Arizona Builders Alliance

Advisory Board Meeting

Legal Report

May 12, 2021

Material Price Escalations

* What is material price escalation?
	+ Changes in the cost or price for specific goods, which increase over time due to inflation, or may change in a volatile manner, based on changes in regulations, changes in demand, disruption to the supply chain, etc
* Why is material price escalation occurring now?
	+ Aftermath (and on-going) effects of COVID-19
	+ Low interest rates and increased demand in construction projects
	+ Supply chain disruption (ex. Suez Canal)
* What can you do for current Projects?
	+ Review your Contract
		- What does your force majeure clause/excusable delay clause say? If you are Subcontractor, what does the Prime Contract say regarding force majeure/excusable delay?
		- To what relief does an excusable delay entitle you?
		- What does your change order clause say?
	+ Evaluate your relationship with the Owner/Contractor
		- Propose alternative materials to Contractor/Owner/Architect
		- Be prepared to present the impact of each alternative
		- Document any agreed upon change in a change order
* What can you do for future Projects?
	+ Be careful with your bids
		- Guaranteeing your price for 30 days may not be feasible
		- Propose a framework for addressing changes in price
		- Consider thresholds which may trigger a change in price (ex. increase in price over 10%)
	+ Evaluate Master Contracts
		- Have discussions with Owner/Contractor before accepting a new Work Order
		- Discuss/document impending material price increases as soon as you become aware the price/time may be impacted