

Memorandum

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To: DEPUTY DISTRICT DIRECTORS, Construction
DEPUTY DIVISION CHIEF, Structure Construction
CONSTRUCTION MANAGERS
SENIOR CONSTRUCTION ENGINEERS
RESIDENT ENGINEERS

Date: September 22, 2020

File: Division of Construction
CPD 20-21



From: RACHEL FALSETTI, Chief
Division of Construction

Subject: **COVID-19 EFFECT ON ALTERNATIVE DISPUTE RESOLUTION PROCESS**

This directive supersedes CPD 20-5. As the coronavirus disease (COVID-19) pandemic continues to affect our daily lives, it also affects the alternative dispute resolution (ADR) process on some ongoing construction contracts. This directive modifies the ADR process to allow it to continue during the pandemic.

When an onsite meeting cannot be held because of safety concerns, Caltrans will allow ADR progress meetings to be held remotely through telephone, video, or virtual meetings. Meetings held for disputes may be held by video or virtual meetings in place of onsite meetings. The contractor and resident engineer determine the method to hold the meetings, based on the following conditions:

- All ADR members must attend the meeting through the agreed upon method
- Dispute resolution members will be compensated per hour for meeting time at the hourly rate specified in Section 5-1.43E(1)(i), "Payment," of the *Standard Specifications* used for the contract. Compensated time will be rounded up for any fraction of hour longer than 15 minutes.
- The resident engineer and contractor must authorize time used for off-site ADR member-related tasks and document hours using the attached Form CEM-6214, "Dispute Resolution Chargeable Hours Authorization." Hours authorized for off-site ADR members will be paid per the contract specifications. For example, for each progress meeting, the resident engineer and contractor authorize 2 hours for each dispute resolution member to prepare for the meeting and 1 hour for the chair member to prepare the meeting notes.
- Caltrans will reimburse the contractor for:
 - Half of the invoiced costs for meetings when ADR is paid by change order.
 - Invoiced authorized hours paid using Bid Item 090207, "Hourly Off-Site Dispute Resolution Advisor-Related Tasks," or Bid Item 090210, "Hourly Off-Site Dispute Resolution Board-Related Tasks," when ADR is paid by bid item.

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- No site visits are allowed by ADR members when meetings are conducted remotely. The resident engineer and contractor will determine if a virtual site visit is needed and will provide it.

There should be no contract time extension for implementing the contractor-requested change order. Attached to this directive are a sample change order memorandum and sample change order to implement the ADR remote meetings. This directive serves as delegation of authority from the Division of Construction for change order approval, except when change order language is altered. Projects of Division Interest are subject to Federal Highway Administration oversight requirements; consult the Federal Highway Administration transportation engineer for change order concurrence.

If you have questions or comments regarding this directive, please contact Hani Romani, Division of Construction, at Hani.Romani@dot.ca.gov or (916) 651-8647.

Attachments:

1. Sample Form CEM-4903, "Change Order Memorandum"
2. Sample Form CEM-4900, "Change Order"
3. Form CEM-6214, "Dispute Resolution Chargeable Hours Authorization"