



AGENDA (v.2)

SHORELINE CITY COUNCIL WORKSHOP DINNER MEETING

Monday, February 13, 2012
5:45 p.m.

Conference Room C-104 · Shoreline City Hall
17500 Midvale Avenue North

TOPICS/GUESTS: 2012 Federal Legislative Agenda
Council Retreat Preparation

SHORELINE CITY COUNCIL BUSINESS MEETING

Monday, February 13, 2012
7:00 p.m.

Council Chamber · Shoreline City Hall
17500 Midvale Avenue North

	<u>Page</u>	<u>Estimated Time</u>
1. CALL TO ORDER		7:00
2. FLAG SALUTE/ROLL CALL		
3. REPORT OF THE CITY MANAGER		
4. COUNCIL REPORTS		
(a) <u>Local Government Performance Audit Results - Construction</u> <u>Change Order Pricing</u>	48	7:05
5. PUBLIC COMMENT		
<i>Members of the public may address the City Council on agenda items or any other topic for three minutes or less, depending on the number of people wishing to speak. The total public comment period will be no more than 30 minutes. If more than 15 people are signed up to speak, each speaker will be allocated 2 minutes. When representing the official position of a State registered non-profit organization or agency or a City-recognized organization, a speaker will be given 5 minutes and it will be recorded as the official position of that organization. Each organization shall have only one, five-minute presentation. Speakers are asked to sign up prior to the start of the Public Comment period. Individuals wishing to speak to agenda items will be called to speak first, generally in the order in which they have signed. If time remains, the Presiding Officer will call individuals wishing to speak to topics not listed on the agenda generally in the order in which they have signed. If time is available, the Presiding Officer may call for additional unsigned speakers.</i>		
6. APPROVAL OF THE AGENDA		
7. CONSENT CALENDAR		7:35
(a) Minutes of Special Meeting of January 23, 2012	<u>1</u>	
(b) Approval of expenses and payroll as of February 3, 2012 in the amount of \$4,120,935.54	<u>2</u>	
(c) Authorize the City Manager to Execute the 2012 Seattle-King	<u>4</u>	

County Department of Public Health Local Hazardous Waste
Management Program Grant, Contract EHS2341

- (d) Authorize the City Manager to Execute the 2012-2013 King County Solid Waste Division Waste Reduction and Recycling Grant Agreement, Contract 592862 5
- (e) Authorize the City Manager to Execute the 2012-2013 State Department of Ecology Coordinated Prevention Grant Agreement 7
- (f) Adoption of Ordinance No. 628 to Reclassify the Assistant Director, Planning & Community Development, to Planning Manager within the City's Classification and Compensation Plan 8
- (g) Adoption of Resolution No. 323 Amending the Employee Handbook Policies Regarding Use of Communication Systems and Use of Family Leave and Work Breaks 22

8. ACTION ITEMS: OTHER ORDINANCES, RESOLUTIONS, AND MOTIONS

- (a) Adoption of Ordinance No. 617, Designating a Responsible Individual for the Management of City-Owned Public Trees in the City of Shoreline and Establishing a Tree Board 29 7:45
- (b) Adoption of Ordinance No. 627, Clarifying the Process for Obtaining a Right-Of-Way Use Permit for the Planting, Pruning or Removing of Street Trees 36 8:15

9. ADJOURNMENT 8:45

The Council meeting is wheelchair accessible. Any person requiring a disability accommodation should contact the City Clerk's Office at 801-2231 in advance for more information. For TTY service, call 546-0457. For up-to-date information on future agendas, call 801-2236 or see the web page at www.shorelinewa.gov. Council meetings are shown on Comcast Cable Services Channel 21 and Verizon Cable Services Channel 37 on Tuesdays at 12 noon and 8 p.m., and Wednesday through Sunday at 6 a.m., 12 noon and 8 p.m. Online Council meetings can also be viewed on the City's Web site at <http://shorelinewa.gov>.

CITY OF SHORELINE
SHORELINE CITY COUNCIL
SUMMARY MINUTES OF SPECIAL MEETING

Monday, January 23, 2012
5:30 p.m.

Conference Room 104 - Shoreline City Hall
17500 Midvale Avenue N.

PRESENT: Mayor McGlashan, Deputy Mayor Eggen, and Councilmembers Hall, McConnell, Roberts, Salomon, and Winstead

ABSENT: None

STAFF: Julie Underwood, City Manager; Debbie Tarry, Assistant City Manager; Ian Sievers, City Attorney; Mark Relph, Public Works Director; Kirk McKinley, Transportation Manager; John Norris, Management Analyst

Mayor McGlashan called the meeting to order at 5:40 p.m.

The Mayor announced that the Council would recess into an executive session for a period of 70 minutes to discuss potential litigation, per RCW 42.30.110(1)(i), and property acquisition, per 42.30.110(1)(b). At 6:55 p.m., the Executive Session concluded and the Council meeting reconvened.

At 6:55 p.m., Mayor McGlashan declared the meeting adjourned.

Scott Passey, City Clerk

CITY COUNCIL AGENDA ITEM

CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Approval of Expenses and Payroll as of February 3, 2012
DEPARTMENT:	Administrative Services
PRESENTED BY:	Debra S. Tarry, Administrative Services Director

EXECUTIVE / COUNCIL SUMMARY

It is necessary for the Council to formally approve expenses at the City Council meetings. The following claims/expenses have been reviewed pursuant to Chapter 42.24 RCW (Revised Code of Washington) "Payment of claims for expenses, material, purchases-advancements."

RECOMMENDATION

Motion: I move to approve Payroll and Claims in the amount of \$4,120,935.54 specified in the following detail:

***Payroll and Benefits:**

Payroll Period	Payment Date	EFT Numbers (EF)	Payroll Checks (PR)	Benefit Checks (AP)	Amount Paid
12/25/11-1/7/12	1/13/2012	43410-43590	11410-11434	49145-49150	\$440,916.74
1/8/12-1/21/12	1/27/2012	43591-43776	11435-11462	49315-49322	\$541,363.11
					<u>\$982,279.85</u>

***Wire Transfers:**

Expense Register Dated	Wire Transfer Number	Amount Paid
1/26/2012	1044	\$3,918.74
		<u>\$3,918.74</u>

***Accounts Payable Claims:**

Expense Register Dated	Check Number (Begin)	Check Number (End)	Amount Paid
1/21/2012	49143	49144	\$61,456.21
1/22/2012	49151	49163	\$27,092.51
1/22/2012	49164	49183	\$172,353.07
1/22/2012	49184	49201	\$38,646.99
1/26/2012	49202	49212	\$348,619.80
1/26/2012	49213	49233	\$1,089,222.03
1/26/2012	49234	49236	\$119,387.11

***Accounts Payable Claims:**

Expense Register Dated	Check Number (Begin)	Check Number (End)	Amount Paid
1/26/2012	49237	49243	\$17,483.01
1/26/2012	49244	49261	\$145,839.61
1/26/2012	49262	49266	\$475,921.52
1/30/2012	49267	49267	\$45,556.31
1/30/2012	49268*		
2/2/2012	49269	49275	\$52,620.00
2/2/2012	49276	49288	\$471,882.00
2/2/2012	49289	49294	\$18,694.19
2/2/2012	49295	49307	\$37,216.67
2/2/2012	49308	49314	\$12,745.92
			<u>\$3,134,736.95</u>

* Check #49268 will be submitted for approval by Transportation Benefit District Board

Approved By: City Manager _____ City Attorney_____

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Authorize the City Manager to Execute the 2012 Seattle-King County Department of Public Health Local Hazardous Waste Management Program Grant, Contract EHS2341
DEPARTMENT:	Public Works
PRESENTED BY:	Jesus Sanchez, Operations Manager Rika Cecil, Environmental Programs Coordinator
ACTION:	<input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Motion <input type="checkbox"/> Discussion <input type="checkbox"/> Public Hearing

PROBLEM/ISSUE STATEMENT:

Seattle-King County Public Health has awarded the City a Local Hazardous Waste Management Program (LHWMP) grant of \$24,756.91 to support the City's two Recycle Fest Events, the Earth Day Every Day Event, year-round Household Battery Collection/Recycling Program, and administrative assistance of LHWMP's regional committees and workgroups in 2012. For the past twelve years, the City has received LHWMP funds to promote environmental and human health through hazardous waste collection, education and the development of community stewardship opportunities.

RESOURCE/FINANCIAL IMPACT:

The \$24,756.91 of revenue from the grant was included in the 2012 Environmental Services budget, which was approved by Council in November 2011.

RECOMMENDATION

Staff recommends that Council authorize the City Manager to execute the 2012 Seattle-King County Public Health Local Hazardous Waste Management Program grant for \$24,756.91.

Approved By: City Manager *JU* City Attorney *JU*

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Authorize the City Manager to Execute the 2012/13 King County Solid Waste Division Waste Reduction and Recycling Grant Agreement, Contract 529862
DEPARTMENT:	Public Works
PRESENTED BY:	Jesus Sanchez, Operations Manager Rika Cecil, Environmental Programs Coordinator
ACTION:	<input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Motion <input type="checkbox"/> Discussion <input type="checkbox"/> Public Hearing

PROBLEM/ISSUE STATEMENT:

King County's Solid Waste Division, which manages the collection and disposal of solid waste in suburban cities and unincorporated areas of the county, is primarily funded by fees, which are charged to commercial companies and self-haulers who bring their waste to the transfer stations for disposal. With the economic downturn, these revenues are decreasing.

In 2024, when King County anticipates that it will close the current, local landfill and initiate solid waste export, Shoreline residents and businesses can expect their solid waste collection costs to rise. In order to promote sustainable practices that reduce waste and minimize the cost of waste disposal, the City will use its 2012/13 King County Waste Reduction and Recycling (WRR) grant funds to support the City's Recycle Fest Events, Earth Day Every Day Event, Business Special Collection Event, waste reduction projects for single and multi-family residents, and the development of a Climate Action Plan.

RESOURCE/FINANCIAL IMPACT:

By executing the grant agreement contract, \$37,332 in 2012 and \$37,332 in 2013, a total of \$74,664 will be provided as revenue to support the City's Environmental Services budget, contingent on King County Council approval of the 2013 grant funds in its 2013 budget.

The 2012 Environmental Services budget, approved by Council, anticipates the WRR 2012 grant revenue.

RECOMMENDATION

Staff recommends that Council authorize the City Manager to execute the 2012/13 King County Solid Waste Division Waste Reduction and Recycling Grant Agreement Contract 529862, for \$74,664.

Approved By: City Manager *JU* City Attorney *IS*

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Authorize the City Manager to Execute the 2012-2013 State Department of Ecology Coordinated Prevention Grant Agreement
DEPARTMENT:	Public Works
PRESENTED BY:	Jesus Sanchez, Operations Manager Rika Cecil, Environmental Programs Coordinator
ACTION:	<input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Motion <input type="checkbox"/> Discussion <input type="checkbox"/> Public Hearing

PROBLEM/ISSUE STATEMENT:

On February 8, 2010, Council approved authorization of the State Department of Ecology's Coordinated Prevention Grant that supported a variety of sustainable practices, such as the City's Recycle Fest events, Green Building Outreach Program, and the development of a Greenhouse Emissions Inventory.

For use in 2012/13, the Department of Ecology has awarded the City a grant of \$60,489 in Coordinated Prevention Grant (CPG) funds to support a business recycling event, the City's bi-annual Recycle Fest events, as well as a new project to increase recycling at multi-family facilities and single-family residences, and the development of a Climate Action Plan.

RESOURCE/FINANCIAL IMPACT:

If the City executes the CPG Agreement, \$60,489 will be provided as revenue to support the City's environmental programs and budget. Given the uncertainties of the State budget, this grant was not included in the City's 2012 budget.

RECOMMENDATION

Staff recommends that Council authorize the City Manager or designee to execute the 2012/13 State Department of Ecology Coordinated Prevention Grant Agreement for \$60,489.

Approved By: City Manager *JU* City Attorney *IS*

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Approval of Ordinance No. 628 to Reclassify the Assistant Director PADS, to Planning Manager within the City's Classification and Compensation Plan
DEPARTMENT:	Planning and Community Development & Human Resources
PRESENTED BY:	Rachael Markle, Planning and Community Development Director Marci Wright, Human Resources Director
ACTION:	<input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Motion <input type="checkbox"/> Discussion <input type="checkbox"/> Public Hearing

PROBLEM/ISSUE STATEMENT:

With the promotion of Assistant Director Rachael Markle to be Director of Planning and Community Development, the Assistant Director position becomes vacant. In considering the need for refilling this vacancy, staff has concluded the organization would be better served by reclassifying the Assistant Director to a Planning Manager. This reclassification to a lower salary range position would fully meet the operational needs of the position and would better align the position internally.

FINANCIAL IMPACT:

The proposed reclassification would result in cost savings to the City; the annual cost savings are estimated to be between \$8,000 and \$25,000.

RECOMMENDATION

Staff recommends Council Approval of Ordinance No. 628 to reclassify the Assistant Director PADS to Planning Manager within the City's Classification and Compensation Plan.

Approved By: City Manager *JU* City Attorney *IS*

BACKGROUND

Prior to 2004, the Planning and Community Development Department (previously known as the Planning and Development Services Department) used the classification of Planning Manager as a management position within the Department. In 2004, the incumbent Planning Manager Rachael Markle was promoted to the vacant Assistant Director position and the Department chose to reorganize and eliminate the Planning Manager position.

Since this decision in 2004, the Department has used various organizational approaches to supervising professional planning staff. The most recent organizational approach was implemented in the summer of 2011 when all professional planning staff were consolidated into one team, reporting to Assistant Director Markle.

Effective January 1, 2012, the Planning and Community Development Department eliminated two professional planning positions by layoff. This layoff decreased the planning staff from 7.6 FTE to 5.6 FTE. Later in January, Assistant Director Rachael Markle was promoted to Director via a competitive hiring process, leaving a vacant Assistant Director position.

The organization of the Department inherited by Director Markle includes:

- Director;
- Planning Team (5.6 FTE professional planning staff) managed by the Assistant Director (vacant);
- Building Team (5 FTE plans examiners/inspection staff) managed by the Building Official;
- Permit Services Team (4 FTE permit technicians/administrative support/code enforcement) managed by the Permit Services Manager
- 2 FTE reporting to the Director (a Management Analyst and an Administrative Assistant)

Given this vacant position and the recent decrease in planning staff, the City Manager's Office, Human Resources and new Director Markle have worked together to determine whether to:

- fill the existing Assistant Director vacancy;
- not fill the position and leave it vacant; or
- reclassify the vacancy to a lower level classification.

As a result of our deliberations, staff recommends reclassifying the Assistant Director to the lower level Planning Manager classification.

ALTERNATIVES ANALYSIS

The options considered include: 1) choosing not to fill the position; 2) filling the position as an Assistant Director; or 3) reclassifying the position.

It is worth noting that the City Manager has the administrative authority to exercise Options 1 and 2; the City Council approval is required for Option 3.

Option 1: In considering Option 1, staff believes it is necessary to fill the vacancy due to the critical nature of the position. The Department needs a position to supervise the almost six (6) FTE of planning staff. To add this supervisory responsibility to the Director position would create an unreasonable supervisory burden for the Director and overly immerse the Director in a single function of the Department to the detriment of the full range of Department services. Functionally it does not make sense to add the planning team to either of the other existing Planning and Community Development teams (Permit Services and Building) and neither of the current team managers has a planning background. Further, staff believes that not filling the position would put timely and successful completion of City Council Goal No. 1 at risk.

Option 2: At the same time, staff believes it would be unwise to simply automatically refill the existing vacancy. The Assistant Director (Salary Range 62) classification was created to exercise management and control over the full range of department services and responsibilities. With the decreased staffing and the current organizational approach, this level of expertise and responsibility is no longer required. The operational need for the position going forward is to manage the one work team in the Department that is focused specifically on professional planning services.

Option 3: To provide the required focus on delivering excellent City planning services, staff believes the best option is reclassifying the position to Planning Manager, at the same lower salary range (Salary Range 59) previously assigned to the Planning Manager classification. Staff believes this action will:

1. **More accurately describe the job duties assigned.** The primary essential function of this position is managing the staff and responsibilities of the Department's Planning Team. The City's definition of Planning Manager is to direct, manage, supervise and coordinate the activities and operations of the City Planning Team;
2. **Better align the pay for this work to other similar City positions.** As noted above, the Assistant Director classification is in Salary Range 62 which is higher than the other Planning and Community Development classifications which manage Departmental Teams—the Building Official (Range 61) and the Permit Services Manager (Range 59). Range 59 also includes top managers in other departments (for example, the Finance Manager, the Recreation Superintendent and the Parks Superintendent). These classifications require similar levels of experience, expertise and responsibility.
3. **Range 59 salary is consistent with the City's guidelines on establishing salary based on supervisor/subordinate relationship.** The City's salary setting guideline is 15% - 20% salary differential when the supervisor/subordinate relationship is used to establish a salary range. The highest salary range of this position's direct reports is Salary Range 51 (Senior Planner). The recommended salary range placement of Range 59 is 20% higher than Salary Range 51.

COUNCIL GOALS ADDRESSED

As noted above, staff believes that refilling this position (at the recommended lower salary range) is critical to the timely completion of City Council Goal No. 1—Implement the adopted Community Vision by updating the Comprehensive Plan and key development regulations in partnership with residents, neighborhoods and businesses.

FINANCIAL IMPACT

Reclassifying the Assistant Director to a Planning Manager will result in cost savings to the City.

The Assistant Director, at Range 62, has an annual salary range of \$86,189 to \$104,862. The Planning Manager, at Range 59, would have an annual salary range of \$80,033 to \$97,372. The current position is budgeted based upon the top of Range 62. Depending on the salary rate for the yet to be hired Planning Manager, the amount of cost savings would vary, but the new salary expense would be lower than currently budgeted. Focusing on salary savings, the annual difference could range from as little as \$7,490 (for a Step 6 Planning Manager hire) to as much as \$24,829 (for a Step 1 Planning Manager hire).

RECOMMENDATION

Staff recommends Council Approval of Ordinance No. 628 to reclassify the Assistant Director PADS to Planning Manager within the City's Classification and Compensation Plan.

Attachment A: Ordinance No. 628

Attachment B: Classification Specification for Planning Manager

Approved By: City Manager ____ City Attorney ____

ORDINANCE NO. 628

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, RECLASSIFYING THE ASSISTANT DIRECTOR, PADS TO A NEW CLASSIFICATION PLANNING MANAGER AND AMENDING THE 2012 BUDGET BY AMENDING THE 2012 EXEMPT SALARY TABLE

WHEREAS, the 2012 Budget for the City of Shoreline was adopted by Ordinance No. 622

WHEREAS, City staff have determined it is appropriate to reclassify the Assistant Director, PADS to a new classification specification, Planning Manager; and

WHEREAS, due to the reclassification, the salary range for the position should be adjusted; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Amendment to the 2012 Budget. The Exempt Salary Table of the 2012 Budget as adopted by Ordinance 622 and as shown on Exhibit A attached hereto is amended as follows:

The classification "Assistant Director PADS" is deleted from Range 62 and a new classification "Planning Manager" is added to Range 59

Section 2. Effective date. A summary of this ordinance consisting of its title shall be published in the official newspaper of the City and the ordinance shall take effect and be in full force five (5) days after the date of publication.

ADOPTED BY THE CITY COUNCIL ON FEBRUARY 13, 2012.

Mayor McGlashan

ATTEST:

APPROVED AS TO FORM:

Scott Passey
City Clerk

Ian Sievers
City Attorney

Date of Publication:
Effective Date:

City of Shoreline

Range Placement Table

2.5% Between Ranges; 4% Between Steps

Salary Table 01 - EXEMPT

Mkt Adj 0.00%

Effective Jan 1, 2011

Range	Title	Salary	Min Step 1	Step 2	Step 3	Step 4	Step 5	Max Step 6
1		Annual	18,896	19,652	20,438	21,255	22,105	22,990
2		Annual	19,395	20,170	20,977	21,816	22,689	23,596
3		Annual	19,838	20,631	21,457	22,315	23,207	24,136
4		Annual	20,337	21,150	21,996	22,876	23,791	24,742
5		Annual	20,863	21,697	22,565	23,468	24,407	25,383
6		Annual	21,389	22,245	23,135	24,060	25,023	26,023
7		Annual	21,943	22,821	23,734	24,683	25,671	26,698
8		Annual	22,498	23,398	24,333	25,307	26,319	27,372
9		Annual	23,024	23,945	24,903	25,899	26,935	28,012
10		Annual	23,634	24,579	25,562	26,585	27,648	28,754
11		Annual	24,188	25,155	26,161	27,208	28,296	29,428
12		Annual	24,797	25,789	26,821	27,894	29,009	30,170
13		Annual	25,435	26,452	27,510	28,610	29,755	30,945
14		Annual	26,072	27,115	28,199	29,327	30,500	31,720
15		Annual	26,709	27,777	28,888	30,044	31,246	32,496
16		Annual	27,402	28,498	29,638	30,823	32,056	33,338
17		Annual	28,094	29,218	30,387	31,602	32,866	34,181
18		Annual	28,759	29,910	31,106	32,350	33,644	34,990
19		Annual	29,480	30,659	31,885	33,161	34,487	35,866
20		Annual	30,228	31,437	32,694	34,002	35,362	36,777
21		Annual	30,976	32,215	33,503	34,844	36,237	37,687
22		Annual	31,779	33,050	34,372	35,747	37,177	38,664
23		Annual	32,555	33,857	35,212	36,620	38,085	39,608
24		Annual	33,386	34,722	36,111	37,555	39,057	40,619
25		Annual	34,190	35,557	36,980	38,459	39,997	41,597
26		Annual	35,049	36,451	37,909	39,425	41,002	42,642
27		Annual	35,935	37,373	38,868	40,422	42,039	43,721
28		Annual	36,850	38,324	39,856	41,451	43,109	44,833
29		Annual	37,764	39,274	40,845	42,479	44,178	45,946
30		Annual	38,706	40,254	41,864	43,539	45,280	47,092
31		Annual	39,676	41,263	42,913	44,630	46,415	48,271
32		Annual	40,673	42,300	43,992	45,752	47,582	49,485

Range	Title	Salary	Min Step 1	Step 2	Step 3	Step 4	Step 5	Max Step 6
33		Annual	41,698	43,366	45,101	46,905	48,781	50,732
34		Annual	42,723	44,432	46,210	48,058	49,980	51,979
35		Annual	43,776	45,527	47,348	49,242	51,212	53,260
36		Annual	44,912	46,709	48,577	50,520	52,541	54,642
37		Annual	45,993	47,832	49,746	51,736	53,805	55,957
38		Annual	47,129	49,014	50,974	53,013	55,134	57,339
39		Annual	48,320	50,253	52,263	54,353	56,528	58,789
40		Annual	49,539	51,521	53,581	55,725	57,954	60,272
41		Annual	50,786	52,817	54,930	57,127	59,412	61,789
42		Annual	52,060	54,143	56,309	58,561	60,903	63,339
43	Assistant Planner	Annual	53,363	55,497	57,717	60,026	62,427	64,924
44		Annual	54,692	56,880	59,155	61,522	63,982	66,542
45	Executive Assistant to the City Manager	Annual	56,050	58,292	60,624	63,049	65,571	68,194
46	Budget Analyst Management Analyst Staff Accountant Recreation Coordinator I	Annual	57,435	59,733	62,122	64,607	67,191	69,879
47	Associate Planner	Annual	58,932	61,289	63,740	66,290	68,942	71,699
48	Purchasing Officer	Annual	60,372	62,787	65,299	67,911	70,627	73,452
49	Neighborhoods Coordinator Emergency Management Coordinator Parks & Rec Project Coordinator	Annual	61,896	64,372	66,947	69,625	72,410	75,306
50	Grants Coordinator Senior Accountant Recreation Coordinator II CMO Management Analyst Senior Human Resources Analyst Budget/Financial Systems Analyst	Annual	63,420	65,957	68,595	71,339	74,192	77,160
51	Web Developer Senior Planner	Annual	64,999	67,599	70,303	73,115	76,040	79,082
52	CRT Supervisor Fleet, Facilities & Prop Mgt Supv Development Review Engineer I Construction Inspection Supervisor	Annual	66,662	69,328	72,101	74,985	77,985	81,104
53	Network Administrator	Annual	68,324	71,057	73,899	76,855	79,929	83,127
54	PW Maintenance Supervisor	Annual	70,014	72,815	75,727	78,756	81,907	85,183
55	Capital Projects Manager I GIS Specialist City Clerk	Annual	71,760	74,630	77,615	80,720	83,949	87,307
56	Associate Traffic Engineer	Annual	73,588	76,532	79,593	82,777	86,088	89,531
57	Database Administrator	Annual	75,417	78,434	81,571	84,834	88,227	91,756
58		Annual	77,301	80,393	83,609	86,953	90,431	94,048

Range	Title	Salary	Min	Step 2	Step 3	Step 4	Step 5	Max
			Step 1					Step 6
59	Recreation Superintendent Economic Development Program Mgr Finance Manager Capital Projects Manager II Community Services Manager Intergovernmental Prog Manager Development Review Engineer II Permit Services Manager Parks Superintendent	Annual	79,240	82,410	85,706	89,135	92,700	96,408
60		Annual	81,208	84,456	87,834	91,347	95,001	98,801
61	Building Official	Annual	83,258	86,588	90,052	93,654	97,400	101,296
62	Assistant City Attorney Assistant Director PADS	Annual	85,336	88,749	92,299	95,991	99,831	103,824
63	Traffic Engineer SW & Environmental Svcs Manager	Annual	87,441	90,939	94,577	98,360	102,294	106,386
64		Annual	89,658	93,244	96,974	100,853	104,887	109,083
65	Capital Project Administrator Transportation Svcs Division Mgr	Annual	91,875	95,550	99,371	103,346	107,480	111,779
66	Information Systems Manager	Annual	94,174	97,941	101,859	105,933	110,170	114,577
67		Annual	96,557	100,419	104,436	108,613	112,958	117,476
68		Annual	98,940	102,897	107,013	111,294	115,745	120,375
69	Public Works Operations Manager	Annual	101,433	105,491	109,710	114,099	118,663	123,409
70	Human Resources Director	Annual	103,955	108,113	112,437	116,935	121,612	126,477
71		Annual	106,559	110,821	115,254	119,864	124,659	129,645
72		Annual	109,246	113,616	118,161	122,887	127,803	132,915
73		Annual	111,962	116,440	121,098	125,942	130,979	136,219
74	Assistant City Manager Finance Director Parks, Rec & Cultural Svcs Director Planning & Dev Services Director Public Works Director City Attorney	Annual	114,760	119,350	124,124	129,089	134,253	139,623
75		Annual	117,642	122,347	127,241	132,331	137,624	143,129

City of Shoreline
Range Placement Table
2.5% Between Ranges; 4% Between Steps

Salary Table 01 - EXEMPT

Mkt Adj 1.00%
Effective Jan 1, 2012

EXHIBIT A (Ord 628)

Range	Title	Salary	Min Step 1	Step 2	Step 3	Step 4	Step 5	Max Step 6
1		Annual	19,085	19,848	20,642	21,468	22,326	23,220
2		Annual	19,588	20,372	21,187	22,034	22,916	23,832
3		Annual	20,036	20,838	21,671	22,538	23,439	24,377
4		Annual	20,540	21,361	22,216	23,105	24,029	24,990
5		Annual	21,072	21,914	22,791	23,703	24,651	25,637
6		Annual	21,603	22,467	23,366	24,301	25,273	26,284
7		Annual	22,163	23,049	23,971	24,930	25,927	26,965
8		Annual	22,723	23,632	24,577	25,560	26,582	27,646
9		Annual	23,254	24,184	25,152	26,158	27,204	28,292
10		Annual	23,870	24,825	25,818	26,850	27,924	29,041
11		Annual	24,430	25,407	26,423	27,480	28,579	29,722
12		Annual	25,045	26,047	27,089	28,172	29,299	30,471
13		Annual	25,689	26,716	27,785	28,896	30,052	31,254
14		Annual	26,332	27,386	28,481	29,620	30,805	32,037
15		Annual	26,976	28,055	29,177	30,344	31,558	32,821
16		Annual	27,676	28,783	29,934	31,131	32,377	33,672
17		Annual	28,375	29,510	30,691	31,918	33,195	34,523
18		Annual	29,047	30,209	31,417	32,674	33,981	35,340
19		Annual	29,774	30,965	32,204	33,492	34,832	36,225
20		Annual	30,530	31,751	33,021	34,342	35,716	37,144
21		Annual	31,286	32,537	33,838	35,192	36,600	38,064
22		Annual	32,097	33,381	34,716	36,105	37,549	39,051
23		Annual	32,881	34,196	35,564	36,986	38,466	40,004
24		Annual	33,720	35,069	36,472	37,931	39,448	41,026
25		Annual	34,532	35,913	37,349	38,843	40,397	42,013
26		Annual	35,399	36,815	38,288	39,819	41,412	43,068
27		Annual	36,295	37,746	39,256	40,826	42,460	44,158
28		Annual	37,218	38,707	40,255	41,865	43,540	45,281
29		Annual	38,142	39,667	41,254	42,904	44,620	46,405
30		Annual	39,093	40,657	42,283	43,974	45,733	47,563
31		Annual	40,072	41,675	43,342	45,076	46,879	48,754

City of Shoreline
Range Placement Table
2.5% Between Ranges; 4% Between Steps

Salary Table 01 - EXEMPT

Mkt Adj 1.00%
Effective Jan 1, 2012

EXHIBIT A (Ord 628)

Range	Title	Salary	Min Step 1	Step 2	Step 3	Step 4	Step 5	Max Step 6
32		Annual	41,080	42,723	44,432	46,209	48,058	49,980
33		Annual	42,115	43,800	45,552	47,374	49,269	51,240
34		Annual	43,151	44,877	46,672	48,539	50,480	52,499
35		Annual	44,214	45,982	47,822	49,735	51,724	53,793
36		Annual	45,361	47,176	49,063	51,025	53,066	55,189
37		Annual	46,453	48,311	50,243	52,253	54,343	56,517
38		Annual	47,600	49,504	51,484	53,543	55,685	57,913
39		Annual	48,803	50,755	52,786	54,897	57,093	59,377
40		Annual	50,034	52,036	54,117	56,282	58,533	60,875
41		Annual	51,294	53,345	55,479	57,698	60,006	62,407
42		Annual	52,581	54,684	56,872	59,146	61,512	63,973
43	Assistant Planner	Annual	53,896	56,052	58,294	60,626	63,051	65,573
44		Annual	55,239	57,449	59,747	62,137	64,622	67,207
45	Executive Assistant to the City Manager	Annual	56,611	58,875	61,230	63,679	66,226	68,875
46	Budget Analyst Management Analyst Staff Accountant Recreation Coordinator I	Annual	58,010	60,330	62,743	65,253	67,863	70,578
47	Associate Planner	Annual	59,521	61,902	64,378	66,953	69,631	72,416
48	Purchasing Officer	Annual	60,976	63,415	65,952	68,590	71,333	74,187
49	Parks & Rec Project Coordinator Emergency Management Coordinator	Annual	62,515	65,016	67,616	70,321	73,134	76,059
50	Grants Coordinator Recreation Coordinator II CMO Management Analyst Senior Human Resources Analyst Budget/Financial Systems Analyst	Annual	64,054	66,616	69,281	72,052	74,934	77,932
51	Web Developer Senior Planner	Annual	65,649	68,275	71,006	73,847	76,800	79,872
52	Customer Response Team Supervisor Fleet, Facilities & Prop Mgt Supv Development Review Engineer I Construction Inspection Supervisor	Annual	67,328	70,021	72,822	75,735	78,765	81,915
53		Annual	69,007	71,768	74,638	77,624	80,729	83,958
54	PW Maintenance Supervisor	Annual	70,714	73,543	76,485	79,544	82,726	86,035

City of Shoreline
Range Placement Table

2.5% Between Ranges; 4% Between Steps

Salary Table 01 - EXEMPT

Mkt Adj 1.00%
Effective Jan 1, 2012

EXHIBIT A (Ord 628)

Range	Title	Salary	Min Step 1	Step 2	Step 3	Step 4	Step 5	Max Step 6
55	Capital Projects Manager I GIS Specialist City Clerk	Annual	72,477	75,376	78,391	81,527	84,788	88,180
56	Associate Traffic Engineer	Annual	74,324	77,297	80,389	83,605	86,949	90,427
57	Database Administrator	Annual	76,171	79,218	82,387	85,682	89,109	92,674
58		Annual	78,074	81,197	84,445	87,823	91,335	94,989
59	Recreation Superintendent Economic Development Program Mgr Finance Manager Capital Projects Manager II Community Services Manager Intergovernmental Prog Manager Development Review Engineer II Permit Services Manager Parks Superintendent <u>Planning Manager</u>	Annual	80,033	83,234	86,563	90,026	93,627	97,372
60		Annual	82,020	85,300	88,712	92,261	95,951	99,789
61	Building Official	Annual	84,090	87,454	90,952	94,590	98,374	102,309
62	Assistant City Attorney Assistant Director PADS	Annual	86,189	89,637	93,222	96,951	100,829	104,862
63	Traffic Engineer SW & Environmental Svcs Manager	Annual	88,316	91,849	95,522	99,343	103,317	107,450
64		Annual	90,555	94,177	97,944	101,862	105,936	110,174
65	Engineering Supervisor Transportation Svcs Division Mgr	Annual	92,793	96,505	100,365	104,380	108,555	112,897
66	Information Systems Manager	Annual	95,116	98,921	102,877	106,992	111,272	115,723
67		Annual	97,522	101,423	105,480	109,700	114,088	118,651
68		Annual	99,929	103,926	108,083	112,407	116,903	121,579
69	Public Works Operations Manager	Annual	102,448	106,545	110,807	115,240	119,849	124,643
70	Human Resources Director	Annual	104,994	109,194	113,562	118,104	122,828	127,741
71	City Engineer	Annual	107,625	111,930	116,407	121,063	125,905	130,942
72		Annual	110,339	114,752	119,343	124,116	129,081	134,244
73		Annual	113,081	117,605	122,309	127,201	132,289	137,581
74	Assistant City Manager Finance Director Parks, Rec & Cultural Svcs Director Planning & Dev Services Director Public Works Director City Attorney	Annual	115,908	120,544	125,366	130,380	135,596	141,019
75		Annual	118,818	123,571	128,513	133,654	139,000	144,560

ATTACHMENT B

CITY OF SHORELINE

PLANNING MANAGER

Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are not intended to reflect all duties performed within the job.

DEFINITION

To direct, manage, supervise and coordinate the activities and operations of the City Planning Team within the Planning and Community Development Department including zoning, land use, community planning, sustainability, permitting, annexations, environmental review, and special projects; to ensure compliance with statutory requirements; to coordinate assigned activities with other divisions of the Department, and other departments and agencies.

SUPERVISION RECEIVED AND EXERCISED

Receives administrative direction from the Director of Planning and Community Development.
Exercises direct supervision over assigned staff.

ESSENTIAL AND MARGINAL FUNCTION STATEMENTS *Essential responsibilities and duties may include, but are not limited to, the following:*

Essential Functions:

1. Assume management responsibility for assigned services and activities of the City Planning Team including short and long-range planning programs and projects; recommend and administer policies and procedures; manage and participate in the development and implementation of goals, objectives, policies and priorities for assigned programs.
2. Recommend, within Department policy, appropriate service and staffing levels; monitor and evaluate the efficiency and effectiveness of service delivery methods and procedures.
3. Plan, direct, coordinate, and review the Team's work plan; assign work activities, projects and programs; review and evaluate work products, methods and procedures; meet with staff to regularly identify and resolve problems.
4. Research, analyze, prepare and interpret studies and reports; make recommendations regarding annexations, land use management, community development, economic development, sustainability, environmental protection, housing, historical preservation, utilities, transportation, capital improvements and other related plans and/or policies.
5. Ensure compliance with statutory requirements relative to the Team and environmental issues; develop and review environmental impact statements and technical reports; recommend final actions on environmental issues.
6. Assist the Director in implementing regulations, programs, strategies and action plans as dictated by the Comprehensive Plan and other functional planning documents.
7. Manage the preparation of grant proposals for additional funding from State and Federal sources; administer grants and ensure successful completion of work programs.
8. Administer contracts with outside consulting services as required; advertise, interview and select consultants; negotiate work programs for subsequent contracts.
9. Select, train, motivate and evaluate assigned personnel; provide or coordinate staff training; work with employees to correct deficiencies; implement discipline and termination procedures.

10. Oversee and participate in the development and administration of the Team and Department budgets; approve Team expenditures and implement budgetary adjustments as appropriate and necessary.
11. Explain, justify and defend Team programs, policies and activities; negotiate and resolve sensitive and controversial issues.
12. Represent the Team to other divisions, departments, and outside agencies; coordinate assigned activities with those of other divisions, departments and outside agencies and organizations.
13. Provide staff assistance to the Planning and Community Development Director; serve as staff on a variety of boards, commissions and committees; prepare and present staff reports and other necessary correspondence.
14. Respond to and resolve difficult and sensitive citizen inquiries and complaints.

Marginal Function:

Perform related duties and responsibilities as required.

QUALIFICATIONS

Knowledge of:

Operations, services and activities of a comprehensive planning and community development program.
 Principles and practices of urban planning.
 Principles and practices of community development.
 Principles and practices of program development and administration.
 Methods and techniques of zoning, regulating and environmental management.
 Principles and practices of geographic information systems and their applicability to planning and zoning.
 Principles and practices of capital facility, sustainability, transportation, human services, public safety, housing and utility planning.
 Principles and practices of landscape architecture including aesthetic and design functions.
 Principles and practices of community involvement techniques, dispute mediation and consensus building.
 Principles and practices of local budget preparation and administration.
 Principles of supervision, training and performance evaluation.
 Modern office procedures, methods and equipment including computers.
 Applicable computer software applications.
 Pertinent Federal, State and local laws, codes and regulations.

Ability to:

Manage a comprehensive planning and community development program.
 Develop and administer Division goals, objectives and procedures.
 Analyze and assess programs, policies and operational needs and make appropriate adjustments.
 Identify and respond to sensitive community and organizational issues, concerns and needs.
 Plan, organize, direct and coordinate the work of lower level staff
 Delegate authority and responsibility.
 Select, supervise, train and evaluate staff.
 Analyze problems, identify alternative solutions, project consequences of proposed actions and implement recommendations in support of goals.
 Research, analyze and evaluate new service delivery methods and techniques.
 Oversee and conduct a variety of research studies in the areas of planning and community development.
 Evaluate, research and write legislation as needed.
 Read and interpret maps, property descriptions, charts, graphs and statistical data.
 Interpret engineering, architectural and landscape plans and designs.
 Conduct formal and informal meetings and make presentations.
 Operate office equipment including computers and supporting word processing and spreadsheet applications.
 Operate geographic information systems.
 Prepare clear and concise administrative and technical reports.
 Prepare and administer large and complex budgets.
 Interpret and apply applicable Federal, State and local policies, laws and regulations.

Communicate clearly and concisely, both orally and in writing.

Establish and maintain effective working relationships with those contacted in the course of work including regional and State forums.

Maintain physical condition appropriate to the performance of assigned duties and responsibilities.

Experience and Training Guidelines

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

Five years of increasingly responsible public planning experience including three years of administrative and supervisory responsibility.

Training:

Equivalent to a bachelor's degree from an accredited college or university with major course work in urban planning or a related field.

WORKING CONDITIONS

Environmental Conditions:

Office environment; exposure to computer screen; extensive contact with staff and community members.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for walking, standing or sitting for prolonged periods of time; extensive public speaking and interaction.

Note:

1. Any combination of education and experience may be substituted, so long as it provides the desired skills, knowledge and abilities to perform the essential functions of the job.
2. All requirements are subject to possible modification to reasonably accommodate individuals with disabilities. However, some requirements may exclude individuals who pose a direct threat or significant risk to the health and safety of themselves or other employees.
3. While requirements may be representative of minimum levels of knowledge, skills and abilities to perform this job successfully, the incumbent will possess the abilities or aptitudes to perform each duty proficiently.
4. This job description in no way implies that these are the only duties to be performed. Employees occupying the position will be required to follow any other job-related instructions and to perform any other job related duties requested by their supervisor.

I have read and understand this class description.

Signature

Date

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Adoption of Resolution No. 323 amending the Employee Handbook policies regarding 1) use of communication systems to preserve public records; 2) use of lunch and work breaks; and 3) rules for Family Leave
DEPARTMENT:	Human Resources, City Attorney
PRESENTED BY:	Marci Wright, Human Resources Director Ian Sievers, City Attorney
ACTION:	<input type="checkbox"/> Ordinance <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Motion <input type="checkbox"/> Discussion <input type="checkbox"/> Public Hearing

ISSUE STATEMENT:

The Employee Handbook was adopted by the City Council in 1999. In an ongoing effort to ensure that the City's personnel policies are a viable and effective, staff periodically requests approval from Council on updates to the policies to keep them in line with changes in State and Federal law and changes in City operations.

With the growing use of personal communications through the internet and cell phones, proper retention of business-related communications for public records has become a new challenge. To facilitate access to these records, amendments to the personnel policies are proposed to limit the use of an employee's personal equipment or third-party controlled communications systems where retention and production of public records may be unreliable.

Changes are also proposed for Employee Handbook sections on work breaks to clarify responsibility of the employee for scheduling these breaks; and to amendments to the Family Leave policy to include new statutory references enacted since the last Handbook amendments.

FINANCIAL IMPACT: None.

RECOMMENDATION

Adopt Resolution No. 323 amending the Shoreline Employee Handbook, Sections 8.12, 5.02 and 6.05 regarding 1) use of communication systems to preserve public records; 2) use of lunch and work breaks; and 3) rules for Family Leave.

Approved By: City Manager *JU* City Attorney *IS*

DISCUSSION

A. Communications Systems. Communications originating from City servers store public records, including backup for employee email accounts. These City controlled systems allow reliable retention and production of records for the City's use and for public access under Washington's public records act.

In particular, the City now has an efficient, centrally searchable email database for all City email accounts that is far more reliable and efficient than relying on individual employees to search their emails in response to a public records request. Emails are automatically duplicated when they are sent or received and retained for the appropriate retention periods under the Secretary of State guidelines. The production of email has been assigned to the City Clerk as the City's official records custodian, who is now able to do a single search of all email accounts.

The City has also recently upgraded its remote access software allowing employees to open and save City documents and City emails from remote computers. The new system is easier to connect from any internet connected computer and has an operating system that closely mimics the employee's computer desktop at City Hall.

Despite these improvements, new modes of communication such as texting and social networking and the proliferation of internet accessible smart phones, pads and tablets threaten to frustrate the goal for efficiency and reliability in retaining records. The increased availability to the internet has made it easier for employees to create city communications away from the workplace. Section 8.12 of the Employee Handbook, which addresses use of communication systems, is amended in proposed Resolution No. 323 to address this problem.

Under the amendments, no text messaging is allowed for City business; it is prohibited outright either on a city cell phone or private cell phone. The texts themselves are public records but the City's cell provider, and providers generally, do not retain the text messages, only a log of calls made. Employees will have to continue sending written messages to and from cell phones using a City Outlook email account.

To avoid expectations of privacy that are not consistent with the City's obligations under the public records act, the section is also clarified to provide notice to employees of the risk of commingling personal records with public records under the de minimus personal use of city systems, and of retaining city records on personal equipment. There is no records act exemption that allows redaction of private content from a record that contains both public and private information.

Finally, there are restrictions on the use of personal phones or computers for city communications, again to avoid relying on individual employees to retain public records on private equipment that may not be accessible for records requests or not reliably retained as required by law. An exception is allowed if the communication is to or from

city equipment that retains the record on the City's servers. Private phone use should be to a city phone which will create a City record of the call. Documents can be created on personal computers without using the remote connection if the document is saved on the city servers. Some cities allow a stipend toward personal phones that will be used for City business, rather than allowing reimbursed personal use of a city phone. We believe reliance on employees saving and producing phone logs sent with their billing statements is an unacceptable risk compared to the City's retention of its own phone account records and should only be allowed with Director approval and agreement by the employee for future access.

B. Clarification for Lunch and Rest Breaks. Current policy meets all legal requirements that regarding breaks in Section 5.02 of the Employee Handbook. Staff is recommending language be added to this section to clarify that breaks are the responsibility of the employee. This change is being offered to provide clarity on who has the responsibility of insuring these breaks are taken and to alleviate any future liability when an employee chooses to forgo scheduling a break.

C. Compliance with Federal and State Family Leave requirements. Section 6.05 Family Leave defines the City's requirements to comply with Federal and State leave law requirements. Recently the Washington State legislature has been very active in this area of the law and has made several revisions and additions to leave laws. We anticipate this level of activity will continue and new components of leave law will be enacted in the coming months and years. The language being recommended is intended to direct employees to Human Resources to ensure that the most recent laws and regulations are being applied to their specific situations.

RECOMMENDATION

Adopt Resolution No. 323 amending the Shoreline Employee Handbook, Sections 8.12, 5.02 and 6.05 regarding 1) use of communication systems to preserve public records; 2) use of lunch and work breaks; and 3) rules for Family Leave.

FINANCIAL IMPACT: None.

Attachments:

Attachment A - Resolution No. 323

RESOLUTION NO. 323

A RESOLUTION OF THE CITY COUNCIL, CITY OF SHORELINE, WASHINGTON, AMENDING THE EMPLOYEE HANDBOOK POLICIES REGARDING USE OF COMMUNICATION SYSTEMS AND USE OF FAMILY LEAVE AND WORK BREAKS

WHEREAS, the City's personnel policies should be updated to reflect developments in public records and family leave law; now therefore

THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, HEREBY RESOLVES:

1. The Shoreline Employee Handbook communications systems use policy is amended as follows:

8.12 Telephone, E-Mail, Voice Mail and Other Communication Systems on and City Equipment and Personal Equipment

A. City Equipment

Computers, electronic mail, telephones, voice mail, facsimile machines, copy machines and other information-related City equipment are provided to employees to be used for City business purposes and maybe accessed by other City staff. ~~No message or file monitoring by the City will occur without prior permission of the City Manager, however employees should keep in mind that s~~Supervisors are responsible for regular monitoring of phone call identification logs to enforce this policy and message or file monitoring by the City may occur with prior permission of the Citv Manager or for purposes of public records production.

~~As a public agency, most City records are public and can be protected from disclosure only as provided by law. As a result, employees must be aware that email, along with most other written documents, may be subject to public disclosure.~~

Employees are not to attempt to gain access to another employee's computer files, e-mail messages or voice mail messages without that employee's permission.

~~The City's email, voice mail and other information systems may not be used in a way that would be disruptive or offensive to others.~~ Employees shall not negligently or willfully damage City equipment nor engage in unauthorized use including use that is disruptive or offensive to others, supports any profit-making business or outside employment, solicits contributions for any cause or advocates for or against any ballot measure or candidate.

~~The personal use of equipment should be minimized.~~ For the convenience of the employee, it is permissible to place or receive occasional personal calls or e-mail ~~for the~~

ATTACHMENT A

~~convenience of the employee not excluded above, but such use should be minimized. The City also recognizes that it is unrealistic to expect employees assigned cellular phones for certain positions to maintain separate equipment for personal use. Long distance calls and cellular calls must be accounted for on a regular basis, with reimbursement provided to the City for personal use outside the following exceptions:~~

- ◆ ~~De minimus incidental~~ activity not to exceed \$2.00 per billing cycle
- ◆ Placing calls to notify family of emergencies or unexpected changes in a work schedule.

Employees shall not place or receive text messages on City cellular phones. This includes both City business-related text messages and personal text messages.

~~Employees shall not use information equipment or systems in any way that supports any profit making business or outside employment, solicits contributions for any cause, or advocates for or against any ballot measure.~~

B. Public Disclosure of Records Located on City Equipment/Accounts and Personal Equipment/Accounts

As a public agency, all City business records, even if located on personal equipment, are public records and can be protected from disclosure only if a specific exemption in the Public Records Act exempts the record from disclosure. As a result, e-mails and text messages, phone and text messaging logs, and all other documents related to City business located either on City equipment or on personal equipment or personal accounts are subject to public disclosure, if requested. Employees should not expect any right to privacy in the public records located on their City equipment or on their personal equipment.

Entirely personal records located on City equipment or on personal equipment are not considered public records and are not subject to disclosure.

No text messaging for City business is allowed. No emailing on personal accounts for City business is allowed. Personal phones and personal computers may only be used for City business under the following circumstances:

- (1) The phone call is made to a City phone; or
- (2) The document is saved to the City's server.

An employee may be approved by their Department Director to use a personal cell phone for City business under circumstances other than those designated above that will assure record retention and production in compliance with the Public Records Act including:

ATTACHMENT A

- The employee shall be responsible for retaining phone records associated with personal phones that reflect City business communications for a minimum of one year from the date the call is made or received.
- In the event of a public records request for City-related records located on an employee's personal equipment or personal account, employees must cooperate with the City and produce those records for disclosure

Records that mix both City business and personal business are considered public records and are subject to disclosure in their entirety. The Public Records Act does not allow redaction of personal information within a public record.

No City business may be conducted on private social media (tweets, blogs, web posts). City business may be conducted on a City-sponsored social media.

Violation of this policy may be grounds for disciplinary action, up to and including termination.

2. The Shoreline Employee Handbook employee break policy is amended as follows:

5.02 Breaks

- A. **Lunch and Rest Breaks:** All employees working an 8 hour day shall be entitled to at least a one half hour unpaid meal period within five hours of the beginning of his/her shift, and scheduled as close to the midpoint of the day as possible. In addition, employees are entitled to a paid ten minute rest break for each four hours of working time. Employees who are able to take a break as needed do not have to take a formally scheduled break and it is the employees' responsibility to take these breaks. Breaks shall be arranged so as not to interfere with normal business operations. All breaks should be taken away from the employee's immediate work area. Breaks cannot be combined or saved until the end of the day in order to arrive at work late or to leave work early.
- B. **Lactation Breaks:** For one year after her child's birth, nursing employees are allowed to take reasonable breaks to express breast milk whenever the nursing employee feels it is necessary to do so. Lactation breaks will be treated as outlined under Section 5.02A. A private space for this purpose has been established at all City worksites. If you need information on the space at your worksite contact a supervisor or Human Resources.

3. The Shoreline Employee Handbook family leave policy is amended to read as follows:

6.05 Family Leave

The City complies with the Federal Family and Medical Leave Act of 1993 (the FMLA - 29 U.S.C.A., 2611) and all applicable state laws (RCW 49.78, RCW 49.12.265, WAC 296-130) related to family and medical

ATTACHMENT A

leave. This policy provides detailed information concerning the terms of FMLA. State laws may have additional requirements and provide additional protections; please check with Human Resources for details.

ADOPTED BY THE CITY COUNCIL ON FEBRUARY 13, 2012.

Keith A. McGlashan, Mayor

ATTEST:

Scott Passey, City Clerk

CITY COUNCIL AGENDA ITEM

CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Adoption of Ordinance No. 617, Designating a Responsible Individual for the Management of City-Owned Public Trees in the City of Shoreline and Establishing a Tree Board
DEPARTMENT:	City Manager's Office Parks, Recreation and Cultural Services
PRESENTED BY:	John Norris, CMO Management Analyst Dick Deal, Director of Parks, Recreation and Cultural Services
ACTION:	<input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Motion <input type="checkbox"/> Discussion

PROBLEM/ISSUE STATEMENT:

In the City Council's 2011-2012 goal work plan, an objective of Council Goal #1 is to become a Tree City USA. In order to become a Tree City USA, an individual or entity must be codified as the legally responsible entity for the care and management of the community's public trees. As well, staff has proposed that a tree board be created to provide advice to the legally responsible entity on tree maintenance and urban forestry issues. Ordinance No. 617 fulfills these requirements.

Since Council's discussion on January 9, staff has separated the codification of planting, pruning, and removal of trees in the right-of-way to a separate ordinance (Ordinance No. 627) and within Ordinance No. 617 added a review of the effectiveness of the Tree Board structure in one year.

RESOURCE/FINANCIAL IMPACT:

There is no fiscal impact to adopting Ordinance No. 617, (Attachment A). However, if the Council adopts alternate Ordinance No. 617 which would implement a "stand alone" Shoreline Tree Board (Attachment B), there will be additional costs to staffing a new standing committee. This resource impact has the potential to affect other ongoing and planned Parks, Recreation and Cultural Services projects and efforts.

RECOMMENDATION:

Staff recommends that Council adopt Ordinance No. 617 which proposes to designate the Parks, Recreation and Cultural Services Director as the legally responsible tree manager for the City of Shoreline and proposes to have the Parks, Recreation and Cultural Services Board also serve as an advisory tree board.

Approved by: City Manager JU City Attorney IS

BACKGROUND:

At the Council's January 9 study session, (link to January 9 staff report - <http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/Council/Staffreports/2012/Staffreport010912-9a.pdf>), staff continued the discussion with Council regarding the Council goal of Shoreline becoming a Tree City USA. This discussion primarily focused on the Tree City USA requirement of adopting a tree management ordinance (Ordinance No. 617.). Staff continued to present the recommendation that the tree ordinance codify the legally responsible tree manager as the Director of Parks, Recreation and Cultural Services (PRCS) and the Shoreline PRCS Board serve as an advisory tree board. Although not required to become a Tree City USA, an advisory tree board would help facilitate citizen input and recommendations for the annual community forestry work plan, and could focus on the development of other urban forestry work items. At their October 27, 2011 meeting, the PRCS Board voted unanimously to support this recommendation.

Five citizens provided public comment at the study session regarding the tree ordinance and the structure of the proposed tree board. All of these citizens stated that they would like the proposed tree board to be a "stand alone" board, which would consist of Council appointed citizens. This tree board structure was provided to Council as part of their packet in an alternate Ordinance No. 617 (Attachment B of the January 9 study session staff report). As well, some of the citizens providing public comment also stated that they would like to see the role of the responsible tree manager be given to another Department Director other than the Parks Director, such as the Planning and Community Development Director. Council also received email comments from Shoreline citizens about the proposed regulations and tree board structure in the proposed ordinance.

Councilmember Winstead also asked a question of staff regarding the number of jurisdictions in Washington State that include privately owned trees in their public tree management ordinances required for Tree City USA. In forwarding this question onto the Washington State Urban and Community Forestry Program at the State Department of Natural Resources, the following response was provided:

There are no rules or regulations requiring cities to specifically address private trees (in their public tree management ordinances.) As a matter of fact, it is rare indeed for Cities to become involved with private-property trees, as this is often viewed as a threat to private property rights and threaten the development of an even very basic Urban Community Forestry program. The most common reference to private-owned trees that we see is in reference to mitigating insect or disease infestations that pose a threat to the urban forest as a whole. There are some communities that regulate tree removals specific to multi-family or commercial property development; again, this is rare. Regarding cities that currently regulate privately-owned trees only a couple, Kirkland and Redmond, come to mind.

ORDINANCE AMENDMENTS:

Upon further discussion with the Council regarding the Council goal of becoming a Tree City USA, it was suggested that Ordinance No. 617 only focus on the needs of Tree City USA and not include the clarified regulations regarding the planting, pruning or removing of right-of-way street trees. Thus, this section of Ordinance No. 617 has been removed, and will now be discussed with Council as a separate ordinance, Ordinance No. 627.

The removal of these regulations from Ordinance No. 617 does not affect the other aspects of either version of this ordinance. Specifically, the proposed new code section 12.30.030 in Section 1 of the ordinance has been removed, as has Section 2 (amendment of SMC 12.15.030.C) and Section 3 (fee schedule amendment) of the ordinance. All three of these sections are now being proposed in Ordinance No. 627.

As well, Council has suggested that staff review with Council in one year's time the effectiveness of the Parks, Recreation and Cultural Services Board serving as the City's Tree Board. Thus, the initial Ordinance No. 617 (Attachment A), which authorizes the Parks Board to serve as the Tree Board, has been amended to add in a section titled *Tree Board Review*. It reads: "within one year of the effective date of this ordinance, the director and Tree Board membership shall provide an update to the City Council regarding Tree Board activities, schedule, efforts, and work plan, among other topics."

In addition, some members of the public have suggested that the Council and Tree City USA Board meet soon after its establishment to discuss and determine a work plan. This joint discussion has been tentatively scheduled for April 2, 2012.

COUNCIL GOAL ADDRESSED:

This staff report addresses Council Goal No. 1: Implement the adopted Community Vision by updating the Comprehensive Plan and key development regulations in partnership with residents, neighborhoods, and businesses.

RESOURCE/FINANCIAL IMPACT:

There is no fiscal impact to adopting Ordinance No. 617 (Attachment A). However, if the Council adopts alternate Ordinance No. 617 which would implement a "stand alone" Shoreline Tree Board (Attachment B), there will be additional costs to staffing a new standing committee. This resource impact has the potential to affect other ongoing and planned Parks, Recreation and Cultural Services projects and efforts.

RECOMMENDATION:

Staff recommends that Council adopt Ordinance No. 617 which proposes to designate the Parks, Recreation and Cultural Services Director as the legally responsible tree manager for the City of Shoreline and proposes to have the Parks, Recreation and Cultural Services Board also serve as an advisory tree board.

ATTACHMENTS:

A: Proposed Ordinance No. 617, Tree Management Ordinance

B: Alternate Ordinance No. 617, Public Tree Management with Shoreline Tree Board

Attachment A

ORDINANCE NO. 617

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON DESIGNATING A RESPONSIBLE INDIVIDUAL FOR THE MANAGEMENT OF CITY-OWNED PUBLIC TREES IN THE CITY OF SHORELINE AND ESTABLISHING A TREE BOARD

WHEREAS, the Tree City USA program is sponsored by the Arbor Day Foundation in cooperation with the United States Forest Service and the National Association of State Foresters; and

WHEREAS, benefits of joining the Tree City USA program, as outlined by the Arbor Day Foundation, include increased public awareness of social, economical and environmental benefits of urban forestry practices, educational opportunities to improve urban forestry practices, provision of a blueprint for planting and maintaining City-owned trees, and community signage that shows that the community cares about its environment and supports tree preservation and planting; and

WHEREAS, to become a Tree City USA, the City must designate an individual to oversee the planting, care, maintenance and removal of City-owned trees; and

WHEREAS, designating a Tree Board to make tree management recommendations to the City-designated individual is beneficial to Tree City USA programs.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. New Chapter. A new chapter, Chapter 12.30, *Public Tree Management*, is hereby adopted to read as follows:

12.30.010 Jurisdiction and administration.

It shall be the responsibility of the Director of the Parks, Recreation and Cultural Services Department (hereafter “director”) to manage and oversee the planting, care, maintenance and removal of all trees on all streets, rights-of-way, and City-owned public property within the City limits in accordance with the provisions of this chapter.

12.30.020 Tree Board.

The Parks, Recreation and Cultural Services Board is authorized to serve as the City’s Tree Board. The Tree Board shall be advisory to the city council. The primary responsibility of the Tree Board shall be to make policy recommendations concerning the management of trees located on City-owned public property and in City rights-of-way. The Tree Board shall be comprised of all members of the Parks, Recreation and Cultural Services Board acting in an ex officio capacity, and the roles, officers and terms of the Tree Board shall be the same as the Parks, Recreation and Cultural Services Board.

12.30.030 Adoption of administrative procedures.

The director is authorized to prepare and adopt after public notice and opportunity for public comment procedures, technical standards, and standard plans necessary to facilitate

implementation of this chapter, including a list of approved street trees in the Engineering Development Guide after notice and opportunity for public comment. The director shall make recommendations for the fee in lieu of replacement street trees for adoption in the City fee schedule in Chapter 3.01 of the municipal code.

Section 2. Amendment. SMC 2.55.010 is hereby amended to read as follows:

2.55.010 Created – Purpose.

The Shoreline parks, recreation and cultural services board is hereby created. The board is to provide additional citizen input on park maintenance and operations, design matters, programs and services in sports, leisure and cultural activities, and management of trees located in City-owned public property and in City rights-of-way.

Section 3. Amendment. SMC 2.55.060(B) is hereby amended to read as follows:

2.55.060 Responsibilities.

B. The full board may make reports and recommendations to the city council concerning parks and recreation plans and policies, maintenance, operation and design of parks, public trees and program activities in sports, leisure and cultural services. The board will make recommendations concerning the acquisition, care, maintenance, utilization and disposition of buildings, property and equipment related to parks programs.

Section 4. Tree Board Review. Within one year of the effective date of this ordinance, the director and Tree Board membership shall provide an update to the city council regarding Tree Board activities, schedule, efforts, and work plan, among other topics.

Section 5. Effective Date and Publication. A summary of this ordinance consisting of its title shall be published in the official newspaper of the City. The ordinance shall take effect and be in full force five days after passage and publication.

ADOPTED BY THE CITY COUNCIL ON FEBRUARY 13, 2012.

Mayor Keith A. McGlashan

ATTEST:

APPROVED AS TO FORM:

Scott Passey
City Clerk

Ian Sievers
City Attorney

Publication Date:

Effective Date:

Attachment B

ORDINANCE NO. 617

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON DESIGNATING A RESPONSIBLE INDIVIDUAL FOR THE MANAGEMENT OF CITY-OWNED PUBLIC TREES IN THE CITY OF SHORELINE AND ESTABLISHING A TREE BOARD

WHEREAS, the Tree City USA program is sponsored by the Arbor Day Foundation in cooperation with the United States Forest Service and the National Association of State Foresters; and

WHEREAS, benefits of joining the Tree City USA program, as outlined by the Arbor Day Foundation, include increased public awareness of social, economical and environmental benefits of urban forestry practices, educational opportunities to improve urban forestry practices, provision of a blueprint for planting and maintaining City-owned trees, and community signage that shows that the community cares about its environment and supports tree preservation and planting; and

WHEREAS, to become a Tree City USA, the City must designate an individual to oversee the planting, care, maintenance and removal of City-owned trees; and

WHEREAS, designating a Tree Board to make tree management recommendations to the City-designated individual is beneficial to Tree City USA programs.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. New Chapter. A new chapter, Chapter 12.30, *Public Tree Management*, is hereby adopted to read as follows:

12.30.010 Jurisdiction and administration.

It shall be the responsibility of the Director of the Parks, Recreation and Cultural Services Department (hereafter “director”) to manage and oversee the planting, care, maintenance and removal of all trees on all streets, rights-of-way, and City-owned public property within the City limits in accordance with the provisions of this chapter.

12.30.020 Tree Board.

A. The Shoreline Tree Board is hereby created. The board shall be advisory to the city council and supported by the Parks, Recreation and Cultural Services Department, with a primary responsibility for making policy recommendations concerning the management of public trees located on City-owned public property and in City rights-of-way. The Tree Board shall be comprised of seven members who reside in or own property in the city of Shoreline and who have training or experience in environmental sciences, forestry, horticulture, arboriculture, landscaping, or urban design. Members shall serve without compensation but may be reimbursed for reasonable expenses pursuant to city policies.

B. Member appointments, removal and terms shall be the same as for members of the Parks, Recreation and Cultural Services Board.

C. The board shall elect from its members a chair, who shall preside at all meetings, and a vice-chair. The majority of the board shall constitute a quorum, and a majority vote of those present shall be necessary for any action.

D. The board shall determine a regular meeting schedule, but meetings shall be no more frequent than quarterly. All meetings shall be subject to the Open Public Meetings Act.

12.30.030 Adoption of administrative procedures.

The director is authorized to prepare and adopt after public notice and opportunity for public comment procedures, technical standards, and standard plans necessary to facilitate implementation of this chapter, including a list of approved street trees in the Engineering Development Guide after notice and opportunity for public comment. The director shall make recommendations for the fee in lieu of replacement street trees for adoption in the City fee schedule in Chapter 3.01 of the municipal code.

Section 2. Effective Date and Publication. A summary of this ordinance consisting of its title shall be published in the official newspaper of the City. The ordinance shall take effect and be in full force five days after passage and publication.

ADOPTED BY THE CITY COUNCIL ON FEBRUARY 13, 2012.

Mayor Keith A. McGlashan

ATTEST:

APPROVED AS TO FORM:

Scott Passey
City Clerk

Ian Sievers
City Attorney

Publication Date:
Effective Date:

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Adoption of Ordinance No. 627, Clarifying the Process for Obtaining a Right-Of-Way Use Permit for the Planting, Pruning or Removing of Street Trees in the City Of Shoreline
DEPARTMENT:	City Manager's Office City Attorney's Office
PRESENTED BY:	John Norris, CMO Management Analyst Ian Sievers, City Attorney
ACTION:	<input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Motion <input type="checkbox"/> Discussion

PROBLEM/ISSUE STATEMENT:

Currently, Shoreline Municipal Code section 12.15.030.C, *Right-of-way Site Permit*, allows for the planting, pruning or removing of street trees if a resident is issued a right-of-way site permit to perform this work in the right-of-way. Given that no specific criteria existed in the code regarding how a right-of-way site permit would be approved, the City Manager, after Council review, adopted an administrative rule in October 2011, titled *Right-of-way Site Permits – Street Trees*, to explain the process for obtaining a permit to plant, prune or remove street trees under this section of the code. Staff is now recommending that the criteria described in this administrative rule be codified by Ordinance No. 627.

The content of Ordinance No. 627 was initially provided for in Ordinance No. 617, Public Tree Management, which was reviewed by the Council on November 7 and January 9. However, the Mayor and Deputy Mayor thought it made the most sense to separate these two ordinances and discuss the policy considerations of the two ordinances individually.

RESOURCE/FINANCIAL IMPACT:

There is no fiscal impact to adopting Ordinance No. 627.

RECOMMENDATION:

Staff recommends that Council adopt Ordinance No. 627 which proposes to clarify the process and criteria for obtaining a right-of-way use permit for the planting, pruning or removing of street trees in the City of Shoreline.

Approved by: City Manager JU City Attorney IS

BACKGROUND:

Currently, Shoreline Municipal Code section 12.15.030.C, *Right-of-way Site Permit*, allows for the planting, pruning or removing of street trees if a resident is issued a permit to perform this work in the right-of-way. Given that no criteria existed in the code regarding how a right-of-way site permit for street tree planting, pruning or removal would be approved, the City Manager, after Council review, adopted an administrative rule in October 2011, titled *Right-of-way Site Permits – Street Trees*, to explain the process for obtaining a permit to plant, prune or remove street trees under this section of the code. This administrative rule is attached to this staff report as Attachment A.

Proposed Ordinance No. 627 (Attachment B) creates a new section (SMC 12.30.040) of the newly proposed SMC Chapter 12.30, *Public Tree Management*, to codify the criteria described in the administrative order. This ordinance also amends the code by moving the requirement to obtain a permit for planting, pruning or removing street trees from SMC 12.15.030 to this newly proposed code section and that applicants obtain a right-of-way *use* permit, not a right-of-way *site* permit, as this is the more appropriate permitting tool.

The content of Ordinance No. 627 was initially provided for in Ordinance No. 617, Public Tree Management, which was reviewed by the Council on November 7 and January 9. However, the Mayor and Deputy Mayor thought it made more sense to separate these two ordinances and discuss the policy considerations of the two ordinances individually.

PERMIT REGULATIONS:

As noted in the January 9 study session staff report on Ordinance No. 617, the following information was provided to Council on the proposed code language regarding right-of-way street tree permits:

- The proposed code does not allow the removal of any tree within the City's rights-of-way that have not been opened with public improvements. As well, removal of street trees must follow the regulations established for critical areas.
- The proposed code also does not allow the removal of any "approved" trees, regardless of size, unless the tree is removed by the City as hazardous or causing damage to public or private infrastructure. Approved street trees are acceptable for the right-of-way as their height, girth, and root structure should minimize any potential damage to public infrastructure such as sidewalks and utilities as the trees grow and mature.
- The proposed code does allow the removal of non-approved street trees from the right-of-way with a right-of-way use permit. If the trees being removed are considered "significant," based on their diameter as specified within SMC 20.20.048, then there are replanting requirements with trees that are on the City's approved list. The tree replanting requirements, contained in SMC 20.50.360C(1-3), are as follows:

1. One existing significant tree of eight inches in diameter at breast height for conifers or 12 inches in diameter at breast height for all others equals one new tree.
 2. Each additional three inches in diameter at breast height equals one additional new tree, up to three trees per significant tree removed.
 3. Minimum size requirements for trees replaced under this provision: deciduous trees shall be at least 1.5 inches in caliper and evergreens six feet in height.
- The Parks Director will have the ability to determine if the required replanting can fully be done within the right-of-way or in another public space such as a park. The code will also allow an applicant to pay a fee in lieu of replanting of \$285 per required replacement tree to the City.
 - The City's fee schedule (SMC 3.01.030) for parks, recreation and cultural services fees is being amended to add the fee in lieu of street tree replacement amount of \$285 per tree. This fee in lieu amount of \$285 was determined by the Public Works Department based off the cost of many of the trees purchased and installed during the Aurora Corridor project. This amount was also cross checked by the Planning and Community Development Department against a recent arborist report. As well, given that this fee amount would be in the City's fee schedule, the amount will be reviewed annually and can be adjusted as appropriate through the budget process.

Staff has received a few additional Council and/or public questions and suggestions that are summarized below:

- How many ROW permits for removing trees have been issued in the past?
 - According to staff's review, since 2003 twelve permits have been issued.
- Do the "new" permit requirements for removing street trees require SEPA review?
 - The ordinance adopting the permitting requirements for removal of street trees is exempt from SEPA review. SEPA review is not required for all governmental actions - certain actions are "categorically exempt" from SEPA review. The categorical exemption that applies here is the "procedural action" found under WAC 197-11-800(19), which exempts from SEPA review any "proposal or adoption of legislation, rules, regulations, resolutions or ordinances, or of any plan or program relating solely to governmental procedures, and containing no substantive standards respecting use or modification of the environment." Here, the changes between the existing code and the new code are procedural, not substantive.

First, the existing code already requires a permit for removal of street trees. The procedural change is renaming the permit from a right-of-way "site" permit to a right-of-way "use" permit. The "use" permit is the more appropriate permitting tool since it is for activities of short duration, rather than the site permit which is

for activities of extended duration. Second, more detail has been added to the code for when the permit is issued, but it really just follows existing code. The critical areas regulations have always applied to removal of street trees; this change just states it affirmatively in the code. There were also always replanting requirements; the revised permit regulation points to specific replanting requirements in the code.

Furthermore, the new ordinance is a codification of an existing administrative policy. As noted above, the purpose of the administrative policy was to provide more detail for existing regulations that allowed removal of street trees. This is a common practice in the Planning and Community Development Department, where administrative orders are adopted in order to clarify code sections. These do not go through SEPA review and are authorized for adoption under SMC 20.10.050.

- How was the 'approved street list' developed?
 - The current City approved street tree list is an adaptation of a list originally maintained by the City of Seattle. The concept behind the list is that it identifies trees that are best suited for use within the right-of-way. Incorporated into this list are trees preferred by Seattle Public Utilities for installation under power lines. The street tree list was formally established for use in conjunction with development and frontage improvements in the 2005 Engineering Development Guide (EDG).

Public Works staff has reviewed the list from time to time as part of the EDG annual update to verify that the list is still viable and consistent with the maintenance and operation of the public right-of-way. The list has not been changed substantively since its application in 2005. However, the list employed by Seattle has been modified more recently. Staff would recommend that the Tree Board, if enacted, review and potentially make a recommendation to update the approved street tree list as part of their work plan.

The following are questions and suggestions from the Innis Arden Board:

- Will the City allow for replanting of trees in any right-of-way? Can a tree be replanted in another area of the City such in parks or other approved sites?
 - If possible, the replanting of the tree needs to be done in the same location or vicinity of the previous tree. However, staff did add some flexibility for replanting in parks or other rights-of-way as determined by the director.
- The fees and costs associated with removal and replanting can be very costly, is there a way for this cost not to be borne solely by the adjacent property owner?
 - In response staff changed the language in the code from "property owner" to "applicant," which would allow for co-applicants, who may want to share in the costs.

- Has the City considered applying the development code's clearing and grading regulations to the right-of-way?
 - Staff determined that this would not work because these permits apply to private property only. Right-of-way use permits apply to right-of-way and we believe this is the regulation for this particular right-of-way use permit. Under the development code any property owner may remove up to six trees per three years without a permit and without a replant requirement. However, under the exceptions an applicant would have to get a permit for any activity in the right-of-way and we are requiring replanting or in lieu of fees for all trees regardless of the six tree exemption under the development regulations. The development code allowance for additional tree removal beyond six with a permit and replanting is the same in the right-of-way under the exception as stated in section 12.30.030(B)(3).
- Would the City consider allowing the removal of trees for "amenities"?
 - Since this language is vague and could be a use of the private property, we did not include it.
- If the trees in the right-of-way get too large, whether it's on the approved street tree list or not, can the tree be removed? Can the City require specific trees on the approved list be restricted in certain areas?
 - Since this code would be applied citywide, staff did not include these suggestions. Staff suggested that the Innis Arden Board control for tree size by limiting their Club members to replanting certain approved street trees as part of their covenant.
- Will the City consider an in lieu of fee as part of the fee schedule?
 - Staff included the fee as Council's adopted fee schedule rather than set by the director. The fee schedule is adopted annually through the budget process.
- There should be an opportunity for the public to comment on administrative procedures that implement this chapter.
 - Staff agreed and included a public notice and opportunity for public comment as part of rulemaking in section 12.30.040.

RESOURCE/FINANCIAL IMPACT:

There is no fiscal impact to adopting Ordinance No. 627.

RECOMMENDATION:

Staff recommends that Council adopt Ordinance No. 627 which proposes to clarify the process for obtaining a right-of-way use permit for the planting, pruning or removing of street trees in the City of Shoreline.

ATTACHMENTS:

- A: Shoreline Administrative Rules: Right of Way Site Permits – Street Trees
- B: Ordinance No. 627, Right-of-way street trees

PP-11-004





Shoreline Administrative Rules – 12.111025

Right of Way Site Permits - Street Trees

Category and Number: Public Works 12. 111025	Receiving Number: 6574
Code and statutory authority: SMC 12.15.210 SMC12.15.030	Authorized: Effective Date: 10/25/11 By: Julie Underwood, City Manager <i>JU</i> Mark Relph, Public Works Director <i>MR</i>
Supersedes: N/A	

Right of Way Site Permits - Street Trees

Category and Number: Public Works 12. 111025	Receiving Number: 6574
Code and statutory authority: SMC 12.15.210 SMC12.15.030	Authorized: Effective Date: 10/25/11 By: Julie Underwood, City Manager  Mark Relph, Public Works Director 
Supersedes: N/A	

1.0 PURPOSE

This document explains the approval process for removing street trees under SMC 12.15.030(C)(1)(k). This policy does not address the procedure or criteria for removing hazardous trees or trees causing damage to private improvements. The City has legal control of rights-of-way and has a duty to investigate and remove or mitigate hazardous or damaging trees at its expense. Removing trees under a right-of-way site permit is at the adjacent owner's request subject to conditions to protect the right of way and its users.

2.0 DEPARTMENTS AFFECTED

Public Works

3.0 AUTHORITY

SMC 12.15.030 allows for a permit for private uses in the right of way of extended duration "which will not further physically disturb the existing or planned public use of the right-of-way once in place." The use must be allowed in the nearest land use zone. Among the private uses allowed in the right-of-way with this permit are "planting, pruning or removing street trees." Private planters are also allowed and ordinary maintenance of landscaping is allowed without permit so long as the right-of-way is not blocked. SMC 12.15.060D.

The right to remove street trees under Chapter 12.15 should be reconciled with street trees as an existing or planned use of the right of way. The Director of Public Works is authorized to prepare and adopt policies and procedures to implement Chapter 12.15 *Use of Right of Way*. SMC 12.15.210.

4.0 ANALYSIS

Trees are regulated on private property with particular clearing and grading permit regulations. As a starting point, removing trees outside of critical areas as a form of

clearing is exempt for trees that are “non significant,” that is, with a trunk diameter 8” or 12” for conifer and deciduous species respectively. SMC 210.20.048.

Tree removal of even significant trees are exempt if fewer than six are removed during a three year period, and may be removed with replacement trees planted if needed for property development.

Street tree planting is required as a frontage improvement for new private development, and may be placed in the right of way. Trees must be spaced according to the Engineering Development Guide and be of an approved variety included in the street tree list. SMC 20.50.480. Since this use of the right of way is expressly permitted by the adjacent zoning, a right of way site permit may be approved for an indefinite duration and is exempt from compensation. SMC 12.15.030 C(3).

Tree species not approved for planting in the right-of-way are likely to damage street improvements and utilities. Right of way uses should not “obstruct, hinder, jeopardize, injure, or delay the use of the right-of-way for its primary functions: vehicular and pedestrian travel.” SMC 12.15.030(D).

5.0 INTERPRETATION

A. The rights to maintain landscaping including planting or removal of trees in the right of way should be available to the adjacent owner through a right-of-way site permit process to the extent allowed by the development code on the adjacent parcel so long as it does not adversely interfere with the public use of the right-of-way .

B. Therefore, the same limits on removing trees or clearing on the adjacent parcel extend to the right of way and are enforced through the right-of-way site permit. Restrictions imposed by critical areas apply. The exemption for removal of six significant trees every three years should include a count of trees cut on the adjacent parcel in determining whether a right-of-way site permit for additional cutting will be issued. Trees of any species that are not significant may be removed without permit as part of extended landscaping allowed in the right of way so long as pedestrian or vehicular traffic is not blocked.

C. Establishing street tree plantings of approved species are an existing and planned public use of the right-of-way, and private activity may not interfere with this use. Therefore, no permit shall issue for removal of frontage trees required under a development permit or trees planted by the County or City regardless of size unless hazardous or damaging. Significant trees that are included on the approved street tree list may not be approved for removal regardless of how they were planted unless hazardous or damaging.

D. Significant trees that are not approved for street tree plantings may be removed if the owner is otherwise allowed to remove the tree under subsection B and the permit is conditioned and bonded for replanting approved street trees according to the Engineering Development Guide, with numbers of replacement trees established under SMC 20.50.360C(1)-(3). A payment in lieu of replacement street trees to be used for other

public trees shall be made to the extent suitable planting space in the vicinity of removal is unavailable.

Attachment B

ORDINANCE NO. 627

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON CLARIFYING THE PROCESS FOR OBTAINING RIGHT-OF-WAY USE PERMITS FOR THE PLANTING, PRUNING OR REMOVING OF STREET TREES IN THE CITY OF SHORELINE

WHEREAS, it is currently required to obtain a right-of-way site permit for the planting, pruning or removing of streets trees; and

WHEREAS, there is no additional criteria for processing a right-of-way permit relating to planting, pruning or removing of street trees; and

WHEREAS, a right-of-way use permit is the more appropriate permitting tool for the planting, pruning or removing of street trees, given that use permits are typically issued for short term private use of the right-of-way; and

WHEREAS, clear criteria will provide predictability and fair administration of the permit request, will avoid futile permit applications, and will avoid legal disputes over permit decisions; and

WHEREAS, the responsibility for issuing right-of-way site permits for planting, pruning or removing streets trees has heretofore been under the direction of Director of Public Works but will now transfer to the Director of the Parks, Recreation and Cultural Services Department, given the Council's intent to consolidate management of all public trees under a single department with an advisory tree board.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE,
WASHINGTON DO ORDAIN AS FOLLOWS:**

Section 1. New Section. A new section, Section 12.30.040, *Right-of-way street trees*, is hereby added to Chapter 12.30, *Public Tree Management*:

12.30.040 Right-of-way street trees.

A. A right-of-way use permit shall be required and issued by the Director of the Parks, Recreation and Cultural Services Department (hereafter "director") for planting street trees in rights-of-way adjacent to the applicant's property according to the variety and spacing approved in the Engineering Development Guide if such activity does not physically disturb the existing or planned public use of the right-of-way. Planted street trees shall be maintained by the applicant in accordance with the issued right-of-way use permit.

B. A right-of-way use permit shall be required and shall only be issued by the director for the pruning or removal of trees in rights-of-way adjacent to the applicant's property in compliance with the following:

- 1) Limits on removal under critical area regulations.
- 2) No permit shall be issued for removal of trees on rights-of-way that have not been opened with public improvements, including, but not limited to, streets, sidewalks, pathways, and underground or overhead utilities.

3) No trees listed in the Engineering Development Guide as approved street tree varieties shall be removed regardless of size unless the tree is removed by the City as hazardous or causing damage to public or private infrastructure.

4) All significant trees, as defined in SMC 20.20.048, allowed to be removed under clearing and grading regulations shall be replaced with an approved variety of street tree in the area of removal according to the replacement formula in SMC 20.50.360C(1-3). Replacement trees shall be maintained by the applicant in accordance with the issued right-of-way use permit. If the director determines there is no suitable space for replanting street trees in the vicinity of removal, the applicant shall replant at public sites approved by the director or pay a fee in lieu of replacement according to the current City fee schedule to be used exclusively for planting public trees in rights-of-way, parks or other public places.

5) All removed trees or pruned material shall be removed from the right-of-way and the right-of-way shall be restored in accordance with the issued right-of-way use permit.

Section 2. Amendment. SMC 12.15.030(C) is hereby amended as follows:

SMC 12.15.030 Right-of-way permit issuance.

(A and B unchanged)

C. Right-of-Way Site Permit. Right-of-way site permit is a specific class of right-of-way permit that may be available for utilities or other parties who do not hold a valid city franchise in accordance with Chapter 12.25 SMC for activities of extended duration which will not further physically disturb the existing or planned public use of the right-of-way once in place. This may include structures, facilities, and uses that involve capital expenditures.

1. Right-of-way site permits, if allowed in the nearest classified land use zone may be issued for:

- a. Accessory uses permitted to the adjacent property such as parking, displays, and signage, provided the proposed use is not required to meet city development standards for any private property development;
- b. Air rights;
- c. Bus shelters/stops;
- d. Construction site/haul roads;
- e. Fences, retaining walls, terracing, and similar structures;
- f. Litter and recycle receptacles placed by private parties;
- g. Special and unique structures such as benches, fountains, clocks, flagpoles, kiosks, banners, street furniture, decorations, bicycle racks, private planters, or any other obstruction to be placed in the right-of-way by an entity other than the city;
- h. Sales structures, including sidewalk cafes, telephone booths or the usage of the right-of-way for the sale of flowers, food, or beverages, newspapers, or other items
- i. Underground rights
- j. Utility facilities;
- ~~k. Planting pruning or removing of street trees.~~

...

(remainder of section unchanged)

Section 3. Fee Schedule Amendment. SMC 3.01.030, Parks, recreation and cultural services, is amended to add a Fee in lieu of street tree replacement - \$285.

Section 4. Effective Date and Publication. A summary of this ordinance consisting of its title shall be published in the official newspaper of the City. The ordinance shall take effect and be in full force five days after passage and publication.

ADOPTED BY THE CITY COUNCIL ON FEBRUARY 13, 2011.

Mayor Keith A. McGlashan

ATTEST:

APPROVED AS TO FORM:

Scott Passey
City Clerk

Ian Sievers
City Attorney

Publication Date:
Effective Date:

CITY COUNCIL AGENDA ITEM

CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: Local Government Performance Audit Results - Construction
Change Order Pricing

DEPARTMENT: City Manager's Office
Public Works

PRESENTED BY: Debbie Tarry, Assistant City Manager

ACTION: ☐ Ordinance ☐ Resolution ☐ Motion
 ☒ Discussion ☐ Public Hearing

PROBLEM/ISSUE STATEMENT:

In June 2010 the City was notified that it was one of eight jurisdictions (Thurston County, Bellingham, Everett, Puyallup, Richland, SeaTac, Shoreline, Spokane) chosen by the State Auditor's Office (SAO) to be part of the Local Government Change Orders performance audit. The stated audit objective was to determine if the City had established and followed best practices to control the pricing of labor, materials and markups on change orders. The Auditor's Office informed City staff that they would be reviewing a single contract at Shoreline – HDR Engineering which is the architectural and engineering (A&E) firm that completed the design of the N 165th to N 185th Streets section of Aurora.

The HDR contract reviewed in the audit totaled nearly \$5.3 million. On January 10 the SAO issued their final report (Attachment A). The report found that Shoreline followed all applicable leading practices (Exhibit 3, page 13 of Attachment A). Even though staff does a detailed review of change orders prior to authorizing them for payment, the auditors found two amendments in which the subcontractor increased its labor rates by more than the allowed annual 5 percent escalation. If the City had caught these two instances the audit estimates that the City would have spent \$4,700 less on the \$5.3 million HDR contract. This equates to 0.09% of the total contract price.

The state performance audit law requires that audits of local agencies be reviewed by their governing bodies within 30 days of the publication of the audit report. The law also requires that public comment be allowed at this meeting.

RESOURCE/FINANCIAL IMPACT:

The City is not charged a fee for the performance audit, as Initiative 900, approved by voters in 2005, authorizing the SAO to conduct performance audits provided that these audits would be paid for through the State's General Fund. However, this audit required a significant amount of staff time to assist the auditors in the review of the City's contract and related documents and to respond to the various questions and draft reports from the SAO.

RECOMMENDATION

No action is required by Council. This item is for discussion purposes only.

Approved By: City Manager *JU* City Attorney *IS*

INTRODUCTION

In June 2010 the City was notified that it was one of eight jurisdictions (Thurston County, Bellingham, Everett, Puyallup, Richland, SeaTac, Shoreline, Spokane) chosen by the State Auditor's Office (SAO) to be part of the Local Government Change Orders performance audit. The stated audit objective was to determine if the City had established and followed best practices to control the pricing of labor, materials and markups on change orders. The Auditor's Office informed city staff that they would be reviewing a single contract at Shoreline – HDR Engineering which is the architectural and engineering (A&E) firm that completed the design of the N 165th to N 185th Streets section of Aurora.

BACKGROUND

In 2005 Washington voters authorized the State Auditor's Office to conduct independent, comprehensive performance audits of state and local governments. The initiative requires that those audited do the following:

- *Hold at least one public meeting on the outcome of the audit within 30 days of the audit report being issued that provides for public comment; and,*
- *Issue a report annually, by July 1st, detailing progress in responding to the State Auditor's recommendations.*

The SAO designed the performance audit to answer two specific questions:

1. Did the selected cities and county follow leading practices to control the pricing of labor, materials, equipment and markups on selected change orders?
2. When leading practices were not followed, what were the potential effects on change order costs, and what can be done to minimize them in the future?

The City relied on guidance provided by the Washington State Department of Transportation (WSDOT) Local Agency Guideline (LAG) manual in managing the HDR contract. The LAG manual requirements are mandated for projects that include Federal Highway Administration (FHWA) funds. The Aurora project has funding from FHWA.

On July 8, 2011, the City received a technical review draft of the Auditor's findings for the eight participating local governments. The City provided technical feedback to the audit report on July 29, 2011. Staff provided an update to the City Council during the dinner meeting on August 8, 2011, regarding the technical draft report. The SAO took several months to review the technical feedback provided by participating agencies and to modify their report. In December 2011 the City received a final draft report and provided SAO with a response to be included in the final report. The SAO issued their final report on January 10, 2012.

The HDR contract reviewed in the audit totaled nearly \$5.3 million.

DISCUSSION

The SAO identified the following leading practices for controlling architecture and engineering (A&E) change order pricing that were applicable to the City's HDR contract:

1. Establish terms **in the original contract** for how change order pricing will be handled.
 - a. Establish the basis to used in pricing change orders
 - b. Contractually require contractors to submit detailed change order proposals
2. Manage and review construction and A&E change order costs.
 - a. Obtain written change orders for additional work or materials
 - b. Perform detailed reviews of change order costs submitted by contractors

The Performance Audit found that Shoreline staff followed all of the leading practices in its management of the HDR contract. This is summarized in the following table, excerpted from page 13 of the audit report (Attachment A).

Exhibit 3 Leading Practices in Place by City and County								
City/County	Bellingham (C)	Everett (C, A)	Puyallup (C)	Richland (C)	SeaTac (C)	Shoreline (A)	Spokane (C)	Thurston (C)
1. Establish terms <u>in the original contract</u> for how change order pricing will be handled.								
a. Pre-establish the basis for pricing change orders	P	P	Y	P	P	Y	P	P
b. Contractually require contractors to submit detailed change order proposals when unit pricing is not used	P	P	Y	Y	N	Y	P	P
c. Specify the level of monitoring expected by A&E firms charged with overseeing change order pricing	N	N/A	N	N	N/A	N/A	N/A	N/A
2. Manage and review construction and A&E change order costs.								
a. Obtain written change orders for additional work or materials	Y	Y	Y	Y	Y	Y	Y	P
b. Accept unit pricing for change orders only when it's appropriate	P	N/A	N/A	N/A	N/A	N/A	Y	P
c. Perform detailed reviews of change order costs submitted by contractors	P	Y	P	P	Y	Y	Y	P
d. Spot-check the quality of scrutiny provided by A&E firms' hired to perform construction oversight	N	N/A	N	N	N/A	N/A	N/A	N/A
Source: Interviews of City project managers and staff responsible for construction and A&E contracts, review of the terms and conditions in those contracts, and review of the costs and pricing paid on change orders and contract amendments. Notes: N/A (not applicable) means the leading practice did not apply to the specific contract(s) we reviewed. N (No) means the leading practice was not implemented. P (Partly) means the leading practice was observed but the local government had not fully implemented it. Y (Yes) means the leading practice was fully followed or mostly implemented. C = Construction contract. A = Architectural and engineering contract.								

The audit report states that "...For the cities of Spokane, Shoreline, and Thurston County, the practices they used or the prices paid for change order work were most closely aligned...."

The audit also compared the prices and rates paid by the City against typical industry rates. The following chart summarizes the outcomes from this comparison (Exhibit 5 of

Attachment A) and shows that Shoreline paid the typical labor and markup rates for overhead and profit in the HDR contract.

Exhibit 5 Comparing the prices and rates cities and the county paid with typical prices and rates								
	Bellingham	Everett	Puyallup	Richland	SeaTac	Shoreline	Spokane	Thurston
Unit rates: paid the same rate as the original contract or those paid for similar, recently bid work on other contracts	P	N/A	N/A	N/A	N/A	N/A	Y	P
Labor rates: paid the prevailing wage or allowable/typical escalations	Y	P	P	Not tested	P	Y	Y	Y
Materials charges: paid the contractor's actual costs	Y	Not tested	Y	Not tested	Not tested	N/A	N/A	Y
Markup rates: paid typical markup rates for overhead and profit	N	P	P	P	Y	Y	Y	Y
Source: Review of the costs and pricing paid on change orders and contract amendments. Notes: N/A (not applicable) means the charges were not applicable to the specific contract(s) we reviewed. N (No) means the municipality paid more than typical rates or prices for the change order costs we reviewed. P (Partly) means the local government paid typical prices or rates for some but not all the change order costs we reviewed. Y (Yes) means the municipality paid typical prices or rates for all the change order costs we reviewed or the overall difference was less than two percent.								

Appendix F of Attachment A provides detailed audit results for each of the participating agencies. The summary for Shoreline's audit can be found on page 54 of the audit report. The findings on this page include the following:

"Overall, Shoreline followed almost all the leading practices we (SAO) identified to help control the price of change orders. The contract and all amendments specified the overhead, profit and labor rates the City would pay for each firm member who worked on the contract. It was one of the two cities we (SAO) examined with a contract that limited the rates charged on change orders. Because the contract was expected to last more than one year, it included a yearly escalation rate of 5 percent for labor costs. We examined A&E contracts at two cities, and only Shoreline's contract identified and limited profit and overhead changes. The City paid profit markups that were less than the typical 15 percent rate. Because its contract was funded by the Transportation Department and the Federal Highway Administration, the City appropriately paid the A&E firm's audited overhead markup rates. Its contract amendments contained fully itemized costs."

The audit did note that the City could improve its practices for controlling the price of change orders with consistent detailed review of change orders. Even though staff does a detailed review of change orders prior to authorizing them for payment, the auditors found two amendments in which one of many subcontractors increased its labor rates by more than the allowed annual 5 percent escalation. If the City had caught these two instances the audit estimates that the City would have spent \$4,700 less on the \$5.3 million HDR contract. This equates to 0.09% of the total contract price.

RESOURCE/FINANCIAL IMPACT

The City is not charged a fee for the performance audit, as Initiative 900, approved by voters in 2005, authorizing the SAO to conduct performance audits provided that these audits would be paid for through the State's General Fund. However, this audit required a significant amount of staff time to assist the auditors in the review of the City's contract and related documents and to respond to the various questions and draft reports from the SAO.

SUMMARY

The Public Works staff responsible for managing the HDR contract followed best practices in administering the provisions of the contract as was detailed in the performance audit report. Staff is very committed to implementing best practices and takes seriously the responsibility to manage tax payer dollars effectively and efficiently.

RECOMMENDATION

No action is required by Council. This item is for discussion purposes only.

ATTACHMENTS

Attachment A – Local Government Performance Audit Construction Change Order Pricing

STATE AUDITOR'S OFFICE PERFORMANCE AUDIT



Local Government Performance Audit Construction Change Order Pricing

January 10, 2012

Report No. 1007057

000054



WASHINGTON
BRIAN SONNTAG
STATE AUDITOR

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EXECUTIVE SUMMARY

Why we did this audit

Local governments in Washington, from cities and counties to fire and public utility districts, spend billions of dollars on construction projects every year. These governments work hard to hold down project costs but sometimes must use change orders, which increase project costs, to respond to unforeseen conditions.

We conducted this audit to identify leading practices local governments can use to help reduce the cost of change orders and to help ensure citizens that their tax dollars are well-spent.

We examined change order practices for construction and architectural and engineering (A&E) contracts at seven cities and one county from 2008 through June 2010. We did not attempt to comprehensively audit the construction programs, but selected a small number of contracts representing a wide range of issues that can arise as a result of change orders. We also compared change order prices paid for those contracts to the typical market prices or industry rates we identified.

Bellingham, Everett, Puyallup, Richland, SeaTac, Shoreline, Spokane and Thurston County participated in this audit.

We structured the audit to answer two specific questions:

- **Did the cities and county follow leading practices to control the pricing of labor, materials, equipment, and markups on selected change orders?**
- **When leading practices were not followed, what were the potential effects on change order costs and what can be done to minimize them in the future?**

We designed the audit to help all governmental units

This audit provides information all local governments can use to:

- Identify contracting practices that may help them save money on construction and A&E contracts. Most of these practices can be put in place at little or no cost.
- Improve their review of change order pricing to help ensure project funds are well-spent.
- Reduce project costs by using the leading practices. Potential savings would come primarily from ensuring change order prices reflect typical market prices or industry rates for the work being performed.

What we found

Change-order management experts indicate leading practices regarding change order pricing fall into two main areas:

- Establishing in the original contract how change order pricing will be handled.
- Reviewing the pricing for all change orders to ensure it reflects contract terms, invoices, market conditions or typical industry rates and prices.

We compared change-order pricing practices at the eight local governments to the leading practices we identified. We found that all of the local governments were using at least some of the leading practices. For the cities of Spokane, Shoreline and Thurston County, the practices they used or the prices they paid for change order work were most closely aligned.

We also identified opportunities for local governments to strengthen their control over change-order pricing by:

- **Establishing the basis for pricing** any additional work done through change orders. Most contracts we reviewed included rates or prices the local governments would pay for some types of change order work, but not for all types of change orders. When those rates and prices were not established, the governments sometimes paid more than typical market prices or industry rates.
- **Allowing contractors to price change orders** on a “per-unit” basis (e.g., cost per square foot) only if those unit prices are based on recent, similar work. Two change orders we reviewed, totaling more than \$780,000, used unit prices that did not appear to be based on recent, similar work. For example, in one instance a contractor charged \$29 per square foot for work done under the original bid, but \$285 per foot when this work was extended by a change order. In this case, the city should have required itemized charges for this work.
- **Requiring contractors to submit written change-order proposals.** Most original contracts we reviewed did not include that requirement for all types of change orders. However, the local governments generally obtained them.
- **Reviewing change order prices that contractors submit.** Local governments generally did not provide guidance to their staff or to A&E firms on the extent to which change order pricing should be scrutinized. We found only two cities conducted thorough reviews for all change orders we examined.

For those change orders examined, we identified the potential for savings:

- **Three cities paid somewhat more than prevailing wages** for change orders, or paid labor rate increases higher than those established by contract or the Producer Price Index. Altogether, the differences we saw accounted for up to \$74,000 of an estimated \$2.3 million in labor charges we could review.
- **Three cities paid markups for profit and overhead** that were somewhat higher than typical industry rates. Altogether, the higher markups we saw totaled \$101,000 out of the nearly \$3.2 million in markups we could review.

- **About \$1.1 million of the \$9.1 million in change-order charges** we audited did not have sufficiently detailed charges for labor, materials, equipment or markups. For some of these charges, local governments potentially paid more than typical rates and prices.

Recommendations

We recommend the eight local governments work with their construction project managers and legal departments to establish policies, procedures and standard contract terms that use leading practices they do not already follow. In doing so, local governments should ensure that they:

- **Establish a basis for reasonable and typical prices and rates** for labor, materials, equipment and markups.
- **Require contractors to submit detailed change-order proposals** so prices and rates can be evaluated and compared to established prices and rates.
- **Scrutinize change orders** so that local governments do not pay more than established prices and rates. When local governments expect A&E firms to evaluate their construction change order pricing, their contracts should clearly describe this in the scope of work. Similarly, local governments should have policies and procedures to help staff members ensure change-order pricing matches established pricing and rates.

For projects funded by the Washington State Department of Transportation or other granting agencies, local governments should use these leading practices as permitted by the grantor's conditions.

What's next?

Audits of local agencies and programs are reviewed by their governing bodies, usually city councils or county commissions, within 30 days of the publication of the audit reports. The state performance audit law requires them to allow public comment at these meetings.

Representatives of the State Auditor's Office will be available to discuss this audit with cities, counties, statewide local government associations, legislators and others.

Ultimately, individual local governments will decide whether to institute the audit recommendations. The State Auditor's Office conducts periodic follow-up to assess the status of recommendations and may conduct follow-up audits at its discretion.

INTRODUCTION

Audit Overview

Washington cities and counties spend billions of dollars each year on construction projects. Contracts are often modified through change orders that are used to extend the duration, scope and/or cost of construction and architectural and engineering (A&E) contracts to include new or expanded work and services.

In many cases, change orders respond to unforeseen conditions, imperfections in project design, owner-requested alterations, requests for additional work and other elements not anticipated when the original contracts were signed. As a result, they can drive up project costs appropriately but unexpectedly.

Governments typically award construction contracts competitively, based on price. They award A&E contracts competitively by comparing the statements of qualifications submitted by firms interested in performing the work, and then successfully negotiating a fair and reasonable price.

Change orders usually are negotiated after the contracts have been awarded, so contractors and A&E firms are better positioned to obtain more generous pricing for labor, materials and equipment, and markups for overhead and profit.

We conducted this audit to identify leading practices all local governments can use to save money by better managing change order pricing. We also examined practices in seven cities and one county with diverse contracting practices.

We designed the audit to answer two specific questions:

- **Did the selected cities and county follow leading practices to control the pricing of labor, materials, equipment and markups on selected change orders?**
- **When leading practices were not followed, what were the potential effects on change order costs, and what can be done to minimize them in the future?**

Scope and methodology

Based on their significant change order activity on construction and A&E firm contracts during the three years ending June 2010, we reviewed the following seven cities and one county:

Bellingham	SeaTac
Everett	Shoreline
Puyallup	Spokane
Richland	Thurston County

For these eight municipalities, construction expenditures and other capital outlays totaled \$371 million in 2009. As shown in **Exhibit 1**, we reviewed change orders for 10 contracts whose original costs totaled just over \$61 million. In most cases, change orders increased the cost of original contracts by more than 10 percent.

We reviewed these contracts to determine the extent to which the local governments used leading practices and paid typical rates and prices to control the pricing of change orders that, in total, added \$15.1 million to the contracts' initial costs. A preliminary review suggested each local government had some potential to strengthen its change order policies and practices. **Exhibit 1** shows the original cost and the amounts of the change orders we audited.

Exhibit 1 Local government contracts reviewed Rounded dollars are in millions			
City/County	Project - original cost	Total change orders ⁽¹⁾	Amount selected for audit ⁽²⁾
Bellingham	1) Federal Building renovation - \$1.5 M	\$383,000	\$362,000
	2) Sunset Drive Improvement - \$5 M	\$722,000	\$590,000
Everett	1) A&E for water filtration plant and water transmission lines - \$1.5 M	\$3.9 M	\$2.6 M
	2) Sewer system replacement "F" - \$2.6 M	\$386,000	\$114,000
Puyallup	City Hall construction - \$32.1 M	\$1.7 M	\$497,000
Richland	Library construction - \$9.6 M	\$1.3 M	\$411,000
SeaTac	Fire Station No. 46 electrical systems - \$539,500	\$82,000	\$25,000
Shoreline ⁽³⁾	A&E for initial design of Aurora Corridor improvements - \$50,000	\$5.3 M	\$5.3 M
Spokane ⁽³⁾	5-Mile Road improvement - \$5.0 M	\$119,000	\$71,000
Thurston County ⁽³⁾	Bald Hill Road improvement - \$3.2 M	\$1.2 M	\$1.2 M
Total	Original contract costs total \$61.1 M	\$15.1 M	\$9.1 M
Source: City change orders and contract files. Notes: ⁽¹⁾ Some contracts were active at the time of the audit so additional change orders may have occurred after our audit. ⁽²⁾ Of this amount, \$1.1 million in change orders or parts of change orders did not have sufficient detail about the pricing of labor, materials, markups and equipment for us to determine whether the local government paid typical market prices or industry rates. ⁽³⁾ These projects were financed in part with Washington State Department of Transportation funds.			

We did not evaluate each city's or the county's construction management practices as a whole, nor did we review all of their construction and A&E contracts. We evaluated only the pricing of labor, materials and equipment, and overhead and profit markup rates for specific change orders. We did not attempt to determine whether the quantity of materials or the number of hours charged were reasonable.

Our methodology consisted of:

- Identifying leading practices for controlling the pricing of change orders.
- Identifying typical pricing benchmarks or rates for materials, equipment, labor and markups.
- Determining the extent to which the municipalities followed the leading practices for controlling the cost of the change orders, and whether the amounts paid for change orders were consistent with typical prices and rates.

We consulted with the state associations of cities and counties as we planned this audit. We will continue to work with them and other representatives of local governments to communicate the results throughout the state.

We conducted this audit under the authority of state law (RCW 43.09.470), approved as Initiative 900 by Washington voters in 2005, and in accordance with generally accepted government auditing standards, prescribed by the U.S. Government Accountability Office. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix A describes the provisions of Initiative 900 and how the audit addressed the law's specific elements.

Appendix B describes our audit methodology in detail.

Types of change orders

The types of construction contract change orders discussed in this report generally fall into the following categories, each of which treats pricing or negotiations differently:

- **A unit-priced change order** is for work the owner and contractor agree to price at the “unit-of-work” level, for example, a change order for building additional space at a certain cost per square foot. The unit price for change order work usually is established by referring to the original contract bid or to other recent, similar work in which the price was competitively established. Unit-priced change orders are priced in total and do not break out separate costs and pricing for labor, materials, equipment and markups. The amount of the change order is agreed to before the work is performed.
- **A time and materials or force account change order** consists of work that is ordered by the local government without prior agreement with the contractor. In these situations, the local government reimburses the contractor on a time-and-materials basis, plus markups for profit and overhead. This approach typically is used when work cannot be easily or accurately estimated, or under emergency conditions such as a broken sewer line. For contracts funded at least in part by the Transportation Department, this is called force account work. The amount of the change order is unknown until after the work is performed.
- **Regular change orders** are all other change orders. The total cost is negotiated between the local government and the contractor before work is performed. These negotiations often start with a contractor submitting a change order proposal itemizing the quantities and prices for labor, materials, equipment and markups. The government then reviews the contractor’s proposal before the two parties arrive at a negotiated price.

LEADING PRACTICES

Leading practices for controlling change order pricing

Construction experts recognize the benefit of using leading practices to actively control change order pricing. In 2003, an article published in the Association for the Advancement of Cost Engineering, “Proactive Change Order Management,” said organizations that actively manage change order pricing are able to:

- Provide a predetermined, contractual basis for uniform change order pricing.
- Discourage contractors from artificially reducing (“low-balling”) project bids while intending to benefit later from costly change orders.
- Reduce or eliminate the negotiation of change order pricing.
- Reduce project managers’ costs associated with comparing contractors’ proposed pricing to their own independently developed estimates.
- Greatly decrease the likelihood of claims and disputes.
- Promote teamwork with the contractor.
- Support a fair, reasonable and equitable business relationship.

To identify leading practices, we examined change order pricing practices used by government agencies, including the Washington state departments of Transportation and General Administration (the latter is now part of the Department of Enterprise Services). We examined other performance audits and articles written by subject matter experts and researchers published by the Association for the Advancement of Cost Engineering, the National Institute of Building Sciences (NIBS) Municipal Research Services Center of Washington, the Association of Consulting Engineers of New Zealand, the Institution of Professional Engineering of New Zealand, and the Delaware Associated Builders and Contractors Partnership Committee.

We also reviewed the Federal Acquisition Register, the Federal Transit Administration’s Best Practices Procurement Manual, and the Architect’s Handbook of Professional Practice, all respected sources of leading practices for controlling construction project costs. We also spoke directly with subject matter experts including the strategic cost estimator for a major computer chip manufacturer, and professional consultants with expertise in all phases of construction.

Exhibit 2 summarizes the leading practices we identified for controlling the pricing on change orders for both construction and A&E contracts.

Exhibit 2

Leading Practices for Controlling Construction and A&E Change Order Prices

1. **Establish terms in the original contract for how change order pricing will be handled.** Because contract change orders are not based on competition via price or qualifications, it is important to take steps to ensure change order pricing will be fair and reasonable, so the contracting entity does not pay more than necessary.
 - a. **Establish the basis to be used in pricing change orders.** For construction contracts, that can include tying pricing for additional work to the unit pricing in the original contract or to similar recently bid work, or pre-establishing change order prices or rates for labor, materials, equipment, and markups for overhead and profit. For A&E contracts, that can include establishing both labor rate increases for multi-year contracts and markup rates for overhead and profit.

Subject-matter experts and others cite such sources as original contract prices, schedules of rates or values, prevailing wage rates, invoices, and price indices as the basis for establishing the prices or rates that will be paid for change order work. Establishing the basis for change order prices and rates allows the change order negotiations to focus on the quantities of work and materials needed. **The typical prices and rates we identified are discussed in the section following Exhibit 4. (a)**
 - b. **Contractually require contractors to submit detailed change order proposals** when the work to be performed will not be based on unit prices. Such proposals typically include detailed prices and rates for labor, materials, equipment and markups. **(a)** Local governments may want to define and exempt change orders that are very small in nature, where the cost attributable to this practice may exceed the benefits.
 - c. **Specify the level of monitoring expected by A&E firms charged with overseeing change order pricing.** When A&E firms are involved with construction contracts, specifying the expected level of scrutiny over change order pricing in the contract helps ensure firms obtain the pricing details needed to assure local governments do not pay more than the pre-established rates and prices.
2. **Manage and review construction and A&E change order costs.** Once projects are under way, it is important to take steps to ensure that the prices paid for change order work are appropriate and agree with pre-established rates, prices and other contract terms.
 - a. **Obtain written change orders** for all additional work or materials beyond the scope or sum of the original contract.
 - b. **Accept unit pricing for change orders only when it's appropriate.** This issue is discussed in more detail immediately below this exhibit.
 - c. **Perform detailed reviews of contract change order costs proposed by contractors.** This includes comparing change order prices against the original contract prices, or to the schedules of units, rates or values, vendor invoices, price indices, or other sources that are pre-established by contract. Such reviews help ensure the additional charges are reasonable and conform to the contract conditions. Most sources call for developing an independent cost estimate to evaluate the reasonableness of the firm's or contractor's proposal. When prices are pre-established, independent cost estimates can focus on the quantities contained in the contractor's proposal.
 - d. **Spot-check the scrutiny provided by A&E firms** that perform construction oversight to make sure detailed pricing information is obtained and the local government is not paying too much for labor, materials, equipment and markups.

Sources: Subject matter experts, the state departments of General Administration (now part of the Department of Enterprise Services) and Transportation, the U.S. Federal Transit Administration, the Architect's Handbook of Professional Practice, articles published by the Association for the Advancement of Cost Engineering, and the National Institute of Building Sciences.

Notes: (a) Transportation contracts that are financed at least in part with Transportation Department and/or Federal Highway Administration funds must comply with the requirements specified in Transportation's Standards Specifications Manual for Road, Bridge and Municipal Construction. See **discussion immediately preceding Exhibit 4** for more information.

Benchmarks for typical change order prices and rates

Establishing the basis for the prices and rates that will be paid for change order work in the initial contract can help control the cost of change orders. We reviewed a variety of sources to help identify the pricing benchmarks described in the following sections and discussed in more detail in **Appendix C**. We obtained information for typical prices paid for labor, materials, and equipment, and for markup rates for overhead and profit from a number of sources inside and outside Washington. Those sources included construction policies, contracts, and general conditions at state agencies and local governments engaged in construction projects, including roads and facilities.

- **Unit prices** are used when appropriate for the circumstances and based on recent competition for similar work. For such work, using the unit prices from the original bid or from other recent bids (e.g., cost per square foot) as the basis to price change orders can be appropriate. However, unit pricing may not be appropriate when significant changes in market prices have occurred, or the location, timing, nature, or conditions of the work has changed.
- **Construction labor costs.** Because they are tied to market conditions, many government agencies tie construction labor costs to the prevailing wage rate plus the payroll taxes in effect at the time of the work. State law (RCW 39.12.020) requires contractors to pay no less than the prevailing wage on public works, but it does not obligate local governments to pay contractors for higher labor rates on change orders. The *General Conditions for Washington State Facilities Construction* limits labor rates on change orders to those submitted on the Statement of Intent to Pay Prevailing Wages or higher amounts if justified and approved by the Department.

For force account change orders on contracts funded by the Transportation Department, labor charges must agree to the labor rates contractors submit at the start of the contract. (*See Section 1-09.6 (page 1-95) of the 2010 Department's Standard Specifications Manual.*)

- **Increases in A&E firms' labor rates** can be tied to the original contract plus a predetermined escalation rate, such as the Consumer Price Index, the Producer Price Index for A&E services (Industry Code 5413) or other reasonable sources.
- **Materials prices** typically are limited to vendor quotes, the contractors' cost or the original contract price. For example, the *General Conditions for Washington State Facilities Construction* indicates prices are to be developed from actual known costs, from supplier quotations if actual costs are not available, or from standard industry pricing guides.
- **Equipment rental rates.** Most state transportation departments and numerous municipalities use the Rental Rate Blue Book. It is a common industry guide for determining **reimbursement rates** for heavy equipment use.

AUDIT RESULTS

For the eight local governments we reviewed, we compared their practices for controlling the pricing of change orders to the leading practices we identified. We also compared the prices or rates they paid for labor, materials, equipment, and markups for overhead and profit with the typical pricing and rates we identified.

Overall, we found that all the municipalities we audited used leading practices to some extent on the contracts and change orders. For the cities of Spokane, Shoreline, and Thurston County, the practices they used or the prices paid for change order work were most closely aligned. We also found opportunities for local governments to:

- A. Strengthen their procedures to control rates and prices for change orders. **Exhibit 3** and the discussion that follows present the results of our comparisons to leading practices for those governments.
- B. Ensure that change-order prices are pre-established and reflect typical industry rates. **Exhibit 4** summarizes the extent to which the eight local governments paid typical rates and prices. More detailed information about each is presented in **Appendix F**.

A. These local governments have opportunities to strengthen the procedures they used to control change order prices.

Exhibit 3 shows our comparisons to leading practices for the seven cities and county.

Exhibit 3 Leading Practices in Place by City and County								
City/County	Bellingham (C)	Everett (C, A)	Puyallup (C)	Richland (C)	SeaTac (C)	Shoreline (A)	Spokane (C)	Thurston (C)
1. Establish terms in the original contract for how change order pricing will be handled.								
a. Pre-establish the basis for pricing change orders	P	P	Y	P	P	Y	P	P
b. Contractually require contractors to submit detailed change order proposals when unit pricing is not used	P	P	Y	Y	N	Y	P	P
c. Specify the level of monitoring expected by A&E firms charged with overseeing change order pricing	N	N/A	N	N	N/A	N/A	N/A	N/A
2. Manage and review construction and A&E change order costs.								
a. Obtain written change orders for additional work or materials	Y	Y	Y	Y	Y	Y	Y	P
b. Accept unit pricing for change orders only when it's appropriate	P	N/A	N/A	N/A	N/A	N/A	Y	P
c. Perform detailed reviews of change order costs submitted by contractors	P	Y	P	P	Y	Y	Y	P
d. Spot-check the quality of scrutiny provided by A&E firms' hired to perform construction oversight	N	N/A	N	N	N/A	N/A	N/A	N/A
<p>Source: Interviews of City project managers and staff responsible for construction and A&E contracts, review of the terms and conditions in those contracts, and review of the costs and pricing paid on change orders and contract amendments.</p> <p>Notes: N/A (not applicable) means the leading practice did not apply to the specific contract(s) we reviewed. N (No) means the leading practice was not implemented. P (Partly) means the leading practice was observed but the local government had not fully implemented it. Y (Yes) means the leading practice was fully followed or mostly implemented.</p> <p>C = Construction contract. A = Architectural and engineering contract.</p>								

All the cities and the county used leading practices to at least some extent. However, we found improvements could be made.

Most local governments established in original contracts the rates or prices they would pay for some, but not all, types of change order work. We found local governments generally pre-established the basis they would use for pricing force account and unit-priced change orders. Others did not do so for regular change order work. For example:

- Puyallup and Shoreline pre-established the **labor rates** they would pay for all change orders, but Everett, Bellingham, Spokane and Thurston County established them only for force account change orders.
- Puyallup limited **materials** pricing on change orders to the contractor's net material costs after all discounts or rebates, freight costs, express charges, or special delivery costs. However, Bellingham, Everett, Spokane and Thurston County limited materials pricing only for force account change orders.
- Puyallup, Richland, SeaTac and Shoreline pre-established **markups** for all change orders, but Thurston County, Bellingham, Everett and Spokane established them only for force account change orders. In addition, Everett's two A&E contracts established a comprehensive hourly rate for each position, but the contracts did not identify the labor, profit and overhead components that made up these hourly rates.

Two of the eight construction contracts we reviewed were financed in part with state and federal transportation dollars. As discussed later in this report and shown in **Exhibit 4**, change orders for such contracts are subject to state requirements that do not fully allow the use of some leading practices we identified.

Most contracts we reviewed did not require contractors to submit written change order proposals for all additional work to be performed, even though local governments did obtain them for all but one contract we reviewed. Only Puyallup, Richland, and Shoreline required contractors to submit written change order proposals for all additional work. Bellingham, Everett, Spokane, and Thurston County required contractors to submit them only for force account change orders. All the local governments actually obtained them except for some change work at Thurston County. However, contractors are not obligated to provide written change order proposals unless that language is in the contract.

In addition, we noted that SeaTac, Shoreline, and Spokane obtained detailed pricing information for all change orders we reviewed, but Bellingham, Everett, Puyallup, Richland and Thurston County did not always do so. Requiring and obtaining written change orders can help local governments track changes to the original contract and ensure that costs and quantities are reasonable and controlled.

Local governments generally did not provide guidance on the extent to which change order pricing should be scrutinized. Bellingham, Puyallup and Richland used A&E firms to scrutinize change orders, but none included this expectation in their contracts. Only Richland provided its staff with documented guidance on how they should conduct such reviews. The absence of guidance can be especially challenging for staff who are not experts at reviewing change order costs and pricing.

The unit prices used for two change orders were not based on recent, similar work, which could mean the local governments paid more than they needed to for the change order work. In Thurston County, county officials and the contractor agreed to adjust the unit pricing for some work from the original bid, but did not document the basis for those adjustments.

In Bellingham, the unit prices the contractor submitted for most of a change order we reviewed were for different work, and were significantly higher than the prices specified in the original contract. For example, in one instance the contractor charged \$29 per square foot for work done under the original bid, but \$285 per foot when this work was extended by change order. City engineers indicated the price paid was higher because the additional work was more complicated.

Experts caution that using contract unit prices for change orders is not appropriate in cases in which the type of work to be performed is not similar, the unit prices used are not current, the locations are very different, or the quantities involved vary too much. Because unit prices do not break out itemized charges for labor, materials, equipment and overhead, neither the City of Bellingham nor our auditors could determine whether the amount the City paid was reasonable.

Local governments did not always compare change order costs against invoices, vendor quotes, and original contract prices and terms, or spot-check the quality of A&E firms' scrutiny. SeaTac and Spokane thoroughly reviewed all change orders. Shoreline and Everett mostly did so. Most other local governments did not obtain detailed information for all the change orders we reviewed. Without sufficiently detailed information and thorough reviews, local governments have less assurance that they are paying only the prices agreed to, and are not being charged for things they should not be.

When local governments relied on A&E firms to scrutinize change orders for the construction contracts we reviewed, they generally did not verify that this scrutiny had occurred. Verification is important to ensure local governments are obtaining the services they expect and are not paying too much for labor, materials, equipment and markups.

Contracts for local transportation projects must comply with Transportation Department change order requirements. Two of the eight construction contracts we reviewed were financed in part with state or federal highway funds. In such instances, local governments must manage these contracts in accordance with Transportation's *Local Agency Guidelines*. Change orders for such contracts must meet the requirements of the state's *Standard Specifications Manual for Road, Bridge and Municipal Construction*. The Transportation Department coordinates with the Association of General Contractors (AGC) and the American Public Works Association (APWA) to establish and update the requirements in this manual.

As shown in **Exhibit 4**, the Transportation Department does not require local governments to use two of the leading practices we identified for state and federally funded contracts. Department officials indicate local governments cannot contractually require contractors to submit detailed change order proposals using pre-established pricing for regular change orders. Instead, it instructs local governments to establish the change order amount by performing independent cost estimates.

Department officials indicated that because contractual language requiring such practices would be an exception to its *Standard Specifications Manual*, such language would not likely be approved. They expressed concerns that establishing the basis for pricing change orders could result in inflated bids, something that could happen if that pricing basis was not reasonable. They also expressed concerns that requiring contractors to submit detailed change order proposals may not be cost-beneficial for situations involving very minor changes. However, they said they recognized that obtaining detailed change order proposals from contractors was a best practice that should be followed when feasible. Department officials also indicated they are willing to explore the costs and benefits of leading practices we identified with the AGC and the APWA.

Exhibit 4 Similarities and differences between the Transportation Department's change order practices and the leading practices identified in this audit			
Leading practice	Unit-priced change orders	Force account change orders	Regular change orders
Contractually establish the basis for pricing <u>all</u> change orders. Does Transportation require?	Yes	Yes	No
Contractually require contractors to submit detailed change orders (for non-unit-priced work) Does Transportation require?	N/A	Yes	No*
Obtain written change orders for <u>all</u> additional work or materials beyond the scope or sum of the original contract. Does Transportation require?	Required for new work that differs from the original contract. <u>Required or allowed</u> when additional quantities are needed to complete the work spelled out in the original contract. See Section 1-04.6 of the <i>Standard Specifications Manual</i> .	Yes	Yes
Source: Review of Transportation's <i>Standard Specifications Manual</i> for Road, Bridge and Municipal Construction and interviews with various Transportation staff. Notes: * WSDOT requires contractors to submit detailed change order cost estimates if there is a dispute as to the amount determined by the local government.			

B. Local governments have opportunities to reduce change order costs.

When we compared the change order prices the local governments paid with contract terms and the typical prices and rates we identified on page 12, we found they sometimes paid more for labor or markups than they had agreed to or than the typical prices and rates. The results of our comparison are summarized in **Exhibit 5**. More detail for each local government is in **Appendix F**.

Exhibit 5 Comparing the prices and rates cities and the county paid with typical prices and rates								
	Bellingham	Everett	Puyallup	Richland	SeaTac	Shoreline	Spokane	Thurston
Unit rates: paid the same rate as the original contract or those paid for similar, recently bid work on other contracts	P	N/A	N/A	N/A	N/A	N/A	Y	P
Labor rates: paid the prevailing wage or allowable/typical escalations	Y	P	P	Not tested	P	Y	Y	Y
Materials charges: paid the contractor's actual costs	Y	Not tested	Y	Not tested	Not tested	N/A	N/A	Y
Markup rates: paid typical markup rates for overhead and profit	N	P	P	P	Y	Y	Y	Y
Source: Review of the costs and pricing paid on change orders and contract amendments. Notes: N/A (not applicable) means the charges were not applicable to the specific contract(s) we reviewed. N (No) means the municipality paid more than typical rates or prices for the change order costs we reviewed. P (Partly) means the local government paid typical prices or rates for some but not all the change order costs we reviewed. Y (Yes) means the municipality paid typical prices or rates for all the change order costs we reviewed or the overall difference was less than two percent.								

We examined \$9.1 million in change orders across eight municipalities. As described below, we found that those municipalities would have paid up to \$174,000 less for those change orders if they would have paid typical rates and prices, or the rates and prices specified in the original contracts:

- **For labor charges,** Everett, Puyallup and SeaTac paid somewhat more than prevailing wages for change orders that were not Transportation Department funded force account work, or paid labor rate increases that were higher than those established by contract or the Producer Price Index. Altogether, the differences we saw accounted for up to \$74,000 of an estimated \$2.3 million in labor charges we could review.

Puyallup paid the labor rates shown on certified payroll reports, which sometimes exceeded the prevailing wage rates, because officials thought state law obligated them to pay the labor rates that contractors paid. Everett officials thought the same. Although state law (RCW 39.12.020) requires contractors to pay no less than the prevailing wage on public works, it does not obligate local governments to pay contractors for higher labor rates on change orders. Everett officials also thought state law and the Transportation Department *Standards Specifications Manual* required them to pay the labor rates that contractors paid. That manual requires local governments on Transportation Department funded contracts to reimburse contractors for force account work in accordance with a contractor-submitted project labor list. However, Everett's contract was not funded by the Transportation Department.

One city indicated that capping labor rates on change orders would result in contractors submitting higher construction bids. A publication by the Association for the Advancement of Cost Engineering indicates that pre-establishing pricing expectations for change orders up front in contracts should discourage contractors from artificially reducing ("low-balling") their bids while intending to benefit later from costly change orders.

- **For markup rates for overhead and profit,** Bellingham, Everett, Puyallup and Richland paid markups for profit and overhead that were somewhat higher than typical industry rates. For example, for one contract at Everett contractors were allowed to charge force account markup rates for change order work that was not funded by the Transportation Department. Local governments are not prohibited from doing so, but some of those rates can be 6 percent to 7 percent higher than the typical markup rates we identified. In addition, the Department's *Guide to the WSDOT Construction Change Order Process* cautions that, "...the use of Force Account markups for overhead and profit should not be automatic and may not be appropriate for all change work."

We also saw some local governments had established rates in the contract that were slightly higher than typical markups, had not specified rates in the contract and paid the amounts the contractor submitted, or paid for bonding costs and B&O taxes that are typically covered by markups or were specifically prohibited by contract. Altogether, the higher markups we reviewed totaled \$101,000 out of the nearly \$3.2 million in markups.

In addition, about \$1.1 million of the \$9.1 million in change order charges we selected for audit did not have sufficiently detailed charges for labor, materials, equipment or markups. For some of these charges, local governments may have paid more than typical rates and prices. As described earlier, Bellingham paid \$29 per square foot for work done under the original bid, but \$285 per square foot when this work was extended by change order. These unit prices combined materials, equipment, labor and markup costs into a lump-sum price. As a result, we could not determine whether the city paid typical rates and prices.

RECOMMENDATIONS

We recommend the eight local governments work with construction project managers and their legal departments to establish policies, procedures and standard contract terms that include leading practices we identified that they do not already follow. In doing so, local governments should ensure:

- **Contracts establish the basis for reasonable and typical prices and rates** for labor, materials, equipment and markups.
- **Contracts require contractors to submit detailed change order proposals** so that prices and rates can be evaluated and compared to pre-established prices and rates.
- **Change orders are scrutinized** to ensure that local governments do not pay more than established prices and rates. When local governments expect A&E firms to evaluate construction change order pricing, their contracts with these firms should clearly describe this in the scope of work. Similarly, internal staff who perform such reviews should be guided by policies and procedures that describe how they should evaluate change order pricing to assure it agrees with pre-established pricing and rates.

For projects funded by the Transportation Department or other granting agencies, local governments should follow leading practices as permitted by the conditions specified by the grantor.

AGENCY RESPONSES

City of Bellingham

From: TCarlson@cob.org [mailto:TCarlson@cob.org]
Sent: Thursday, December 22, 2011 2:04 PM
To: Christopher Cortines
Cc: JCarter@cob.org; KDrummond@cob.org
Subject: Change Order Pricing Audit - Bellingham response

Good afternoon Chris,

First of all, I want to thank you for working with the City of Bellingham throughout this process. We appreciate the opportunity given us to comment on the daft document and the subsequent changes made by the SAO.

It is a core mission of the City of Bellingham Public Works Department to provide safe reliable infrastructure for our community while being responsible stewards of public funds. The City of Bellingham uses the WSDOT Standard Specifications as the base contractual reference for all street and utility projects. These specifications are the foundation from which all of our general and special provisions are crafted and come from years of refinement and collaboration between WSDOT, local agencies, the American Public Works Association (APWA), and many others with experience in managing and delivering public construction projects in the most efficient manner. The Standard Specifications document has served the State for many years and is the accepted manual for most public work. Bellingham will present the results of the performance audit to WSDOT so they can evaluate the auditors' recommendation to determine if the standard specifications should be modified. We look forward to working with WSDOT on this issue in the future.

The City of Bellingham continually strives to improve our process and methods in an effort to deliver quality public infrastructure, and while we do not agree with all of the comments in the audit report, we do believe it provides some quality recommendations on how we can improve our already extensive change order process. The City will continue to work with engineering, inspection, and legal staff on policies, specifications, and contract language that will result in the delivery quality infrastructure projects in the most cost effective manner.

In addition, there are a couple of typographic errors for consideration:

- Page 14, Item A refers to Exhibit 3. We can not locate this anywhere between Exhibit 2 and Exhibit 4.
- Page 38, first sentence should read, "We reviewed larger change orders.... renovation and a \$5 million street sewer line improvement..."

Thanks again Chris, and please let me know if you have any questions. Ted

Ted Carlson
Public Works Director
City of Bellingham
360.778.7998
tcarlson@cob.org

City of Everett

From: Gordon Larson [mailto:GLarson@ci.everett.wa.us]

Sent: Tuesday, December 20, 2011 8:22 AM

To: Larisa Benson; Christopher Cortines

Cc: Barb Hinton; Bruce Botka; Debra Bryant; Dave Davis; Susy Haugen; Matt Welborn; Ryan Sass; Richard Tarry; Tom Fuchs; Al Rosenzweig; Keith Alewine; Shaun Bridge

Subject: RE: Change Order Pricing performance audit

Larisa and Chris,

The City's response to the final draft of your local government performance audit on Change Order Pricing follows:

The City of Everett continually strives to be good stewards of public funds and to improve our methods while maintaining compliance with established guidelines in managing the City's construction projects.

City staff uses the existing guidelines identified in the 2010 Standard Specifications for Road, Bridge, and Municipal Construction manual to manage all of its infrastructure projects. These standards were designed to achieve the lowest final cost for the construction of infrastructure projects, and are the result of years of refinement and collaboration among agencies with extensive experience and expertise in managing public construction projects in the Pacific Northwest, including the Washington State Department of Transportation (WSDOT), the American Public Works Association (APWA), the Associated General Contractors of America (AGC), as well as representatives from cities and counties throughout the state.

Major infrastructure projects are highly complex and require a unified team effort among all parties involved to complete construction in an efficient and cost effective manner. Consequently, there is great value in using an established set of common rules for the construction of roads, bridges, and utility projects, regardless of funding source.

We will continue to work with our construction project managers, our engineering staff, and our legal department to identify and implement policies, procedures, and standard contract terms that will enable efficient and cost effective infrastructure construction contracts. Additionally, we will present the results of this performance audit to the WSDOT/APWA/AGC standing committees so they may evaluate the auditors' recommendations and determine if the standard specifications should be modified.

Please contact me if you have any questions regarding this response.

Gordon

City of Puyallup

From: Brenda Arline [mailto:Brenda@ci.puyallup.wa.us] On Behalf Of Ralph Dannenberg

Sent: Tuesday, December 20, 2011 3:38 PM

To: Larisa Benson; Christopher Cortines

Cc: Cliff Craig

Subject: City of Puyallup Performance Audit Report

Dear Ms. Benson and Mr. Cortines,

The City of Puyallup would like to thank the State Auditor's Office for the opportunity to be a part of the recently completed performance audit report. This was a great learning experience for our staff. I appreciate all the hard work performed and professionalism displayed by the audit team.

The recommendations will help ensure that the City of Puyallup receives an even greater value for our taxpayers' dollars in future construction projects.

Sincerely,

Ralph W. Dannenberg

City Manager

City of Puyallup

333 S. Meridian | Puyallup, WA 98371

Phone 253-770-3324 | ralph@ci.puyallup.wa.us

City of Richland

From: Underwood, Dan [mailto:DUnderwood@CI.RICHLAND.WA.US]

Sent: Thursday, December 22, 2011 2:04 PM

To: Christopher Cortines\

Cc: King, Bill; Rogalsky, Pete; Roseberry, Ann; Noble, John

Subject: Richland's Performance Audit response.

Chris, please find attached our response for the Change Order Performance Audit. Thank you for all your effort on this project. We very much appreciated your willingness to work through the process with us.

Dan

A large portion of the library construction project chosen for the audit involved refurbishing of an older structure. Construction projects of this nature almost always reveal unexpected issues; so it is not surprising change orders exceeded 10% of the construction bid. Given the complexity and specialized nature of the construction it was determined the city would be best served by hiring subject matter experts as the construction management team. This decision in fact proved to be advantageous in that the expert team identified several opportunities to save money or improve value in many of the change orders that were implemented. The contractor markup rates paid were authorized in the construction contract, were capped in the contract, and were at a level typical for this building construction industry. The report validates the City's administration of its project contract, but identifies proposed contract terms that may help reduce costs on similar type projects. The research provided in the report will be helpful to the City in negotiating lower caps in the future.

The City of Richland is committed to providing the highest level of service and quality to citizens at the best value. The report validates the City's commitment by noting that Richland has established a leading practice by adopting and following a contract change order policy. To maintain Richland's commitment, future construction contracts not mandated to follow other standards, will implement the recommended practices. Thank you to the State Auditor's Office for their efforts in completing this performance audit; the results will help achieve our commitment to quality by to most economical means.



Memorandum

DATE: December 23, 2011

TO: Larisa Benson, Director of Performance Audit
Chris Cortines, Principal Performance Auditor

FROM: Debbie Tarry, Assistant City Manager

RE: Local Government Performance Audit, Construction Change Order
Pricing, Technical Review

CC: Julie Underwood, City Manager
Mark Relph, Public Works Director
Kirk McKinley, Transportation Services Manager
Kris Overleese, Capital Projects Manager
Patti Rader, Finance Manager

The City of Shoreline takes very seriously its responsibility to manage tax payer dollars as effectively and efficiently as possible. As such our staff makes every effort to follow best practices. The City of Shoreline followed the guidance provided by the Washington State Department of Transportation (WSDOT) Local Agency Guideline (LAG) manual in managing the audited architectural and engineering (A&E) contract. Managing contracts in accordance with the LAG manual is not only considered to be a best practice by Washington public agencies, it is mandated for projects that include Federal Highway Administration (FHWA) funds for transportation projects. The Aurora project continues to receive funding from FHWA. The following is an excerpt from the LAG manual: “This manual was published to provide local agencies with statewide policies and standards to follow when using Federal Highway Administration (FHWA) funds for transportation projects. Considerable effort has been made to provide guidance on how to accomplish the work and document the results...(April 2007)”

City staff works closely with WSDOT to confirm compliance with LAG requirements and industry best practices. The City of Shoreline recognizes the importance of continuous improvement and embraces opportunities to improve processes in partnership with WSDOT.

The City would like to thank the Auditor’s office for the opportunity to submit this response.



Finance Division
808 W. Spokane Falls Blvd.
Spokane, Washington 99201-3313
(509) 625-6586

Gavin J. Cooley
Chief Financial Officer

January 9, 2012

Larissa Benson
Director of Performance Audit
Washington State Auditor's Office
P O Box 40022
Olympia, WA 98504-0022

Dear Ms. Benson,

The City of Spokane would like to take this opportunity to thank the Washington State Auditor's Office for their audit and review of Local Government Change Order Pricing and the resulting objective analysis of the efficiency and effectiveness of the policies and operations of local governments.

The proper development and award of construction change order requests is a key stewardship function. We are therefore proud that the State Auditors' Office recognized in this report that the City of Spokane effectively utilized the following best practices:

- Establishing the basis for pricing
- Allowing contractors to price change orders on a "per-unit" basis only if those unit prices are based on recent, similar work.
- Requiring contractors to submit written change-order proposals.
- Reviewing change order prices that contractors submit.

We note that, of the 8 audited entities in Exhibit 3, Leading Practices in Place by City and County, the City of Spokane was the only local government able to answer "Yes" to all applicable best practices. We feel that is indicative of the exceptional job that our construction management team provides on behalf of our community and taxpayers.

Additionally, with regard to other suggestions, the City's construction management team offers the following:

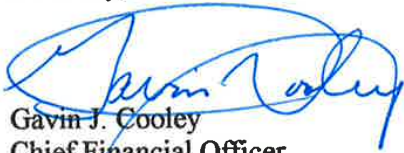
- The best opportunity for SAO to get their recommended practices implemented would be through convincing WSDOT to revise their practices and specifications. We believe every local agency in this state uses WSDOT standard specifications as their framework for local projects. This is required for federal and state funded projects. To be consistent, we use it for local projects as well.
- The SAO recommended implementation of differing practices, differing overhead rates, etc. on locally funded projects. This would not only be difficult and time consuming to manage, but would add conflict to change order negotiations. Contractors anticipate consistent treatment contract to contract. This is a reasonable expectation. We

- respectfully disagree with this suggestion by SAO. Also, it would be unnecessary if SAO succeeded in getting WSDOT to modify their practices.
- In actual practice, the suggestion to limit wages to prevailing wages may not allow Contractors to retain their most trusted employees. To not provide some latitude above prevailing wages does not allow them flexibility to build a consistent team that will provide consistently good results. Quality contractors pay to retain their key talent. Local agencies would ultimately suffer from this restriction. We would, however, agree with some reasonable limitation on compensation for labor above prevailing wage.
- SAO notes that the City of Spokane does not have any established policy for review of change orders'. While we have not created our own written policy, we do use WSDOT's published guidance provided in their many manuals. The WSDOT Construction manual has very good guidance in methodology for managing most construction issues that occur, including change order review.

We acknowledge additional tips and suggestions provided to add to our current practices; and, we welcome the knowledge sharing that these exercises provide.

The City appreciates the State Auditors Office's efforts to provide this valuable information to our citizens, and to assist us in our continuous improvement efforts.

Sincerely,



Gavin J. Cooley
Chief Financial Officer



COUNTY COMMISSIONERS

Cathy Wolfe
District One

Sandra Romero
District Two

Karen Valenzuela
District Three

BOARD OF COUNTY COMMISSIONERS

December 28, 2011

Ms. Larisa Benson
Director of Performance Audit
Washington State Auditor's Office
PO Box 40022
Olympia WA 98504-0022

Dear Ms. Benson:

Thurston County is pleased to be one of eight jurisdictions, and the only county in Washington State selected for the Local Government Performance Audit on Construction Change Order Pricing conducted by the Washington State Auditor's Office. The report developed by your staff will be very useful to us as we continue to improve our policies and procedures in our commitment to safeguard the investment of taxpayers.

We appreciate receiving audit results indicating that of nearly \$1 million in change orders for the Bald Hill Road project, Thurston County paid \$197 more than necessary (or 2/100ths of a percent of the cost of audited change orders). We believe this outcome demonstrates the county is using the most leading practices to ensure costs are managed in compliance with state and federal standards.

The Washington State Department of Transportation (WSDOT) Standard Specifications break a project down into detailed costs for each item of work. We believe it is important to note the specifications do not further delineate the work into categories of material, labor or equipment. Doing so would require a change to the Division 1 General Requirements of WSDOT Standard Specifications, which is an action local agencies are not allowed to take. Another significant factor is that counties are required to follow the Local Agency Guidelines Manual requiring a detailed, independent cost justification to substantiate a contractor's proposal for change orders.

We hope you will continue to recognize controlling project costs can be more complex than reviewing change orders for labor, materials and equipment. Unforeseen conditions such as soils, utility conflicts, weather, a contractor's experience level, and many other obstacles can occur daily on site. WSDOT acknowledges these obstacles by the use of unit pricing, understanding that road projects will vary from the estimated materials bid item and actual quantities used. Accordingly, WSDOT does not require change orders until a 25% threshold change has occurred.

Building # 1, Room 269, 2000 Lakeridge Drive SW, Olympia, Washington 98502-6045 (360) 786-5440
TDD (360) 754-2933

With that in mind, Thurston County would support the formation of an expert panel including representatives from your Office and WSDOT's Division for Local Programs to review construction change order pricing.

The Engineering Standards Team in our Public Works Department is charged with reviewing the audit recommendations and implementing process improvement changes. Our goal is to continue to reduce the number of change orders and improve our control of costs. We will make this one of our annual performance standards reported to the Board of County Commissioners.

Thank you for the professionalism demonstrated by the Washington State Auditor's Office in conducting this review.

Sincerely,



Donald D. Krupp
County Manager

Cc: Lester Olson, Director of Public Works

APPENDIX A: INITIATIVE 900

Initiative 900, approved by Washington voters in 2005 and enacted into state law in 2006, authorized the State Auditor's Office to conduct independent, comprehensive performance audits of state and local governments. The law directs the Auditor's Office to "review and analyze the economy, efficiency, and effectiveness of the policies, management, fiscal affairs, and operations of state and local governments, agencies, programs, and accounts." Performance audits are to be conducted according to U.S. General Accountability Office government auditing standards. The law identifies nine elements that are to be considered within the scope of each performance audit. The State Auditor's Office evaluates the relevance of all nine elements to each audit. The table below indicates which elements are addressed in the Construction Change Order Pricing audit.

I-900 Element	Addressed in Audit
1. Identification of cost savings (or the potential for savings)	Yes. The audit identifies examples of local governments paying more than necessary for work performed through change orders and identifies strategies to help all local governments minimize costs.
2. Identification of services that can be reduced or eliminated	No. This audit assessed whether seven cities and one county followed leading practices to control change order costs and recommends that cities and counties either maintain or increase these practices.
3. Identification of programs or services that can be transferred to the private sector	No. Some local governments use private architectural and engineering firms to review change orders on their behalf, but the audit does not recommend reducing or expanding these services.
4. Analysis of gaps or overlaps in programs or services and recommendations to correct gaps or overlaps	Yes. The audit identifies leading practices to hold down the cost of labor, materials and markups on change orders. All of the local governments used at some of these practices, but none was using all of them when we conducted the audit.
5. Feasibility of pooling information technology systems within the department	No. The leading practices we identified do not require the pooling of information technology systems.
6. Analysis of the roles and functions of the department, and recommendations to change or eliminate departmental roles or functions	Yes. We recommend that local government project managers not rely solely on their A&E firms to review change orders but should spot-check those reviews to ensure they receive quality services from those firms.
7. Recommendations for statutory or regulatory changes that may be necessary for the department to properly carry out its functions	Yes. The audit recommends that all local governments establish policies and contract conditions that incorporate leading practices for controlling the pricing of labor, materials, equipment and markups on change orders.
8. Analysis of departmental performance data, performance measures, and self-assessment systems	Yes. The audit looked at how effectively each of the seven cities and one county were scrutinizing and assessing the pricing of labor, materials and markups on selected change orders.
9. Identification of best practices	Yes. The audit identified leading practices that all local governments can use to control change order pricing.

APPENDIX B: METHODOLOGY

To understand each government's practices for controlling the pricing of change orders, we reviewed prior audits of construction and architectural contracts, bids and change orders. We interviewed construction project managers who were responsible for construction and A&E contracts, and for review and approval of change orders .

Next, we identified leading practices for construction change order management local governments could use to control the pricing on change orders and amendments for construction and A&E contracts. We examined contract terms, policies and practices used by various state and local governments, including those that participated in this audit. We also spoke with subject matter experts in change order management. These included the strategic cost estimator for a major computer chip manufacture with a significant capital budget and professional consultants, each with years of expertise in all phases of construction.

Appendix C lists the sources we reviewed and the subject matter experts we interviewed regarding leading practices.

Finally, we examined whether and how effectively the audited cities and county used the leading practices. We reviewed up to nine change orders at each municipality and compared the prices paid for labor, materials and equipment, and markups to our benchmarks. Complete, detailed pricing information was lacking for some change orders , so we focused on larger change orders for which relatively detailed prices were available.

We audited contracts for activities such as building construction, road improvements and sewer system upgrades, in which the local governments used a variety of procedures to oversee change orders. We verified local officials' assertions that specific policies and practices were in place .

To measure the potential savings when local governments did not employ leading practices, we calculated the amount they might have saved by comparing the prices they paid for change-order work to the pricing benchmarks we identified.

APPENDIX C: CRITERIA

A. Leading practices used in this audit and the sources that identified them

We interviewed subject matter experts on leading practices for controlling change order costs and reviewed articles and publications written by subject matter experts and organizations familiar with managing change orders. We also examined procurement and construction guidelines published by state and federal agencies, prior performance audits performed in part by subject matter experts. These leading practices and the sources we identified are shown below.

1. Establish in the original contract the basis to be used in pricing change orders. Construction contracts are awarded through a competitive bidding process, where the reasonableness of bid prices is established. **A&E contracts are awarded based on which firm has submitted the best statement of qualifications.** Because contract change orders are not based on competition via price or qualifications, it is important to take steps to ensure that the change order pricing will be fair and reasonable so that the contracting entity does not pay more than necessary. This includes:

- a. **Establish how change order work will be priced.** For construction contracts, that includes tying unit pricing for additional work, when appropriate, to the unit pricing in the original contract for similar, recent work, or setting upfront prices and rates for labor, materials, equipment, and markups for overhead and profit. For A&E contracts, that includes labor rate increases for multi-year contracts and markup rates for overhead and profit.

Subject-matter experts and others cite such sources as original contract prices, schedules of rates or values, prevailing wage rates, invoices, and price indices as the basis for pre-establishing the prices or rates that will be paid for change order work.

Sources:

- **“General Conditions for Washington State Facility Construction”** published by the Washington State Department of General Administration. Part 7.02 B.7 Available: <http://www.ga.wa.gov/EAS/EA-References/GENCO697.pdf>
- **“Proactive Change Order Management.”** Written by Frank Kettlewell and published in 2003 by the Association for the Advancement of Cost Engineering. Pages 16.1 and 16.3. Available: <http://www.consultingalliance.net/cdr16.pdf>
- **“Best Practice from the Delaware Chapter of the Associated Builders and Contractors Partnering Committee** (A Joint Committee of Facility Owners, Contractors and Architects and Engineers) – Prevailing Wage Rate Construction Change Orders.” Published in June 2006. Source: http://www.abcdelaware.com/Industry_Best_Practices.aspx
- **“Standard Specifications for Road, Bridge, and Municipal Construction.”** Section 1-09.6, Page 1-95. Published by the Washington State Department of Transportation. Available: <http://www.wsdot.wa.gov/publications/manuals/fulltext/M41-10/SS2010.pdf>
- **“Local Agency Guidelines.”** Published by the Washington State Department of Transportation. Chapter 31.3.31, 31.3.32.3, 31.3.32.4, and Appendix 31.99 Local Agency Standard Consultant Agreement. Available: <http://www.wsdot.wa.gov/publications/manuals/fulltext/M36-63/LAGManual.pdf>
- **“Performance Audit – Mid-Columbia Public Utility Districts – Report No. 1003384.”** Published by the Washington State Auditor’s Office in May 2010. Criteria at page 166. Available: <http://www.sao.wa.gov/AuditReports/AuditReportFiles/ar1003384.pdf>

- **“Construction Phase Cost Management.”** Written by Scott Cullen and published in January 2011 by the Whole Building Design Guide, a program of the National Institute of Building Sciences. Available: http://www.wbdg.org/resources/construct_cost.php
- **“Proactive Change Order Management.”** Written by Frank Kettlewell and published in 2003 by the Association for the Advancement of Cost Engineering. Pages 16.1 and 16.3. Available: <http://www.consultingalliance.net/cdr16.pdf>
- **Interviews with subject matter experts.**
- **“Best Practices from the Delaware Chapter of the Associated Builders and Contractors Partnering Committee (A Joint Committee of Facility Owners, Contractors and Architects and Engineers) – Prevailing Wage Rate Construction Change Orders.”** Published in June 2006. Available: http://www.abcdelaware.com/Industry_Best_Practices.aspx
- Interviews with the **Strategic Cost Estimator for a major chip manufacturer, Plan B Consultancy, and the Claims and Disputes Manager for the Washington State Department of General Administration.**

b. Accept unit pricing for change orders only when it’s appropriate.

Sources:

- **“General Conditions for Washington State Facility Construction”** published by the Washington State Department of General Administration. Parts; 7.02 A.4, 7.02 B.1, and 7.02.B.7. Available: <http://www.ga.wa.gov/EAS/EA-References/GENCO697.pdf>
- **“Construction Phase Cost Management.”** Written by Scott Cullen and published in January 2011 by the Whole Building Design Guide, a program of the National Institute of Building Sciences. Available: http://www.wbdg.org/resources/construct_cost.php
- **“Proactive Change Order Management.”** Written by Frank Kettlewell and published in 2003 by the Association for the Advancement of Cost Engineering. Page 16.3. Available: <http://www.consultingalliance.net/cdr16.pdf>
- **“A Guide to the WSDOT Construction Change Order Process.”** Section F, page 15. Published by the Washington State Department of Transportation. Available: <http://www.wsdot.wa.gov/biz/construction/pdf/guidetochangeorderprocess.pdf>
- **“Performance Audit – Mid-Columbia Public Utility Districts – Report 1003384.”** Published by the Washington State auditor’s Office in May 2010. Criteria at page 166. Available: <http://www.sao.wa.gov/AuditReports/AuditReportFiles/ar1003384.pdf>
- **“Proactive Change Order Management.”** Written by Frank Kettlewell and published in 2003 by the Association for the Advancement of Cost Engineering. Page 16.2. Available: <http://www.consultingalliance.net/cdr16.pdf>
- Interviews with the **Strategic Cost Estimator for a major chip manufacture, Plan B Consultancy, and the Claims and Disputes Manager for the Washington State Department of General Administration.**

- c. **Perform detailed reviews of contract change order costs proposed by firms and contractors.** This includes comparing change order prices against the original contract prices, or to the schedules of rates or values, vendor invoices, price indices, or other sources that are established by contract. Such reviews help ensure the additional charges are reasonable and conform to the contract conditions. Most sources call for developing an independent cost estimate to evaluate the reasonableness of the firm's or contractor's proposal. When prices are pre-established, these estimates can focus on the quantities contained in the firm's or contractor's proposal.

Sources:

- **“Construction Phase Cost Management.”** Written by Scott Cullen and published in January 2011 by the Whole Building Design Guide, a program of the National Institute of Building Sciences. Available: http://www.wbdg.org/resources/construct_cost.php
- **“Performance Audit – Washington State Department of Transportation – Highway Maintenance and Construction Management – Report 1000009.”** Published by the Washington State Auditor's Office in January 2008. Page 181. Available: <http://www.sao.wa.gov/auditreports/auditreportfiles/ar1000009.pdf>
- **“Performance Audit – Mid-Columbia Public Utility Districts – Report No. 1003384.”** Published by the Washington State Auditor's Office in May 2010. Criteria at page 166. Available: <http://www.sao.wa.gov/AuditReports/AuditReportFiles/ar1003384.pdf>
- **“Federal Transit Administration's Frequently Asked Questions: Third Party Procurement: Change Orders.”** Answer to Sixth Question. Available: http://www.fta.dot.gov/funding/thirdpartyprocurement/grants_financing_6039.html and http://www.fta.dot.gov/funding/thirdpartyprocurement/faq/grants_financing_6093.html
- Interviews with the **Strategic Cost Estimator for a major chip manufacture, Plan B Consultancy, and the Claims and Disputes Manager for the Washington State Department of General Administration.**

- d. **Spot-check the quality of scrutiny provided by A&E firms** that perform construction oversight to make sure detailed pricing information is obtained and the local government is not paying too much for labor, materials, equipment and markups.

Sources:

- **“Performance Audit – Seattle Public Schools Construction Management – Report No. 1004710.”** Recommendation No. 3 and 10, Pages 26 and 27. Published by Washington State Auditor's Office in February 2011. Available: <http://www.sao.wa.gov/auditreports/auditreportfiles/ar1004710.pdf>
- **“Washington State Administrative and Accounting Manual.”** Published by the Washington State Office of Financial Management. Section 15.40.55.a – Proactively Manage and Monitor. Section 15.40.55.b – Managing the Contract. Available: <http://www.ofm.wa.gov/policy/15.40.htm>

B. Sources used to establish pricing benchmarks

Our pricing benchmarks we used for A&E contracts were from the following sources:

- **Local Agency Guidelines**, Section 31.3.31. Item 4.g. Published by the Washington State Department of Transportation in April 2011. Available: <http://www.wsdot.wa.gov/publications/manuals/fulltext/M36-63/LAGManual.pdf>
- **Average Audited Overhead Rates in Washington State** from 2007 through 2010 as provided by the Washington State Department of Transportation.
- **“Performance Audit – Mid-Columbia Public Utility Districts – Report 1003384.”** Published by the Washington State auditor’s Office in May 2010. Criteria at page 166. Available: <http://www.sao.wa.gov/AuditReports/AuditReportFiles/ar1003384.pdf>
- **Guideline on the Briefing and Engagements for Consulting Engineering Services.** Published by Association for The Association of Consulting Engineers NZ and The Institution of Professional Engineers NZ in January 2004. Section 6.4. Available: http://www.ipenz.org.nz/ipenz/practicesupport/endorsedinfo/BE_Guideline.pdf
- **How to Use the Producer Price Index for Contract Escalation.** Published by the U.S. Department of Labor - Bureau of Labor Statistics. Available: <http://www.bls.gov/ppi/ppiescal.pdf>
- Surveys of architectural and engineering firms as conducted by **PSMJ Resources, Inc.**

The pricing benchmarks we identified for construction contracts were based on our review of other performance audits and specific contracts, general conditions and policies at the following state agencies and local governments:

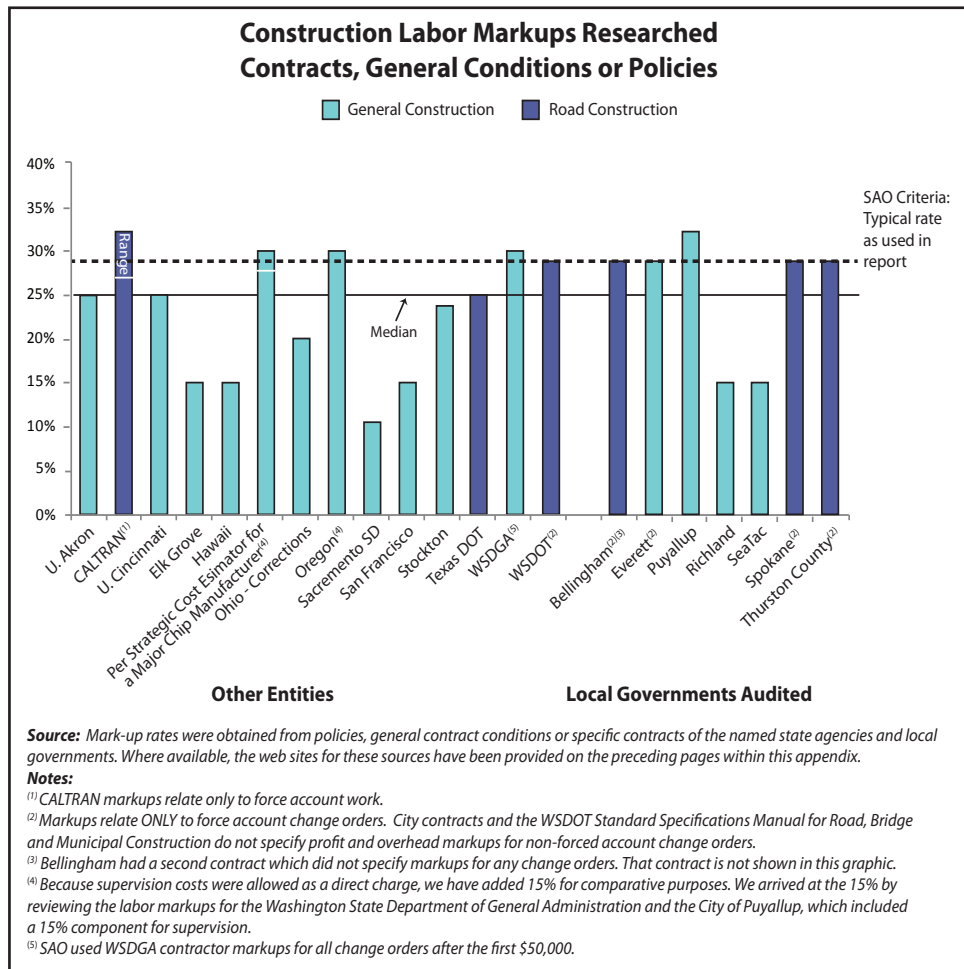
- **Standard Specifications for Road, Bridge and Municipal Construction.** Published in 2010 by the Washington State Department of Transportation. Available: <http://www.wsdot.wa.gov/publications/manuals/fulltext/M41-10/SS2010.pdf>
- **Washington Department of General Administration**, General Conditions for Washington State Facility Construction. Available: <http://www.ga.wa.gov/EAS/EA-References/GENCO697.pdf>
- **State of Oregon** – General Conditions for Public Improvement Contracts. Available: http://procurement.oregon.gov/DAS/SSD/SPO/docs/procurement/DAS_General_Conditions_1_1_2010.pdf?ga=t
- **University of Akron** - Form: Change Order Estimate Summary. Available: <http://www3.uakron.edu/caplan/contractorforms/CP11.pdf>
- **Ohio Department of Corrections and Rehabilitation** – Change Order Procedures and Pricing Guidelines.
- **State of Hawaii** – General Conditions. Public Works Division Department of Accounting and General Services. Available: http://hawaii.gov/pwd/Members/qc/gen_cond_constr/InterimGeneralConditions1999Edition.pdf
- **City of Elk Grove, California** – Standard Construction Specifications. Available: <http://www.egpublicworks.org/standard-construction-specifications.asp>
- **Sacramento City Unified School District** – General Conditions for Contract of Construction. Available: <http://www.scusd.edu/ContractsOffice/Documents/Generalconditions,vised4-25-06.pdf>

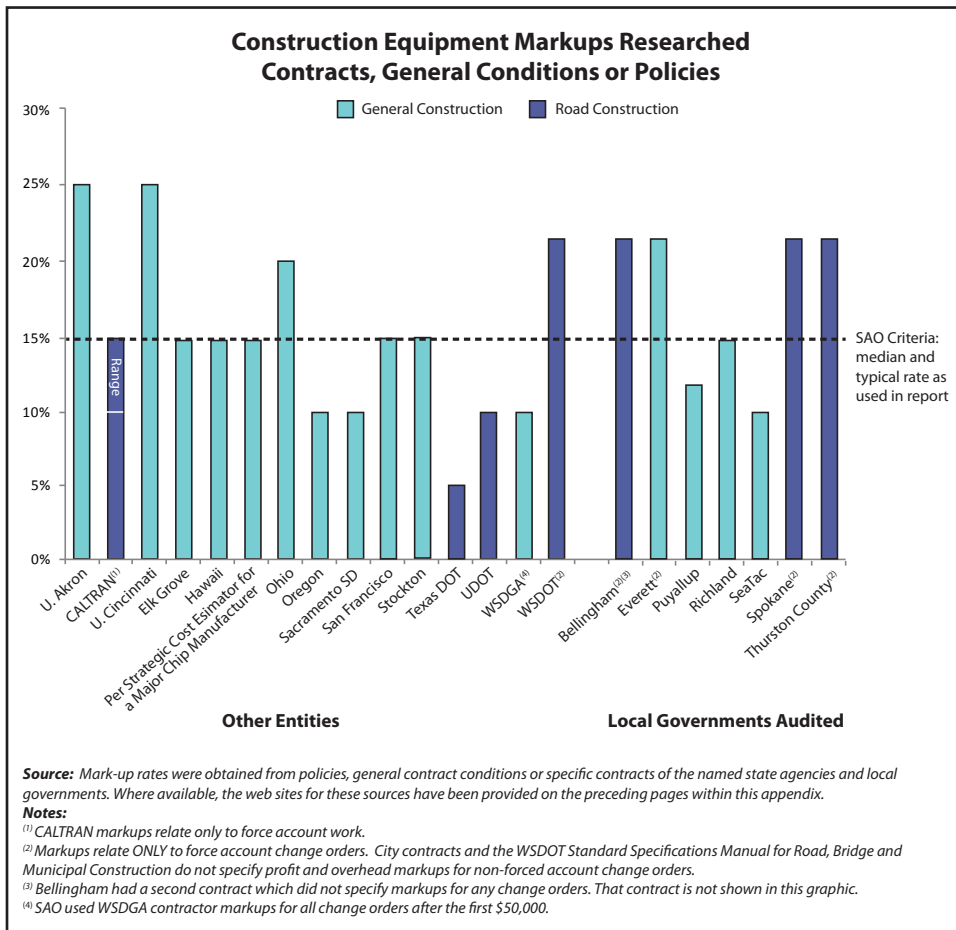
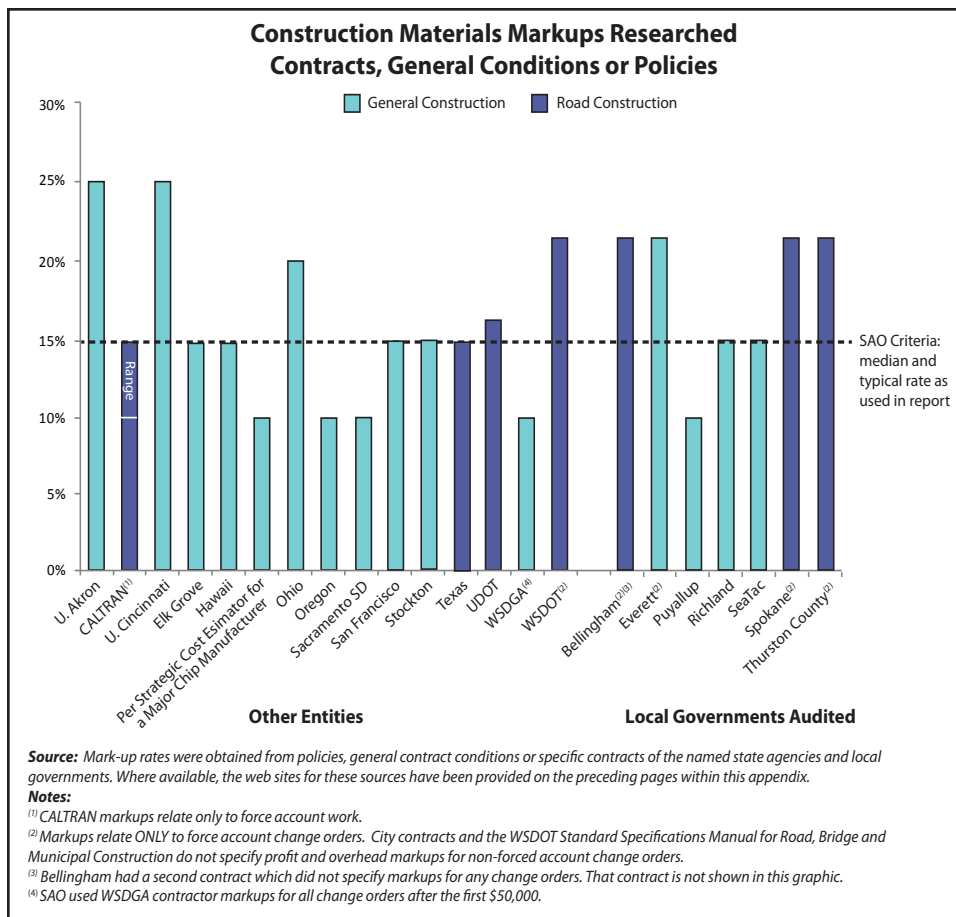
- **City of Stockton, California** – Modification Procedures.
- **University of Cincinnati** – Change Order Instructions. Available: <http://www.uc.edu/architect/documents/forms/external/Change%20Order.pdf>
- **City and County of San Francisco General Conditions**. Available: <http://www.sfdpw.org/Modules/ShowDocument.aspx?documentid=242>
- Contracts or other sources for markups used by the **Texas and California transportation departments**. Available: http://www.fhwa.dot.gov/ipd/p3/tools_programs/sep15_txtoll_application_13.htm and <http://www.dot.ca.gov/hq/construc/cpb/CPB08-6.pdf>
- **“Performance Audit – Washington State Department of Transportation – Highway Maintenance and Construction Management – Report 1000009.”** Published by the Washington State Auditor’s Office in January 2008. Page 181. Available: <http://www.sao.wa.gov/auditreports/auditreportfiles/ar1000009.pdf>
- **“Performance Audit – Mid-Columbia Public Utility Districts – Report 1003384.”** Published by the Washington State auditor’s Office in May 2010. Criteria at page 166. Available: <http://www.sao.wa.gov/AuditReports/AuditReportFiles/ar1003384.pdf>
- **“Performance Audit - King County Rural Library System Construction Management”** – Report No. 1001408. Finding No. 6, page 34. Published by the Washington State Auditor’s Office in May 2009. Available: <http://www.sao.wa.gov/auditreports/auditreportfiles/ar1001408.pdf>

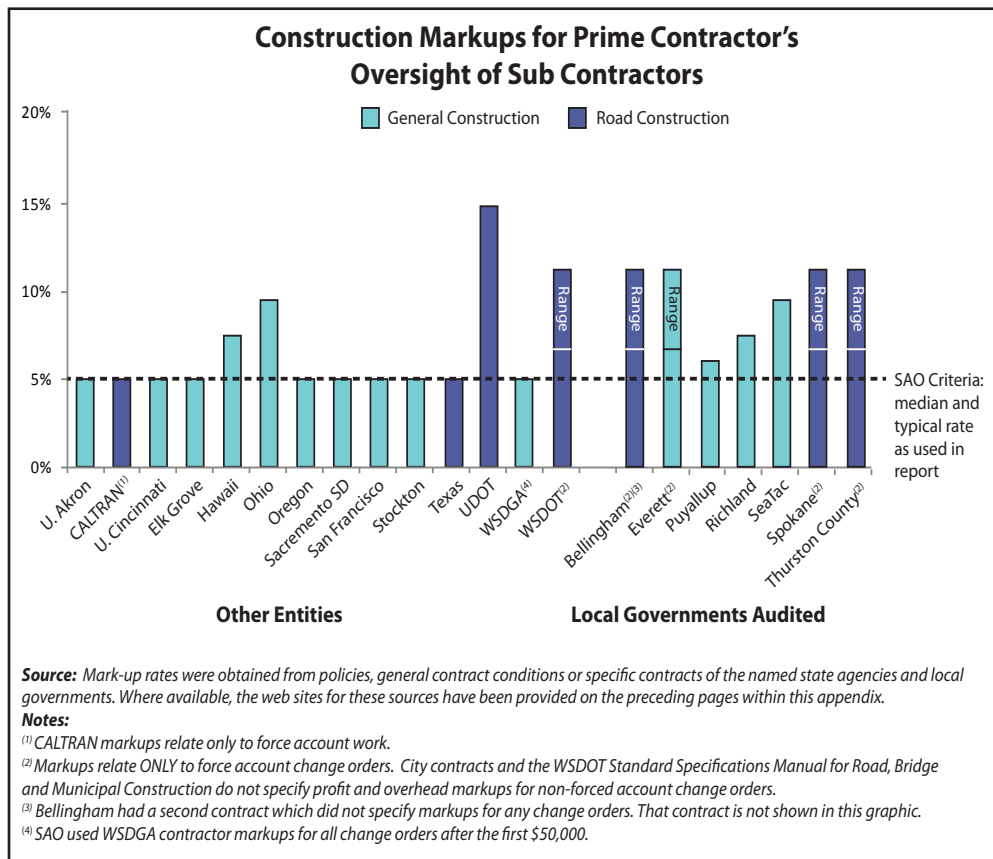
The charts that follow show the typical profit and overhead rates we identified for construction contracts.

These rates were obtained from policies, general contract conditions or specific contracts of the agencies and local governments shown below. Because we did not audit a construction contract at the City of Shoreline, it is not shown in the charts below. The typical markup rates were used to determine the amount of potential savings cited in this report. All local governments can use these charts to assess whether the markups they pay exceed the more typical rates we identified.

With one exception, the typical markup rate equals the average markup rate for those agencies and local governments shown below. During the audit, one local government voiced concern about the use of the prevailing wage rate as a pricing benchmark for labor charges since some contractors may pay higher wages. We have addressed this concern in two ways. Immediately below **Exhibit 2**, we describe an alternative pricing benchmark used by the Washington State Department of General Administration. We have also set the typical markup rate for labor to the rate used by the Washington State Department of Transportation, which is slightly higher than the average markup rate we identified.







APPENDIX D: GLOSSARY

Architectural and engineering (A&E) services. Professional services rendered by any person, other than an employee of the agency, contracting to perform activities within the scope of the general definition of professional practice in RCW chapters 18.08, 18.43 or 18.96. In this audit, A&E services consisted of designing the project specifications used to issue bid solicitations, or managing the construction contract/contractor on behalf of the city or county (typically referred to as construction management or construction oversight services).

Business & Occupations (B&O) tax. A gross receipts tax levied by the state of Washington based on the value of products, gross proceeds of sale or gross income of the business.

Change order. A modification of the original contract that becomes part of the overall contract. Change orders may increase or decrease the sum of the original contract. Change orders may increase, decrease or modify the nature and timing of the work; change the quantity or type of materials used; and, in some instances, change the prices charged for labor and materials.

Force account work. Work ordered by the owner without prior agreement with the contractor. In these situations, the local government reimburses the contractor on an agreed time-and-materials basis, plus markups for profit and overhead. This approach is typically used when work can't be easily or accurately estimated or under emergency conditions. In its Construction Manual, the State Department of Transportation indicates that force account change orders should be a last resort, used only if the work cannot be clearly defined. In contrast, routine change orders establish an up-front agreement on the work to be performed and its cost. Because it is on a reimbursement basis, it is important for local governments to closely manage contractor work performed by force account. The Transportation Department's Construction Manual identifies routine change orders as the best option for controlling the cost of change orders.

General Contractor/Construction Manager (GCCM) model. A management model in which the project owner selects an architect/engineer to design the project and separately selects a GCCM to participate in the design process and to serve as the general contractor. The GCCM assumes the risk for completing the construction project at a guaranteed price and helps the owner evaluate costs, project schedules and implications of alternative designs, systems and materials during and after the design process. GCCMs are selected based on qualifications and experience, and the project price they cite in their proposals. Contracts that use this approach are referred to as **GCCM contracts**.

APPENDIX E: TRANSPORTATION DEPT. MARKUPS

The State Department of Transportation's *Standard Specifications Manual for Road, Bridge and Municipal Construction* identifies markup rates for force account change orders. In this audit, we observed that some cities and counties automatically use this source to guide markups for all change orders, including those that are not force account work or are not funded by the Department.

The *Standard Specifications Manual* contains the following discussion:

1-09.6 Force Account

...The amount to be paid shall be determined as described in this section.

1. For Labor...*In addition to compensation for direct labor costs defined above, the Contracting Agency will pay Contractor 29-percent of the sum of the costs calculated for labor reimbursement to cover project overhead, general company overhead, profit, bonding, insurance ..., Business & Occupation tax, and any other costs incurred. This amount will include any costs of safety training and health tests, but will not include such costs for unique force account Work that is different from typical Work and which could not have been anticipated at time of Bid.*

2. For Materials...*In addition to compensation for direct materials cost, the Contracting Agency will pay the Contractor 21-percent of the sum of the costs calculated for materials reimbursement to cover project overhead, general company overhead, profit, bonding, insurance..., Business & Occupation tax, and any other costs incurred.*

3. For Equipment...*The Contracting Agency will add 21 percent to equipment costs to cover project overhead, general company overhead, profit, bonding, insurance, required by Section 1-07.10 and 1-07.18, Business & Occupation tax, and any other costs incurred. This markup will be over and above those equipment costs and will not be adjusted for any equipment overhead amounts included in the Blue Book rates. Copies of the AGC/WSDOT Equipment Rental Agreement will be maintained on the Contracting Agency's web site at www.wsdot.wa.gov.*

For Contractor Markup on Subcontractor's work: *When Work is performed on a force account basis by one or more approved Subcontractors, by lower-tier subcontractors or suppliers, or through invoice by firm(s) acting in the manner of a Subcontractor, the Contractor will be allowed an additional markup ... to compensate for all administrative costs, including project overhead, general company overhead, profit, bonding, insurance ..., Business & Occupation tax, and any other costs incurred.*

Markups on Work Performed by Subcontractor(s):

(1) On amounts paid for Work performed by each Subcontractor on each force account ... up to \$25,000 12 percent (2) On amounts greater than \$25,000 up to \$100,000 10 percent (3) On amounts greater than \$100,000 7 percent...

Department engineers said the markups identified in the *Standard Specifications Manual* are required **only** for change orders done by force account, which is typically performed under emergency-like conditions or cannot be easily estimated. The work is ordered by the owner, who reimburses the contractor for ALL costs associated with the work on a time and materials basis, plus markups for profit and overhead. The Department's "Construction Manual" indicates that force account change orders should be a last resort used only if the work cannot be clearly defined. In contrast, routine change orders establish an up-front agreement on the work to be performed and the cost of that work. Transportation identifies routine change orders as the best option for controlling the price of change orders. Except for the markups on labor, its markups for force account work are more generous than the typical markups we identified for change orders. In fact, the Department indicates in its "Guide to the WSDOT Construction Change Order Process" that "use of Force Account markups for overhead and profits should not be automatic. These markups may not be appropriate for [all] change work." It states in its *Standard Specifications Manual* that for change order work that is not performed by force account or is not based on unit prices, local governments may use "other agreed upon prices".

APPENDIX F: DETAILED AUDIT RESULTS

City of Bellingham

Background

We reviewed larger change orders for two projects: a \$1.5 million building renovation and a \$5 million street improvement. In both cases, the change orders we reviewed represented more than 10 percent of the original contracts.

Overall, the City followed or partly followed most leading practices for the contracts and change orders we examined. It hired outside experts to help ensure change orders were sufficiently detailed, fairly priced and consistent with one contract. For both contracts, the City consistently obtained change orders for all additional work. For one contract, the City pre-established pricing and rates for force account change orders and for unit-priced work that was similar to that contained in the original bid. That same contract also required the contractor to submit itemized change orders for force account work. Most change orders for one contract also were appropriately based on unit prices or were sufficiently itemized, and labor charges on change orders tested were at the prevailing wage rate.

The results of our review are described separately for each project below.

Federal Building Renovation Project

The Federal Building renovation original contract price was \$1.5 million. Change orders totaled \$379,000. The change orders we reviewed were primarily for window repair and replacement and telecommunications.

City officials told us because they are less experienced in managing building construction projects, they contracted with A&E firms to oversee the contract and scrutinize change-order pricing. The City project engineer approved change orders based on the A&E firm's recommendations and supporting documentation.

We noted the City could improve its practices for controlling the price of change orders as follows:

Establish labor rates, materials pricing and markups in the original contract for subsequent change orders. The City incorporated language from the American Institute of Architects (AIA) A 201-1997 General Conditions in developing the initial contract. Contract terms call for "agreed upon" prices to be paid for labor, materials and equipment, and "reasonable" markup rates, but do not establish how change orders would be priced.

Specify the level of scrutiny the City expected the A&E firm to provide over change order prices, and conduct periodic spot-checks of the A&E firm's work. The City's contract with its A&E firm did not specify the level of scrutiny required. In addition, the City lacked records showing the firm had evaluated change order pricing, and staff did not spot-check the work of the A&E firm to ensure it had obtained the detailed information needed to provide the expected level of scrutiny.

Obtain itemized change order proposals for additional work or materials. The City did not obtain itemized change order proposals for \$275,000 of the \$303,000 in subcontractor charges for materials and labor. For about \$200,000 of these charges, the City mostly paid a competitive unit-price based on our review of three vendor price quotes. For the remaining \$75,000 in charges, neither the City nor our auditors could determine whether the prices paid were in line with typical rates we identified.

Pay typical rates for markups on overhead and profit. For the change order we reviewed, the City paid the prevailing wage rate for labor charges. However, it also paid the overhead and profit markup rates proposed by the contractor. For example, the City paid the \$450 in bonding and B&O taxes although these amounts typically are covered by common overhead rates. It also paid \$5,495 for the site superintendent's direct labor, even though this cost typically already is paid for in markups on direct labor. Those rates and charges resulted in profit and overhead charges that were about \$40,000 higher than the more common markup rates we identified.

Exhibit 6 City of Bellingham Federal Building Renovation, Change Orders No. 3, 5 and 6				
Type of expenses	Category total	Amount unable to audit ^(1*)	Amount audited	Potential savings
Labor	\$1,706	\$0	\$1,706	\$0
Materials, equipment and credits	\$916	\$0	\$0	\$0
Markups	\$56,516	\$0	\$56,516	\$40,167
Sub-contractor charges	\$303,067	\$74,555	\$199,426	\$0
Total	\$362,205	\$74,555	\$257,648	\$40,167
Source: City change orders and contract files. Notes: ^(1*) The change orders lacked detailed costs and prices for nearly \$75,000 in subcontractor charges for labor and materials. As a result we could not determine whether the City paid more than typical rates for these charges.				

Sunset Drive Project

The Sunset Drive Improvement Phase II project was for street improvements at an original contract price of \$5 million and change orders totaling \$722,000. After the project began, the City decided to replace additional water and sewer lines. We evaluated a nine-part change order totaling \$590,000 for a water main extension. We noted the City could improve controls over the price of change orders in four areas:

Establish labor rates, materials pricing and markups for subsequent change orders. The contract required unit prices from the original bid to be used to price change orders where more of the same work was being added. It also pre-established rates and prices for labor, materials and markups for force account change orders. However, it did not address the pricing of new materials or limit labor and markup rates for regular change orders.

Allow unit pricing only when appropriate, and for other change orders obtain detailed cost information for labor, materials, equipment and overhead markups. Almost \$495,000 of the contractor's proposed charges for the additional work used unit prices (cost per square foot), and did not separately detail the costs and pricing for labor and materials.

Leading practices say that unit pricing is appropriate when it is tied to prices in the original contract or to unit prices for similar, recently bid work. However, the unit prices the contractor submitted for most of this change order were for different work and were significantly higher than the prices specified in the original contract. For example, the combined pricing for labor and materials in one case was \$56 per square foot in the original contract versus \$91 in the change order, and in another case was \$29 per square foot versus \$285 in the change order. These differences would have been even greater, but the City reduced the price the contractor initially proposed for the additional line replacements. City engineers indicated the prices were higher because the additional work was more complicated. However, without detailed cost and pricing information about the work performed, neither the City nor our auditors could determine whether the amount the City paid was reasonable.

Compare change order costs against vendor quotes, invoices, original contract prices, contractual caps or limits, benchmarks, or typical rates. The contractor provided detailed pricing information for nearly \$76,000 in charges for this change order. However, as with the \$495,000 discussed above, the City lacked evidence to show it consistently reviewed that pricing to ensure it did not pay too much. The City lacks policies and guidance describing how project managers should review change order pricing.

Pay typical rates for labor, and markups on overhead and profit. Because the City established unit prices for the change order we examined, which combined all labor, materials, equipment costs and overhead and profit markups into a single rate (a price per square foot), the City and our auditors could not determine the total markups paid. For the nearly \$76,000 we reviewed, the City paid nearly \$16,000 in direct charges for bonds and insurance costs. These costs typically are included in the profit and overhead markups built-in to unit prices. The City also paid labor rates that were slightly higher than the prevailing wage and payroll taxes.

Exhibit 7 City of Bellingham Sunset Drive Improvement, Change Order No. 1				
Type of expenses	Category total	Amount unable to audit	Amount audited	Potential savings
Labor	(1)	(1)	\$ 8,371	\$117
Materials and equipment	(1)	(1)	\$52,024	\$0
Markups	(1)	(1)	\$15,553	\$15,553
Total	\$590,000	\$495,015	\$75,948	\$15,670
Source: City change orders and contract files. Notes: (1) Amounts could not be determined because the contractor submitted unit prices (e.g., cost per square foot) for almost \$495,000 of the additional work to be performed under the change order. The unit prices did not break out detailed costs and pricing for labor, materials and overhead. As a result, we could not break these costs down by category, and could not determine whether the City paid more than typical rates.				

City of Everett

Background

At the City of Everett, we audited larger change orders for a \$1.5 million water filtration plant and water transmission line projects and a \$2.6 million sewer system replacement project. We selected these contracts because their change orders exceeded the original contract amounts by more than 10 percent.

Overall, Everett followed or partly followed most leading practices for the contracts and change orders we examined. Everett was the only local government we examined that had records showing it had negotiated the contractor's proposed change order amount down before agreeing to pay. The City pre-established pricing and rates for force account change orders and for unit-priced work that was similar to that contained in the original bid. Its construction contract also required the contractor to submit itemized change orders for force account work. The City obtained itemized costs for most of its construction change orders. Labor charges on the construction change orders we examined only minimally exceeded the prevailing wage rate. Increases in the A&E firm's labor rates only minimally exceeded the annual inflation rate for A&E services as shown in the Producer Price Index.

Clearwell Water Project

Everett used an outside architectural and engineering firm to manage construction contracts for the Clearwell Water Filtration Plant and Water Transmission Lines, which had original contracts totaling \$1.5 million and change orders totaling \$3.9 million. The original A&E services were mostly for project planning, but the amendments were largely for project support and construction oversight. The City used a standard contract template for its professional services on the project.

Based on our review of this contract, we noted the City could improve its practices for controlling the price of change orders in the following areas:

Require A&E contracts and change orders with detailed costs. The contracts and change orders we examined combined hourly labor rates, overhead rates and profit. As a result, the contracts and change orders did not show whether the City was charged reasonable profit and overhead rates for the original contract or for the change orders.

Establish labor escalation rates in the original contract. The original contracts did not limit labor rate increases the A&E firms could charge on change orders or rates for mileage and overhead. The City's Principal Engineer said he considered a 5 percent annual salary increase to be reasonable.

Pay reasonable and typical rates and prices and conduct detailed reviews to avoid overpaying. The increases in some labor rates charged as part of the change orders we reviewed exceeded the City's expectation of 5 percent as well as the Producer Price Index. Holding labor rate increases to 5 percent would have reduced change order prices by \$21,546. Holding them to the Index would have reduced them by almost \$57,000. We also found the City paid \$2,593 in markups for administrative costs that exceeded the \$7.44 per hour allowed in the contract.

Exhibit 8 City of Everett Clearwell No. 2 Project at Water Filtration Plant, Change Orders No. 1 and 2 and Replacement Water Transmission Lines 2 & 3, Change Order No. 4				
Type of expenses	Category total	Amount unable to audit ⁽¹⁾	Amount audited ⁽¹⁾	Potential savings
Labor, profit and overhead	\$2,579,795	\$0	\$1,605,991	\$21,546 - \$56,620
Markups	\$54,585	\$0	\$54,585	\$2,593
Total	\$2,634,380	\$0	\$1,660,576	\$24,139 -\$59,213
Source: City change orders and contract files. Notes: ⁽¹⁾ Hourly rates in the City's contract consisted of a combined rate for labor, profit and overhead, but the contract did not break out the three types of expenses. We were able to identify the escalation in these combined rates but could not evaluate the profit and overhead components to determine whether the City paid more than typical rates.				

Sewer System Project

The original contract for the Sewer System F Replacement project was \$2.6 million. Change orders totaled \$386,000. City staff managed the construction contract. Change orders were for additional labor required because of delays in obtaining permits and unanticipated soil conditions. Additional labor, parts and materials were necessary because of design changes at one of the lift stations.

We noted the City could improve its practices for controlling the price of change orders as follows:

Establish guidelines for evaluating change order prices, and require contractors to submit change order proposals with detailed pricing for labor, materials and markups. The City did not require contractors to submit change order proposals with detailed pricing for labor, materials, equipment and markups. It does not have guidelines for evaluating change orders. The nature and extent of these evaluations were left to the discretion of each department. However, City staff stated they would request detailed cost information on lump-sum change order proposals if the proposals did not appear to be reasonable.

The contractor prepared rough descriptions of some labor and equipment charges for one change order we reviewed. Those descriptions were not always specific enough to determine whether the City paid more than typical pricing benchmarks. For two of the three work items we examined, the City developed its own general estimates of what costs should be under the change orders, and analyzed a breakout of costs obtained from the contractor before agreeing to pay them.

Establish limits on labor rates, materials pricing and markups in the original contract for subsequent change orders. The initial contract for this project required unit prices from the original bid to be used to price change orders where more of the same work was being added. It also pre-established rates and prices for labor and materials for force account change orders. However, it did not address the pricing of new materials or limit labor and markup rates for regular change orders.

The City also allowed contractors to charge the markups allowed by the State Department of Transportation for force account work, which is described more fully in **Appendix B**. This approach is typically used when work can't be easily or accurately estimated or under emergency-like conditions. Although the Department's Construction Manual indicates these markup rates can also be used for regular change orders, it's *Guide to the Construction Change Order Process* cautions against doing so automatically. The Department's force account markup rates of 21 percent for materials and equipment, and 7 percent to 12 percent for oversight of subcontractors, are higher than typical markups of 15 percent and 5 percent, respectively. Those comparisons are shown in **Appendix D**.

Pay typical rates and prices. Contractor records showed that wages charged exceeded the prevailing wage plus payroll taxes by \$441. Had the City paid more typical mark-up rates for profit and overhead for this project, it would have paid about \$4,600 less.

Exhibit 9 City of Everett Sewer System Replacement "F" Project, Schedule A, Change Order 2, Item 61 - Change Order 3 - Items No. 67 and 68				
Labor	\$15,880	\$0	\$13,767	\$441
Materials and equipment	\$67,782	\$0	\$0	N/A
Labor and equipment	\$11,290	\$7,534	\$0	N/A
Markups	\$18,674	\$0	\$18,663	\$4,618
Total	\$113,626	\$7,534	\$32,430	\$5,059
Source: City change orders and contract files.				

City of Puyallup

Background

We reviewed the larger change orders for a \$32.1 million City Hall construction contract. We selected this project because change orders exceeded the original contract by \$1.7 million and because it was the only contract identified across the eight local governments we audited that used the General Contractor/Construction Management (GCCM) model:

City Hall Construction project

This 2006-2008 contract was for construction of a new City Hall. The City relied on an A&E firm and a third-party construction management firm to review the pricing of change orders, which were mostly for tenant improvements and garage and elevator modifications.

Overall, Puyallup used most of the leading practices we identified. It was the only local government we examined that contractually required the construction contractor to submit proposed change orders with detailed costs and pricing. Puyallup also was one of the few municipalities whose construction contract limited the pricing of materials on all change orders. In addition, it hired outside experts to help ensure change orders were sufficiently detailed, fairly priced and consistent with the contract. Although we did not audit the contract and amendments for the construction management firm, we noted the City paid a reasonable overhead rate.

We noted the City could improve its practices for controlling change order pricing as follows:

Establish limits on labor rates, materials pricing and markups in the original contract for subsequent change orders. The City's contract specified the overhead markup rates to be paid for subsequent change order prices. Those rates allowed for a 32 percent overhead markup on labor and a six percent markup on subcontractor costs. The construction management firm said these markup rates were reasonable and similar to those used on other state projects. However, these rates were slightly higher than more typical rates we saw.

The contract allowed the firm to charge its actual labor costs because City officials thought they were obligated to pay the labor rates contractors paid. Consequently, the City paid the labor rates shown on certified payroll reports, which sometimes exceeded the prevailing wage rates.

Specify the level of scrutiny the City expected the A&E firm to provide over change order prices, and conduct periodic spot-checks of the firm's work. The contracts for the City's A&E and construction management firms did not specify the level of pricing scrutiny the City expected. Without that language, the City has less assurance that the firms will perform the work expected.

Compare change order costs against vendor quotes, invoices, original contract prices, contractual caps or limits, benchmarks, or typical rates. The A&E and construction management firms did not always obtain itemized change order proposals. When materials were charged on change orders, the City's contract with the GCCM contractor required an itemization and materials invoices that showed the quantity and cost of additional materials reasonable and necessary to perform the change in the work. However, two change orders lacked detailed costs and pricing for almost \$104,000. As a result, the City had no way of knowing whether it received good pricing for materials, labor and equipment.

Pay reasonable and typical rates and prices. If the City had paid more typical markup rates (29 percent for labor and five percent for subcontractor oversight), it would have paid about \$9,300 less.

The City also paid almost \$4,500 in overhead markups for performance bonds that ranged up to 2 percent of direct costs, even though the contract obligated the contractor to pay them. The City paid those charges without verifying that the contractor obtained the additional bonding. Moreover, had the City paid prevailing wages plus average payroll taxes, it would have paid about \$11,200 less.

Exhibit 10 City of Puyallup City Hall Construction, Change Orders No. 1, 4, 5, 7, and 9 - 13				
Type of expenses	Category total	Amount unable to audit ⁽¹⁾	Amount audited	Potential savings ⁽¹⁾
Labor	\$112,594	\$45,410	\$ 38,831	\$11,215
Materials	\$142,220	\$0	\$49,485	\$0
Bonds	\$4,490	\$0	\$4,490	\$4,490
Equipment and other costs	\$150,532	\$58,357	\$0	\$0
Other markups	\$ 87,618	\$0	\$8 7,618	\$9,327
Total	\$497,454	\$103,767	\$180,424	\$ 25,032
Source: City change orders and contract files. Notes: ⁽¹⁾ Because the change orders lacked detailed costs and pricing for \$103,767 in charges, we could not determine whether the City had paid more than typical prices or rates for these charges.				

City of Richland

Background

We reviewed one change order for a \$9.6 million contract for the City Library. We selected this project because the total cost of change orders exceeded the original contract amount by more than 10 percent.

City Library Construction project

The City Library was built in 2008 and 2009. The City relied on an A&E firm and a third-party construction contract manager to review the pricing of change orders. The change order we reviewed included 23 amendments totaling \$411,345 for materials, labor and equipment charges for a voice and sound system, street lights, tree removal and other items.

Overall, Richland followed or partly followed most leading practices for the contract and change orders we examined. Richland was the only city with a policy that required detailed supporting cost documentation for all contractor change orders, and a detailed review of that cost documentation. Richland was one of two municipalities that contractually required contractors to submit change orders with detailed costs and prices, which is critical to effectively review change order pricing. It also hired outside experts to help ensure change orders were sufficiently detailed, fairly priced and consistent with the contract. Richland's contract pre-established profit and overhead markups for change orders. In addition, it hired outside experts to review the pricing of change orders.

We noted the City could improve its controls over change order pricing as following:

Establish limits on labor rates, materials pricing, and markups in the original contract for subsequent change orders. Although the City's contract pre-established profit and overhead markups for change orders, it did not identify what overhead costs were covered by those markup rates. It also did not limit rates for materials or labor.

Specify the level of scrutiny the City expected the A&E firm to provide over change order prices, and conduct periodic spot-checks of the A&E firm's work. City officials said the project staff, its A&E firm and the third-party contract manager reviewed change order costs. They relied on the A&E firm and contract manager to scrutinize the pricing and supporting records, such as a list of labor hours, rates, and classifications or invoices for any charges related to materials or equipment rentals.

Although the contracts for A&E and third-party contract manager services did not specify the expected level of scrutiny over change-order pricing, the City provided evidence both parties had examined some change order costs. However, the City lacked documentation to show it checked the quality of that scrutiny.

Require itemized construction change order proposals and conduct detailed reviews of change orders to avoid overpaying. Detailed costs and pricing were not available for about \$133,000 in charges for this change order. For example, \$14,350 in charges for tree removal did not break out the rates and costs for labor and equipment. Also, \$30,655 in charges for the installation of a sound and voice system did not indicate the hours or labor rates charged. Without such detail, neither the contract managers nor our auditors could determine whether the City paid typical or pre-established rates and prices.

Pay typical rates and prices. The City’s overhead markup rate for the prime contractor’s oversight of the subcontractor’s work was 8 percent, higher than the more typical rate of 5 percent. Across all amendments, the City paid markups on direct costs and for oversight of the subcontractor’s work that totaled about \$24,000 more than it would have paid if it had used the more typical rates we identified.

Exhibit 11 City of Richland Library Construction, Change Order No. 6				
Type of expenses	Category total	Amount unable to audit ⁽¹⁾	Amount audited	Potential savings ⁽¹⁾
Labor	\$ 89,721	\$63,372	\$0	N/A
Materials	\$33,048	\$29,953	\$0	N/A
Equipment and other costs	\$221,534	\$40,006	\$0	N/A
Markups	\$67,042	\$0	\$67,042	\$23,917
Total	\$411,345	\$133,331	\$67,042	\$23,917
Source: City change orders and contract files. Note: ⁽¹⁾ Because the change orders lacked detailed costs and pricing for \$133,331 in charges, we could not determine whether the City had paid more than typical prices or rates for these charges.				

City of SeaTac

Background

We reviewed a change order related to a \$539,500 electrical contract for a fire station. We selected this contract because its change orders exceeded the original contract by more than 10 percent, and because it was part of a larger project managed by city staff.

Fire Station No. 46 Electrical

The City’s staff reviewed change order pricing for this contract. Change orders totaled \$82,000; the change order we reviewed totaled almost \$25,000 for electrical parts and labor associated with minor design changes required by project inspectors.

Overall, SeaTac used many leading practices we identified. SeaTac was the only city we examined whose construction contract limited the contractor’s profit and overhead markup on work and materials to a reasonable and typical rate. Labor charges on the change order we examined minimally exceeded the prevailing wage rate. The change order we examined itemized all costs for labor, materials and markups. The contract also clearly defined overhead costs that were addressed by those markups.

We noted the City could improve controls over change order pricing as follows:

Establish limits on labor rates, materials pricing and markups in the original contract for subsequent change orders. The City incorporated language from the American Institute of Architects’ A201/CMA – 1992 General Conditions into its contract. Those conditions call for “agreed upon” prices for labor, materials and equipment, or actual costs if there is a disagreement. The document also called for “reasonable” markup rates, but does not specify any amounts. The City edited those conditions to set limits on profit and overhead markup rates for direct costs and for oversight of subcontractors’ costs, but did not specify rates for direct labor, materials or equipment, increasing the risk that the City will pay more than typical rates.

Although its markup for oversight of subcontractors was 10 percent, which is twice the typical rate we identified, there were no subcontractor charges on this change order. Its other markup rates for direct costs were consistent with typical rates.

Require itemized construction change order proposals. Although the change order we reviewed contained detailed costs and pricing, neither the City’s contract nor its policies required this from contractors.

Pay typical rates and prices. The City lacks policies and guidance describing how project managers should review change order pricing. It paid labor costs that exceed the prevailing wages plus average payroll taxes by about \$1,100.

Exhibit 12 City of SeaTac Fire Station No. 46 Electrical, Change Order No. 4				
Type of expenses	Category total	Amount unable to audit	Amount audited	Potential savings
Labor	\$17,676	\$0	\$17,676	\$1,073
Materials	\$4,581	\$0	\$0	\$0
Markups	\$3,338	\$0	\$3,338	\$0
Credits	(\$775)	\$0	(\$775)	\$0
Total	\$24,820	\$0	\$20,239	\$1,073
<i>Source: City change orders and contract files.</i>				

City of Shoreline

Background

We reviewed most of the change orders for a \$50,000 contract for initial architectural and engineering design services for a road improvement project. This project was funded in part by Washington State Department of Transportation. As such, the City was required to follow the state Transportation Department's Local Agency Guidelines Manual. We selected this contract because its amendments significantly exceeded the original contract.

Initial Design Services for the Aurora Corridor Improvement Project

The City contracted with an A&E firm in 2007 to help design the Aurora Corridor Project. The original \$50,000 contract was for survey work and other preliminary design tasks. Change orders totaling \$5.3 million were mostly for the final design. The contract did not include construction management.

Overall, Shoreline followed almost all the leading practices we identified to help control the price of change orders. The contract and all amendments specified the overhead, profit and labor rates the City would pay for each firm member who worked on the contract. It was one of two cities we examined with a contract that limited the labor rates charged on change orders. Because the contract was expected to last more than one year, it included a yearly escalation rate of 5 percent for labor costs. We examined A&E contracts at two cities, and only Shoreline's contract identified and limited profit and overhead charges. The City paid profit markups that were less than the typical 15 percent rate. Because its contract was funded by the Transportation Department and the Federal Highway Administration, the City appropriately paid the A&E firm's audited overhead markup rates. Its contract amendments contained fully itemized costs.

We noted the City could improve its practices for controlling the price of change orders in the following areas:

Conduct detailed reviews of change orders to avoid overpaying. The City lacks policies and guidance describing how project managers should review change order pricing. It did not thoroughly monitor the escalation in some labor rates from one amendment to the next to see that increases exceeded the contract rate. We also identified two amendments in which the subcontractor had increased its labor rates by 5 percent, even though that change order came in just one month after the initial contract had been signed. If the City had paid the rates specified in the contract, it would have spent about \$4,700 less.

Exhibit 13				
City of Shoreline				
Initial Design for Aurora Corridor Improvement Projects, Change Orders No. 1-8				
Types of expenses	Category total	Amount unable to audit ⁽²⁾	Amount audited	Potential savings
Labor	\$1,709,211	\$0	\$1,556,747	\$4,746
Fixed fee	\$505,928	\$0	\$505,928	\$0
Overhead	\$2,796,761	\$0	\$2,796,761	\$0
Reimbursable	\$212,971	\$0	\$0	\$0
Markups	\$41,146	\$0	\$41,146	\$0
Total	\$5,266,017	\$0	\$4,900,582	\$4,746
<i>Source: City contract amendments and contract files.</i>				

City of Spokane

Background

We examined larger change orders for a \$5.1 million road improvement project. We selected this project to assess how the City was using its database of historical unit prices to review change order pricing.

Austin Road Improvements

The State Department of Transportation paid for this contract for improvements from 5 Mile Road to Austin Road. The original contract was for \$5.1 million, and contract amendments totaled \$119,000. The City's staff reviewed the pricing of the change orders and did not use an A&E firm to manage the project. The change orders added labor hours to accelerate project completion, equipment related to an adjacent transmission line, and excavation, dirt hauling and crushed rock.

Overall, Spokane followed most of the leading practices we identified. The contract established pricing and rates for force account change orders and for unit-priced work similar to that contained in the original bid. It also required the contractor to submit itemized change orders for force account work. Spokane was the only city examined that limited the labor rates charged on change orders to prevailing wage. It obtained itemized change orders or used unit prices when appropriate. Spokane also maintains a database of historical unit prices it uses to review change order pricing. For units of work that differed from those in the original bid, the City carefully compared the prices proposed by contractors to unit prices in its historical database that had been established through competitive bidding. The City paid reasonable prices for the change orders we examined.

Although the City took many steps to minimize change order costs, we noted it could strengthen practices in the following areas:

Establish limits on labor rates, materials pricing and markups in the original contract for subsequent change orders. The City's contract did not:

- Establish labor rates for regular change orders. However, labor charges for the regular change order we examined were at the prevailing wage.
- Limit the pricing for materials for regular change orders. But there were no materials charged for the regular change order we examined.
- Specify markups for regular change order. But the City did pay any markups on the regular change order we examined.

Establish guidance for staff's review of change order pricing. The City also lacks policies and guidance describing how project managers should review change order pricing.

Exhibit 14 City of Spokane Five mile road from Austin Road, Change Orders 10, 12 and 18				
Types of expenses	Category total	Amount unable to audit	Amount audited	Potential savings
Labor ⁽¹⁾	\$33, 073	\$0	\$33,073	\$0
Units of work ⁽²⁾	\$37,637	\$0	\$37,637	\$0
Total	\$70,710	\$0	\$70,710	\$0
Source: City change orders and contract files. Note: ⁽¹⁾ The labor rates for this change order were at the prevailing wage, but we did not evaluate whether the amount paid for payroll taxes was reasonable. ⁽²⁾ These change orders were based on careful selections of unit prices from past projects.				

Thurston County

Background

We reviewed the larger change orders for a \$3.2 million road construction project funded in part by Washington State Department of Transportation. As such, the County was required to follow the Department's *Standard Specifications Manual for Roads, Bridges and Municipal Construction*. We selected this project because the cost of the additional work exceeded the original contract by more than \$1.2 million.

Bald Hills Road Improvements

For this project, the County's staff reviewed the pricing of change orders and did not use an A&E firm. Change orders primarily were for roads, excavation, fencing and fence installation. The original contract was signed in July 2007 and most additional work was done in 2008.

Overall, the County incorporated most leading practices and paid typical prices or rates for most of the additional work. The construction contract established pricing and rates for force account change orders and for unit-priced work similar to that contained in the original bid. The contract also required the contractor to submit itemized change orders for force account work. The County was the only municipality that tied materials prices to an inflation index. In addition, the prices it paid for the additional work performed were in line with typical prices and rates.

We noted the County could improve its practices for controlling the price of change orders in the following areas:

Establish limits on labor rates, materials pricing and markups in the original contract for subsequent change orders. Although the County's contract established rates for force account change orders and for unit-priced work that was similar to the original bid, it did not set pricing and rates for regular change orders.

Obtain change orders for additional work performed or materials used beyond what was called for under the original contract. The County did not get change orders for almost \$970,000 of the \$1.2 million in additional work performed. Our review showed that all these charges appeared to be reasonable. For example, about \$702,000 of these charges related to unit prices for additional work (e.g., cost per square foot) that were tied to unit prices in the original contract.

Thurston County's practice in this area was consistent with Section 1-04.6 of the Transportation Department's *Standard Specifications Manual*, which allows but does not require written change orders for additional work priced by unit when quantities do not change by more than 25 percent from the original contract. However, leading practices suggest written change orders are important for ensuring that costs and quantities are reasonable and controlled, and for tracking changes to the original contract.

Obtain detailed prices or rates for labor, materials, and equipment and overhead markups in the change order when it is not appropriate to use unit pricing for that work. The contractor submitted change orders for almost \$238,000. For about \$220,000 of that work, the contractor used unit prices when it may not have been appropriate to do so. The County and contractor jointly established the unit prices for this additional work, but it was not tied to unit-priced work in the initial contract, and there was no documentation showing that those unit prices related to similar recent work. As a result, neither the County nor our auditors could determine whether the County paid typical prices and rates for this work.

The remaining \$18,000 of that work also was based on unit prices. Our comparisons showed the County paid the same unit prices as contained in the original contract.

Conduct detailed reviews to avoid overpaying. For the force account work it paid for, the County paid a higher overhead markup rate than established by the Transportation Department's *Standards Specifications Manual*. That Manual indicates the markup rate for the prime contractor's oversight of subcontractors for force account work is 12 percent. The County paid 21 percent, contributing to the slight overpayments in markups. The County lacks policies and guidance describing how project managers should review change order pricing.

Exhibit 15 Thurston County Bald Hill Road Improvement, Change Orders 2 - 10 and additional work done without change orders				
Types of expenses	Category total	Amount unable to audit	Amount audited	Potential savings
Materials, equipment, labor, markups and units of work	\$945,547 ⁽¹⁾	\$219,863 ⁽²⁾	\$737,033 ⁽³⁾	\$0
Labor	\$9,728	\$0	\$9,728	\$0
Materials	\$9,912	\$0	\$9,912	\$0
Materials pricing adjustment	\$226,697	\$0	\$226,697	\$0
Equipment	\$9,083	\$0	\$9,083	\$0
Markups	\$7,099	\$0	\$7,099	\$197
Total	\$1,208,066	\$219,863	\$999,552	\$197
Source: City change orders and contract files. Note: ⁽¹⁾ Includes \$11,349 in credits that were not audited. ⁽²⁾ For the \$219,863, we could not determine whether the County paid more than typical rates and prices. ⁽³⁾ \$702,000 of this work was performed without a change order.				

STATE AUDITOR'S OFFICE CONTACTS

State Auditor Brian Sonntag, CGFM

(360) 902-0361

BRIAN.SONNTAG@SAO.WA.GOV

Larisa Benson

Director of Performance Audit

(360) 725-9720

LARISA.BENSON@SAO.WA.GOV

Mindy Chambers

Director of Communications

(360) 902-0091

MINDY.CHAMBERS@SAO.WA.GOV

To request public records from the State Auditor's Office:

Mary Leider

Public Records Officer

(360) 725-5617

PUBLICRECORDS@SAO.WA.GOV

General information

Headquarters

(360) 902-0370

Website

www.sao.wa.gov

Twitter

@WASateAuditor

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