DESIGN/BUILD CHANGE ORDER APPROVAL PROCESS

Design/Build Change Order

A Design/Build Change Order is a legal and binding agreement that modifies the original contract as executed and approved. Design/Build Change Orders may be issued for the following purposes (or combination thereof):

a) to modify the scope of Work;
b) To revise the Completion Deadline;
c) To revise the Contract Price; and
d) To revise other terms and conditions of the Contract Documents.

Whenever a Design/Build Change Order affects items in a group that is funded wholly or in part by a County or Municipality, the Engineer must inform the Office of Technical Support, Municipal Agreements Unit promptly so that they can update the Cooperative Agreement associated with the project.

A. Standard Procedure

The following is a Standard procedure to prepare a Design/Build Change Orders.

1. A project change, meeting one or more of the Design/Build Change Order criteria listed above, needs to be addressed.

2. The Mn/DOT Project Manager refers to the Design/Build Change Order Process Flowchart and Contract to determine the appropriate course of action. The course of action will vary depending if Mn/DOT or the Contractor initiates the Design/Build Change Order.

    a. Mn/DOT Initiated – Project Manger follows the requirements in the contract. If necessary, the Project Manager will issue a Request for Change Proposal prior to completing the Change Order. Mn/DOT or the Contractor drafts the Change Order.
    b. Contractor Initiated – Contractor shall deliver a Change Notice within 10 days after discovering the necessary change. The Contractor prepares the Change Order. The Project Manager follows the requirements in the contract.

3. The Mn/DOT Project Manager solicits labor, equipment, material, overhead, and profit estimates from the Contractor for any additional work. If a change in the critical path is impacted with the Design/Build Change Order, the Mn/DOT Project Manager solicits a revised project schedule. The Engineer may request 2

change order options from the Contractor. One showing time impacts/extensions and one showing acceleration costs to meet the schedule.

4. The Mn/DOT Project Manager works with the Contractor and the Mn/DOT Engineering Cost and Estimation Unit (Mn/DOT Estimating) to determine justifiable prices (if a change in cost is included in the Change Order).

5. The Mn/DOT Project Manager or Contractor drafts the Design/Build Change Order using the Design/Build Change Order form. The form is broken into seven general areas:

   I. Scope of Work
      "Whereas" subsection general requirements include:
         General Project Description
         Specific Problem/Change
         Determined Solution

      "Now therefore" subsection general requirements include:
         Contractors Responsibility
         Mn/DOT Responsibility
         Applicable Specification/Revision
         Method of Payment
         Method of Measurement

   II. Cost Estimate
         Increased Contract, Negotiated and Time and Materials Items
         Decreased Contract Items
         Negotiated Credits
         Distribution of Funds

   III. Impact Delay Analysis
         Changes impacting critical path
         Modifications to the Project Schedule

   IV. Attachments
         Inclusion documents that are referenced within the agreement

   V. Disclaimer
         Retain the standard disclaimer and add additional ones as required.

   VI. Signatures
         Refer to the attached document to justify if a Level 1 or Level 2 signature is required.

   VII. Fund Encumbrance
         To be filled out by the OCIC and Department of Finance

6. The Mn/DOT Project Manager routes the draft Design/Build Change Order through the OCIC Supplemental Agreement Technician (Karen Peters, 651-205-4424, karen.peters@dot.state.mn.us). The Project Manager determines the level of approval for the Change Order based on Appendix A and in consultation with

Karen Peters. The draft copy may be sent via Groupwise, e-mail or fax. All electronic versions should be sent in Microsoft Word format.

7. If a Change Order involves changes in Mn/DOT general design/build standards, the Mn/DOT Project Manager should route the draft Change Order to the OCIC Design/Build Director. This routing is not for approval, but to keep the OCIC informed on changes that may need to be made on future design/build projects.

8. After making the final revisions and upon receiving concurrence on the prices from Mn/DOT Estimating, the agreement is then approved and signed by the Mn/DOT Project Manager, Contractor and the Assistant District Engineer. All parties must sign the last page of the Agreement. However, all the pages of the Agreement may be signed if desired. The original Design/Build Change Order is sent to the OCIC. **All Design/Build Change Orders must include a transmittal letter that includes the justification of cost and time extension.**

   The transmittal letter should include attachments such as:

   - **Record of negotiations (approvals from Mn/DOT estimating)**
   - **Prime Contractor labor, materials, equipment, overhead and profit breakdown**
   - **Subcontractor labor, materials, equipment, overhead and profit breakdown on subcontractor stationary**
   - **Acceleration cost breakdown**
   - **Correspondence**
   - **Directive Letter**
   - **Change Notice**
   - **Request for Change Proposal**
   - **Meeting Minutes**
   - **Sworn Contractor Certifications**

9. OCIC (routed through Karen Peters) will review and approve the Design/Build Change Order before routing the agreement through the following required areas for Level 2 approval if required: Mn/DOT Budget Office and Office of EEO and Contract management (Contract Management), as delegated by the Department of Administration. The Change Order will be routed to additional areas for review or approve the Design/Build Change Order as needed: Time Extension, Cost Data and Estimation, and Claims.

10. When Contract Management has approved the Design/Build Change Order and the funds have been encumbered, the Agreement is considered fully executed.

After the Design/Build Change Order is fully executed:

OCIC enters the necessary Agreement information into the Contract Management System (CMS).

CMS transfers the data to the District file queue.

District personnel can then download the file to a computer disk and distribute the disk to the appropriate field personnel for uploading into their Contract Administration Advance Record System (CAARS).

OCIC sends a scanned email copy to the District Office. The District Office is requested to forward a copy to the ADE and District Design. However, the computer queue with approved funding may precede the fully executed Agreement. It is advisable to periodically check the queue for Agreement information. The OCIC Automation Section should be contacted for further information on appropriate procedures.

Once the information is loaded into CAARS, the Engineer can then pay the contractor for extra work as it is performed and accepted.

B. Expedited Supplemental Agreements Part A and Part B

When a project change occurs that requires extra work to be performed immediately or prior to execution of a Design/Build Change Order using the "Standard" procedure, an expedited Design/Build Change Order consisting of a Part A and Part B agreement may be used.

Design/Build Change Order Part A and Part B should not be used for Claims, changing Contract Time or Contract Specification Provisions that involve no change in cost, nor when there is ample time to complete negotiations of all aspects of the Agreement in the "Standard" procedure. Any questions regarding the proper use of Design/Build Change Order Part A and Part B should be referred to the OCIC Supplemental Agreement Specialist at 651-296-6896.

Design/Build Change Order Part A

Note: Authorizing the work involved with a Design/Build Change Order Part A before it is fully executed is in violation of Mn Statute MS 16C.05.

The following is the procedure for preparing Design/Build Change Order Part A (Part A)

The Mn/DOT Project Manager follows steps 1 through 4 of the "Standard Procedure"

5. The Mn/DOT Project Manager or Contractor drafts the Design/Build Change Order using the Design/Build Change Order form. The form is broken into seven general areas:

I. Scope of Work

General Scope of Project: Provide in general terms, the description of the project.

Problem: Give a general overview of the situation encountered and why it is essential to be completed under the contract.

Resolution: Briefly provide an explanation of what Extra Work is to be performed and what will be expected of the contractor. This should include a directive:

"The Contractor will…." The statements may be brief but must contain sufficient information for all parties to understand the situation. There are no "Whereas" or "Now, Therefore" statements required.

II. Cost Estimate

Increased Contract, Negotiated and Time and Materials Items
Decreased Contract Items
Negotiated Credits
Distribution of Funds

III. Impact Delay Analysis

It is desireable to have the impact delay analysis identified as quickly as possible and included in the Part A if known. If it is not possible to determine the impact delay analysis for Part A, provide a general statement that the time analysis impacts can not be assessed at this time. An Impact Delay Analysis will be required for Part B.

IV. Signatures

Refer to the attached document to justify if a Level 1 or Level 2 signature is required.

V. Fund Encumbrance

To be filled out by the OCIC and Department of Finance

6. Mn/DOT Estimating Unit must approve all negotiated prices. The Mn/DOT Project Manager acknowledges approval by initialing the line "These costs have been reviewed and approved by the Office of Technical Support's Pre-Letting & Estimating Unit".

7. The Mn/DOT Project Manager, Contractor, and ADE sign Part A. Part A may be faxed simultaneously to the Contractor and the ADE for signature and returned to the Mn/DOT Project Manager by fax.

8. All Copies of Part A are faxed to OCIC for Agency, Dept. of Administration approval, and FHWA (when appropriate) and fund encumbrance. These

approvals are attained simultaneously rather then sequentially as required for a "Standard" Design/Build Change Order.

9. When all signers have returned a signed copy of Part A to OCIC and the necessary funds are encumbered, Part A is fully executed. It is anticipated that Part A would be fully executed within days after receipt by OCIC. The Design/Build Change Order signers are committed to expediting Part A Agreements.

10. A scanned copy of the fully executed Part A Change Order will be e-mailed to the Mn/DOT Project Manager.

After the Design/Build Change Order is fully executed: The Mn/DOT Project Manager may authorize work.

11. OCIC transfers the computer file containing a descriptive line and the encumbrance amount to a District file queue. No pay lines are included in the download. Payment will be made in the field as a miscellaneous back sheet item.

12. District personnel can then download the file to a computer disk and distribute the disk to the appropriate field personnel for uploading into their Contract Administration Advance Record System (CAARS).

13. Payments may be made upon acceptance of the extra work. Payments made under Part A may not exceed the total amount encumbered for Part A.

Design/Build Change Order Part B (Part B)

Part B will be a "standard" agreement that will include the negotiated prices and requirements. The Estimate of Cost will include the amount encumbered in Part A in order to ensure that the final encumbrance will be increased or decreased accordingly.

When Part B is fully executed a downloaded, a descriptive line and pay lines will be added to the voucher in the manner of a "standard" Design/Build Change Order. At this time, any payments made on the back sheet pay lines will be reduced to 0.00. Any increase of funds listed in Part B will be downloaded. If Part A overestimated the money needed for the Agreement, Part B download will decrease the encumbrance.

When the Project Final is sent to OCIC, Part A will be deleted entirely from the Final Voucher.

APPENDIX A

DESIGN BUILD
CHANGE ORDER REVIEW REQUIREMENTS

Level 1 Approvals

For changes that do not affect contract value, completion date, or significant contractual terms

Signature's Required

- ADE
- Mn/DOT Project Manager
- Contractor

Types of Work

- Revised Method of Measurement
- Document Unacceptable Work or Materials (unless it is of such a significance that it affects the overall "performance" of the contractor, in which case a more formalized corrective action plan should be documented)
- Document Incentive (Bonus) Payments authorized by the contract and for which funds have already been encumbered
- Substitution of Materials
- Substitution of Methods or equipment at Contractor's request
- Document Changes in new standards (if contract value or completion date are not affected)
- Document increased or decreased quantities (if contract value not affected)
- Alterations in Scope of Work (if contract value and completion date are not affected, and if change is not outside general parameters of RFP and contract)
- Minor adjustments to special provisions and specifications that do not alter contract value, completion date, or legal responsibility of the contractor
- Clarifications to contract language (this is to be used primarily for clarification of technical information; input from Contract Management and Attorney General should be sought on interpreting the contract "legal" language)

Level 2 Approvals

For changes to contract value, completion date, or significant contractual terms

Signature's Required

- ADE
- Mn/DOT Project Manager
- Contractor
- Commissioner of Transportation
- Commissioner of Administration (or Mn/DOT Contract Management if delegated by Department of Administration)
- Finance (only if funds are encumbered)

Types of Work

- Changes in Work
- Significant alterations to special provisions and specifications
- Changes in Contract Time
- Revisions to the pavement structural section
- Major revisions to geometric design
- Incorporation of Alternative Technical Concepts from other teams

General Approach - If undecided whether a change is level one or level two, err on the side of a level two change. The formality of a level two change can't hurt, but the informality of a level one change sometimes can.