

Construction project documentation 101: Put it in writing!



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Perhaps the most fundamental aspect of proper construction project documentation is to do just that—actually document the various aspects of the project (e.g., the agreement, changes to the agreement, notices, claims, and other major milestones). What should you document, how should you do it, and why?

The following are a few of the types of issues on commercial construction projects that should always be reduced to writing:

1. **The contract, subcontract, and/or purchase order.** This should go without saying, but the agreement between the contractor and the owner needs to be in writing, as does the contract between the general contractor and its subcontractors. Doing business without a written contract is asking for trouble. Take the time to reduce the agreement to writing so that all of the terms are clearly stated and the parties know what they are agreeing to.
2. **Change orders.** Do not rely on verbal commitments as to change orders on the project; doing so can only result in negative impact to your bottom line without a clear argument as to why the original agreement was being changed in the first place. If you're the contractor, you may find yourself at the end of the project with subcontractors owed money for extra work that you cannot recover from the owner because you didn't get the change order in writing. The original contract may even require change orders to be in writing and failure to get them in writing can result in waiver of a claim. Even if you can't agree as to the terms of a change order, document that you've issued a request for a change order and send the proposed change order to the owner via email. Further, refer to the original contract for guidance on how to proceed with the claim for extra work if the owner does not agree to sign the change order.
3. **Acceptance of alternates.** Get the owner's acceptance of alternate materials or changes in the scope of work in writing. If there was a conversation as to the acceptance of a proposed alternate where the owner agreed to the alternate, follow up that conversation with an email documenting what was discussed and the ultimate agreement as to the alternate. Finish the email by stating that you (the contractor) intend to proceed with installing the alternate based upon the owner's agreement and will proceed with doing so unless instructed otherwise in writing. This will minimize the owner's ability to come back later and claim that you did not meet the design specification failing to provide the materials specified on the plans.
4. **Delay claims.** If you are being impacted on the project by adverse weather conditions, differing site conditions, or the owner itself, put the owner on notice of the delay in writing. Again, similar to change orders, your contract may require that these issues be raised in writing with the owner. A simple email notifying the owner that you are incurring delays, and the reason you are incurring such delays, is much better than having an elaborate verbal conversation with the owner without any kind of writing (email or otherwise) to confirm what was discussed.
5. **Detailed daily reports.** Having detailed daily reports that document the workforce on a the project, the equipment used, problems that arose during the course

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of the day, and other issues on the project are extremely helpful for construction attorneys in recreating the events leading up to or during a dispute on a commercial construction project.

The above list is by no means an exhaustive list of everything that deserves to be documented on a commercial construction project. But, it highlights some of the major holes that can easily be filled when it comes to project documentation on commercial construction projects.