

## DB Section 140 – Scope of Work; Changes in the Work

**DB140.00 Purpose of Contract** - The purpose of the Contract is to set forth the rights and obligations of the Parties and the terms and conditions governing completion of the Work. Design-Builder's obligations shall include without limitation the following:

(a) Design-Builder shall furnish all Design Services, Quality Management, and Materials, Equipment, labor, transportation, and Incidentals required to complete the construction Work according to Plans, Specifications, and terms of the Contract.

(b) Design-Builder shall perform the construction Work according to the lines, grades, Typical Sections, dimensions, and other details shown on the Plans, as modified by written order, or as directed by Agency.

(c) Design-Builder shall perform all Work determined by Agency to be necessary to complete the Contract.

(d) Design-Builder shall contact Agency PM for any necessary clarification or interpretation of the Contract.

### DB140.05 Project Scope

(a) **General** - The Scope of the Project includes all Project components identified in **DB Special Provisions**, SP140.05(b)(2), Table SP140.05(b)(2), and performance of all Work described in **DB Special Provisions**, **SP140.05**, in accordance with all Contract requirements. Design-Builder shall not rely solely on the Project description contained in SP140.05, however, to identify all Project components to be designed, constructed, and installed. Design-Builder shall determine the full scope of the Project through thorough examination of all of the Contract Documents and the Project Site.

Design-Builder shall be responsible for designing, furnishing, constructing, and installing all components of the Project, except for those components, if any, as may be stipulated herein or in the **DB Special Provisions** to be furnished and/or installed by Agency.

### (b) Project Configuration

(1) **Project Limits** - Project limits are set out in **DB Special Provisions**, SP140.05(b)(1).

(2) **Work Locations** - The Work Locations identified in **DB Special Provisions**, Table SP140.05(b)(2) will be used for Project administrative and payment purposes, and are not meant to constrain Design-Builder's design or construction schedule or approach, except as such schedule or approach may be affected by Agency-designated Milestones and Work limitations, if any, identified in the Contract Documents.

DB 140.05(c)

**(c) Bridge Information** - Bridge Table, Form BT, identifies the location, name of Work Location, Bridge number, Bridge type, span configuration, Roadway width, Bridge vertical clearance, Structure length, Bridge rail type, peak ground acceleration, skew (in degrees), foundation type in bents, and staging scheme. The table shall serve as a baseline for the design development and construction of the Bridges and other Structures and improvements listed in **DB Special Provisions**, SP140.05. A change to the Bridge Table constitutes a material change in the Contract Baseline Concept.

**DB140.30 Agency-Required Changes in the Work** - Changes to the Plans, quantities, or details of construction are inherent in the nature of construction and may be necessary or desirable during the course of Project construction.

Without impairing the Contract, Agency reserves the right to require changes it deems necessary or desirable within the scope of the Project. These changes may modify, without limitation:

- Specifications and design
- Grade and alignment
- Cross Sections and thicknesses of Courses of Materials
- Method or manner of performance of Work
- Increases and decreases in quantities
- Additional Work
- Elimination of any Contract item of Work
- Project Limits
- Acceleration or delay in performance of Work

Upon receipt of a Change Order, Design-Builder shall perform the Work as modified by the Change Order. If the Change Order increases the Contract Amount, Design-Builder shall notify its Surety of the increase and shall provide Agency PM with a copy of any resulting modification to bond documents. Design-Builder's performance of Work pursuant to Change Orders shall neither invalidate the Contract nor release the Surety. Payment for changes in the Work shall be made in accordance with **DB General Provisions**, Subsection 195.20. Contract Time adjustments shall be made in accordance with **DB General Provisions**, Subsection 180.80.

**DB140.40 Differing Site Conditions** - The following constitute differing Project Site conditions, provided such conditions are discovered at the Project Site after commencement of the Work:

- Subsurface or latent physical conditions that differ materially from those indicated in the Contract Documents, or
- Unknown physical conditions of unusual nature that differ materially from those ordinarily encountered and generally recognized as inherent in the Work provided for in the Contract.

The Party discovering such a condition shall promptly notify the other Party, in writing, of the specific differing conditions before they are disturbed and before the affected Work is performed. Design-Builder shall not continue Work in the affected area until Agency PM

has inspected such condition according to **DB General Provisions**, Subsection 195.30 to determine whether an adjustment to Contract Amount or Contract Time is required.

Payment adjustments due to differing Project Site conditions, if any, will be made according to **DB General Provisions**, Subsection 195.30. Contract Time adjustments, if any, will be made according to **DB General Provisions**, Subsection 180.80.

**DB140.50 Environmental Pollution Changes** - ORS 279C.525 will govern any increases in the scope of the Work required as a result of environmental or natural resources Laws enacted after the submission of Proposals.

Pursuant to ORS 279C.525, Agency has compiled a list under DB170.01 of those federal, State and local agencies, of which the Agency has knowledge, that have enacted ordinances or regulations dealing with the prevention of environmental pollution and the preservation of natural resources that may affect the performance of Agency Contracts.

**DB140.60 Extra Work** - If directed by Agency PM through a written order, Design-Builder shall perform work not included in the Contract according to the Specifications.

Payment for Extra Work will be governed by **DB General Provision**, Section 196. Contract Time adjustments, if any, will be governed by **DB General Provisions**, Subsection 180.80.

**DB140.65 Disputed Work** - Design-Builder may dispute any part of a Change Order, written order, or an oral order from Agency PM by procedures set forth in **DB General Provisions**, Section 199.

**DB140.70 Cost-Reduction Proposals** – Design-Builder may submit written Cost-Reduction Proposals to Agency PM that modify the Plans, Specification, or other Contract Documents for the sole purpose of reducing the total cost of construction.

**(a) Proposal Requirements** – Agency will not adopt a Cost -Reduction Proposal that impairs essential functions or characteristics of the Project, including, but not limited to, service life, economy of operation, ease of maintenance, designed appearance, or design and safety Standards.

To conserve time and funds, Design-Builder may first submit a written request for a feasibility review by Agency. The request should contain a description of the proposal, together with a rough estimate of anticipated dollar and time savings. Agency will, within a reasonable time, advise Design-Builder in writing whether or not the proposal would be considered by Agency, should Design-Builder elect to submit a detailed Cost -Reduction Proposal.

A detailed Cost-Reduction Proposal shall include, without limitation the following information:

**(1)** A description of existing Contract requirements for performing the Work and the proposed change;

**(2)** The Contract items of Work affected by the proposed change, including any quantity variations caused by the proposed change;

DB 140.70(a)(3)

(3) A detailed cost estimate for performing the Work under the existing Contract and for performing the Work under the proposed change. Cost estimates shall be based on a Force Account payment basis. Costs of re-design which are incurred after Agency has authorized the proposal will be included in the cost of proposed work; and

(4) A date by which Agency must adopt the proposal in order to accept the proposed change without impacting the Contract Time or the cost reduction amount.

**(b) Continuing to Perform Work** - Design-Builder shall continue to perform the Work according to all Contract requirements until Agency issues a Change Order incorporating the Cost-Reduction Proposal. If Agency fails to issue a Change Order by the date specified in the proposal, the proposal shall be deemed rejected.

**(c) Consideration of Proposal** – Agency is not obligated to consider any Cost-Reduction Proposal. Agency will not be liable to Design-Builder for failure to accept or act upon any Cost -Reduction Proposal submitted.

Agency will determine in its sole discretion whether to accept a Cost Reduction Proposal as well as the estimated net savings in construction costs from the adoption of all or any part of the proposal. In determining the estimated net savings, Agency may disregard the Schedule of Prices. Agency will establish prices that represent a fair measure of the value of the Work to be performed or to be deleted as a result of the Cost Reduction Proposal.

**(d) Sharing Investigation Costs** - As a condition for considering a Design-Builder's Cost-Reduction Proposal, Agency reserves the right to require Design-Builder to share in Agency's costs of investigating the proposal. If Agency exercises this right, Design-Builder shall provide written acceptance of the condition to Agency. Such acceptance will authorize Agency to deduct its share of investigation costs from payments due or to become due Design-Builder under the Contract.

**(e) Acceptance of Proposal Requirements** - If Design-Builder's Cost -Reduction Proposal is accepted in whole or in part, acceptance will be made by a Change Order that will include without limitation, the following:

(1) A statement that the Change Order is made in accordance with this Subsection;

(2) Revised Plans and **Design-Builder Specifications** that reflect all modifications necessary to implement the approved cost-reduction measures;

(3) Any conditions upon which Agency's approval is subject;

(4) Estimated net savings in construction costs attributable to the approved cost-reduction measures;

(5) A payment provision pursuant to which Design-Builder will be paid 80% of the estimated net savings amount as full and adequate consideration for performance of the Work of the Change Order Work.

Design-Builder's cost of preparing the Cost Reduction Proposal and Agency's costs of investigating the proposal, including any portion paid by Design-Builder, will be excluded from determination of the estimated net savings in construction costs. Costs of re-design, which are incurred after Agency has accepted the proposal, will be included in the cost of the Work attributable to the cost-reduction measures.

If Agency accepts the Cost Reduction Proposal, the Change Order that authorizes the cost reduction measures will also address any Contract Time adjustment.

**(f) Right to General Use** - Once submitted, the Cost -Reduction Proposal becomes the property of Agency. Agency reserves the right to adopt the Cost-Reduction Proposal for general use without additional compensation to Design-Builder when it determines that a proposal is suitable for application to other contracts.

**DB140.80 Use of Publicly-Owned Equipment** - Design-Builder is prohibited from using publicly-owned Equipment except in the case of emergency. In an emergency, Design-Builder may rent publicly-owned Equipment, provided that:

**(a)** Agency provides written approval stating that such rental is in the public interest; and

**(b)** Rental does not increase the Project cost.

**DB140.90 Final Trimming and Clean-up** - Before Final Inspection, Design-Builder shall neatly trim and finish the Project and remove all remaining unincorporated Materials and debris. "Final Trimming and Cleanup" shall include without limitation the following:

- Design-Builder shall re-trim and reshape earthwork, and shall repair deteriorated portions of the Project Site.
- Where the Work has impacted existing facilities or devices, Design-Builder shall restore or replace those facilities to their pre-existing condition.
- Design-Builder shall clean all drainage facilities and sanitary sewers of excess Materials or debris resulting from the Work.
- Design-Builder shall clean up and leave in a neat, orderly condition, Rights of Way, Materials sites, and other property occupied in connection with performance of the Work.
- Design-Builder shall remove temporary buildings, construction plants, forms, falsework and scaffolding, surplus and discarded Materials, and rubbish.
- Design-Builder shall dispose of Materials and debris, including without limitation forms, falsework, scaffolding, and rubbish resulting from clearing, grubbing, trimming, clean-up, removal, and other Work. These Materials and debris become the property of Design-Builder. Design-Builder shall dispose of these Materials and debris immediately.

Unless the Contract specifically provides for payment for this item, Agency will make no separate or additional payment for Final Trimming and Clean-Up.

