overhead; shall be compensated for by payment of the overhead and profit percentages listed herein. Such allowance for the combined overhead and profit included in the total cost to the City shall be based on the following schedule:

- .1 For the Contractor, for Work performed by the Contractor's own forces, ten percent (10%) of the cost;
- .2 For the Contractor, for Work performed by the Contractor's Subcontractor, five percent (5%) of the cost;
- .3 For each Subcontractor's or Sub-subcontractor's Work performed by the Subcontractors or Sub-subcontractor's own forces, ten percent (10%) of the cost;
- .4 For each Subcontractor, for Work performed by the Subcontractor's Sub-subcontractors, five percent (5%) of the amount due the Sub-subcontractor shall be added as the allowance for overhead and profit;
- .5 DELETED;
- .6 DELETED;
- .7 In order to facilitate the review of quotations for extras or credits, all proposals shall be accompanied by a complete itemization of costs, including labor, materials, and subcontracts. Labor and materials shall be itemized in the manner prescribed above. Where major cost items are subcontracts, they shall be itemized also, submitted in the same form under the Subcontractor's letterhead. Under no circumstance will a change involving more than one hundred dollars (\$100.00) be approved without such itemization;
- .8 Payments for overhead and profit as stated above will be limited up to second tier subcontractors. Lower tier subcontractors shall not subcontract work to the Contractor or higher tier subcontractors; and
- .9 All change order costs shall be submitted on the Change Order Form provided in the Contract Documents.

Source: BLE Contract 8: Parking Garage

City construction contracts do not generally establish acceptable methodologies for calculating labor burden and overhead rates, except for contracts referenced to federal cost standards. Labor costs for contractor and/or subcontractor work were often presented in total only, without breaking out base wage from fringe benefits and taxes. Guidance on calculating labor burden and other rates was not included in the contract language. Similarly, the basis for calculating contractor-owned equipment rental rates is not included in contracts or policies and procedures.

Change orders and change directives reviewed were not generally supported by detailed documentation. For example, labor costs were not always detailed to show rates for a given number of hours for specific classifications of employees. Without estimated hours and rates, construction managers are not able to verify the reasonableness of labor charges.

The contracts sampled contained language requiring access to the contractor's accounting records for auditing purposes, but it usually pertained to DBE purposes. Adding an audit clause to change orders will protect the City in cases of emergency change orders and will notify the contractor that change orders and work change directives will be subject to a higher level of scrutiny if necessary. Best practices indicate that municipalities should establish contract language giving the Owner's Representative the right to examine the records of the contractor, subcontractors and sub-subcontractors up to three years after final payment is made. Without specific policies and procedures, approval of change order pricing will be inconsistent and departments could negotiate change order pricing that is unfavorable to the City while not subject to audit.

The following Aviation examples highlight the need for consistency and the importance of outlining markup percentages in construction contracts:

- On a \$3.3 million change order (approved by City Council in February 2015) for the Checked Baggage In-Line System (CBIS), the contractor was allowed to add 10% to subcontractor costs for both overhead and profit. On earlier change orders, only a 5% profit was allowed. Limiting the prime contractor to a 5% markup on subcontractor work and 10% overhead and 5% profit on their own work would have resulted in a savings of \$194,040. Because the original contract (\$25.4 million approved by City Council in October 2012) did not specify change order overhead and profit percentages, the contractor was able to propose percentages that could be considered unfavorable to the City.
- On the Elevated Roadway Utilities contract (approved by City Council in January 2015), a \$27,600 change (authorized via email in March 2015 by the construction manager) was approved that included \$2,983 in "Project Management" costs, \$2,640 in labor and sales taxes of \$1,123 on \$960 of material charges. Project management costs are usually considered part of overhead and profit and could have been excluded. This change request did not separately identify subcontractor overhead and profit; however, the prime contractor added 15% to the subcontractor costs. The labor charges were not supported by detail identifying the number of hours, rate or classification of workers and it appears that sales tax was incorrectly extended on the subcontractor quote, resulting in an overpayment of sales tax of more than \$1,000.

**Recommendation 3A:** Determine what standard language should be included in construction contracts regarding the basis for pricing change orders, including maximum labor burden, overhead and profit percentages.

**Recommendation 3B:** Establish minimum documentation standards to be outlined in construction contracts for the various elements of change order costs such as labor, materials, equipment, subcontractor costs, fringe benefits, overhead and profit.

**Recommendation 3C:** Establish standard contract language regarding the right to examine pricing data on change orders and require that such language be included in construction contracts.

**Actions Taken:** As noted above, COCOP's sub-committee has been formed to address the recommendations.

4. **Change order pricing review guidance should be established for City-wide consistency.**

As noted earlier, City-wide change order policies and procedures do not exist, including guidance on the extent to which project and construction managers should scrutinize change order pricing. Without such guidance, the City risks paying more than prevailing wage rates on change orders; paying artificially inflated prices for materials, equipment and subcontract costs; and paying markups for profit and overhead that exceed typical industry rates.

Contract terms or other guidance do not exist that could be used to establish materiality when reviewing change orders or contingency spending. There was a wide variation in the level of detail required by each department to support change order pricing. While construction managers in one department (CATS) appeared to scrutinize supporting documentation for change orders valued at less than \$1,000, other construction managers approved change orders and contingency spending in excess of \$100,000 without much scrutiny. The following describes some of the lack of detailed supporting documentation by each element of cost:

- a. Labor – The City did not always require contractors to detail labor costs by job title, wage rate and hours. Contractors were also not generally required to provide a payroll register for work that was already performed prior to change order negotiation.

As an example, Change Order Contingency Request #36 (\$27,388 approved in May 2013, by an E&PM Project Manager) for the Charlotte Fire Department Headquarters contract (\$10.9 million approved by City Council in December 2011) included a line item for 105 hours of iron worker field wages at a rate of \$65 per hour (\$6,825). The hourly rate was not broken down further into a base wage rate, fringe benefits rate and overhead and profit. E&PM management

noted that the labor rate was reasonable based on comparison to an industry standard published rate that included material and equipment costs. E&PM management further explained that change orders are scrutinized by the Architect, the Project Manager (PM), and the Contracts division but not consistently documented. Because contractor change proposals equate to a non-competitive bid, leading practices require contractors to document and support actual costs as much as feasible. Without a detailed breakdown of proposed labor, equipment and material costs, PMs and auditors will be unable to compare actual costs to proposed costs and determine whether the contractor submitted accurate cost and pricing data. Although pricing for the above extra work was considered reasonable, sufficient itemization was not obtained for auditors to form an objective opinion on the accuracy of pricing data. It is also relevant to note that once more formal policies and procedures are developed, City management will likely establish materiality thresholds for the review of change order pricing data. The example noted above may not meet the eventual materiality thresholds.

- b. Labor burden – City-wide, construction contracts do not generally specify acceptable labor burden rates or provide guidance on how acceptable burden rates should be calculated. Labor burden includes employee benefits, social security tax, workmen’s compensation, unemployment taxes, and fringe benefits. For the sampled contracts, auditors found labor burden rates varied from 38% to 93% but noted that contracts did not specify what should be included in the labor burden calculation. NCDOT requires that contractors submit actual labor burden rates (up to 60%) but allows for a rate of 35% if the contractor is not able to verify its labor burden rate. Departments did not always require contractors and subcontractors to document labor burden calculations. It was often difficult to determine whether proposed wage rates included labor burden or were meant to be base wage rates only.

On the Charlotte Water Utilities Zone 3 Field Operations Center contract (\$5.0 million approved by City Council in May 2014), change order proposal #23 (\$3,971 approved in February 2015 by a Charlotte Water construction manager) included a line item for laborer at \$32.00 per hour. On a previous change order, laborers were proposed at \$22.96 per hour. It was not clear whether these rates intended to include fringe benefit costs and/or markup. The construction manager did not request or require detailed supporting documentation. Without such-detail, it is not possible to determine whether wage rates or fringe benefits amounts were reasonable for the work performed.

- c. Materials – Estimates should be supported by price quotations or invoices from material suppliers that are itemized with unit prices. Costs should reflect reductions available to the contractor due to trade discounts, credits and/or volume rebates. Material costs were not always supported by price quotations or actual invoices.

For example, on a change request for the Eastburn Storm Drain Improvement Project (approved by City Council for \$5.0 million in April 2011), an email quote was obtained for \$40 per linear foot for 8" SS PVC pipe. For 235 linear feet, this resulted in a cost of \$9,400 (approved via email by an E&PM construction manager in June 2013). Documentation provided to auditors did not include vendor invoices or quotes on vendor letterhead – only an email from the prime contractor. Documentation provided did not indicate that the quoted price per foot included installation costs as part of a standard NCDOT specification. According to E&PM management, the bid amount included installation costs and was determined to be reasonable by the construction manager based on comparison to a historical unit price database.

Best practice is to require change orders and extra work to be priced at actual cost plus reasonable overhead and profit margins. Contract language should require contractors to submit change order proposals with cost and pricing data which is accurate, complete and current. Agreeing to a unit price based on historical data may result in a reasonable price for extra work. However, without a breakdown of costs by labor and materials, auditors would be unable to compare proposed costs to actual costs to determine whether contractors submitted accurate, complete and current pricing data. One of the goals of the COCOP sub-committee will be to establish procedures that set materiality thresholds for the more detailed review of pricing data.

- d. Equipment – For force account work, NCDOT allows contractors hourly rental rates of 1/176 of the published monthly rate in the Rental Rate Blue Book for Construction Equipment (“Blue Book”), a comprehensive guide to cost recovery for construction equipment produced by EquipmentWatch. Rates listed in the book are intended as a guide to determine the amount an equipment owner should charge in order to recover equipment-related ownership and operating costs. NCDOT also allows contractors 100% of the operating cost per hour listed in the Blue Book to cover fuel, lubricants, repairs, servicing and other incidentals. For commercially rented equipment, NCDOT allows the contractor payment based on the approved invoice rate for the equipment. Auditors noted that equipment rental rates were generally not supported by invoices and that construction or project managers did not document any review performed to determine that rates agreed to published Blue Book rates.

For EJCDC force account work, contractors and subcontractors are not allowed to add markup percentages to transportation, travel and subsistence expenses; materials, supplies and equipment costs (including rentals); and sales, consumer and use taxes. Although not specifically stated in the guidance, it appears that the rationale for not including markup on these costs is that no additional overhead expenditure is being made by the contractor in supplying the equipment or paying the sales tax. While this requirement applies only to force account work, the rationale could be applied to negotiated prices as well. Similar guidance does not exist for vertical contracts (normally referenced to AIA standards). For the

sampled contracts, most departments accepted change proposals that included equipment costs and sales taxes in markup calculations.

- e. Bonds, warranties, and insurance – Best practices indicate that contracts should establish whether additional bonding, warranties, and insurance costs for change orders should be included as the cost of overhead or require proof the additional bonding was actually paid. In addition, leading practices suggest that markup percentages should not be applied to bond and insurance premiums.

On Change Order #3 for the Aviation Checked Baggage In-Line System contract, the markup on bond and insurance premiums totaled about \$15,000. Other City departments utilize change order forms that add the cost of bond and insurance premiums *after* markup is applied to all other costs.

**Recommendation:** Develop guidelines for contract managers regarding the level of scrutiny expected on change orders, and provide training as necessary to ensure that established guidelines and expectations are consistently followed.

**Actions Taken:** As noted above, COCOP's sub-committee has been formed to address the recommendations.

5. **City departments should utilize independent cost estimates (ICE) and records of negotiations (RON) to justify the reasonableness of change order pricing.**

According to the Federal Transit Administration (FTA), the independent cost estimate is a tool to assist in determining the reasonableness of the bid or proposal and is required for all procurements funded by the FTA regardless of dollar amount. The FTA requires that grantees "perform a cost or price analysis in connection with every procurement action, including contract modifications...the starting point for these cost/price analyses is an independent cost estimate (ICE) which is made before receiving bids or proposals."

Because the CATS Blue Line Extension is funded in part by the FTA, CATS has established policies and procedures related to independent cost estimates. According to CATS Change Control Procedure, the resident engineer will request an ICE if a change request is greater than \$10,000. This ICE is performed by a contracted third party. For change requests less than \$10,000, the resident engineer may complete the cost analysis.

Independent cost estimates do not necessarily have to be performed by third parties. Organizations not funded by the FTA require that a resident engineer or project manager develop an ICE before reviewing a contractor's change proposal. The ICE may be developed by the resident engineer, other in-house resources or by a design consultant. The ICE needs to be completed in sufficient detail to allow for comparison to the anticipated contractor proposal.

While other departments (besides CATS) utilized independent cost estimates at times, no other department has established formal policies or procedures requiring that an ICE be completed before review of contractor proposals. The risk of accepting an unreasonable change order proposal increases if an ICE is not performed.

Although ICE's were not performed for some contracts, department management indicated that engineers and construction managers reviewed change proposals as warranted. Auditors were not always successful in verifying that these reviews occurred, as only CATS has implemented an automated system (e-Builder) that assists in the documentation and retention of cost estimates and other construction procurement actions. Automated construction systems such as e-Builder serve as a repository for all project information and can create audit trails of all events that occur during a project. While the determination for the need of an automated system or the recommendation of any specific system was beyond the scope of this audit, the existence of e-Builder within CATS greatly increased the availability of supporting documentation.

The purpose of a Record of Negotiation (RON) is to clearly demonstrate that the contractor's proposal has been given a detailed review, that proper rates were used in determining the price and that the final price is fair and reasonable. RON's should include a comparison of proposed and negotiated cost with a clear description of the differences broken down by labor, equipment, material and final negotiated price. ICE differences should be discussed in the RON.

Except for CATS, detailed RON's were not prepared. However, construction managers noted that they retain similar information in email format. According to best practices, the RON should include:

- Changer order number and description
- Date and location of meetings
- Final resolution and justification
- Proposed cost and negotiated cost with clear description of differences
- Profit calculation and agreement

**Recommendation 5A:** Determine how independent cost estimates should be incorporated in change order policy, including policy or guidance on when an ICE should be utilized.

**Recommendation 5B:** Establish standards and expectations regarding records of negotiations, including when they should be required, what they should include and how they should be retained.

**Actions Taken:** As noted above, COCOP's sub-committee has been formed to address the recommendations.

November 19, 2008



**City of Charlotte**  
**Contracts Officers Community of Practice Charter**

**General Summary**

The Contracts Officers Community of Practice (COCOP) is a team of contracts and procurement representatives from various Key Business Units (KBU) established to guide the City organization in the acquisition of construction and construction related services; to ensure the City's process is legal, fair, consistent, open, transparent, complies with City policies and identifying city-wide best practices.

**Purpose**

The primary purpose of the COCOP is to provide a strategic linkage and vehicle for collaboration between individual KBU's. The COCOP will communicate regularly about best practices, standard processes and training across the City organization.

**Roles and Responsibilities**

The COCOP's roles and responsibilities will include:

- developing and recommending city-wide policies and strategies for acquisition of construction and construction related services
- develop, recommend and establish city-wide construction and construction related processes and standards; and
- carrying out training activities for their KBU's.

**Governance**

The COCOP will serve under the direction of and report to the Engineering & Property Management Key Business Executive. The Executive will appoint one individual to serve as convener of the COCOP. The convener will call and facilitate meetings and set agendas. The COCOP will establish its own governance rules for its internal operation. These rules will include, but are not limited to:

- Meeting procedures.
- The establishment and management of subcommittees and workgroups.

November 19, 2008

## **Membership**

The Engineering & Property Management Key Business Executive will serve as Executive Sponsor of the Team and report to the Assistant City Manager.

The City Attorney will select one or two representatives to serve as legal advisors.

Each Construction KBE will select one or two representatives to serve on the team for indefinite terms. Representatives should have the following abilities:

- To be strategy leaders for construction procurement issues.
- To readily access and advise their KBU leadership regarding strategies to address issues and challenges;
- To partner with the other KBUs to develop and recommend processes and strategies;
- Developing and considering best practices as related to procurement of construction and construction related services;
- To perform periodic procurement analysis specific to their KBU;
- To identify potential process improvements and innovations for recommendation to the COP, the Executive Sponsor and/or their KBU;
- To recognize contracting skills gaps in their KBU and work with management more strategically to fill the gaps through hiring, training, outsourcing, etc.;
- To provide training for City staff
- To understand the financial, morale, and organizational efficacy impacts of procurement strategies and practices.

Representatives are expected to serve terms of at least one year, and multi-year service is preferred. The Engineering & Property Management Key Business Executive or the KBE's may choose to select different representatives after each one-year term.

## **Leadership**

The individual appointed as convener by the Engineering & Property Management Key Business Executive will have the following responsibilities:

- Schedule and facilitate meetings;
- Plan the agendas for meetings, calling upon members for topics to be addressed.
- Arrange for meeting minutes to be kept and distributed.
- Report discussions, findings, and recommendations to the Engineering & Property Management Key Business Executive.

The Engineering & Property Management Key Business Executive will have the following responsibilities:

- Provide strategic leadership and direction of the COCOP
- Define project priorities for the COCOP
- To give full consideration to any recommendations of the Team as they relate to changes in policies, strategies and practices of the City that affect construction procurement.
- To communicate with the ACM regarding the work and recommendations of the Team.

November 19, 2008

The Assistant City Manager will have the following responsibilities:

- To communicate with the City Manager and Manager's Cabinet regarding the work and recommendations of the Team
- Act as a final authority for decisions that affect multiple KBUs .

## CITY OF CHARLOTTE

## AVIATION, CHARLOTTE AREA TRANSIT, CHARLOTTE WATER, ENGINEERING &amp; PROPERTY MANAGEMENT

January 27, 2016

TO: City of Charlotte Internal Audit

FROM: Brent Cagle, Interim Aviation Director

John Lewis, Charlotte Area Transit Director

Barry Gullet, Charlotte Water Director

Jeb Blackwell, Engineering &amp; Property Management Director

RE: Construction Departments' Response to Construction-Change Orders Audit Report

The four construction departments have reviewed and provided comments to Internal Audit regarding the Construction-Change Orders Audit Report. We acknowledge the need to manage change orders and contingency balances Citywide in a manner that promotes consistent practices. Throughout the development of the report's earliest drafts, the construction departments have worked with Internal Audit to explain our procedures and policies. While we accept the findings of the report and intend to work cooperatively to establish best Citywide practices in accordance with the report's recommendations, we seek to establish those practices keeping in mind the diverse nature of each department's construction activities and the federal, state and local policies and procedures that govern each type of construction activity.

Our primary focus is to work through the Contract Officers Community of Practices (COCOP) and selected construction management staff from each department to develop and implement the report recommendations. We seek to incorporate the recommendations into the Citywide Policy for Procurement of Design and Construction Services (EPM 1). Each department will be responsible for implementing all activities with the understanding that some activities, such as changing language within current and future construction contracts, will take time to complete. Additionally, federal and state regulations require compliance with appropriate granting authority, for example, the Charlotte Area Transit system has established processes mandated by the Federal Transit Administration for construction projects. One of the COCOP team's first priorities is to develop a plan and estimated date for incorporation of the recommendations.

Internal Audit recommended five (5) areas in the Construction- Change Orders Audit Report that need to be addressed by COCOP and its respective members. The proposed schedule below addresses anticipated timeframes for COCOP to develop best practices in the five (5) areas recommended by Internal Audit.

Internal Audit Recommendation	Anticipated Completion
Contingency – establishing and disclosure of balances	February 2016
Change order pricing, negotiations, pricing review, and independent cost estimates	April 2016
Consistent change order terms incorporated into contracts	May 2016