

# Construction Contract Change Orders

## Public Works Standard Operating Procedure #96-01

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### **Purpose**

Contract Change Orders are often necessary on Public Works projects. This standard operating procedure was developed to formalize the change order procedure, to ensure public funds are efficiently used and accounted for, and to comply with the requirements of the Washington State Department of Transportation's "Local Agency Guidelines" section 52.5. (WSDOT LAG Manual)

Change Orders are an agreement between the City and a contractor with regard to work which must be done to complete an existing contract, but which was not included in the original contract. If a mutual agreement with the contractor cannot be reached, the City may direct that the work be completed under the "Force Account" terms of the original contract.

### **Definitions**

Authorized Signatory - An individual authorized to financially commit each party to a change order agreement.

Change Order - A formal change to a contract. Required for any work other than a variation in quantity as specified in "Standard Specifications for Road, Bridge, and Municipal Construction".

Contract Completion Date - The date by which a contract is scheduled to be complete based on the Notice to Proceed and allowable working days provided in the contract, exclusive of City-authorized weather delays.

Engineer - "The Contracting Agency's representative who administers the construction program for the Contracting Agency." (from WSDOT/APWA 1994 *Standard*)

*Specifications for Road, Bridge, and Municipal Construction.*) The duties of the engineer with regard to change orders as delineated in the Standard Specifications may be performed by the City Engineer, Construction Manager, or Inspector as appropriate.

Force Account - Any work not payable under contract line items and which is specified to be performed by “force account”. Force account provides for the contractor to be paid for certain items of work on a time and materials basis. See also APWA/WSDOT 1994 *Standard Specifications for Road, Bridge, and Municipal Construction* section 1-09.6.

Undefinitized Change Order - A change order for which the final costs and time extension have not been agreed to, but the work is allowed to proceed under a “costs not to exceed” agreement. A subsequent change order will be negotiated to determine the final costs and time extension allowed (i.e. “definitize” the undefinitized change order.)

### **Levels of Authority**

Inspector - Authorized to: (1) determine if work is or is not included in the original contract or previously executed modifications, (2) determine whether contract modification or force account methods should be used to complete additional work, (3) approve variations in quantities, and (4) add working days for weather delays.

Construction Manager - Authorized to negotiate change orders for the City subject to approval by the City Manager or his designee.

Designer/Engineer - Is to be consulted regarding all change orders other than simple variations of quantities, but has no authority to approve change orders. The designer/engineer may participate in the negotiation to discuss and evaluate the technical merits of proposals made by the contractor.

City Engineer - Authorized to negotiate change orders, add working days to the original contract total, and approve undefinitized change orders in the absence of the City Manager and Public Works Director. In all such instances, the City Engineer shall ensure that adequate funds are available prior to authorizing additional work.

Public Works Director - Authorized to approve change orders for all public works projects in the absence of the City Manager. In all such instances, the Public Works Director shall ensure that adequate funds are available prior to authorizing additional work.

City Manager - Authorized to approve any and all change orders in accordance with the Lacey Municipal Code.

Contractor Representatives - Change orders should be signed by a representative of the contractor specifically authorized to bind the contractor to the terms of the agreement.

Others - No other individuals are authorized in any way to bind the City to the terms of change orders for Public Works construction contracts.

## **Procedures**

Contract change order procedures are to be reviewed with the contractor at the preconstruction conference. Individuals with authority to sign change orders on behalf of the City will be identified to the contractor. See Appendix C, "Instructions to Contractor".

### a. Documentation

i. The assigned inspector is responsible for ensuring that change orders are placed in the project file. The project files will include a section specifically for change orders and the associated paperwork (inspector reports, drawings, cost estimates, etc.). The front of the section will have a list of all change orders numbered sequentially (see Form Mod-1 in Appendix A). Note that sequential numbering is a WSDOT LAG Manual requirement.

ii. A negotiation package including a description of the additional work, reason for modifying the contract, and an estimate of the changes to the contract price, time adjustments, and availability of funds will be prepared for review by the change order approval authority.

The format of the cost estimate shall be discussed with the contractor in advance so that the parties negotiate comparable work with minimal misunderstanding from the outset. The contractor shall also be given a date by which his proposal for the changed work is to be provided to the City. The City estimate will be used only for the purpose of negotiation and is not a public record. Individual line item totals, unit costs, or quantities may be provided to the contractor during the negotiation to determine where significant differences exist. Cost estimates should be clearly marked as sensitive documents and safeguarded accordingly. The City's cost estimate shall not be revealed to the contractor during negotiations.

The detail and formality of the cost estimate should be based on the value and importance of the changed work. In the case of a no-cost or minor change order, the estimate may be handwritten on notebook paper or included in the inspector's daily report. In the case of a significant change order, the estimate shall be prepared in the format of a bid tabulation using the same care as the engineer used in developing the original contract estimate. It may be appropriate to have the Designer/Engineer prepare the cost estimate.

The Finance Department shall be consulted to ensure that funds are available to perform the additional work.

iii. A completed change order package will include the following:

- 1) A change order form signed by the contractor and the City (see Form Mod-2 in Appendix A).
- 2) A complete description of the work in as much detail as would be required were the City to solicit bids for the same work. The description should include sketches, if appropriate, material quantities, and material specifications.
- 3) A cost estimate for the changed work. The estimate should be completed prior to negotiating the change order with the contractor and be done in the same detail as would be done were the City to solicit bids for the same work.
- 4) Finance Department confirmation that funds are available.
- 5) Notes of the negotiation. The notes should include why any quantities or costs have been adjusted from those used in the original estimate.

All notes, estimates, and other supporting documentation shall be filed in the change order section of the project file.

#### b. Negotiations

The goal of the City in negotiating a change order is to come to a mutual agreement with the contractor on fair and reasonable compensation for work not anticipated by the original contract. Great effort shall be made to negotiate a change order prior to the additional work being performed by the contractor. Proper preparation for the negotiation (understanding of the work involved, detailed cost estimate, etc.) will help to ensure that this goal is met. An “undefinitized change order” will be issued by the City in the event that an agreement cannot be reached prior to the work being performed. (See section d. below.)

The City’s Construction Manager will normally lead the negotiation. Other members of the project team should be invited, particularly the assigned inspector. At the conclusion of the negotiation it is important that a signed commitment be generated.

Negotiations of complex issues may require more than one negotiating session.

Working days are a negotiable item similar to costs. All change orders will specifically address adjustments to working days. If the adjustment is zero, this will be so stated.

#### c. Approval

Once an agreement is reached, the terms shall be documented on Form Mod-2. The contractor will be provided with two copies and will provide an original signature on each. The City will sign both copies; one original will be sent to the contractor, one original will be filed with the original contract in the City Clerk’s office, one copy will be filed in the change order section of the project file, and one copy will be provided to the Finance Department. See Appendix C, “Change Order Checklist”.

#### d. Undefinitized Change Orders



Change Orders

City of Lacey Contract PW\_\_\_\_-\_\_\_\_

Original contract amount - \$\_\_\_\_\_

(If Change Order is "undefinitized", add "U" to Change Order #)

<u>Change Order #</u> (number sequentially)	<u>Date</u> (approved)	<u>Description</u>	<u>Amount \$</u>
CO _____	_____	_____	_____
CO _____	_____	_____	_____
CO _____	_____	_____	_____
CO _____	_____	_____	_____
CO _____	_____	_____	_____
CO _____	_____	_____	_____
CO _____	_____	_____	_____
CO _____	_____	_____	_____
CO _____	_____	_____	_____
CO _____	_____	_____	_____
CO _____	_____	_____	_____

## Change Order Checklist

City of Lacey Contract PW \_\_\_ - \_\_\_                      Change order # \_\_\_

- \_\_\_ Description of work
- \_\_\_ City estimate
- \_\_\_ Request for proposal to contractor
- \_\_\_ Contractor's proposal
- \_\_\_ Notes from negotiation
- \_\_\_ Form Mod-2 (Change order)
- \_\_\_ Form Mod-1 updated (Change order log)

## Change Order Example

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August 17, 2007

### **CONTRACT CHANGE ORDER NUMER 01**

Low Bid, Inc.  
1000000 Dollar St  
Lacey, WA 98503

**CONTRACT TITLE:** Martin Way Improvements  
**Lacey Contract Number** PW97-99

You are ordered to perform the following described work under the terms of Section 1-04.4 of the 1994 Standard Specification for Road, Bridge, and Municipal Construction (“Standard Specifications”).

#### Description of Work

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Add 1,230 feet of concrete curb to edge of pavement from Station 12+5 to 24+8 on south side of Martin Way. A curb detail which will govern the work is attached.

Costs Allowed this Change Order	\$1,230.00
Tax ( <i>enter %</i> )	8%
Total Change Order Price	\$1,328.40

Authorized Time Extension = 4 Working Days

All work, materials and measurements to be in accordance with the Standard Specifications and Contract Special Provisions for the type of work described.

CONTRACT CHANGE ORDER NUMBER 01  
Lacey contract No. PW 97-99

Funding Schedule

Project code: ST97EE  
Account Number: 001-3201-545.38-04  
Original Contract Amount: \$64,000.00  
Current Contract Amount: \$64,000.00 (*no previous change orders on this contract*)  
This Change Order: \$ 1,328.40  
New Contract Total: \$65,328.40

Prepared by: \_\_\_\_\_ Date: \_\_14 Jan 97\_\_

Engineer's Concurrence: \_\_\_\_\_ Date: \_\_14 Jan 97\_\_

Approved: \_\_\_\_\_ Date: \_\_14 Jan 97\_\_

Contractor's Acceptance: \_\_\_\_\_ Date: \_\_17 Jan 97\_\_

## *Undefinitized Change Order Example*

August 17, 2007

### **CONTRACT CHANGE ORDER NUMER 02U**

Low Bid, Inc.  
1000000 Dollar St  
Lacey, WA 98503

**CONTRACT TITLE:**        Martin Way Improvements  
   **Lacey Contract Number PW97-99**

You are ordered to perform the following described work under the terms of Section 1-04.4 of the 1994 Standard Specification for Road, Bridge, and Municipal Construction (“Standard Specifications”).

#### Description of Work

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Add 6 driveway curb cuts and entrances in curb added to project by Change Order Number 01 at existing driveway entrances. Curb cuts will be Type II per the attached sketch. Locations for curb cuts have been staked in the field by the City survey crew.

The dollar amount set forth below is not to be exceeded in completing this additional work. Low Bid, Inc., is directed to provide a cost estimate for this additional work to the City Inspector not later than 19 Jan 97 and a final Change Order will be negotiated at that time.

Not to Exceed Costs Allowed this Change Order	\$600.00
Tax ( <i>enter %</i> )	8%
Maximum Change Order Price	\$648.00

Authorized Time Extension = 0 Working Days

All work, materials and measurements to be in accordance with the Standard Specifications and Contract Special Provisions for the type of work described.

CONTRACT CHANGE ORDER NUMBER 02U  
Lacey contract No. PW 97-99

Funding Schedule

Project code: ST97EE  
Account Number: 001-3201-545.38-04  
Original Contract Amount: \$64,000.00  
Current Contract Amount: \$65,328.40  
This Change Order: \$ 648.00  
New Contract Total: \$65,976.40

Prepared by: \_\_\_\_\_ Date: \_\_17 Jan 97\_\_

Engineer's Concurrence: \_\_\_\_\_ Date: \_\_17 Jan 97\_\_

Approved: \_\_\_\_\_ Date: \_\_17 Jan 97\_\_

Contractor's Acceptance: \_\_\_\_\_ Date: \_\_17 Jan 97\_\_

*“Definitized” Undefined Change Order Example*

January 20, 1997

**CONTRACT CHANGE ORDER NUMER 03**

Low Bid, Inc.  
1000000 Dollar St  
Lacey, WA 98503

**CONTRACT TITLE:** Martin Way Improvements  
**Lacey Contract Number PW97-99**

You are ordered to perform the following described work under the terms of Section 1-04.4 of the 1994 Standard Specification for Road, Bridge, and Municipal Construction (“Standard Specifications”).

Description of Work

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This Change Order finalizes the terms of the work ordered by Change Order Number 02U. The contract total is reduced by \$129.60 (\$648.00 - \$518.40) as a result of final negotiations regarding the additional work.

Costs Allowed this Change Order	\$480.00
Tax ( <i>enter %</i> )	8%
Total Change Order Price	\$518.40

Authorized Time Extension = 1 Working Days

All work, materials and measurements to be in accordance with the Standard Specifications and Contract Special Provisions for the type of work described.

January 20, 1997

CONTRACT CHANGE ORDER NUMBER 02U

Lacey contract No. PW 97-99

Funding Schedule

Project code: ST97EE  
Account Number: 001-3201-545.38-04  
Original Contract Amount: \$64,000.00  
Current Contract Amount: \$65,976.40  
This Change Order: \$ (129.60)  
New Contract Total: \$65,846.80

Prepared by: \_\_\_\_\_ Date: \_\_20 Jan 97\_\_

Engineer's Concurrence: \_\_\_\_\_ Date: \_\_20 Jan 97\_\_

Approved: \_\_\_\_\_ Date: \_\_21 Jan 97\_\_

Contractor's Acceptance: \_\_\_\_\_ Date: \_\_23 Jan 97\_\_

## Change Order Checklist

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- 1. City estimate (memo)
- 2. Description of work (memo or letter to contractor)
- 3. Designer's concurrence with estimate and description of work
- 4. Contractor's proposal (letter to City)
- 5. Notes of negotiation (memo)
- 6. Verification of funds available (memo from Finance Dept)
- 7. Change order approved by the City recorded on Project Change Order Log
- 8. Original change order filed with contract (City Clerk), second original change order provided to contractor, copy of change order filed in project file, copy of change order to Finance Dept.

## Unfinalized Change Order Checklist

- 1. Description of work (memo)
- 2. Designer's concurrence with description of work
- 3. Not to Exceed amount established
- 4. Deadline (date) for contractor's proposal included
- 5. Verification of funds available (memo from Finance Dept) - Not to Exceed amount
- 6. Change order approved by the City recorded on Project Change Order Log
- 7. Original change order filed with contract (City Clerk), second original change order provided to contractor, copy of change order filed in project file

## Instructions to Contractor

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*It is recommended that a copy of this page be provided to the contractor at the preconstruction conference.*

1. Any work which the contractor believes is extra or outside the scope of the original contract shall be brought to the City's attention immediately. The Inspector will determine whether or not work is within the scope of the existing contract and previous change orders. If the Inspector determines that the work is within the existing contract, the contractor will perform the work without delay.
2. Any work performed prior to receiving direction from the City which the contractor believes is extra or outside the scope of the original contract, and for which the Inspector has not determined whether or not the work is included in the contract, is done at the contractor's own risk and the City will be under no obligation to pay for such work.
3. The City Manager, Public Works Director, or City Engineer are the only individuals authorized to approve change orders for the City. Such approval may be provided verbally to the Inspector. Any extra or out-of-scope work directed by others and performed by the contractor will be at the contractor's risk and the City will be under no obligation to pay for such work.
5. Any delays or extra costs incurred due to the contractor's failure to provide proposals for additional work in a timely manner will be the responsibility of the contractor.
6. The contractor is responsible for ensuring that individuals signing change orders on the contractor's behalf are authorized to obligate the contractor to the terms of the change order.
7. The City may approve an "undefinitized" change order to prevent delays or extra costs which may be incurred due to the time required to complete a final change order. The City will not be obligated to pay for any costs beyond the "Not to Exceed" amount specified in the undefinitized change order.