



Department of Public Works  
Infrastructure Services Division

**Jeffrey J. Mantes**  
Commissioner of Public Works

**James P. Purko**  
Director of Operations

**Jeffrey S. Poienske**  
City Engineer

May 16, 2006

Honorable, Robert Bauman, Chair  
Public Works Committee  
Room 205, City Hall  
Milwaukee, WI 53202

Dear Alderman Bauman:

City Comptroller W. Martin Morics wrote a letter to the Common Council (CC) dated May 3, 2006 regarding State Department of Transportation (DOT) funding agreements. The Comptroller's position was that he would now sign these agreements. However, he was making the CC aware of certain risks associated with the projects as they relate to contract change orders. We understand that as a result of the letter, Alderman Michael Murphy had CC File Numbers 050892 and 051503 referred back to committee. The Department of Public Works (DPW) is in agreement with the facts contained in the letter. However, we want to provide some additional information that was not presented on the issue of liability for contract change orders.

The agreements do allow for the city to agree to a change that is over \$25,000. However, the concern of the Comptroller has to do with changes over \$25,000 that can go ahead without city approval to "preserve the work in progress, prevent extraordinary damage, avoid unreasonable and costly delay, or other extraordinary condition of necessity, safety or emergency." We in DPW refer to this as an "emergency" situation. The comptroller has expressed this same concern for work under city let contracts where changes can be approved by the Commissioner of DPW under "emergency" situations, when funds are not previously approved for that purpose.

Unfortunately, while rare, these "emergency" type situations can come up and we have to be prepared to address them. If and when "emergency" situations do occur, we will go to the CC for approval of additional funding as soon as possible. The resolution will give the reason(s) behind the emergency situation. In addition, we will be giving a quarterly report to the CC summarizing change orders that took place under an "emergency" situation. The Comptroller plans to monitor this report to see if any changes should be made to the use of this authority.

Another safeguard with regard to state let projects is that DPW is under contract with the state to provide inspection services for these contracts. As a result, we are aware of changes before the state is. We would not be addressing these changes if they were not required to accomplish the project as approved, under an "emergency" basis.


Alderman Robert Bauman  
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The Comptroller provides an example of funding a \$1 M project where the DOT is to pay 90% (\$900,000) and the city 10% (\$100,000). Should a change order of \$100,000 occur, we would work with the state to consider a revised agreement to continue the split of the \$100,000 on the 90/10 basis. Quite often, the decision is based upon the source of funds we are receiving from the state. Many times, we are able to split the cost. An example of where we would not be able to split would be on the West Canal Street project from North 25<sup>th</sup> Street to Miller Park. In that situation, the state funding was capped at \$5 M. Any change becomes the city's full liability. However, the option of not signing the agreement would mean a loss of the \$5 M. The city would still have to fund the project if it were to go ahead. A change order of \$100,000 would occur if the state was involved or not. The city would still have the \$100,000 cost to deal with, besides the \$5 M.


As per our agreement with the Comptroller, we will disclose in our resolutions, those agreements that have caps placed on the state's contribution. Approval by the CC will be with the understanding that the city may have to address "emergency" situations where additional funds may be needed.

Should you have any questions, we would be happy to address them.

Very truly yours,



Jeffrey S. Polenske, P.E.  
City Engineer



Jeffrey J. Mantes  
Commissioner of Public Works

(AW) CAW:sdp

c: Alderman Michael Murphy  
M. Walter Morics



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Honorable, Michael Murphy, Chair  
Finance & Personnel Committee  
Room 205, City Hall  
Milwaukee, WI 53202

Dear Alderman Murphy:

The Comptroller's office, by virtue of their recent audits, have recommended we provide you with a quarterly report of contract change orders done under an "emergency" basis where sufficient funding approval was not available to cover the change. On rare occasions, we have to allow this work to go ahead in the best interests of the city. When this happens, we seek Common Council approval for the additional funds as soon as possible. The resolution discloses the reason(s) behind the "emergency" situation.

For our first report, covering the period from January 2006 through March 2006, we have no incidents to report. Granted, very limited contract work is going on during this time frame. We will again provide a report for April through June, 2006 in July.

Should you have any questions, we would be happy to address them.

Very truly yours,

Jeffrey S. Polenske, P.E.  
City Engineer

Jeffrey J. Mantes  
Commissioner of Public Works

CAW:sdp

c: Alderman Robert Bauman, Chair of Public Works Committee  
M. Walter Morics, Comptroller