

## Construction Contract Administration Workgroup (CCAW)

### Agenda – Meeting Notes – FINAL

August 20, 2024 – 11:00 AM - 1:00 PM

HF SOB S141 / Microsoft TEAMS

#### Attendees:

FHWA	WisDOT	Contractor
<a href="#">Nick Perna</a>	<a href="#">Brian Boothby</a> (co-chair)	Matt Grove (co-chair)
<a href="#">Josh Pachniak</a>	Brandon Lamers	<a href="#">Debbie Schwerman</a>
<a href="#">Benjie Hayek</a>	Chad Hayes	Jackie Spoor
<b>GUESTS</b>	Kristin VanHout	Jake David
<a href="#">Michael Hoelker</a>	<a href="#">Jed Peters</a>	JR Ramthun

1. Minutes from March 28, 2024, meeting and 2024 CCAW Charter – [Benjie asked Brandon to share March Minutes and CCAW Charter \(FHWA was unable to open the embedded PDF files\)](#)



20240328  
CCAW\_MINUTES\_FIN.



CCAW Team Charter  
2024\_FINAL\_03.28.20

- New Members
    - WisDOT
      - Brian Boothby – Construction Oversight and Automation Chief
      - Brian will be the WisDOT Chair of the CCAW committee
      - Brian started in his role on 6/30/2024; not able to attend today due to prior commitment
    - FHWA – WI Division
      - Benjie Hayek
        - Recently Joined FHWA WI-Division
        - Will ultimately be the primary FHWA-WI contact for CCAW
        - Josh -- keep Nick on for the short-term
          - Brandon – will include Nick for November and March mtgs
        - Josh Pachniak will be temporary contact while Nick is on temporary assignment with FHWA HQ.
2. Liquidated Damages and Substantial Complete (Industry)
    - Matt kicked off the discussion.
      - Matt – How are local program projects handled (SMA and relationship of hiring of oversight staff)
      - Matt – large amount of LDs have been assessed; despite minor items remaining to be completed.
        - Matt – LDs do not reflect the actual cost to the department
        - Matt – time not stopped when work substantially complete
          - Matt referenced “fencing” was not completed – considered actual work vs punch list
          - Matt – concern from industry that this will become a trend going forward and increase project costs and create issues where projects become unbiddable.
    - Jackie – agreed, there seems to be a disconnect within the local program

- Contractor installed an ADA ramp per the plan
- The local agency stated the ADA ramp was not installed per their local details.
  - Krissy – the issue seems like a one-off
  - Jackie – seems like the local agency is looking for a “rebate”
    - Krissy – NER has checked in the past – credit goes back into the roadway category that would be the same funding match (i.e. 80/20)
- Matt – in some cases, the locals are responsible for hiring the construction oversight
  - Matt – local claimed increased local agency costs.
  - Brandon – to clarify this is more related to Local projects
    - Matt – yes
    - Matt – there are instances where LDs are “threatened”
    - Matt – the winter suspension language was helpful
    - Matt – there seems to be full denial in some instances
- Jake David – it would be interesting to get a list of projects that had LDs charged and what were the items
  - Krissy – there was past discussion (prior to 2022) where there was discussion of splitting LDs into categories
    - Failure to complete work
    - Failure to open to traffic
  - Krissy – suggested that LDs should be run through the region construction QA and the BPD oversight engineers
- Brandon – spec book does cover costs
- Matt – maybe an issue with substantially complete (“all items complete”)
  - Matt – Punchlist items may not fall into that category of work
- Chad – believes there may be issues on both sides
  - Not assessing LDs appropriately
  - Threatening LDs to get non-responsive contractors to show back up
- Matt – believes industry has been fair about time extensions / schedule adjustments (during the course of work).
- Matt – general communication when there is disputed work is an ongoing issue
  - Results in time continuing to be charged and then LDs applied
  - Work on communication and the time assessment during the disputed work
- **ACTION: WisDOT look at language in substantially complete – consider changes or education for both department/consultant field staff and contractor.**
  - **WisDOT BPD to make a proposal, if changes are necessary. If no changes recommended by WisDOT, share with CCAW how will awareness be communicated to field staff.**

### 3. Material Testing and Non-Conformance Credits (Industry)

- Matt – the magnitude of the penalties is impacting suppliers
  - Some suppliers that do not want to supply to WisDOT projects
- Matt – there are inconsistencies in the application of the non-conforming material credits
- Matt – a few of the material testing credits have gone to claim
  - Matt – the larger issues is with the non-performance of QMP
- Matt – instances where the credits are exceeding the cost of the materials placed
- Jackie – communication and training may benefit field staff and contractors
  - There is lack of communication at the project level

- Jackie/Matt – There are less instances of oversight staff working with the contractor during the work
- Jackie/Matt – Issues with project teams sending NP/NC credits AFTER work is complete and project is in “finals phase”
  - Jackie – These are significant values/assessments
  - Jackie – need to look at how assessments were made
- Jackie – is there a loss of value to the project, to the department?
- JR – the after the fact credits are tough to take
  - JR – Credit taken on a (concrete) driveway after placement and no test was determined after work complete
- Chad – maybe more is being missed, from both sides
  - Chad – if federally funded, there are federal requirements
  - Chad – both sides need to talk through
- Krissy – there are staffing issues on both sides (department and contractor)
  - Krissy – believes there will be even more changes once AWP Materials is implemented
  - Krissy – education is needed on both sides
    - Krissy referenced LAB audit – missed tests
- Brandon – General comment...good collaborative discussion with this group
  - Brandon – A focus on improved communication is necessary on both sides
    - Brandon – material issues should be discussed during the course of the work and credits should not be a surprise after work is complete
- Matt – already extremely elaborate QMP – Why is there a continued push to have more and more requirements.
  - Brandon – there are federal requirements in most instances. The intent is for quality materials. Credits are in place if materials do not meet the contract requirements.
- **ACTION: Stand up a Subcommittee to discuss material sampling/testing/and NP/NC**
  - **Matt to provide industry names to participate**
  - **Brandon to work with Brian Boothby to provide WisDOT subcommittee members**
  - **Schedule Kick-Off Meeting**
  - **Report status of subcommittee action to full CCAW team**

#### 4. Shuttle Service (Industry)

- Matt – shuttle service
- Krissy – 4 contracts since 2020
  - 3 contracts this year (2024)
  - I41 / Ballard Road – similar to the railroad flagger
    - Service fee
    - Management fee
- JR – there has to be a better solution than putting to the contractor
- Jake – Asked Krissy for details
  - Krissy – there is an Uber or Lyft business that could “fit” specific projects that have identified pick-up and drop off locations
- Krissy – previous Lump Sum versions have been quite challenges
- Jake – have we reached a point where we have gone too far
- Jackie – stated she does not believe the requirements follows PROWAG
- JR – The goal should not be to have the contractor as a shuttle service

- Matt – please look at a different spec –
- Matt – industry is concerned about the liability
- Chad – should be a per occurrence – 100% reimbursement
- **ACTION: WisDOT DTSD to continue conversations – update at next meeting**

#### 5. Watering for Seed Growth (WisDOT)

- Chad – continuing to have projects that have the bid item for water; however, the contractors are not watering.
  - Chad – watering bid item was added
  - Chad – how long can projects be left open if contractors wont come in
- Matt – not sure who holds the item
  - JR – landscapers have the item but many refuse to quote water
- Krissy – it's a tough item, some contractors do the work in the contract and others don't do any watering
- JR – sometimes the plan quantity is way off and impacts what the bid may be
  - Brandon – understood
- Matt – have you thought about a regionwide contract to water
  - Krissy – will be difficult as watering contractor may not be the seeding contractor
    - Chad agreed
  - Krissy – the stormwater team is looking at the item and seeding
- Chad – watering will be enforced
  - Krissy – seed water can be part of punch list
  - Krissy – document and not pay for reseeding
- Chad – several contractors that are making business decision not to water

#### 6. Utility Relocation Delay Claims (WisDOT)

- Brandon – asked for Industry Feedback to Date
  - Matt – Nothing new that he is aware of
  - JR – believes more is being done up front (i.e. utility coordination during design/pre-construction)
  - JR – note that there is some language in special provisions that are being added for contractors to work around the utilities.
    - JR and Jake – previously language identified dates for completion
    - JR and Jake – now stating to work around
    - JR and Jake – understand that there is some utility that needs to be worked around but make sure this is not the case for ALL utilities when work can be completed ahead of the project.
  - **ACTION: Industry to communicate any issues with utility delay claims or processing of utility delay claims to BPD (Brian Boothby and Brandon Lamers).**

#### 7. Additional Topics (All)

- JR – First Topic: delayed payment for CCOs
  - JR – still experiencing instances where there are delayed CCO payments after work is complete. Asked for support to have project teams “pay the 90% per the spec.
    - JR – does not believe a lot staff is aware of Standard Spec 109.6.3.1 (2)
  - **ACTION: Brandon – will work with Brian Boothby to provide greater awareness from BPD to region project teams on the spec language and work to provide greater awareness and education of ss109.6.3.1 (2).**

- JR – Second Topic: Conflict between ss104.6.1.2.4 (2) and 305.3.3.3 (2) – Shoulders adjacent to traffic. JR noted this was discussed at the March meeting and was included as an a
  - Brandon – noted this did not make the 2025 spec book update as we were past timeline for revisions. Will resume conversations within BPD and work to resolve the conflict between 104 and 305 related to this issue.
  - **ACTION: Brandon to work with Brian Boothby and Mark Zander to propose/draft revisions to the standard spec to resolve the discrepancy.**
  - **ACTION: BPD (Brandon and/or Brian) to provide an update on the status of this to the CCAW members the November CCAW meeting. (NOTE: most likely resolution would be spec update via fall/winter ASP-6).**

8. Next Meeting – (tentative) **Tuesday November 20, 2024 @ 8:30am** – In-Person

- WisDOT requests to reschedule. November 20<sup>th</sup> conflicts with the in-person DTSD Management meeting in NER. This would result in both Michael and Brandon missing the CCAW meeting.
  - **ACTION: Members present at today's meeting agreed to reschedule to Thursday 14, 2024 at 9am.**
  - **ACTION: Brandon will work with Brian Boothby to update the CCAW meeting invite for November. Brian will also work to set tentative meeting dates for 2025 as well.**