
Agenda
SCDOT/ACEC/AGC Alternative Delivery Sub-Committee Meeting
5/21/2025 @ 9:30 AM

I. Welcome/Introductions

SCDOT

Meeting Attendees

SCDOT	ACEC	AGC
<ul style="list-style-type: none">• Jae Mattox• Carolyn Fisher• Ben McKinney• Maddy Barbian• Austin Purgason• Brian Gambrell	<ul style="list-style-type: none">• Abdul Fekrat (Terracon)• Matt Lifsey (NS)• Cameron Nations (ICE)	<ul style="list-style-type: none">• Chris Boyd (Crowder)• Matthew Payne (Archer Western)• Mike Grey (United)• Pat McGriff (Lane)

II. Program and Project Updates

SCDOT

General

OAD Vacancies: LCC Construction Manager

Emergency Bridge Package 29 (Crowder) has been completed.

1. Michael Buck has joined OAD in the Construction Manager role.
2. Melissa Lusk has joined OAD in the Roadway Lead role.
3. Brian Klauk has moved to the SCDOT Planning office and Brad Reynolds will be serving as the CCR Project Director in an interim role until such time the position can be advertised and filled.
4. Tyler Clark will taking over the PM role for I-95 over Lake Marion.

Projects in Construction

- Bridge Package 18 – Project in design (Lee Construction)
- Carolina Crossroads Phases 1 & 2 – Project in construction (United Archer Western JV)
- Closed and Load Restricted Bridges 2021-1 – Complete (Reeves)
- US 301 over Four-Hole Swamp – Complete (Crowder)
- Bridge Package 14 – Project in construction (Lee)
- Bridge Package 15 – Project in construction (ES Wagner)
- I-20 over Wateree River and Overflow Bridges – Project in construction (Lane)
- Bridge Package 16 – Project in construction (Palmetto Infrastructure)
- US 1 over I-20 - Project in construction (Superior)
- I-26/I-95 Interchange Improvements – Project in construction (Archer Western)
- US 17A/21 over CSX Emergency Bridge Replacement – Complete (Crowder)

- Bridge Package 20 – Project in construction (ES Wagner)
- Bridge Package 17 – Project in construction (United)
- I-77 Exit 26 Interchange & Connecting Roads – Project in design (Lane)
- NS Railroad Bridge over I-77 (DBB) – Project in construction (United)
- I-85 at I-385 Wall Improvements – Project in design (Crowder)
- Emergency Bridge Package 32 – Project is in construction (Crowder)
- Carolina Crossroads Phase 3 –
 - Phase 3B Design-Bid-Build
- Bridge Package 30 (Reeves), and Bridge Package 31 (Wright Brothers) are under contract.
- Cannon's Campground Bridge Replacement (Reeves)
- Bridge Package 19 - Public Announcement May 15, 2025 (ES Wagner)

In Procurement

- CCR Phase 3C (I-20 Phase that ends before Bush River Road)- Public Announcement April 22, 2025 (UBJV)
- I-95 over Lake Marion bridge replacement – Public Announcement in September
- Long Point Road/Wando Port Interchange - RFQ Advertisement June 13, 2025
- Bridge Package 27 – RFQ Advertisement April 3, 2025
- Bridge Package 21 – RFQ Advertisement May 2025

Projects in 2025

- Bridge Package 22 – RFQ Advertisement November 2025

Projects anticipated in 2026 and beyond

- Bridge Package 23 – RFQ Advertisement May 2026
- Bridge Package 24 – RFQ Q4 2025
- Bridge Package 25 – 2027
- Bridge Package 26 – 2027
- Bridge Package 28 – 2028
- Low Country Corridor East – Currently in project development and NEPA. Procurement timeframe TBD. Public involvement meetings held in October 2021.
- EJ mitigation for the next five years until procurement in 2028.
- I-95 Over Great Pee Dee River bridge replacement. Received planning grant (~\$700k). Professional Services contract awarded to CDM Smith to execute PEL study.
- Potential for overflow bridge replacement, as well.
- Decision on scope of work is dependent on results of the PEL study.
- Low Country Corridor West and I-26/I-526 Interchange – EJ mitigation in 2023, first phase RFQ in 2028.
- Five phases are currently being evaluated for project delivery type.
- I-85 @ US 178 (Buc-ee's)
 - Funding by Anderson County, construction not currently funded. \$5M Federal earmarked money received by Anderson County for interchange.

- Note: Additional project information has been posted to the website: [SCDOT Design-Build Overview](#).

Other Design-Build Projects (Not SCDOT)

- Charleston County – Main Road (in construction – Archer United Banks JV)
- Dorchester [County – Bridge Package](#) (in construction-Republic)
- [City of Charleston – Pedestrian Bridge](#) (in construction – Mastec Civil)

III. Action Items from 3/19/2025 Meeting SCDOT

- **SCDOT/ACEC/AGC** to continue ongoing discussion for potential new RFQ language suggestions and/or scoring techniques for SOQ evaluations with stakeholders.
- **ACEC/AGC** to poll and involve members in order to look for examples across industry in order to establish positive potential adoption of PDB, CM/GC, and other methods.
 - SCDOT is still working through guidelines to establish PDB, CM/GC, and other methods.
- **SCDOT** will continue to look for ways to improve utility coordination and relocation efforts to better assign responsibility and manage risk.
 - ACT 36 MOA Flowchart will be distributed to RCEs for review, and will provide feedback on its effectiveness, along with any changes that are needed.
- **SCDOT/ACEC/AGC** to continue discussion on feedback for tidal stream/waterway permitting in regards to the future bridge packages.
- **SCDOT/ACEC/AGC** to continue ROW discussion.
 - Current ROW agreement language will go out to subcommittee for review the week of 5/21.
 - SCDOT is in the process of reviewing current agreement language with internal staff.

IV. BCE Submittals SCDOT

1. In the last meeting, CCRs were discussed.
 - a. Contractors continue to submit BCE submittals without EOR signatures.
 - b. Also, the prescriptive spec for certain tasks requires signatures on the calculations.
 - c. In the future, it is imperative that submittals that require signatures are submitted to SCDOT with those signatures. Submittals will not be accepted without required signatures.
2. The upcoming new RFI form will include check boxes for EOR signatures when required, which should help keep track of this process.

V. Contract Commitments SCDOT/AGC

1. On a recent project, SCDOT attempted to treat statements in the Project Approach section of the SOQ as project commitments. AGC/ACEC members both agree commitments are not contractual at the SOQ stage, with the exception to Key

- Individuals. All agree that this is somewhat of a grey area since SOQ is lower in priority in the hierarchy of documents.
2. AGC/ACEC indicated that items described in the project approach treated as commitments is the main concern. Proposers have much less knowledge of the project at the RFQ stage and there are often significant scope changes between RFQ and RFP stage. AGC/ACEC indicated that if the goal is to carry commitments forward from the SOQ, a shift in approach to the SOQ would be required and they would need to understand how items would be scored and when items are being treated as commitments. A commitment form is a possible remedy if this is the desired approach from SCDOT.
 3. AGC/ACEC suggested that additional key individuals is an area where a commitment could be made.
 - a. Is it worth making certain sections Pass/Fail?
 - i. It is important to differentiate between what is needed to show understanding of the project, vs. how the team is going to approach the construction of the project.
 - ii. Utilizing Pass/Fail sections could make it more clear that those sections are not commitments, especially when it comes to understanding.
 - b. The two SCDOT Design-Build contracts handle commitments differently, so if both contracts are utilized in the future, both may need to be examined.

VI. Differing Site Conditions

SCDOT

1. Differing site conditions are being overhauled, and is being presented for review.
 - a. New Language redefines differing site conditions, and includes excluded conditions:
 - i. All such subsurface, latent or surface conditions which
 - I. were known to Contractor prior to the submittal of Cost Proposals, or
 - II. would have become known to Contractor by undertaking Reasonable Investigation;
 - ii. Changes in surface topography;
 - iii. Variations in subsurface moisture content and variations in the water table;
 - iv. Utility facilities;
 - v. Hazardous Materials, including contaminated groundwater;
 - vi. Acquisition of real property for drainage purposes; and
 - vii. Any conditions which constitute or are caused by a Force Majeure Event
 - b. Type 1 and Type 2 conditions have been removed, with all DSC claims falling into one category.
2. Teams will have 21 days to report discovery of the differing condition.
 - a. The relief process will follow the contract change process, and submittals will be handled using an RFI.

- b. Overall, the new DSC process aims to be clearer on who is responsible for what costs and sets out clearer timeframes. There is a 3 stepped approach to Cost sharing:
 - i. Contractor is responsible for all costs up to a certain amount, depending on project size.
 - ii. Contractor and SCDOT shall share equally any costs up to a second maximum amount.
 - iii. SCDOT is responsible for all costs greater than that maximum amount.
 - c. There is a similar process for time extensions:
 - i. No time extensions for a set time period (attached language indicates 60 days) .
 - ii. For a second time period, (i.e. 60-120 days) all time delays will be shared between the contractor and SCDOT.
 - iii. After that period (i.e. 120+ days), SCDOT will grant a time extension for any day of delay to the critical path.
 - iv. SCDOT will be responsible for any delay to the critical path in excess of an aggregate amount (i.e. 180 days)
- 3. AGC/ACEC committee members comments:
 - a. Timeframes and cost amounts are key to fairness, and will need to be evaluated project by project.
 - b. There are concerns that some language is too broad, and will create too large of a burden on contractors.
 - c. There is a general concern that this is asking a lot from contractors, and they will not see benefit until passing the threshold set for SCDOT responsibility. While this is understood to encourage avoidance of DSC, it is also possible that this will affect teams' ability to be innovative.
 - d. The last paragraph of the language may need more clarification moving forward to explain the need for awarding time for x amount of months from substantial completion.
 - e. More comments to come as this is sent out to the committee.

VII. Future Topics Discussion

ALL

- 1. CPM Schedule
 - a. Should the schedule include weather time?
- 2. Stipend research
 - a. Stipend percentage is often reliant on legislation.
 - b. OAD has a summer intern working on national data
- 3. Utilities/ROW/Railroads
 - a. These are the main sources of delay and issues on projects.
- 4. Price Escalation (Tariffs)
 - a. There are concerns that costs will continue to rise as a result of tariffs, and it is difficult to estimate cost on future projects.
- 5. DBE Changes

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- a. There are no updates on DBE requirements for Design-Build Projects as of now.

VIII. Open Discussion ALL

- 1. Builder's Risk
 - a. Lake Marion: it will either not be required or 50% builders risk to start.
- 2. There is no update yet on a replacement for gINT, a geotechnical data management software.

IX. Action Items

- 1. Professional Liability for Crossroads 3C to be reviewed by SCDOT.

X. Next Meeting Date: July 16, 2025 @ 9:30 AM

XI. Adjourn

Differing Site Conditions

(Language from CCR new language for 3c – formatting changed to match standard agreement)

A. Definitions and References:

1. **Differing Site Conditions** consistent with 23 CFR 635.109 means subsurface or latent physical conditions encountered at the Site during the Term of the Agreement that (i) materially differ from those indicated in the Contract Documents or (ii) are unknown physical conditions of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the Work provided for in the Contract Documents.

The term Differing Site Conditions specifically excludes:

- a. All such subsurface, latent or surface conditions which
 - (i.) were known to Contractor prior to the submittal of Cost Proposals, or
 - (ii.) would have become known to Contractor by undertaking Reasonable Investigation;
 - b. Changes in surface topography;
 - c. Variations in subsurface moisture content and variations in the water table;
 - d. Utility facilities;
 - e. Hazardous Materials, including contaminated groundwater;
 - f. Acquisition of real property for drainage purposes; and
 - g. Any conditions which constitute or are caused by a Force Majeure Event.
2. **Reasonable Investigation** means the following activities by appropriate, qualified professionals prior to the submission of the Cost Proposal:
 3. Visit and visual, non-intrusive inspection of the site and adjacent locations;
 4. Review and analysis of all reference documents and publicly available documents (e.g.: SCDNR, USGS, etc);
 5. Review and analysis of SCDOT-provided governmental approvals or permits, if any, available prior to the submission of the Cost Proposal;
 6. Reasonable inquiry with real property, particularly those properties indicating former gas stations/auto garages, and utility owners or occupants, including request for and review of plans provided thereby, if any;
 7. Review and analysis of laws, regulations, rules, ordinances, etc. applicable to the Project prior to the submission of the Cost Proposal; and

Differing Site Conditions

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8. Other activities sufficient to familiarize CONTRACTOR with surface and subsurface conditions, including the presence of utilities, hazardous materials, archeological, paleontological and cultural resources, and threatened or endangered species, affecting the site or surrounding locations.
9. Furthermore, CONTRACTOR hereby acknowledges and agrees that, based upon the opportunity to review all available information, seek reasonable additional information, visit the Project site prior to submission of the Cost Proposal, and make any additional subsurface explorations or soil tests that CONTRACTOR determined to have been useful, in each case prior to the submission of the Cost Proposal, it has assumed all risks with respect to the need to work around locations impacted by Differing Site Conditions.
10. **Time Extensions** as defined in Agreement IV. B. and evaluated per Exhibit 5 Evaluation of Delays
11. **Contract Price Adjustments** as defined in Agreement III. B.
12. **Contract Request** as defined in Section 104 of Exhibit 5, to include Request for Information, Design Change Notification, Field Change Notification, and Contract Change Request.
13. **Differing Site Conditions Event** means each distinct and singular instance meeting the definition and requirements of Differing Site Conditions that is separated by time, location, Differing Site Condition type, construction type or method, or any combination of these criteria.
14. **Differing Site Conditions Contractor Share** is the initial value of any Direct Costs and any Extended Job Site Overhead attributable to each separate Differing Site Conditions Event that is the responsibility of the Contractor as set forth in in the following section.
15. **Differing Site Conditions Contractor Share Limit** is the maximum value of any Direct Costs and any Extended Job Site Overhead attributable to each separate Differing Site Conditions Event that is the responsibility of the Contractor as set forth in in the following section.

B. Relief for Differing Site Conditions

Contractor's entitlement to any Contract Price Adjustment or Time Extension for Differing Site Conditions shall be subject to the following conditions.

1. Notification Requirements and Conditions for Differing Site Conditions
 - a. During progress of the design and construction work, if Contractor encounters Differing Site Conditions, Contractor shall notify SCDOT in writing within twenty-

Differing Site Conditions

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- one (21) calendar days of discovery of the condition. Contractor shall follow the Contract Changes process in Section 104 of Exhibit 5 to notify SCDOT via a Request for Information. Contractor shall be responsible for determining the appropriate action to be undertaken, subject to concurrence by SCDOT. If any Governmental Approvals specify a procedure to be followed, then Contractor shall follow the procedure set forth in the Governmental Approvals.
- b. Contractor hereby acknowledges and agrees that it has assumed all risks with respect to the need to work around locations impacted by Differing Site Conditions. Contractor shall bear the burden of proving that a Differing Site Condition exists, and that Contractor could not reasonably have worked around the Differing Site Condition so as to avoid additional cost or delay. Contractor acknowledges and agrees that Contractor is responsible for performing activities to meet the standard of Reasonable Investigation prior to submittal of the Cost Proposal.
 - c. Each Contract Request relating to a Differing Site Condition shall include a statement setting forth all relevant assumptions made by Contractor with respect to the condition of the affected area, justifying the basis for such assumptions, explaining exactly how the existing conditions differ from those assumptions, stating the efforts Contractor undertook to find alternative design or construction solutions to eliminate or minimize the problem and the associated costs, and that Contractor and any person or entity for which Contractor is legally responsible had no actual or constructive knowledge regarding such condition as of the submission of the Cost Proposal and such condition would not have become known to Contractor based upon a Reasonable Investigation.
 - d. Contractor shall not be entitled any Contract Price Adjustment or Time Extension in connection with work stoppages in an affected area during the period of time Contractor investigates conditions in the affected area unless Contractor proves that a Differing Site Condition exists in the affected area.
 - e. Contractor shall not be entitled to any Contract Price Adjustment or Time Extension for Differing Site Conditions in, on, or under Contractor-Designated ROW or Additional ROW.
2. To the extent that a Contract Price Adjustment is allowable due to the existence of Differing Site Conditions, SCDOT and Contractor shall share the risk as follows:
- a. Contractor shall be fully responsible for, and thus shall not be entitled to any Claim for Direct Costs or Extended Job Site Overhead less than or equal to the first **\$500,000.00** (the Differing Site Conditions Contractor Share) incurred for changes in the work resulting from each separate Differing Site Conditions Event.

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- b. Contractor and SCDOT shall share equally any Direct Costs and Extended Job Site Overhead incurred in excess of the Differing Site Conditions Contractor Share, up to a cap of \$1,000,000.00 incurred from each separate Differing Site Conditions Event (the Differing Site Conditions Contractor Share Limit).
 - c. SCDOT shall be fully responsible for any Direct Costs and Extended Job Site Overhead incurred in excess of the Differing Site Conditions Contractor Share Limit from each separate Differing Site Conditions Event, and will issue a Change Order for the Allowable Contract Price Adjustment.
 3. If Contractor encounters Differing Site Conditions for which Contractor is entitled to a Time Extension, SCDOT shall adjust contract time as follows:
 - a. No Time Extensions for the first 60 days delay to the critical path of each event;
 - b. After 60 days and up to 120 days of impacts to the critical path, a Time Extension is split equally between the Contractor and SCDOT, rounded up to the nearest full day. Exclusions for the first 60 days above still apply.
 - b. After 120 days, SCDOT will grant a Time Extension for each day of delay to the critical path. Exclusions for the first 120 days above still apply.
 - c. SCDOT shall be fully responsible for any Differing Site Conditions delay to the critical path in excess of the aggregate amount of 180 days of Differing Site Conditions delay borne by Contractor for all locations on the Project.
 4. Contractor shall be entitled to a Time Extension for delay to the Critical Path that is directly attributable to a Differing Site Conditions delay discovered during the last 12 months prior to a Substantial Completion, subject to the limitations detailed above. If Contractor is prohibited from working at a particular location due to the discovery of Differing Site Conditions for which Contractor is entitled to a Claim during the last 12 months prior to a Substantial Completion, then SCDOT will grant a Time Extension for each day of delay to the critical path.