

## **Supplemental Agreement Approval Process for Certification Acceptance Agency (CA) Projects**

Supplemental Agreements are used to make changes to construction contracts. They change work in the contract and adjust the contract cost accordingly. They create new pay items or increase, or decrease existing pay items or quantities. Supplemental Agreements, specifically Change Orders, may also be used to change or waive specifications or add days to contract time, even when there is no effect on contract costs. Bid Items are never deleted; quantities must be adjusted to zero. When signed by the contractor and the CA Responsible Charge, Supplemental Agreements are binding legal documents that supplement the original contract. Three different types of Supplemental Agreements may be used to amend construction contracts: Change Orders, Force Accounts and Letters of Agreement.

Change Orders use existing items and unit prices in the bidding schedule or establish new items and unit prices to pay for extra work. A Change Order is also used to extend contract time, adding additional days to complete a project.

- Major Change Orders as defined by ADOT:
  - o Alters the scope of the work (Deviation from Project Assessment (PA) or Deviation from Design Concept Report (DCR))
  - o Work is outside the limits of the environmental clearance or outside the project limits (need new R/W)
  - o Major item of work (as defined in Section 101.02 and 104.02 of ADOT Standard Specifications for Road and Bridge Construction) increased by more than 125 percent or decreased below 75 percent of the original contract quantity
  - o Changes the total contract value by 5% of the original contract
  - o All Compensatory Time Extensions (Any extended overhead, indirect, or nondirect costs)
  - o Cumulative extension of contract duration by either 20 working days or 30 calendar days.
- Major Change Orders as defined by FHWA:
  - o On NHS Projects: FHWA approves major Change Order
  - o On non-NHS projects the CA notifies the ADOT State Construction Engineer of major Change Order
  - o Major changes of scope. (Deviation from Project Assessment (PA) or Design Concept Report (DCR))
  - o Work outside the project limits or outside environmental clearance limits
  - o An increase of over \$1 million to the project
  - o An increase of 20% or more to the project

Force Accounts compensate the contractor for extra work based on the actual hours worked, equipment and materials used (time and materials). It is the most cumbersome and administratively complex Supplemental Agreement. It contains all the supporting documents found in a Change Order, plus additional record keeping requirements once the Force Account work begins.

Letter of Agreement work as per ADOT 2021 Standard Specifications for Road and Bridge Construction (ADOT Standard Specifications), sub-section 109.04 – Adjustment in the Contract Price, can be used only on major projects and as long as it is part of the contract special provisions. A Letter of Agreement is not to be used to change, add or delete plans or a specification or to add contract time extensions.

The CA must send notifications and requests for concurrence prior to authorizing or executing a Supplemental Agreement and it shall not be held until finalization. The CA is required to follow the approval process outlined below:

Document Type	Change	Use	Approval		
			CA	ADOT State Construction Engineer	FHWA
CHANGE ORDERS	Work (Costs)	Change is minor and equal to or less than \$75,000, and less than 5% of contract amount	Yes	N/A	No
	Work (Costs)	Change is major and greater than \$75,000 or greater than or equal to 5% of contract amount, whichever is lesser	Yes	Notify*	No
	Work (Costs)	Change is major and greater than 10% of the contract amount	Yes	Concur*	No
	Time Extension (Non-compensatory)	Cumulative extension of the contract duration by either 20 working days or 30 calendar days	Yes	Notify*	No
	Time Extension (Compensatory)	Any extension of the contract duration that includes extended overhead or indirect costs	Yes	Concur*	No
	Plans or Specifications	Major plan revisions or specification changes	Yes	Concur*	No
FORCE ACCOUNTS	Work (Costs)	A cost agreement cannot be reached. Equal to or less than \$75,000 or less than 5% of contract amount, whichever is lesser	Yes	N/A	No
		A cost agreement cannot be reached. Greater than \$75,000 or greater than or equal to 5% of contract amount, whichever is greater	Yes	Notify	No

\*When notifying or gaining concurrence from the ADOT State Construction Engineer, please copy the appropriate ADOT District Engineer or their designee.

**ADOT CA Supplemental Agreement Process Requirements:**

- When ADOT notification/concurrence is required, the Supplemental Agreement, as per ADOT Standard Specification sub-section 109.04, with backup documentations (engineer cost analysis, contractor cost estimate, plans and special provisions changes (if any) and approval by the CA designated engineer) shall be sent to the ADOT State Construction Engineer or his/her designee for prior notification/concurrence, and not the ADOT Project Manager (PM). The ADOT State Construction Engineer will review and respond to notify/concur or ask for further clarification within four business days via email. Once the completed Supplemental Agreement is finalized, the CA shall send a copy of the finalized Supplemental Agreement to the ADOT PM and ADOT District for their records. This step should be done at the finalization of the Supplemental Agreement, not the end of the project.
- When a time extension Change Order is compensatory, then the compensatory costs for contractor's field and office overhead needs to be concurred by the ADOT State Construction Engineer for the Construction Group with a copy sent to the appropriate ADOT District Engineer (i.e. Central District Engineer, South Central District Engineer).
- The CA must ensure on NHS and non-NHS projects, that any work outside the project environmental clearance limits, has been reviewed and that prior concurrence is obtained from ADOT Environmental Planning before starting the work.
- The CA can use any approved national standards that are approved and adopted by FHWA, such as ADOT, MAG, and PAG. However, if there are undefined rules/specifications, topics, issues and threshold limits that are not covered in the other approved standards, then ADOT approved specifications shall prevail.

**For non-CA Local Public Agencies**

ADOT will administer the contract in accordance with ADOT Standard Specification, sub-section 109.04. The guidelines outlined in the ADOT Construction Manual will be followed for the different types of Supplemental Agreements and approval authority.