

# TEXAS DEPARTMENT OF TRANSPORTATION

CONSTRUCTION CONTRACT CHANGE ORDER NUMBER: 38

## Third Party Funding Notification Sheet

This form is used when the subject change order involves funding by a source other than TxDOT/U.S. DOT, and involves third parties who are providing funding under an Advance Funding Agreement or Donation Agreement.

1. Outside funding provided by:

Fort Bend County

(Outside Entity's Legal Name)

2. Type of outside funding agreement for this change:

☐ Existing ☐ Amended ☐ New  
[ Check one ]

3. Indicate the type and amount of funding:

☐ Fixed Price (Lump Sum) (Estimated Amount \$1,219,870.05 )

☒ Actual Cost

(a) Contract Items (Bid Items):

\$1,140,598.46

(b) E&C\*:

(a) x  $\frac{0.0695}{\text{enter \%}}$  = \$79,271.59

**TOTAL**

\$1,219,870.05

**CCSJ:** 0912-34-144

**Project:** STP 2010 (596) MM

**Highway:** Trammel Fresno Road

**County:** Fort Bend

**District:** Houston

**Contract  
Number:**

### Use as needed:

I hereby acknowledge notification of the modifications covered by this Change Order.

Date

By

Typed/Printed Name

Typed/Printed Title

\* The percentage (%) for E&C (Engineering and Contingencies) charges varies from project to project depending on the contract amount of the project. Projects with a higher contract amount will have a lower rate of E&C charge. For a specific project, E&C rate (%) can be derived from the cost of "Engineering and Contingencies" in the "Estimated Cost" of the project.

Funding for this Change Order has been arranged:

TxDOT Representative

Date

Typed/Printed Name: Eliza C. Paul, P.E.



CHANGE ORDER NBR.

38

REPORT DATE: 2/3/2020 3:23:46PM

CONTRACT ID: 091234144  
PROJECT: STP 2010(596)MM  
CONTRACT: 12143003  
AWARD AMOUNT: \$20,864,455.45  
PROJECTED AMOUNT: \$20,947,455.45  
ADJ PROJECTED AMT: \$22,473,430.35  
PEND ADJ PROJ AMT: \$22,473,430.35  
CONTRACTOR: WILLIAMS BROTHERS CONSTRUCTION CO.,  
INC  
CO AMOUNT: \$1,140,598.46  
CO TYPE: NON-PARTICIPATING  
3RD PARTY AMOUNT: \$1,140,598.46  
APPRV LEVEL: OVERRIDE

HIGHWAY: CS  
DISTRICT: 12  
COUNTY: FORT BEND  
AREA ENGINEER: Michelle Milliard, P.E.  
AREA NUMBER: 050

DESCRIPTION: PROJECT DELAY COST  
REASON: 6D - 6D-UNTIMELY ROW / UTILITIES - OTHER  
SECONDARY REASON(S): 006A - 6A-ROW NOT CLEAR(3RD PART RESPONSIBLE)

Functions:

- |  |  |
|--|--|
| <input checked="" type="checkbox"/> Extra Work | <input type="checkbox"/> Force Account         |
| <input type="checkbox"/> Zero Dollar           | <input type="checkbox"/> Final Quantity        |
| <input type="checkbox"/> Overrun/Underrun      | <input type="checkbox"/> Change Project Limits |
| <input type="checkbox"/> Time Adjustment       | <input type="checkbox"/> Delete/Add CSJ        |
| <input type="checkbox"/> Stock Account         |  |

**DESCRIBE THE REASON FOR THE CHANGE ORDER AND WHAT IS BEING CHANGED. WHEN NECESSARY, INCLUDE EXCEPTIONS TO THIS AGREEMENT:**

This change order provides for adding four new items to the contract for reimbursing additional cost incurred due to extended project duration on Trammel Fresno Road in Fort Bend County.

The contract plans were designed by BKI Inc and revised by RPL Klotz via change order number 6 (for reference purpose only). This construction work provides for the construction and widening of a non-freeway consisting of grading, widening structure, signal, base, concrete pavement and pavement markings.

The Contractor was required to build the road from Sta. 58+48.72 to Sta. 218+96.14 as proposed in plan sheet numbers 1 through 478 (for reference purpose only) within 622 working days with 30 months of traffic handling. The project contains special provision 008-167, which states that the Department will suspend work for 270 calendar days unless authorized in writing by the Engineer. The 270- calendar day suspension period begins from March 19, 2015 and ends on December 13, 2015 as per the contract.

However, the contractor, Williams Brothers (WB) is required to clear the right of way (ROW) for the utility relocations. The contractor, WB worked for 27 working days starting from March 24, 2015 through April 9, 2015 (13 working days) and April 28, 2015 through May 15, 2015 (14 working days) for the ROW clearing. The 270 calendar day delay started on May 16, 2015. During this period, the utility companies were relocating their infrastructures.

Following the 270 day delay, there were still outstanding ROW and Utility relocations. For this reason, the time was suspended from December 13, 2015 to July 31, 2016 for power line relocation, acquiring the ROW and other utilities such as AT & T, phonoscope etc. This time suspension extended this 270- calendar day suspension by 7 months from December 13, 2015 to July 31, 2016.

The contractor, WB re-mobilized to the project site on August 1, 2016, and worked until September 25, 2016 and time was charged during this period. The contractor encountered the relocated utility such as AT & T buried lines and manholes which affected the contractor's ability to work on critical path items. The contractor, WB requested to suspend the time till the affected utility is out of way and ROW is acquired. This office suspended time starting September 26, 2016 to clear the conflict utility namely AT & T's manholes and buried lines and acquire ROW. On November 21, 2016, the contractor demobilized from the work site to allow for utility to be cleared and ROW to be acquired.

During this period, this office started reviewing the plan sheets and noted that the roadway and open cut drainage system were not matching as per the available ROW. In other words, the cross section did not fit into available ROW line. To remedy this situation, the consultant, RPS Klotz (for Fort Bend County Office) prepared revised plan sheets. The revised plan sheets number 1 through 546 (for reference only) were provided to the Contractor via change order number 6 (for reference purpose only). The contractor waited on the final quantities based on revised plan sheets. To address these issues, the time suspension period was extended to October 15, 2017. This second suspension period was for 13 months.

In addition to this addition of time to address utility conflict, the contractor submitted a time impact analysis which added 51 days to the contract as Time Extension Number 1 via change order number 16 (for reference purpose only). Similarly, 44 days were added to the contract as Time Extension Number 2 via change order number 21 (for reference purpose only). This impact resulted the extension of project period from the original completion date of March 11, 2018 to the new revised completion date of August 17, 2019. This extended the total project period by 17.2 months. The contractor, William Brothers submitted a request for compensation amounting to \$1,301,129.58. This cost includes the escalation cost for labor, concrete and reinforcing steel. Also, this cost includes the field overhead cost. The requested amount was supported by appropriate labor sheets, calculation details and other papers as required.

**Summary of Contractor's Claim:**

The Contractor's claim is summarized as follows:

Category	Amount	Basis of Claim
a. Field Overhead:	\$718,515.35.	6% cost, \$2012.65/day for 357 days
b. Labor Escalation:	\$198,971.11	Applied to all quantities after 7/31/16
c. Concrete Escalation:	\$365,723.63 and	Applied to all quantities after 7/31/16
d. Reinforcing Steel Escalation:	\$17,919.49	Applied to all quantities after 7/31/16
Total: \$1,301,129.58		

This office reviewed the claim and counter-proposed following:

Field Overhead:

According to Special Provision 004-013, Scope of Work Article 4.4, b. Project Overhead (2-2); "project overhead is defined as the administrative and supervisory expenses incurred at the work locations. When delay to project completion occurs, reimbursement for project overhead for the prime Contractor will be made". To determine a quantifiable time of delay relating to the project, a Time Impact Analysis was necessary to calculate the total number of delayed days caused by the conflict/impact (as per General Notes Item 8 – Prosecution and Progress). The contractor's projected project completion date was March 11, 2018 (as per the submitted Baseline Schedule), however the project was delayed and completed on August 17, 2019 (according to the TIA from the Contractor's Schedule Submittal). This delay was calculated to be 357 working days. This delay was determined based on following:

- a. Duration of second time suspension from September 26 through October 16, 2017 = 262 Working days.
- b. Time added for Impact Number 1 (CO 16) = 51 working days.
- c. Time added for Impact Number 2 (CO 21) = 44 working days.
- d. Total Days = 262 + 51 + 44 = 357 working days.

According to Special Provision 004-013, Scope of Work Article 4.4, b. Project Overhead (2-2) and after the review of Contractor's Schedules, the compensation for overhead should be:

- 6% of reimbursement
- Original Contract Amount (\$20,864,455.54) for 622 Original Contract Days.
- 357 Days of Delay (according to the Project Completion Delay).

Therefore, the amount recommended for project overhead compensation is calculated as

$(6\% \text{ of } \$20,864,455.45) / 622 = \$2012.65 / \text{day} \times 357 \text{ impacted days} = \$718,516.05$  This amount will be paid under Unique change order item 9608-2070-000, UNIQUE CHANGE ORDER ITEM 70, CO 38, FIELD OVERHEAD COST. For this item unit of measurement DOL=DAY.

Upon review of the escalation cost on labor and material, it was noted that the escalator factors were applied to the quantity which were installed after the original scheduled date of completion namely July 31, 2016. The summary of findings and recommendation are listed below:

Labor Escalation Cost:

Some numerical errors were found. The corrected amount is \$196,060.99

Therefore, this amount will be paid under item 9608-2071-000, UNIQUE CHANGE ORDER ITEM 71, CO 38, LABOR ESCALATION COST. For this item, the unit of measurement DOL is replaced by LS.

Concrete Escalation Cost:

Some numerical errors were found. The corrected amount is \$208,858.62.

Therefore, this amount will be paid under item 9608-2072-000, UNIQUE CHANGE ORDER ITEM 72, CO 38, CONCRETE ESCALATION COST. For this item, the unit of measurement DOL is replaced by LS.

Reinforcing Steel Escalation Cost:

Some numerical errors were found. The corrected amount is \$17,162.80.

Therefore, this amount will be paid under item 9608-2073-000, UNIQUE CHANGE ORDER ITEM 73, CO 38, RE-BAR ESCALATION COST. For this item, the unit of measurement DOL is replaced by LS.

The summary of agreed amount is shown below:

Category	Amount	Basis of Claim
a. Field Overhead:	\$718,516.05.	6% cost, \$2012.65/day for 357 days
b. Labor Escalation:	\$196,060.99	Applied to all quantities after 7/31/16
c. Concrete Escalation:	\$208,858.62 and	Applied to all quantities after 7/31/16
d. Reinforcing Steel Escalation:	\$17,162.80	Applied to all quantities after 7/31/16
Total: \$1,140,598.46		

The revision covered by this change order is estimated to result in an overrun of the funds authorized for this project in the amount of \$1,140,598.46. Fort Bend County is the third party participant at 100 % of the cost of this change order amounting to \$1,140,598.46 per the terms of the executed advance funding agreement.

Fort Bend is third party participant at 100%.

Change Order Work Limits: Sta. 58+48 to Sta. 218+96.

**ADDITIONAL TIME NOT NEEDED**

"By signing this change order, the contractor agrees to waive any and all claims for additional compensation due to any and all other expenses; additional changes for time, overhead and profit; or loss of compensation as a result of this change and that this agreement is made in accordance Item 4 and the Contract. Exceptions should be noted in explanation above."

**THE CONTRACTOR**

BY: \_\_\_\_\_  
DATE

TYPED/PRINTED NAME: \_\_\_\_\_  
DATE

TYPED/PRINTED TITLE: \_\_\_\_\_  
DATE

AREA ENGINEER: \_\_\_\_\_  
DATE

AREA ENGINEER'S SEAL:

DISTRICT ENGINEER: \_\_\_\_\_  
DATE

DIRECTOR, CONSTRUCTION DIVISION: \_\_\_\_\_  
DATE

DEPUTY EXECUTIVE DIRECTOR: \_\_\_\_\_  
DATE

FHWA: \_\_\_\_\_  
DATE

### CONTRACT ITEMS

PROJECT NBR 091234144

CATG NBR	LINE ITEM	ITEM CODE	SP NBR	DESCRIPTION	UNIT	UNIT PRICE	ORIG + PREV REV QTY	QTY THIS CO	NEW QTY	AMOUNT THIS CO
001	1420	96082070	000	UNIQUE CHANGE ORDER ITEM 70 CO DESCR ADDTL CO DESCR 1	DOL	2,012.65000	0.000	357.000	357.000	\$718,516.05
				CO 38: OVERHEAD COST, DOL= DAY CO 38: OVERHEAD COST, DOL= DAY						
001	1421	96082071	000	UNIQUE CHANGE ORDER ITEM 71 CO DESCR ADDTL CO DESCR 1	DOL	196,060.99000	0.000	1.000	1.000	\$196,060.99
				CO 38: LABOR ESCALATION COST, DOL=LS CO 38: LABOR ESCALATION COST, DOL=LS						
001	1422	96082072	000	UNIQUE CHANGE ORDER ITEM 72 CO DESCR ADDTL CO DESCR 1	DOL	208,858.62000	0.000	1.000	1.000	\$208,858.62
				CO 38: CONCRETE ESCALATION COST, DOL=LS CO 38: CONCRETE ESCALATION COST, DOL=LS						
001	1423	96082073	000	UNIQUE CHANGE ORDER ITEM 73 CO DESCR ADDTL CO DESCR 1	DOL	17,162.80000	0.000	1.000	1.000	\$17,162.80
				CO 38: RE-BAR ESCALATION COST, DOL=LS CO 38: RE-BAR ESCALATION COST, DOL=LS						
CHANGE ORDER AMOUNT									\$1,140,598.46	