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