



December 14, 2023

BCC Agenda Date/Item: _____

Board of County Commissioners
Clackamas County

Approval of Change Order #012 with Clackamas Progress Partners, LLC for the Replacement County Courthouse for Relief Event 001, Discovery of Differing Site Conditions. Change Order value is \$134,360.10, leaving credits of \$487,821.25. Funding through credits from previous change orders, which include budgeted County General Funds.

Previous Board Action/Review	Change Order #	Date	Value	Credits Remining
	CHO003	May 30, 2023	\$771,773	\$771,773.00
	CHO006	Oct 5, 2023	-\$35,134.20	\$736,638.80
	CHO008	Nov 22, 2023	-72,858.45	\$663,780.35
	CHO009	Dec 14, 2023	-41,599.00	\$662,181.35
Performance Clackamas	1. Ensure Safe, Health and Secure Communities			
Counsel Review	Yes	Procurement Review	No	
Contact Person	Nancy Bush	Contact Phone	503-655-8581	

EXECUTIVE SUMMARY: Change Order 012 is for Relief Event 001 which is for unidentified utilities found on site which required relocation, unidentified sewer lateral discovered that that required re-routing, differing soil conditions found on site not described withing the geotechnical report. Original cost \$213,373. Final negotiated cost for approval is \$134,360.10.

The Change Order net cost is \$134,360.10 for Relief Event 001. The total credits after this Change Order are \$487,821.25. The remaining credits will remain available for the replacement courthouse project to be used as needed.

RECOMMENDATION: Staff recommends BCC approve Change Order No. 012 for Relief Event 001.

Respectfully submitted,

Nancy Bush
Clackamas County Operating Officer

For Filing Use Only



CLACKAMAS COUNTY
2051 KAEN ROAD
OREGON CITY, OR 97045
(503) 655-8893

CHANGE ORDER NO. [012]

DATE ISSUED: December 14, 2023.

PROJECT: Clackamas County Circuit Courthouse Project.

PROJECT COMPANY: Clackamas Progress Partners, LLC.

THIS CHANGE ORDER IS ISSUED PURSUANT TO: Section [7.11] of the Project Agreement.

TITLE: Relief Event 001 – Discovery of Differing Site Conditions.

This change order, including all exhibits and attachments referenced herein (collectively, the “Change Order”) is entered into and effective as of the last date of execution by a party hereto, by and between the CLACKAMAS COUNTY, OREGON AND CLACKAMAS PROGRESS PARTNERS, LLC, acting by order of and through its Board of County Commissioners and supplements and amends the DESIGN, CONSTRUCTION, FINANCE, OPERATION, AND MAINTENANCE AGREEMENT OF THE CLACKAMAS COUNTRY CIRCUIT COURTHOUSE together with all exhibits thereto dated August 30, 2022 (as amended prior to the date hereof, collectively, the “Project Agreement”). All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Project Agreement.

KEY TERMS:

- A. This Change Order contains the entire understanding of the parties with respect to the subject matter of this Change Order and supersedes all prior agreements, understandings, statements, representations, and negotiations whether written or oral, between the parties with respect to the subject matter of this Change Order.
- B. This Change Order shall be binding upon and inure to the benefit of Project Company and the County.
- C. The Project Agreement remains in full force and effect, except to the extent this Change Order expressly amends the terms of the Project Agreement.
- D. This Change Order shall not be construed in favor of either party, regardless of who was more responsible for its preparation.
- E. The amount of the payment bond and letters of credit are fixed amounts and shall not be changed.
- F. This Change Order may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same written instrument.
- G. Estimated impacts, if any, to the operation, maintenance, repair and replacement, liabilities or obligations arising out of or related to the changes effectuated by this Change Order, are itemized below, provided however, any costs related to operation, maintenance, repair and replacement changes shall be borne by the County through an adjustment of the Service Fee payable following the Occupancy Readiness Date in Accordance with Article 16.
- H. For Change Orders issued prior to Occupancy Readiness, O&M and Renewal pricing, as shown in the backup documents within this Change Order, are not indexed or escalated for inflation nor LABI/MRMI and will be escalated annually, starting the month prior to Occupancy Readiness, in accordance with Article 16.
- I. The above said indexation/escalation will be made to the applicable Monthly Availability Payment with the following conditions:

- a. Change Order O&M costs: for O&M Changes during D&C, these will be effective at Occupancy Readiness. For O&M Changes after Occupancy Readiness, the effective adjustments to the Monthly Availability Payment will be effective the month following completion acknowledgement by County for the subject scope of work.
 - b. Change Order Renewal costs: will be added to and billed on a monthly basis in the years indicated in the payment schedule attached.
- J. The Parties agree that this Change Order is a final and equitable adjustment of the Contract time and Contract amount caused by the facts and circumstances surrounding this Change Order. Except as otherwise specified in this Change Order, the parties agree that this Change Order fully covers any and all costs arising from or related to the proposed extension of time, adjustment to any contract deadline, adjustment to any design and construction costs, or other time or cost-related issues caused by this Change Order.
- K. All work described within this Change Order shall be performed in accordance with the Project Agreement including, but not limited to, the Quality Management Systems (QMS).

NOW, THEREFORE, as it relates to this Change Order, but subject any reservations made by Project Company within this Change Order, the following are the changes made relating to compensation and extensions in time, if any:

METHOD OF PAYMENT:

- Paid Directly by County
- Financed by Project Company
- No Additional Cost Impact
- Reduction in Project Agreement Amount

PROJECT AGREEMENT AMOUNT:

Original Project Agreement Value	\$619,996,000.00
Previous Value of Project Agreement Change Orders	\$(622,181.35)
Value of this Project Agreement Change Order	\$134,360.10
Total Value of Project Agreement Change Orders	\$(487,821.25)
Total Revised Project Agreement Value	\$619,508,178.75

DESIGN-BUILD (DB) CONTRACT AMOUNT:

Original DB Contract Value	\$229,972,140.00
Previous Value of DB Contract Change Orders	\$(638,398.00)
Value of this DB Contract Change Order	\$127,962.00
Total Value of DB Contract Change Orders	\$(510,436.00)
Total Revised DB Contract Value	\$229,461,704.00

FACILITIES MANAGEMENT SERVICES AGREEMENT (FMSA) AMOUNT:

Original FMSA Value	\$112,190,230.45
Previous Value of FMSA Change Orders	\$0.00
Value of this FMSA Change Order	\$0.00
Total Value of FMSA Change Orders	\$0.00
Total Revised FMSA Value	\$112,190,230.45

- The parties agree that there are no costs related to operation, maintenance, repair and replacement changes as a result of this Change Order.
- The parties agree that there are additional costs and associated annual escalation accompanying this Change order outlined within Attachment B.

EXTENSION OF CONTRACT DEADLINES:

Calendar Days Added to Occupancy Readiness Date	0
Calendar Days Added to Final Completion Date	0
Calendar Days Added to Longstop Date	0

EXHIBITS AND ATTACHMENTS:

1. Exhibit 1 – Relief Event 001 – Final Settlement.

APPROVED AS TO FORM

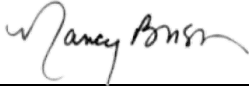


12/05/2023

County Counsel
Andrew Naylor

AUTHORIZED SIGNATURES

Clackamas County, Oregon
Name: Tootie Smith, Chair



Clackamas County, Oregon
Name: Nancy Bush

Date

12/5/2023

Date

Clackamas Progress Partners, LLC
Name: Andrea McLean

Date

Clackamas Progress Partners, LLC
Name: Lee Clayton

Date

EXHIBIT 1

Relief Event 001 – Final Settlement.

December 05, 2023

Attention: Nancy Bush

Office of the County Administrator
Public Services Building
2051 Kaen Rd.
Oregon City, OR 97045
E-mail: nbush@clackamas.us

-Copy to-

Attention: Andrew Naylor and Stephen Madkour

Office of County Counsel
Public Services Building
2051 Kaen Rd.
Oregon City, OR 97045
E-mail: anaylor@clackamas.us and smadkour@clackamas.us

Project: Clackamas County Circuit Courthouse

Re: Relief Event No. 001 – Good faith consultation pursuant to Section 18.2 (Settlement Cost Summary)

Dear Ms. Bush,

Pursuant to Section 18.2 of the Project Agreement the Project Company herewith provides to the County regarding Relief Event Claim No. 001.

Enclosed for reference is correspondence between Project Company and Design Builder. The Project Company/Design Builder correspondence is the relevant subject matter on this topic, and is intended to be presented to the County from Project Company on this basis.

Regards,



Karl E. Schaefer
Project Company Representative

CC: Stephen Hadanich, WTP Associate Vice President
Vikas Gurram, WTP Senior Advisor
Greg Yourechuk, PCL Authorized Representative
Jon Kindrachuk, PCL Project Director
Cathy France, PCL Document Control

Appendix A - Settlement Cost Summary

Appendix B - PCL correspondence

APPENDIX A

Relief Event Claim 001 - Settlement Cost Summary

Construction Phase Cost Impact Summary

	Cost	Total
Developer	\$ -	\$ -
Design Builder	\$ 127,962.00	\$ 127,962.00
Subtotal	\$ 127,962.00	\$ 127,962.00
<u>DBFOM Permitted Markup</u>		
(a) for Developer, 15% of the cost of that portion of the Extra Work to be performed by Developer with its own forces	\$ -	\$ -
(b) for Developer, 5% of the cost of that portion of the Extra Work to be performed by Contractors directly under contract to Developer	\$ 6,398.10	\$ 6,398.10
Subtotal	\$ 6,398.10	\$ 6,398.10
Design Build Phase Compensation Amount		
	\$ 134,360.10	\$ 134,360.10

Operations Phase Cost Impact Summary

	Cost	Total
Developer	\$ -	\$ -
Facilities Manager	\$ -	\$ -
Subtotal	\$ -	\$ -
<u>DBFOM Permitted Markup</u>		
(a) for Developer, 15% of the cost of that portion of the Extra Work to be performed by Developer with its own forces	\$ -	\$ -
(b) for Developer, 5% of the cost of that portion of the Extra Work to be performed by Contractors directly under contract to Developer	\$ -	\$ -
Subtotal	\$ -	\$ -
Facilities Management Phase Compensation Amount		
	\$ -	\$ -
Total Cost Impact		
	\$ 134,360.10	\$ 134,360.10



CONSTRUCTION

▶ TOGETHER WE BUILD SUCCESS

November 20, 2022

Karl E. Schaefer, CCM, DBIA, LEED
Project Executive
Clackamas Progress Partners, LLC
TD North Tower
77 King Street West, Suite 3410
Toronto, ON M5K 1H1
karl.schaefer@fengate.com

Subject: Clackamas County Circuit Courthouse

Reference: Relief Event #001 – Good Faith Consultation pursuant to Section 18.2 (Cost Settlement Summary)

File: Project No. 5701126: 2A.3

Dear Mr. Schaefer,

As a response to the County declining request for Mediation and to continue with Informal Negotiations, pursuant to Section 18.2 (Informal Negotiations to Resolve Contract Services Disputes) of the Project Agreement, Design-Builder requests Project Company formally issue the attached Cost Settlement Summary for the following Differing Conditions to be satisfied through the Change Order Process: See Exhibit 1 enclosed.

Relief Event Claim No. 001:

- January 18th Event – Unidentified Water, Sanitary, Power and Data Impacts
- February 17th Event – Verification of Resident Illegal Lateral Sanitary Line Tie-in
- March 28th Event - Unsuitable Soils - Removed vs. Abandoned Sanitary Line

Please advise if the Project Company should require anything additional, as it relates to the subject matter contained herein.

If you have any further questions relating to this matter, promptly contact Contractor at Jrkindrachuk@pcl.com.



CONSTRUCTION

▶ **TOGETHER WE BUILD SUCCESS**

Kind Regards,

PCL Construction Services, Inc.

Greg Yourechuk

Greg Yourechuk

Authorized Representative

GY/cgf

cc: Matt Glassman, Design Manager
Jennifer Canning, Quality Assurance Manager
Jon Kindrachuk, Design Build Project Manager
W.T. Sermeus, Lead Project Manager
Bruce Macaulay, Senior Superintendent



CONSTRUCTION

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Exhibit 1 – CRX Detail Report



CRX Detail Report - REN-001

PCL Construction Services, Inc.

Project #: 5701126

Project Name: Clackamas Countv Circuit Court
 Location: 2125 Kaen Road
 Oregon City, OR

CRX description: Relief Event Notice 001

Header Summary		Summary		Subtrade		Quote \$	
Type	REC	Labor	14,327.66	Weitman Excavation, Inc.	94,017.00		
CRX status	Quoted	Material	0.00				
Schedule days quoted	0	Equipment	0.00				
Quoted date	12/4/2023	Subtrade	101,633.42				
Initiated date	1/26/2023	Direct Cost	4,770.10				
		Fee	7,230.82				
		Total Quote:	\$127,962.00				

Cost Code	Description	Quantity	UoM	Labor Hours		Labor		Material		Equipment		Subtrade		Total	
				Prod	Total	Rate	Total	Rate	Total	Rate	Total	Rate	Total	Rate	Total
DIRECT FORCES WORK															
010100	DB Project Manager	4.00	MO	1.000	4.000	152.04	608	---	---	---	---	---	---	---	608.16
	1hr per event														
010100	Lead Project Manager	8.00	MO	1.000	8.000	139.39	1,115	---	---	---	---	---	---	---	1,115.12
	2hr per event														
010100	Project Manager	32.00	MO	1.000	32.000	122.56	3,922	---	---	---	---	---	---	---	3,921.92
	8hr per event														
010200	Superintendent	16.00	MO	1.000	16.000	153.57	2,457	---	---	---	---	---	---	---	2,457.12
	4hr per event														
010400	Project Engineer	12.00	MO	1.000	12.000	85.29	1,023	---	---	---	---	---	---	---	1,023.48
	3hr per event														
010400	Field Engineer	16.00	MO	1.000	16.000	75.38	1,206	---	---	---	---	---	---	---	1,206.08
	4hr per event														
010520	Design Manager	8.00	MO	1.000	8.000	132.18	1,057	---	---	---	---	---	---	---	1,057.44
	2hr per event														
010505	Quality Manager	8.00	MO	1.000	8.000	122.56	980	---	---	---	---	---	---	---	980.48
	2hr per event														
010530	HSE Manager	12.00	MO	1.000	12.000	78.52	942	---	---	---	---	---	---	---	942.24
	3hr per event														
010540	Scheduler	6.00	MO	1.000	6.000	86.39	518	---	---	---	---	---	---	---	518.34
	1.5hr per event														
010560	Accountant	6.00	MO	1.000	6.000	82.88	497	---	---	---	---	---	---	---	497.28
	1.5hr per event														
TOTAL	DIRECT FORCES WORK				128.0		14,327.66	---	---	---	---	---	---	---	14,327.66
MARKUP ON DIRECT FORCES															
990100	OH&P on Direct Forces		LS	---	---	15.00%	2,149	---	---	---	---	---	---	---	2,149.15
TOTAL	MARKUP ON DIRECT FORCES						2,149.15	---	---	---	---	---	---	---	2,149.15
SUBTRADE WORK															
022200	001&002 - Water Line Relocation 13+60-16+00 & 11+30-12+60 Weitman Excavation proposal dated 2/10/2023.	1.00	LS	---	---	---	---	---	---	---	---	---	40,083	---	40,083.00
022200	004 - Sanitary Lateral to Residents Home @ 12875 Hiefield Ct Weitman Excavation proposal dated 3/17/2023.	1.00	LS	---	---	---	---	---	---	---	---	---	---	---	---
022200	005 - Sanitary Sewer Soft Spot Over Excavation Weitman Excavation proposal dated 4/14/2023.	1.00	LS	---	---	---	---	---	---	---	---	---	53,934	---	53,934.00
014600	Permits Fee - Further Tech Plan Review Through Rev 7 City of Oregon City Invoice Dated 1/19/2023.	1.00	LS	---	---	---	---	---	---	---	---	---	7,616	---	7,616.42



CRX Detail Report - REN-001
PCL Construction Services, Inc.

Project #: 5701126
 Project Name: Clackamas Countv Circuit Court
 Location: 2125 Kaen Road
 Oregon City, OR

CRX description: Relief Event Notice 001

TOTAL	SUBTRADE WORK													101,633.42	101,633.42
	SUBTRADE MARKUP														
990100	OH&P on Subcontract Costs	LS	---	---	---	---	---	---	---	---	---	---	5.000%	5,081.67	5,081.67
TOTAL	SUBTRADE MARKUP													5,081.67	5,081.67
TOTAL	DIRECT FORCES & SUBTRADES			128.0		16,476.81		---		---				106,715.09	123,161.90
	DIRECT COST SUMMARY														
014110	Security	LS	---	---	---	---	---	---	---	---	---	---	---	.222%	275.55
014100	Bond	LS	---	---	---	---	---	---	---	---	---	---	---	.500%	621.99
014200	Subtrade Default Insurance (SDI)	LS	---	---	---	---	---	---	---	---	---	---	---	0.916	930.96
014300	Insurance	LS	---	---	---	---	---	---	---	---	---	---	---	1.773%	2,216.61
014850	CAT Tax	LS	---	---	---	---	---	---	---	---	---	---	---	.570%	725.25
014300	Rounding	LS	---	---	---	---	---	---	---	---	---	---	---	.000%	-0.26
TOTAL	DIRECT COST SUMMARY														4,770.10
TOTAL	CRX #: REN-001			128.0		16,476.81		---		---				106,715.09	127,962.00