

NCDOT / ACEC-NC / CAGC DESIGN-BUILD JOINT COMMITTEE - Meeting Minutes

Date: August 2, 2022 at 9:30 a.m.
Location: Go To Meeting
<https://meet.goto.com/662821245>
United States: +1 (872) 240-3212
Access Code: 662-821-245

Attendees:

- Teresa Bruton
- Ron McCollum
- Victor Barbour
- Todd Lapham
- Jim Seybert
- Sam Blevins
- David Gourley
- Tim McFadden
- Nilesh Surti
- Boyd Tharrington
- Malcolm Watson
- Michael Taylor
- Andy Barry
- David Pupkiewicz
- Olivia Cuthrell
- John Copeland
- Wiley Jones
- Lloyd Brown
- Kevin Bailey
- Travis Padgett
- Brian Banks
- Mike Zicko
- Dennis Jernigan
- Drew Baucom
- Mike Grey
- Stephen Roberts
- Mike Merritt

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- I. **Welcome and Introductions** (Teresa)
- II. **NCDOT / NCTA Items** (Teresa)

1. Announcements

- a. Stephen Roberts is the Committee's new ACEC Co-Chair
- b. Boyd Tharrington has been promoted to NCDOT Director of Field Support

2. Updates

- a. ROW Appraisals for Condemnations after Project Completion (James McGowan)
 - Condemnation rates for DB projects are approximately twice as high as regular centrally Let projects. The additional appraisals required during the condemnation process are sometimes needed while the project is still ongoing. Other times, second appraisals are needed after the Department has accepted the project. If the appraisers are not available to perform the second appraisals after the project is complete, an issue during the court proceedings is created (the court requires appraisals to be performed by the same appraiser).
 - The Department requested feedback regarding a potential change in the Right of Way SOW to eliminate the issue. Specifically, can the DB Team's appraiser be required to provide additional appraisal services during the condemnation process? It was noted that once the Department accepts a project and closes out the contract, the appraiser must be compensated through a separate contract. In addition, the appraiser can not be forced to accept work.
 - It was suggested that the Department remove an appraiser (not R/W firms) from the pre-qualification list if the appraiser does not perform adequately, including not developing the appraisals required for the condemnation process.



- Action Item: AGC and ACEC will evaluate the issue and provide feedback / recommendations to Victor Barbour or Stephen Roberts and they will forward to NCDOT. It was recommended that information be obtained from right of way consultants.

b. Utility Responsibilities - Clarification

(Todd Lapham)

- Issue: The relocation of wet utilities on private property are being handled differently in different Divisions. On some projects they are being relocated by the DB Team and on others they are being handled in the R/W agreement as a “cost to cure”. The main example discussed was backflow preventers that are typically located just inside the property line.
- The Department recommends that these relocations be performed by the DB Teams since their design can be modified to potentially avoid the relocations. Additionally, if the DB Team performs the relocations, they control the schedule and eliminate the risk that the property owner doesn't perform the relocation in a timely manner or doesn't perform the relocation at all.
- The Industry expressed concerns with performing site designs and coordinating approvals with municipalities and property owners.
- The Industry is also concerned with the risk involved, especially the uncertainty during the procurement process regarding the number of required relocations, the facility size and location, and the relocation timeframe. The Industry indicated that the risk would be minimized if the Department provided details on the required backflow preventer relocations during the procurement process (e.g., itemized list of parcels, size, location, etc.)
- A smaller sub-committee consisting of five - six participants from AGC, ACEC and NCDOT will be formed to discuss potential process modifications (including ROW consultants, utility designers, and NCDOT). The Industry will provide names to Victor Barbour and Stephen Roberts for forwarding to NCDOT.
- The Department has updated the Utility Manual which is located on the NCDOT Connect site. The Department indicated that future revisions are anticipated.

c. CPM Schedule

- NCDOT is considering requiring CPM schedules again. The main purpose is to help resolve issues so that the project schedule is not delayed, e.g., changes in scope, managing the complexity of the project, etc.
- A consultant is currently assisting the Department develop the draft CPM requirements / provision, which includes an evaluation of other states CPM requirements.
- The US 70 DB project, R-5777C, will be a pilot project for implementing the CPM requirements. The Department will evaluate the value of the CPM schedule for the R-5777C project; and, with assistance from the Industry, determine possible modifications for future Design-Build projects or if CPM schedules will be required on future projects.
- This announcement is more of an FYI of potential process modifications.



d. As-Constructed Drawings - NCDOT / DB Team Responsibilities

- NCDOT is still evaluating the NCDOT / DB Team responsibilities for As-Constructed Drawings.
- To be consistent with Design-Bid-Build projects, the Department is leaning towards requiring the CEI firm / Resident Engineer to develop the As-Constructed Drawings, but a final decision has not been made.

e. Fuel Usage Factor Chart and Estimate of Quantities - Clarification

- Issue: The fuel price adjustments are being applied differently in different Divisions. On some projects, the fuel price adjustments are applied to all quantities, regardless of the quantities shown in the Fuel Usage Factor Chart and Estimate of Quantities. On other projects, the fuel price adjustments are capped at the quantities shown in the Chart.
- NCDOT is going to clarify the language regarding the quantities that are subject to the fuel price adjustments. The following is an example of the language NCDOT is considering: "The quantity estimate in the Price Proposal shall be the final total quantity limit for which fuel price adjustments will be made for each item, regardless of supplemental agreements."
- The Industry expressed concern with limiting fuel price adjustments to the amounts presented in the Fuel Usage Factor Chart and Estimate of Quantities, "regardless of supplemental agreements". NCDOT indicated that fuel price adjustments should not be incorporated into minor supplemental agreements. However, fuel price adjustments may be appropriate for major supplemental agreements and the NCDOT would have the option to relax the "regardless of supplemental agreements" clause on a case-by-case basis.
- The Department requested any additional concerns / recommendations be forwarded to Victor Barbour for forwarding to the Department.

f. Grant Application Participation Restrictions

- NCDOT determined that if a PEF developed a grant application, the PEF will not be able to pursue that DB project. The Department determined that the project knowledge the PEF gained through the development process, especially through conversations with the Department and third-party stake-holders, would create an unfair advantage.

g. Erosion and Sedimentation Control

- Several years ago, the environmental agencies expressed concern with sediment loss on Design-Build projects and considered implementing additional requirements. As a result, the Department revised the SOW to add field inspections, and other criteria / devices specific to the different areas of the State.
- The Department requested feedback on any erosion issues / concerns on projects, especially in regard to the maintenance responsibilities of erosion control devices. The Department wants to be proactive in resolving any issues / concerns.



3. NCTA (Dennis)
- a. Mid-Currituck - NCDOT prevailed in the lawsuit in December. However, an appeal has been filed.
 - b. Phase II of Complete 540 - NCTA plans to address long lead times for materials prior to Letting.

III. **Upcoming Design-Build Projects (Reference Anticipated DB Project List)** (Teresa)

IV. **Carolina AGC Items** (Victor)

- 1. Progressive Design-Build Update
 - a. A smaller sub-committee plans to review and continue discussions on developing Progressive Design-Build policy and Procedures.
- 2. Railroad Coordination
 - a. A smaller sub-committee to review and continue discussions on improving the railroad coordination process.
 - b. The goal is to develop a process that defines a coordination process that streamlines the process and reduces the associated risk.

V. **ACEC Items** (Stephen)

- 1. ACEC Co-Chair and New Members
 - a. Stephen Roberts will serve as the ACEC Co-Chair.
 - b. New members include Dewayne Brown and Ryan Fisher
- 2. Process for Design Supplementals
 - a. ACEC requested that the Department consider developing a process for developing design supplemental that provides a consistent supplemental fee estimate process and shortens the review and approval duration.
 - For example, the NCDOT “kitchen sink” is not the appropriate tool for DB fee estimates...it is too restrictive, and the length of time to complete the negotiation varies greatly between Divisions.
 - The NCDOT indicated that it may be difficult for NCDOT to create a standard approach because each Division’s involvement varies, and the Design-Build Unit encourages their involvement.
 - The Department indicated that the OIG audited rates may be incorporated into design supplemental agreements since the associated risk is minimal.
 - ACEC plans to provide additional information and recommendations for NCDOT’s consideration.



3. Design-Build Submittal Guidelines

- a. NCDOT is coordinating a DB Submittal Guidelines update with the design units.
- b. NCDOT will allow the DB sub-committee to review the update prior to implementing. A timeframe for completion is currently not available.

4. Reduction of pursuit costs

- a. ACEC indicated that there are opportunities to reduce Technical Proposal costs, especially in Volume 2. For example, South Carolina requires the Technical Proposals to be in black and white.
- b. NCDOT indicated that the Evaluation Criteria indicates the specific items that must be included in the Technical Proposal. However, the Industry submits items that are not specifically required (e.g., entire set of cross sections, color copies, etc.).
- c. A comment was made that the Technical Proposal development cost is insignificant to the overall Design-Build procurement cost.
- d. ACEC plans to provide additional information and recommendations for NCDOT's consideration.
- e. The Department requested that all recommendations be accompanied by proposed penalties for non-compliance.

VI. Open Discussion / Ongoing Items

(Stephen)

1. ACEC member attendance at subcommittee meetings

- a. ACEC inquired about the possibility of opening the Subcommittee Meetings to any ACEC member that wants to attend
 - A potential concern is that the increased attendance may impact the efficiency of the meetings.
 - NCDOT indicated that when the Subcommittee was formed, ACEC restricted their membership to 12, with their members rotating on and off in three-year increments.
 - NCDOT does not oppose allowing additional ACEC members to attend, but restrictions may be necessary once the meetings return to in-person.

VII. Next Meeting

(Stephen)

1. Next Meeting Schedule:

- November 1, 2022
- February 7, 2023

VIII. Meeting Adjourn

