NDWEDWE LOCAL MUNICIPALITY

APPROVED VARIATION ORDER POLICY

2023/2024

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1. DEFINITIONS

"Variation order" is an alteration to the scope of works in a construction project or extension of the initial term of the contract or change in services provided in the form of an addition, substitution or omission from the original scope of works.

"Construction contract" is an agreement between two or more parties to execute the construction works whether civil or electrical works as per certain terms and conditions.

"Services contract" is an agreement between a customer or client and a person or company who will be providing services.

"*Consultant*" means a professional person, individual partnership, corporation, or a company appointed to provide technical and specialist advice or to assist with a design and implementation of projects or to assist the municipality to achieve its objectives of local government in terms of section 152 of the Constitution.

"*Municipality*" Ndwedwe Local Municipality

"Accounting Officer" person appointed as the municipal manager for the municipality

"Project manager/consultant" person/company appointed as a person responsible for the project

"Senior Manager" person appointed as a senior manager by the municipality

2. INTRODUCTION

2.1. Both construction projects and services contracts may vary from the original design, scope and definition.

2.2. Whether small or large, projects may inevitably depart from the original tender design, specifications and drawings prepared by the design team.

2.3. This can be because of technological advancement, statutory changes or enforcement, change in conditions, geological anomalies, non-availability of specified materials, or simply because of the continued development of the design after the contract has been awarded.

2.4. In large civil engineering projects variations can be very significant, whereas on small building contracts they may be relatively minor.

2.5. Variations may include:

- Alterations to the design.
- Additional services
- Alterations to quantities.
- Alterations to quality.
- Alterations to working conditions.
- Alterations to the sequence of work.

2.6. Variations may also be deemed to occur if the contract documents do not properly describe the works actually required.

3. OBJECTIVE AND PURPOSE OF THE POLICY

3.1. The objectives of this policy are to ensure that the variation orders are properly authorised before additional work or services is provided.

3.2. To ensure that the resources of the municipality are used effectively, efficiently and economically;

4. SCOPE OF THE POLICY

4.1. This policy shall apply to all variation orders, whether for construction contracts or services contracts.

5. LEGISLATIVE FRAMEWORK

5.1. This policy must be read in conjunction with

5.1.1. Section 116 of the Municipal Finance Management Act, 56 of 2003.

5.1.2. National Treasury's Circular 62

6. POLICY PRINCIPLES

6.1. In legal terms, a variation is an agreement supported by consideration to alter some terms of the contract.

6.2. No power to order variation is implied, and so there must be express terms in contracts which give the power instruct variations.

6.3. In the absence of such express terms the accounting officer may reject instructions for variations without any legal consequences.

6.4. Variations relating to construction contracts may not be approved without a request by the project manager detailing reasons for the variation. The Senior Manager Technical Services should then consent to variation

6.5. With regards to variations relating other services, the Senior manager responsible for the contract must compile detailed reasons for the variation.

7. VALUATION OF VARIATIONS

7.1. The valuation of variations may include not just the work which the variation instruction describes, but other expenses that may result from the variation, such as the impact on other aspects of the works. Variations may also (but not necessarily) require adjustment of the completion date. Variations may be valued by:

- Agreement between the contractor and the municipality
- The project consultant or manager.
- A variation quotation prepared by the contractor and accepted by the project manager or consultant.

7.2. Valuations of variations are often based on the rates and prices provided by the contractor in their tender, provided the work is of a similar nature and carried out in similar conditions. This is true, even if it becomes apparent that the rates provided by the contractor were higher or lower than otherwise available commercial rates.

7.3. If similar types of works to those instructed by a variation cannot be found in the drawings, specification or bills of quantities, then fair valuation of the contractor's direct costs, overheads and profit is necessary.

7.4. Guidance on assessing compensation events states that the reason for this policy is that no compensation event for which a quotation is required is due to the fault of the Contractor or relates to a matter which is at his risk under the contract.

7.5. Variations may give rise to additions or deductions from the contract amount.

7.6. The valuation of variations may include not just the work which the variation instruction describes, but other expenses that may result from the variation, such as the impact on other aspects of the works.

7.7. Variations may but not necessarily require adjustment of the completion date.

8. EXTENTION OF TIME

8.1. Many construction contracts allow the construction period to be extended where there are delays that are not the contractor's fault. This is described as an extension of time.

9. APPROVAL OF VARIATION ORDERS

9.1. All variation orders requests must be.
9.1.1. Signed by the respective Senior Manager for the section,
9.1.2. Supported by the Chief Financial Officer to confirm the availability of funds and
9.1.3. Approved by the Accounting Officer
9.2. Variations orders for service contracts that do not exceed 15% of the original contract value, may be approved by the accounting officer only and then tabled to Council for information.
9.3. Variations orders for service contracts that exceed 15% of the original contract value, may only be approved by Council.
9.4. Variations orders for construction contracts that do not exceed 20% of the original contract value, may be approved by the accounting officer only and then tabled to Council information.
9.5. Variations orders for construction contracts that exceed 20% of the original contract value, may only be approved by Council.

10. CONSEQUENCES FOR NON-ADHERENCE TO THIS POLICY

10.1. Any person must report an allegation of non-compliance to the Variation order policy to the accounting officer of the municipality.
10.2. The accounting officer must investigate the allegations and if frivolous, speculative, or unfounded, terminate the investigations.
10.3. If the accounting officer determines that the allegations are founded, a full investigation must be conducted by an independent investigator.
10.4. After completion of a full investigation, the independent investigator must compile a report on the investigations and submit a report to the accounting officer on:

10.4.1 Findings and recommendations; and/or

10.4.2 Whether disciplinary steps should be taken against the alleged transgressor.

10.4.3 The accounting officer must table the report with recommendations to the municipal council.

11. GENERAL

11.1. The Municipal Manager shall be responsible for the implementation and administration of this Policy.

11.2. This Policy shall come into effect on 01 July 2023.

12. POLICY IMPLEMENTATION

12.1. This policy takes effect on the date on which it is adopted by Council.

Policy adoption date	30 May 2023
Policy implementation date	1 July 2023
Next Review date	May 2024
Signed by……	Date……