

Building Success: The Importance of Legal Review of CCDC Contracts

Authors: Jennifer S. Hanson Meghan Ross

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As municipalities face the pressing need to enhance and modernize infrastructure, the importance of thoughtful planning and execution cannot be overstated. The planning process for construction projects is a critical phase that lays the groundwork for successful execution and long-term community benefits. As municipalities navigate this landscape, understanding the various types of construction contracts available is essential. Among these are the Canadian Construction Documents Committee ("CCDC") contracts.



What is the CCDC?

The CCDC is a joint effort by multiple associations and stakeholders within the construction industry, working together to create a comprehensive set of standardized construction contracts.

These stakeholders and associations consist of construction owner representatives from both the public and private sectors, along with members from four national organizations (Association of Consulting Engineers of Canada, Canadian Construction Association, Construction Specifications Canada, Royal Architectural Institute of Canada), along with a lawyer from the Canadian Bar Association.

What is a CCDC Contract?

A CCDC contract refers to a standardized contract document developed by the CCDC. These contracts are regarded as fair for all parties and are widely used in the Canadian construction industry to ensure clarity, consistency and fairness in construction projects.

One of the most common CCDC contracts is the CCDC 2 - Stipulated Price Contract. The CCDC 2 sets a fixed price for the project, which can only be changed under specific terms of the contract. However, there are a number of other CCDC contracts for all types of construction scenarios, including cost-plus contracts, unit price contracts and design-build contracts.

When should municipalities use CCDCs?

CCDC contracts should be used whenever a construction project is being undertaken. There are multiple benefits to CCDC contracts, including:

- 1. Fairness:** The CCDC documents provide a clear and consistent framework for the construction process. The documents are also intended to provide a fair and balanced approach to contract administration, clearly defining each party's liabilities and obligations. This promotes accountability and helps protect project stakeholders from unforeseen challenges or disputes.
- 2. Reduced risk:** The documents are developed and updated by experts in the construction industry, which helps to reduce the risk of errors.
- 3. Communication:** The CCDC documents provide an easy-to-understand set of terms and conditions that are used by all parties involved in a construction project, which helps to improve communication and understanding.
- 4. Efficiency:** Using CCDC documents helps streamline both the negotiation and construction process and reduce the time and effort required to complete a project.
- 5. Standardization:** The documents are widely accepted as industry standards and are used throughout the Canadian construction industry, which makes it easier for all parties involved in a project to understand and comply with the terms and conditions.

Can the terms of a CCDC contract be changed?

Every project is unique and may require adjustments to the standard form of the CCDC contract. Typically, these amendments are made through "supplementary conditions."

Supplementary conditions are terms and clauses added to a construction contract to address specific and unique aspects of a project. They modify the standard contract to provide additional details and conditions tailored to the project's requirements and the needs of the parties. These conditions can include amendments related to payment terms, project timelines, responsibilities of the parties involved and other project-specific details.

Should municipalities have their lawyer look over a proposed CCDC?

It's highly advisable to have your municipal lawyer review any proposed CCDC contract, which may be presented to Council by the consulting engineering or project manager. The municipal lawyer can ensure that the municipality is using the appropriate type of CCDC contract for the project.

Further, while CCDC contracts offer a solid framework for construction projects, they may not fully address the specific needs and concerns of your project. Your lawyer can customize the CCDC contract through supplementary conditions to better suit your project's requirements. Alternatively, if the other party proposes supplementary conditions, these can significantly alter the standard contract terms by adding, modifying or deleting general conditions. Your lawyer can help ensure these changes are fair and reasonable, and do not introduce undue risk or liability.

Engaging in thorough due diligence, including legal review of CCDC contracts, ensures that municipalities can mitigate risks and maximize benefits of their investments. By having a knowledgeable legal team involved in the contract review process (or earlier, during the Request for Proposal (“RFP”) process), municipalities can foster transparency, minimize disputes and promote accountability among all parties.

A good CCDC contract is a proactive approach that not only streamlines project execution but also strengthens a municipality’s ability to deliver quality infrastructure that meets the needs of its community, paving the way for future growth and development.

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