



STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION

ROY COOPER  
GOVERNOR

JAMES H. TROGDON, III  
SECRETARY

August 23, 2018

MEMO TO: Jeff Allen, Michael Alford, Dellon Baker, Carl Barclay, Delacy Bradsher, Chris Byers, Christopher Conerly, Shannon Douglas, Randy Garris, Shanese Green, Ron Hancock, Wiley Jones III, Bruce Hazle, Bo Hemphill, Scott Hidden, Brandon Hill, Ryan Ilg, Berry Jenkins, Ben Johnson, Steve Kite, Ben Lanier, Don Lee, Dan Lieberman, Clark Morrison, Brenda Moore, Dennis O'Connor, Michael O'Shields, Mark Perkins, John Pilipchuk, Glenn Pratt, Byron Sanders, Jeff Saunders, Ian Scott, Lamar Sylvester, Adam Tipton, Kevin Thomas, Dave Tolley, Brian Webb

FROM: R.E. Davenport, Jr., PE  
State Contract Officer

SUBJECT: NCDOT-AGC Roadway Subcommittee Meeting Minutes

The subject committee met on August 23, 2018 at 10:00 a.m. in the Riverwood Conference Room at the NCDOT Century Center.

**Guarantee on Bore and Jack Line Items**

**Brandon Hill**

Mr. Hill noted that bore and jack, tunneling, and possibly directional drilling is an issue because subcontractors are not clear on if the bore is guaranteed. In this context, a guarantee shifts the risk to the subcontractor so that if rock is encountered which is more difficult to bore or may require a different drilling process, the subcontractor guarantees that they will still deliver the boring and pipe placement as designed at the price quoted. Discussion centered around the change to one pay item from the previous two pay item approach of "in soil" or "not in soil" where the prices could be different if rock was encountered. The move to one pay item correlated with the Department's effort to provide boring analysis before the bids. Mr. Sylvester noted that, at this time, the contractor may request a different boring operation which may be allowed; however, the contractor needs to deliver the work at the bid price. He suggested a subcommittee convene to discuss this issue further. The subcommittee will consist of at least Mr. Hill, Mr. Allen, Mr. Hemphill, and Mr. Jones.

**Truck Measurement Capacity Definition (230)**

**Shannon Douglas**

Mr. Douglas requested consistency across the state regarding the measurement and payment of borrow when measured by truck measurement. In some areas, he stated that the word "capacity" is being interpreted as the weight capacity of the truck even if the volume capacity is larger. The Department's intent is that the volume capacity of the truck is used for measurement and payment for cubic yard unit of measure items.

**Surveying Scope on Bid-Build**

**Shannon Douglas**

Mr. Douglas shared a concern that surveyors are being asked to repeatedly adjust storm drains in the as-built plans without further compensation. There was discussion that this was difficult to change because the original survey may require corrective work that would be covered under an initial compensation. However, if there were unknown utilities or other issues, the surveyors could be compensated for their additional work with Supplemental Surveying but Mr. Douglas noted that drainage items are excluded. Mr. Skeens shared that the updated draft of the Surveyors' Manual will be provided to this committee and the surveying community for feedback soon. The manual may address concerns.

**Repairs on Borrow Jobs and Secondary Roads**

**Shannon Douglas**

Mr. Douglas noted that on large borrow jobs, it is unclear who is providing road repairs. He provided [Addendum #1](#) to C204014 in the December 19, 2017 letting, Page G-35 "REPAIRS TO EXISTING ROADS" as an example of risk management that he would like to see in all contracts. This provision requires the contractor to maintain the road and allows for payment with the contract unit prices for the materials used in the repairs.

**Mechanical Spreader on Small Quantity ABC**

**Jeff Allen**

Mr. Allen would like the Department to consider a limit for the requirement of a mechanical spreader for small lengths or quantities of ABC. He cited examples such as walking trails, tie-ins to bridges and other small spaces where moving the equipment was causing issues. The Department will look at ways to clarify the specifications.

**Define if Allowing Waste in Project Limits**

**Jeff Allen**

Mr. Allen would like the Department to consider defining whether waste will be allowed to be placed within the project limits during preconstruction so that the project may be bid accordingly. Currently, the assumption is that waste is not being allowed to be left on the project. If there is borrow that may be able to be used on a future project, the suggestion is to discuss this with the Engineer to see if they will allow the waste to remain. The Department will see if this is addressed in the plan checking questionnaire. Mr. Jenkins noted that it was a positive environmental impact to not haul away usable materials. There was a concern about appearance and usability waste this may explain why this issue is typically handled during construction with the Engineer.

**Pay for Unclassified Stockpiled and Used as Borrow (225)**

**Jeff Allen**

Mr. Allen noted that the specifications allow the use of stockpiled material to be paid and used for "shoulder borrow" but not borrow or unclassified. He would like to get paid every time he moves stockpiles even if it is for the lesser unclassified. He did note that with lump sum grading he may not have an unclassified pay item so it may revert to borrow.

**Define CEI Role in the Contract**

**Jeff Allen**

Mr. Allen noted that he is aware of a project with a CEI project manager (not CEI assistant resident) which is negotiating supplemental agreements but then needing the resident engineer to sign the agreement. He asked that the Department define the roles of the CEI project managers. The intent is to have those roles defined at the Preconstruction meeting and any questions about roles or authority could be addressed by the Resident Engineer or the Division Construction Engineer.

### **MBE/WBE Banking**

**Delacy Bradsher**

Mr. Sylvester addressed Mr. Byers request to review if MBE/WBE/DBE banking could be captured at the end of the project to provide potentially larger numbers which more accurately reflect what actually was spent on the project. Ms. Bradsher is leading the efforts to make this change with the Office of Civil Rights. Mr. Jenkins noted that only a few firms have actually used banking, and the Department is benefiting from the additional reporting. Good faith efforts are trending down, DBE replacements are lower, and the banking is not being fully used. There was mention that we are the only state that offers banking but it was pointed out that this is a progressive policy that encourages contractors to report their subcontract utilization above goal levels. Mr. Jenkins mentioned that the Office of Civil Rights has access to resources including Federal monies to assist in the development of subcontractors. There are currently several subcommittees working to hone resources and develop MBE/WBE/DBE subcontractors. Mr. Perkins is a representative on the advisory committee helping Office of Civil Rights provide meaningful resources, training, and reports. He asked that names of subcontractors which could benefit from further support be submitted to the Office of Civil Rights along with ideas on how best to provide those support services. He would also like to collect the anecdotal evidence of how the contracting industry is supporting and fostering growth of subcontractors. It was noted that moving to a unified goal and streamlining the prequalification and certification process was helping all involved.

### **Other**

Lump sum grading with pavement removal will be a topic for the next meeting. The concern was a pavement removal job which had two layers of asphalt over concrete. The contractor read in the specifications that the concrete removal was part of the required work to be paid as pavement removal and the Engineer did not agree.

Another concern was who is responsible for the national pollutant discharge elimination system (NPDES) forms after rain events when the work is accepted as complete with the exception of establishing permanent vegetation. The original memo clarified that the Department would handle the maintenance after acceptance of the work and may need to be recirculated.

Industry stated that there has been an unusually large number of rain events on projects and asked if there was additional time expected to be granted for all projects. This can be handled on a per project basis if needed.

### Next Meeting

The next meeting of this committee is scheduled for October 18, 2018 at 10:00 a.m. in the Riverwood Conference Room at NCDOT's Century Center B.

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