

BOARD OF COUNTY COMMISSIONERS
SARPY COUNTY, NEBRASKA

RESOLUTION AUTHORIZING CHAIRMAN TO SIGN AGREEMENT FOR
PRELIMINARY ENGINEERING SERVICES FOR IMPROVEMENTS TO THE
INTERSECTION OF 132ND STREET & WEST GILES ROAD IN SARPY COUNTY,
NEBRASKA

WHEREAS, pursuant to Neb. Rev. Stat. §23-104(6) (Reissue 2007), the County has the power to do all acts in relation to the concerns of the county necessary to the exercise of its corporate powers; and,

WHEREAS, pursuant to Neb. Rev. Stat. §23-103 (Reissue 2007), the powers of the County as a body are exercised by the County Board; and,

WHEREAS, an existing Agreement between the County and the Nebraska Department of Roads facilitates the acquisition of Federal funding for improvements to the intersection of 132nd Street and West Giles Road in Sarpy County, Project No. MAPA-5005(1) SC No. 22283, and preliminary engineering services are necessary for said improvements.

NOW, THEREFORE, BE IT RESOLVED BY THE SARPY COUNTY BOARD OF COMMISSIONERS THAT, pursuant to the statutory authority set forth above, the Agreement with the Nebraska Department of Roads Agreement for Preliminary Engineering Services for Improvements to the Intersection of 132nd Street & West Giles Road in Sarpy County, Nebraska, a copy of which is attached hereto, is hereby approved.

BE IT FURTHER RESOLVED that Chair and Clerk are hereby authorized to execute said agreement on behalf of Sarpy County, Nebraska.

DATED this 27th day of July, 2010.

Moved by Rich Jansen, seconded by Rusty Hike, that the above Resolution be adopted. Carried.

YEAS:

NAYS:

ABSENT:

Rusty Hike

none

none

Rich Jansen

Paul Abbott

Tom Vickroy

Patrick J. Thomas

ABSTAIN:

none

Debra Joughaling
County Clerk



Approved as to form:

Micole O'Kane
Deputy County Attorney

ENGINEERING AGREEMENT

SARPY COUNTY
HDR ENGINEERING, INC.
PROJECT NO. MAPA-5005(1)
CONTROL NO. 22283
INTERSECTION OF 132ND STREET AND GILES ROAD
PRELIMINARY ENGINEERING

THIS AGREEMENT, made and entered into by and between the Sarpy County ,
hereinafter referred to as the Local Public Agency or LPA, and HDR Engineering, Inc.,
hereinafter referred to as the Consultant.

WITNESSETH

WHEREAS, the LPA desires to engage the Consultant to render professional services for
the above named project at the location shown on EXHIBIT "A", which is attached and hereby
made a part of this agreement, and

WHEREAS, the Consultant is qualified to do business in Nebraska and has met all
requirements of the Nebraska Board of Engineers and Architects to provide consultant
engineering services in the State of Nebraska, and

WHEREAS, Consultant is willing to perform the services in accordance with the terms
hereinafter provided, is presently in compliance with Nebraska law, and hereby agrees to
comply with all federal, state, and local laws and ordinances applicable to this agreement, and

WHEREAS, the Consultant and LPA intend that the services provided by Consultant
comply with all applicable federal-aid transportation related program requirements, so that
LPA's project will be fully eligible for federal reimbursement, and

WHEREAS, the LPA and Consultant intend that the services under this agreement be
completed in accordance with the terms and conditions of the Nebraska LPA Guidelines Manual
for Federal Aid Projects; hereinafter referred to as LPA Manual; the LPA Manual is a document
approved by the Federal Highway Administration (FHWA) that sets out the requirements for
local federal-aid projects to be eligible for federal reimbursement; the LPA Manual can be found
in its entirety at the following web address:

<http://www.transportation.nebraska.gov/gov-aff/lpa/lpa-guidelines.pdf>, and

WHEREAS, the Consultants primary contact person for LPA will be the LPA's
representative, who has been designated as being in responsible charge of the project, and who
is referred to herein as RC or Responsible Charge.

BK1079

WHEREAS, the parties understand that the State of Nebraska, Department of Roads is involved in this federal-aid project on behalf of the FHWA only for issues related to the eligibility of the project for reimbursement of project costs with federal-aid funds.

NOW THEREFORE, in consideration of these facts, the parties hereto agree as follows:

SECTION 1. DEFINITIONS

Wherever in this agreement the following terms are used, they will have the meaning here given:

"CONSULTANT" means HDR Engineering, Inc. and any employees thereof, whose business and mailing address is 8484 Indian Hills Drive, Omaha, NE 68114, and

"LPA" means a Local Public Agency. Local Public Agencies include, but are not necessarily limited to; Nebraska Cities, Villages, Counties, Political Subdivisions, Native American Tribes, and other entities or organizations found to be eligible sub recipients of federal funds for transportation projects, and

"LPA MANUAL" shall mean the Nebraska Department of Roads' LPA Guidelines Manual for Federal-Aid Projects. The LPA Manual can be found in its entirety at the following web address: <http://www.transportation.nebraska.gov/gov-aff/lpa/lpa-guidelines.pdf>, and

"RESPONSIBLE CHARGE" or "RC" shall mean LPA's representative for the project whose duties and responsibilities are identified in federal law and in the LPA Manual, and

"STATE" means the Nebraska Department of Roads in Lincoln, Nebraska, its Director, or authorized representative. The State represents the United States Department of Transportation on federally funded transportation projects sponsored by a sub recipient of federal funds and any reference to the "State" in this Master Agreement shall mean the State on behalf of the United States Department of Transportation.

"FHWA" means the Federal Highway Administration, United States Department of Transportation, Washington, D.C. 20590, acting through its authorized representatives.

"DOT" means the United States Department of Transportation, Washington, D.C. 20590, acting through its authorized representatives.

To "ABANDON" the work means that the LPA has determined that conditions or

intentions as originally existed have changed and that the work as contemplated herein is to be renounced and deserted for as long in the future as can be foreseen.

To "SUSPEND" the work means that the LPA has determined that progress is not sufficient, or that the conditions or intentions as originally existed have changed, or the work completed or submitted is unsatisfactory, and that the work as contemplated herein should be stopped on a temporary basis. This cessation will prevail until the LPA determines to abandon or terminate the work or to reinstate it under the conditions as defined in this agreement.

To "TERMINATE" or the "TERMINATION" of this agreement is the cessation or quitting of this agreement based upon action or failure of action on the part of the Consultant as defined herein and as determined by the LPA.

SECTION 2. SCOPE OF SERVICES

The Consultant shall provide Preliminary Engineering for project MAPA-5005(1), Control No. 22283, in Sarpy County, Nebraska. The scope shall be developed in accordance with the LPA manual and attached hereto as Exhibit "A".

SECTION 3. PERSONNEL

The Consultant has furnished a personnel chart or list in EXHIBIT "B". Personnel who are added to Exhibit "B" as replacements must be persons of comparable training and experience. Personnel added to Exhibit "B" as new personnel and not replacements must be qualified to perform the intended work. The Consultant shall notify the LPA of any personnel changes. The LPA reserves the right to accept or reject the personnel change. Failure on the part of the Consultant to provide acceptable replacement personnel or qualified new personnel as determined by the LPA will be cause for termination of this agreement, with settlement to be made as provided in the CHANGE OF PLAN, ABANDONMENT, SUSPENSION, AND TERMINATION section of this agreement.

SECTION 4. NEW EMPLOYEE WORK ELIGIBILITY STATUS

The Consultant agrees to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. The Consultant hereby agrees to contractually require any subconsultants to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program

authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.

The undersigned duly authorized representative of the Consultant, by signing this agreement, hereby attests to the truth of the following certifications, and agrees as follows:

Neb.Rev.Stat. § 4-114. I certify compliance with the provisions of Section 4-114 and, hereby certify that this Consultant shall register with and use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. I agree to require all subconsultants, by contractual agreement, to require the same registration and verification process.

If the Consultant is an individual or sole proprietorship, the following applies:

1. The Consultant must complete the United States Citizenship Attestation form, available on the Department of Roads website at www.transportation.nebraska.gov/projdev/#save.
2. If the Consultant indicates on such Attestation form that he or she is a qualified alien, the Consultant agrees to provide the US Citizenship and Immigration Services documentation required to verify the Consultant lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.
3. The Consultant understands and agrees that lawful presence in the United States is required and the Consultant may be disqualified or the contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. §4-108.

SECTION 5. STANDARD PRACTICES AND REQUIREMENTS

It is mutually agreed that at the request of the State, the Consultant shall provide the State a detailed report of the product and progress of the work and allow inspection of the existing work product. From time to time, additions, deletions, changes, elaborations, or modifications of the services performed under the terms of this agreement may be determined

by the State to be desirable or preferable. These changes will be made by supplement agreement.

SECTION 6. NOTICE TO PROCEED AND COMPLETION

The LPA will issue the Consultant a written Notice-to-Proceed when LPA determines that federal funding approval has been obtained for the project, and upon State concurrence that the form of this Task Order is acceptable for federal funding eligibility. Any work or services performed by Consultant on the project prior to the date specified in the written Notice-to-Proceed is not eligible for reimbursement.

The Consultant shall do all the work according to the schedule in attached EXHIBIT "B" and shall complete all work required under this agreement in a satisfactory manner by February 1, 2011.

Any costs incurred by Consultant after the completion deadline are not eligible for federal funding reimbursement unless the Consultant has received an extension of time in writing from LPA and the LPA has federal funding approval for the extension of time.

The completion time will not be extended because of any avoidable delay attributed to the Consultant, but delays attributable to the LPA may constitute a basis for an extension of time.

LPA authorized changes in the scope of work, which increase or decrease work-hours or services required of the Consultant, will provide the basis for a change of time and/or changes to the Consultant's fee.

SECTION 7. FEES AND PAYMENTS

- A. For performance of the services as described in this agreement, the Consultant will be paid a fixed-fee-for-profit of \$26,239, as defined in paragraph D of this section, and up to a maximum amount of \$239,333 for actual costs as defined in paragraph E of this section, that are allowable subject to the terms of this agreement and to all requirements and limitations of the federal cost principles contained in the Federal Acquisition Regulation (48 CFR 31). The total agreement amount is \$265,372.
- B. Occasionally, the conditions of this agreement may change. This may be due to a change in scope which may require an adjustment of costs. In order to justify the need to modify this contract, the LPA must first determine that the situation meets the following criteria:
 - That the additional work is beyond the scope of services initially negotiated with Consultant; and

- That the proposed Services are within the scope of the Request for Proposal under which Consultant was selected and contract entered into; and
- That it is in the best interest of the LPA that the services be performed under this agreement.

Once the need for a modification has been established, a supplemental agreement will be prepared.

If the additional work requires the Consultant to incur costs prior to execution of a supplemental agreement, the LPA shall use the Consultant Work Order Form (DR Form 246) to describe and provide necessary justification for the modification of the scope of services, the deliverables, the schedule, and to document the estimated total additional fee. DR Form 246 is available on the State's webpage at:

www.transportation.nebraska.gov/gov-aff/downloads.htm. The Consultant Work

Order must be executed to provide authorization for the additional work and to specify when that work may begin. This agreement will be supplemented after one or more Consultant Work Orders have been authorized and approved for funding.

- C. The LPA is not responsible for costs incurred prior to the Notice-to-Proceed date or after the completion deadline date stated in the TIME OF BEGINNING AND COMPLETION Section of this agreement.
- D. The fixed-fee is computed upon the direct labor or wage costs, indirect labor costs, indirect non-labor costs, and direct payroll additives. The fixed-fee is not allowable upon direct non-labor costs. The fee for profit is calculated by multiplying the sum of the wages and overhead costs billed by the negotiated fee for profit rate of "12%".
- E. Actual costs include direct labor costs, direct non-labor costs, and overhead costs.
 - (1) Direct Labor Costs are the earnings that individuals receive for the time they are working directly on the project.
 - (a) Hourly Rates: For hourly employees, the hourly earnings rate shall be the employee's straight time hourly rate for the pay period in which the work was performed. For salaried employees, the hourly earnings rate shall be their normal hourly rate as established by the company's compensation plan, except for those pay periods where the employee works more hours than normally expected. In those pay periods, the

hourly rate for project billing purposes shall be the actual rate determined by dividing the actual compensation for that pay period by the actual hours reported, including paid absences, for that pay period. Hours worked includes paid absences, such as: holiday, vacation, sick leave, administrative leave, etc.

(b) Time records: The hours charged to the project must be supported by adequate time distribution records. The records must clearly indicate the distribution of hours to all activities on a daily basis for the entire pay period, and there must be a system in place to ensure that time charged to each activity is accurate.

(2) Direct Non-Labor Costs charges in this category include actual allowable expenses for personnel away from their base of permanent assignment, communication costs, reproduction and printing costs, computer charges, special equipment and materials required for the project, special insurance premiums if required solely for this agreement, and such other similar items. A non-labor cost cannot be charged as a direct cost and also be included in the Consultant's overhead rate. If for reasons of practicality, the consultant is treating a direct non-labor cost category, in its entirety, as an overhead cost, then costs from that category are not eligible to be billed to this project as a direct expense.

Payment for eligible direct non-salary costs must be made on receipted invoices whenever possible, or on certified billings of the Consultant. For purposes of standardization on this agreement, the following expenses will be reimbursed at actual costs, not to exceed the rates as shown below.

Company Automobile/Pick-up truck - The reimbursement for automobile/pick-up truck mileage shall be the prevailing standard rate as established by the Internal Revenue Services through its Revenue Procedures - currently 50 cents per mile.

Company Survey Vehicle - Currently 52.5 cents per mile (2.5 cents above Company Automobile/Pick-up truck)

Privately Owned Vehicle - Actual reimbursement to employee, not to exceed rates shown for company vehicles outlined above

Automobile Rental - Actual reasonable cost

Air fare - **Actual reasonable cost**, giving the State all discounts

Lodging - **Actual cost – excluding taxes and fees**: Not to exceed the federal lodging reimbursement guidelines, as periodically determined by the U.S. General Services Administration – currently at the following rates:

Not to exceed *\$70.00 per person daily

*Omaha/Douglas County, not to exceed

\$101.00 per person daily

Meals - **Actual cost – including tax and gratuity**: Not to exceed the federal per meal reimbursement guidelines, as periodically determined by the U.S. General Services Administration – currently at the following rates:

	Statewide	Omaha/Douglas County
Breakfast	\$ 7.00	\$ 10.00
Lunch	11.00	15.00
Dinner	<u>23.00</u>	<u>31.00</u>
Totals	<u>\$41.00</u>	<u>\$56.00</u> <u>(Includes tax and gratuity)</u>

For the Consultant and its employees to be eligible for the meal allowance, the following criteria must be met.

Breakfast: (a) Employee is required to depart at or before 6:30 a.m., or
(b) Employee is on overnight travel.

Lunch: (a) Employee must be on overnight travel. No reimbursement for same day travel.
(b) Employee is required to leave for overnight travel at or before 11:00 a.m., or
(c) Employee returns from overnight travel at or after 2:00 p.m.

Dinner: (a) Employee returns from overnight travel or work location at or after 7:00 p.m., or
(b) Employee is on overnight travel.

Meals are not eligible for reimbursement if the employee eats within 20 miles of the headquarters town of the employee.

The Consultant shall note the actual lodging and meal costs in a daily diary, expense report, or on the individual's time report along with the time of departure to the project and time of return to the headquarters town. The total daily meal costs must not exceed \$41.00 per person, with the exception of Omaha/Douglas County, which must not exceed \$56.00 per person (includes tax and gratuity). When requested by LPA or State, the Consultant will provide a copy of the meal receipts.

- (3) Overhead Costs include indirect labor costs, indirect non-labor costs, and direct labor additives that are allowable in accordance with 48 CFR 31. Overhead costs are to be allocated to the project as a percentage of direct labor costs. The Consultant will be allowed to charge the project using its actual allowable overhead rate. Overhead rate increases which occur during the project period will not be cause for an increase in the maximum amount established in paragraph A of this section. When an audit is performed by the State at the completion of the work, the actual allowable overhead rate for the year the project labor was incurred will be applied to the direct labor costs for that year. If a particular year's actual overhead has not yet been computed or approved by the State, the most recent year's accepted rate will be applied. The audit may result in additional funds due the Consultant or a cost due from the Consultant to the State.

- F. The Consultant shall submit invoices to the LPA at a minimum of monthly intervals and in accordance with the "LPA Procedure for Processing Invoices" located on the State's webpage at:

www.transportation.nebraska.gov/gov-aff/downloads.htm.

The invoices must present actual direct labor, actual overhead, actual direct non-labor costs, as well as the fixed-fee based upon the actual direct labor and overhead costs billed for that period. The fixed-fee amount on the final invoice should be the difference between 90 percent of the agreed-upon fee and the total amount previously billed. The invoices must identify each employee by name and classification, the hours worked, and each individual's actual labor cost. Direct non-labor expenses must be itemized and provide a complete description of each item billed. See LPA Guidelines Manual for Federal-Aid projects, Chapter 13, Section 13.3, paragraph 4, for additional requirements.

Each monthly invoice must be substantiated by a progress report which is to include/address, as a minimum:

1. A description of the work completed for that period
2. A description of the work anticipated for the next pay period
3. Information needed from LPA
4. Percent of work completed to date
5. A completed "Cost Breakdown Form" which is located on the State's webpage at www.transportation.nebraska.gov/rfp.

If the Consultant does not submit a monthly invoice, it shall submit its progress report monthly.

- G. The State, on behalf of LPA, will make every effort to pay the Consultant within 30 days of receipt of the Consultant's invoices. Payments are dependent upon whether the monthly progress reports provide adequate substantiation for the work and whether the LPA and State determines that the work submitted is satisfactory. Upon determination that the work was adequately substantiated and satisfactory, payment will be made in the amount of 100 percent of the billed actual costs, and 90 percent of the fixed-fee. The final 10% of the fixed-fee will be paid upon completion of the work required under this agreement, acceptance by the LPA and State, and a final audit of all invoiced amounts has been completed by the State or its authorized representative. The Consultant agrees to reimburse the State for any overpayments discovered by the State or its authorized representative.

The acceptance by the Consultant of the final payment will constitute and operate as a release to the LPA and State for all claims and liability to the Consultant, its representatives, and assigns, for any and all things done, furnished, or relating to the services rendered by or in connection with this agreement or any part thereof.

- H. The Consultant shall maintain, all books, documents, papers, accounting records, and other evidence pertaining to costs incurred and shall make such material available for examination at its office at all reasonable times during the agreement period and for three years from the date of final project acceptance by FHWA under this agreement. Such materials must be available for inspection by the State, FHWA, or any authorized representative of the federal government, and when requested, the Consultant shall furnish copies.

SECTION 8. PROFESSIONAL PERFORMANCE

The Consultant understands that the LPA will rely on the professional performance and ability of the Consultant. Any examination by the LPA, State or the FHWA, or any acceptance or use of the work product of the Consultant, will not be considered to be a full and comprehensive examination and will not be considered an approval of the work product of the Consultant which would relieve the Consultant from any liability or expense that would be connected with the Consultant's sole responsibility for the propriety and integrity of the professional work to be accomplished by the Consultant pursuant to this agreement. That further, acceptance or approval of any of the work of the Consultant by the LPA or of payment, partial or final, will not constitute a waiver of any rights of the LPA to recover from the Consultant, damages that are caused by the Consultant due to error, omission, or negligence of the Consultant in its work. That further, if due to error, omission, or negligence of the Consultant, the plans, specifications, and estimates are found to be in error or there are omissions therein revealed during the construction of the project and revision or reworking of the plans is necessary, the Consultant shall make such revisions without expense to the LPA. The Consultant shall respond to the LPA's or State's notice of any errors or omissions within 24 hours and give immediate attention to these corrections to minimize any delays to the construction contractor. This may involve visits by the Consultant to the project site, if directed by the LPA. If the Consultant discovers errors in its work, it shall notify the LPA and State of the errors within seven days. Failure of the Consultant to notify the LPA will constitute a breach of this agreement. The Consultant's legal liability for all damages incurred by the LPA caused by error, omission, or negligent acts of the Consultant will be borne by the Consultant without liability or expense to the LPA.

SECTION 9. CHANGE OF PLAN, ABANDONMENT, SUSPENSION, AND TERMINATION

Additions to the schedule of services, if approved in writing, will require negotiation of a supplemental agreement. For any work beyond the schedule of services, the Consultant shall document the additional work, estimate the cost to complete the work, and receive written approval from the LPA before the Consultant begins the work. Any such work performed by the Consultant prior to written approval of the LPA will be done at the expense of the Consultant.

The LPA has the absolute right to abandon the project or to change the general scope of work at any time and such action on its part will in no event be deemed a breach of agreement. The LPA can suspend or terminate this agreement at any time. Such suspension or termination may be affected by the LPA giving the Consultant seven days written notice.

If the LPA abandons or subtracts from the work, or suspends or terminates the agreement as presently outlined, the Consultant will be compensated in accordance with the provisions of 48 CFR 31, provided however, that in case of suspension, abandonment, or termination for breach of this agreement or for tender of improper work, the LPA can suspend payments, pending the Consultant's compliance with the provisions of this agreement. In determining the percentage of work completed, the LPA will consider the work performed by the Consultant prior to abandonment or termination to the total amount of work contemplated by this agreement. The ownership of all project plans and supporting documents completed or partially completed at the time of such termination or abandonment will be retained by the LPA and the Consultant shall immediately deliver all project plans and supporting documents to the LPA.

SECTION 10. OWNERSHIP OF DOCUMENTS

All surveys, plans, specifications, maps, computations, charts, electronic data, and other project data prepared or obtained under the terms of this agreement are the property of the LPA and the Consultant shall deliver them to the LPA without restriction or limitation as to further use.

LPA acknowledges that such data may not be appropriate for use on an extension of the work covered by this agreement or on other projects. Any use of the data for any purpose other than that for which it was intended without the opportunity for Consultant to review the data and modify it if necessary for the intended purpose will be at the LPA's sole risk and without legal exposure or liability to Consultant.

SECTION 11. USE AND/OR RELEASE OF PRIVILEGED OR CONFIDENTIAL INFORMATION

Certain information provided by the State to the Consultant is confidential information contained within privileged documents protected by 23 U.S.C. §409. "Confidential information" means any information that is protected from disclosure pursuant to state and federal law and includes, but is not limited to, accident summary information, certain accident reports, diagnostic evaluations, bridge inspection reports, and any other documentation or information that corresponds with said evaluations or reports, and any other information protected by 23 U.S.C. §409. "Privileged document" means any document pertaining to any file or project maintained by the State that is privileged and protected from disclosure, pursuant to appropriate state and federal law, including any document containing attorney-client communications between a State employee and the Legal Division. This confidential and privileged information is vital and essential to the Consultant in order that the Consultant adequately design the project at hand on behalf of the State.

The Consultant agrees it will only use any information or documentation that is considered to be privileged or confidential for the purposes of executing the services by which it has agreed to render for the State for the project at hand only. The Consultant agrees not to reveal, disseminate, or provide copies of any document that is confidential and privileged to any individual or entity. The State agrees that any information or documentation that is considered to be privileged or confidential that is provided to Consultant will be marked with the following information:

“CONFIDENTIAL INFORMATION: Federal Law, 23 U.S.C §409, prohibits the production of this document or its contents in discovery or its use in evidence in a State or Federal Court. The State of Nebraska has not waived any privilege it may assert as provided by that law through the dissemination of this document and has not authorized further distribution of this document or its contents to anyone other than the original recipient.”

The Consultant agrees to obtain the written approval of the Consultant Coordinator prior to the dissemination of any privileged or confidential information or documentation if it is unclear to the Consultant whether such information or documentation is in fact privileged or confidential.

The Consultant and the State agree that any unauthorized dissemination of any privileged or confidential information or documentation on the part of the Consultant will create liability on the part of the Consultant to the State for any damages that may occur as a result of the unauthorized dissemination. The Consultant agrees to hold harmless, indemnify, and release the State for any liability that may ensue on the part of the State for any unauthorized dissemination of any privileged or confidential information or documentation on the part of the Consultant.

SECTION 12. FORBIDDING USE OF OUTSIDE AGENTS

The Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working for the Consultant, to solicit or secure this agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of this agreement. For breach or violation of this warranty, the LPA has the right to annul this agreement without liability or, in its discretion, to deduct from the agreement price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

SECTION 13. NON-RAIDING CLAUSE

The Consultant shall not engage the services of any person or persons presently in the employ of the State for work covered by this agreement without the prior written consent of the employer of the persons.

SECTION 14. GENERAL COMPLIANCE WITH LAWS

The Consultant hereby agrees to comply with all federal, state, and local laws and ordinances applicable to the work.

SECTION 15. DISPUTES

Any dispute concerning a question of fact in connection with the work not disposed of by this agreement will be referred for determination to the LPA or a duly authorized representative, whose decision in the matter will be final and conclusive on the parties to this agreement.

SECTION 16. RESPONSIBILITY FOR CLAIMS AND LIABILITY

The Consultant agrees to save harmless the LPA and State from all claims and liability due to the activities of the Consultant or those of the Consultant's agents or employees in the performance of work under this agreement. In this connection, the Consultant shall for the life of this agreement, carry insurance as outlined in Exhibit "C" and attached hereto, and hereby made a part of this agreement.

SECTION 17. PROFESSIONAL REGISTRATION

The Consultant shall affix the seal of a registered professional engineer or architect licensed to practice in the State of Nebraska, on all plans, documents, and specifications prepared under this agreement as required by the Nebraska Engineers and Architects Regulations Act, Neb.Rev.Stat §81-3401 et. seq.

SECTION 18. SUCCESSORS AND ASSIGNS

This agreement is binding on successors and assigns of either party.

SECTION 19. DRUG-FREE WORKPLACE POLICY

The Consultant shall have an acceptable and current drug-free workplace policy on file with the State.

SECTION 20. FAIR EMPLOYMENT PRACTICES ACT

The Consultant agrees to abide by the Nebraska Fair Employment Practices Act, as provided by Neb.Rev.Stat. 48-1101 through 48-1126, which is hereby made a part of and included in this agreement by reference.

SECTION 21. DISABILITIES ACT

The Consultant agrees to comply with the Americans with Disabilities Act of 1990 (P.L. 101-366), as implemented by 28 CFR 35, which is hereby made a part of and included in this agreement by reference.

SECTION 22. DISADVANTAGED BUSINESS ENTERPRISES

The Consultant shall ensure that disadvantaged business enterprises, as defined in 49 CFR 26, have the maximum opportunity to compete for and participate in the performance of subagreements financed in whole or in part with federal funds under this agreement.

Consequently, the disadvantaged business requirements of 49 CFR 26 are hereby made a part of and included in this agreement by reference.

The Consultant shall not discriminate on the basis of race, color, sex, or national origin in the award and performance of FHWA-assisted contracts. Failure of the Consultant to carry out the requirements set forth above will constitute a breach of this agreement and, after the notification of the FHWA, may result in termination of this agreement by the LPA or such remedy as the LPA deems appropriate.

SECTION 23. NONDISCRIMINATION

- A. Compliance with Regulations: During the performance of this agreement, the Consultant, for itself and its assignees and successors in interest, agrees to comply with the regulations of the DOT relative to nondiscrimination in federally-assisted programs of the DOT (49 CFR 21 and 27, hereinafter referred to as the Regulations), which are hereby made a part of and included in this agreement by reference.
- B. Nondiscrimination: The Consultant, with regard to the work performed by it after award and prior to completion of this agreement, shall not discriminate on the basis of race, color, sex, or national origin in the selection and retention of Subconsultants, including procurements of materials and leases of equipment. The Consultant shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR 21.5, including employment practices when the agreement covers a program set forth in Appendixes A, B, and C of 49 CFR 21.
- C. Solicitations for Subagreements, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the Consultant for work to be performed under a subagreement, including procurements of materials or equipment, each potential Subconsultant or supplier shall be notified by the Consultant of the Consultant's obligations under this

agreement and the Regulations relative to nondiscrimination on the basis of race, color, sex, or national origin.

- D. Information and Reports: The Consultant shall provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the LPA, State or FHWA to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall certify to the LPA, State or FHWA, as appropriate, and set forth what efforts it has made to obtain the information.
- E. Sanctions for Noncompliance: In the event of the Consultant's noncompliance with the nondiscrimination provisions of this agreement, the LPA will impose such agreement sanctions as it or the State and FHWA may determine to be appropriate, including but not limited to withholding of payments to the Consultant under this agreement until the Consultant complies, and/or cancellation, termination, or suspension of this agreement, in whole or in part.
- F. Incorporation of Provisions: The Consultant shall include the provisions of paragraphs A through E of this section in every subagreement, including procurements of materials and leases of equipment, unless exempt by the Regulations, orders, or instructions issued pursuant thereto. The Consultant shall take such action with respect to any subagreement or procurement as the LPA, State or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance, provided however, that in the event a Consultant becomes involved in or is threatened with litigation with a Subconsultant/ Subcontractor as a result of such direction, the Consultant may request that the LPA enter into such litigation to protect the interests of the LPA and, in addition, the Consultant may request that the State and United States enter into such litigation to protect the interests of the State and United States.

SECTION 24. CONFLICT OF INTEREST

The Consultant shall review the conflict of interests provisions of 23 C.F.R. 1.33 and any other applicable provisions and agrees to fully comply with all the conflict of interest provisions in order to insure that the project remains fully eligible for state or federal funding. By signing this agreement, the Consultant certifies that

it has no financial or other interests in this project or the outcome of this project. For further federal interpretation of these provisions, see "PE/CE Consultant Conflict of Interest Frequently Asked Questions" located on the State's Local Federal Aid Projects' Frequently Asked Questions webpage:

<http://www.transportation.nebraska.gov/gov-aff/faq.html>

SECTION 25. CONSULTANT CERTIFICATIONS

The undersigned duly authorized representatives of the Consultant, by signing this agreement, hereby swears, under the penalty of law, the truth of the following certifications, and agrees as follows:

A. **Neb.Rev.Stat. § 81-1715(1)**. I certify compliance with the provisions of Section 81-1715 and, to the extent that this contract is a lump sum or actual cost-plus-a-fixed fee professional service contract, I hereby certify that wage rates and other factual unit costs supporting the fees in this agreement are accurate, complete, and current as of the date of this agreement. I agree that the original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the LPA determines the contract price had been increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. Neb.Rev.Stat. §§ 81-1701 through 81-1721.

B., **Neb. Rev. Stat. §§ 81-1717 and 1718**. I hereby certify compliance with the provisions of Sections 81-1717 and 1718 and, except as noted below neither I nor any person associated with the firm in the capacity of owner, partner, director, officer, principal investor, project director, manager, auditor, or any position involving the administration of federal funds:

1. Has employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above Consultant) to solicit or secure this agreement, or
2. Has agreed, as an express or implied condition for obtaining this agreement, to employ or retain the services of any firm or person in connection with carrying out this agreement, or
3. Has paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above Consultant) any fee, contribution, donation, or consideration of any kind for, or in connection with procuring or carrying out this agreement, except as here expressly stated (if any).

C. Certification Regarding Debarment, Suspension, and Other Responsibility

Matters-Primary Covered Transactions. Section C1 below contains 10 instructions that consultant agrees to follow in making the certifications contained in C2

1. Instructions for Certification

- a. By signing this agreement, the Consultant is providing the certification set out below.
- b. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this project. The Consultant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the LPA's determination whether to enter into this agreement. However, failure of the Consultant to furnish a certification or an explanation will disqualify the Consultant from participation in this agreement.
- c. The certification in this clause is a material representation of fact upon which reliance was placed when the State determined to enter into this agreement. If it is later determined that the Consultant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal government, the LPA may terminate this agreement for cause or default.
- d. The Consultant shall provide immediate written notice to the LPA if at any time the Consultant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- e. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549.
- f. The Consultant agrees that should the proposed covered transaction be entered into, it will not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered

transaction, unless authorized by the LPA before entering into this agreement.

- g. The Consultant further agrees to include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," provided by the State without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- h. The Consultant in a covered transaction may rely upon a certification of a prospective Subconsultant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A Consultant may decide the method and frequency by which it determines the eligibility of its principals.
- i. Nothing contained in the foregoing will be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the Consultant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- j. Except for transactions authorized under paragraph (f) of these instructions, if the Consultant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the LPA may terminate this agreement for cause or default.

**2. Certification Regarding Debarment, Suspension, and Other
Responsibility Matters - Primary Covered Transactions**

- a. By signing this agreement, the Consultant certifies to the best of its knowledge and belief, that it and its principals:
 - i. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;

- ii. Have not within a three-year period preceding this agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - iii. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph A.(ii) of this certification; and
 - iv. Have not within a three-year period preceding this agreement had one or more public transactions (federal, state, or local) terminated for cause or default.
- b. Where the Consultant is unable to certify to any of the statements in this certification, such Consultant shall attach an explanation to this agreement. I acknowledge that this certification is to be furnished to the State and the FHWA in connection with this agreement involving participation of federal-aid highway funds and is subject to applicable, state and federal laws, both criminal and civil.

SECTION 26. (LPA) CERTIFICATION

By signing this agreement, I, do hereby certify that, to the best of my knowledge, the Consultant or its representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this agreement to:

- (a) employ or retain, or agree to employ or retain, any firm or person, or
- (b) pay or agree to pay to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind.

I acknowledge that this certification is to be furnished to the FHWA, upon their request, in connection with this agreement involving participation of Federal-Aid highway funds and is subject to applicable state and federal laws, both criminal and civil.

SECTION 27. ALL ENCOMPASSED

This instrument embodies the whole agreement of the parties. There are no promises, terms, conditions, or obligations other than contained herein, and this agreement supersedes all previous communications, representations, or other agreements or contracts, either oral or written hereto.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their proper officials thereunto duly authorized as of the dates below indicated.

After being duly sworn on oath, I do hereby acknowledge the foregoing certification and state that I am authorized to sign this agreement.

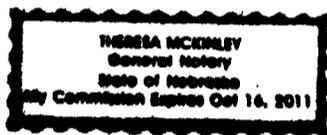
EXECUTED by the Consultant this 5 day of August, 2010.

HDR ENGINEERING, INC.

Maah Tund
Principal

STATE OF NEBRASKA)
) ss.
DOUGLAS COUNTY)

Subscribed and sworn to before me this 5 day of August, 2010.



Theresa McKinley
Notary Public

EXECUTED by the (LPA) this 27th day of July, 2010.

SARPY COUNTY
Joni Albrecht

Joni Albrecht
Chairman, Sarpy County Board of Commissioners

Subscribed and sworn to before me this 27th day of July, 2010.



Debra J. Houghtaling
Clerk

STATE OF NEBRASKA
DEPARTMENT OF ROADS
Form of Agreement Approved for
Federal Funding Eligibility:

Anthony Dirks
Anthony Dirks

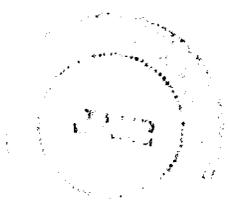
11/12/2010
Date

S-AGR3-HS

Project No. MAPA-5005(1)
Control No. 22283
Intersection of 132nd Street and
Giles Road
Preliminary Engineering

BK1079

GENERAL INVESTIGATION
DIVISION
U.S. DEPARTMENT OF JUSTICE
WASHINGTON, D.C. 20535



DESCRIPTION OF PROJECT AND SCOPE OF SERVICES

132ND STREET AND GILES ROAD INTERSECTION IMPROVEMENT MAPA – 5005(1), C.N. 22283 SARPY COUNTY PROJECT NO. C-77(05-8)

I. DESCRIPTION OF PROJECT

The current geometrics of the 132nd Street and Giles Road junction consist of two 'T' intersections and a bridge that spans the South Branch of the Papillion Creek. Giles Road from the east travels under the I-80 bridges and intersects 132nd Street at a 'T' intersection. 132nd / Giles then cross over the Papillion Creek to another 'T' intersection on the north side of the bridge. 132nd Street then continues east and north while Giles Road continues west. The project will consist of relocating each 'T' intersection approximately 100' to 140' to the north and south of their current locations and providing traffic signalization. A conceptual layout of the proposed improvements is shown in Exhibit 'E'

The work required for this project includes: survey, roadway design, storm sewer design, construction phasing, right-of-way investigation and design, traffic operation analysis and signalization, environmental compliance, hydraulic investigation & documentation, data collection, and utility coordination.

Also as part of this scope of services, a conceptual long-term viaduct plan will be reviewed for compatibility with the proposed intersection improvements shown in Exhibit 'E'.

II. DESCRIPTION OF TASKS

The details of the tasks are described as follows:

1. PROJECT MANAGEMENT

This task includes activities to initiate and monitor project schedules, manpower assignments and internal cost controls throughout the project. Also included are efforts to prepare and process invoices and monthly progress reports; and prepare project correspondence.

2. FIELD SURVEY (provided by subconsultant JEO Consulting, Inc.)

Topographic surveying and mapping will be performed in English units. All data will be collected electronically and will be used to generate a MicroStation drawing.

2.1 Survey Control

Horizontal and vertical control will be located and additional control set as needed. Horizontal and Vertical control will be on Sarpy County coordinate system / datum unless instructed otherwise. It is assumed that the County will provide available horizontal and vertical control information.

2.2 Survey Limits

A Digital Terrain Model shall be provided for use in cross-section creation. Natural topographic features and man-made features, above ground, shall be recorded. All above and below ground utilities will be located once Digger's Hotline marks them. Sanitary and storm sewer manholes will have rim and flowline elevations picked up.

The Papillion Creek runs through the project limits. Survey shots shall be taken at the top of bank and water's edge, but no survey shots within the creek or hydraulic cross sections are included with this scope of service.

Under the I-80 bridges, survey shots shall include all pier locations / size / and shape. The bridge berms on both the north and south abutments shall be shot in and included in the DTM triangulation. Also, low girder elevations shall be picked up under Giles Road (south end) and 132nd Street (north end). There will be a total of 12 bottom of girder shots (six on each roadway). This scope of service does not include any shots on the interstate beyond the bridge berms and features below the bridges.

The survey limits are defined in exhibit 'E'

2.3 Existing Right-of-Way

Deed and title research provided by the County will be used to establish the existing right-of-way and easements and inserted into the drawings. Section corners will be located and included in the survey along with the existing right-of-way.

No property pin research is included with this scope of services. Existing property lines will be developed from plat maps and legal descriptions provided by Sarpy County.

2.4 Deliverables

CAD drawings will be created using the electronic field data and provided to HDR. CAD standards shall follow current NDOR practices for MicroStation files, cell libraries, and line styles / weights. An ASCII file containing points and breaklines of the data will be provided along with a hardcopy of the field books.

3. PROJECT MEETINGS / SITE INSPECTIONS

It is anticipated that 4 progress meetings will be held with the Sarpy County / City of La Vista with two HDR staff attending each meeting. It is assumed that coordination with NDOR will take place concurrently with these progress meetings.

In addition to the progress review meetings, it is assumed that 2 separate meetings will be held with utility companies.

One site inspection is included assuming two staff attending.

4. DATA COLLECTION AND REVIEW

This task includes the compiling and review of data, reports, and information collected from Sarpy County, City of La Vista, utilities or any other sources.

5. PUBLIC INVOLVEMENT

5.1 Data/Document Management

HDR will establish and maintain a database to compile contacts for all mailings, meeting notifications, etc. and to document communications with property owners and citizens during the project. The database will be established based upon resident/property owner information available from Sarpy County and the City of La Vista.

5.2 Public Meeting

A public meeting is anticipated once the project has reached the 30% stage of design and a Plan-in-Hand has been completed. The meeting will follow an informal, open house format. This task includes preparation of exhibits (one scroll and two boards are assumed), public notice announcements, and mailing notices. As part of this effort, a summary of environmental issues will be prepared for the meeting. HDR will organize and lead the meetings. Upon completion, HDR will compile public comments and complete responses (5 are estimated) to comments when necessary.

5.3 One-on-One meetings

Arrange for HDR, County and City staff to meet with adjacent commercial property owners (5 individual meetings are estimated) early in project development to identify personal property issues/concerns. HDR will provide a monochrome layout of the proposed improvements with ROW and topographic features for the property owner. This task includes ongoing communication with property owners based on follow-up inquiries. A summary of public communications will be included in the monthly progress report.

6. ENVIRONMENTAL

6.1 Environmental Studies

Environmental subtasks include environmental studies, NEPA Determination Form and Categorical Exclusion (CE) preparation (according to LPA requirements), and permit applications. The use of federal funding for the project from the FHWA requires compliance with the National Environmental Policy Act (NEPA) and FHWA policies and procedures. This work task, as completed by the Consultant, shall assess how the environment will be affected by the project in relation to the physical limitations and impacts consistent with FHWA Technical Advisory T-6640.8A. A NEPA Determination Form is the first step in conducting the NEPA process according to Nebraska Department of Roads and FHWA requirements. Based on the type of project proposed and knowledge of the existing environment, a Documented Categorical Exclusion (CE) is assumed to meet NEPA requirements. The CE would evaluate potential impacts to various relevant resources. Agency coordination and recommendations will be documented.

The focus of the CE must be on the important impacts and issues with less important areas only briefly discussed. Based upon the extent of adverse impacts, mitigation measures must be identified, as required. Detailed mitigation plans with specific criteria and associated monitoring activities are outside the scope of this study. The CE will be prepared using the CE Documentation Form for Federal Aid Projects, and will evaluate the following resource areas identified in the CE form. Several of the resources will be addressed simply and would require minimal effort.

a. Right-of-Way, Relocations, Utility Coordination

Evaluate the impacts from right-of-way (ROW) acquisitions on current land use. It is assumed that no relocation of housing and businesses would be required. Evaluate the impact on utilities in the study area. Describe the impact of the project on the rail line and bridges in the study area.

b. Socio-Economic Impacts

Determine if the alternatives disproportionately impact low income or minority populations, or children. A quick review of Census data should confirm that no Environmental Justice population is present in the Study Area. Evaluate impacts to community facilities and services, activity centers, and emergency access. Assess the impacts from changes in access and travel time, increased noise, acquisition of property for ROW, the increase in employment and earnings during construction, the potential for economic development after completion of the project, and changes to the tax base from land acquisition. Evaluate impacts on community cohesion, local land use, and the potential for the project to induce secondary growth.

c. Historic and Cultural Properties

Evaluate potential impacts to National Register of Historic Places (NRHP) Sites, sites eligible for the NRHP, and cultural, burial, or archaeological resources in the Study Area. It is assumed that any archaeological or historic property investigation would be conducted through the NDOR historic and archaeological group. Complete the Section

106 consultation NDOR form letter and submit to NDOR for their coordination with the State Historic Preservation Office (SHPO). Document results from NDOR coordination and any surveys. It is not anticipated that any NRHP-eligible sites would be impacted by the project. If any NRHP-eligible sites would be adversely affected by the project, additional effort relevant to Section 106 compliance would be additional to the proposed services.

d. Section 4(f) and 6(f)

Identify existing and planned public use recreational areas, community parks, bike trails, hiking trails, or other land uses that may be subject to Section 4(f) requirements. Determine the level of impact, if any, from construction of the proposed facilities. Describe all 4(f) mitigation alternatives, including all design alternatives, used to minimize impacts. It is assumed that there are no wildlife and waterfowl protection areas in the study area. It is assumed that if any 4(f) resources are identified, that impacts would be addressed via an NDOR De Minimis Use Form.

Evaluate any Section 6(f) impacts. Include concurrence documentation.

e. Threatened and Endangered (T&E) Species

Evaluate potential impacts to Federally- or State-listed species. It is assumed that there is no protected critical habitat in the study area. Determine if the project would use borrow material from the Platte River Basin. If so, coordinate through NDOR, who would coordinate with the US Fish and Wildlife Service and/or Nebraska Department of Natural Resources. Evaluate the potential impacts under the Endangered Species Act, Migratory Bird Treaty Act, the Fish and Wildlife Coordination Act, and the Bald and Golden Eagle Protection Act. Complete the NDOR Biological Evaluation (BE) process, which includes a field review of potential habitat, completion of the BE form (with the NDOR Activity Checklist, a wetland delineation report, field photographs, and an aerial map of the project area). This effort assumes that the BE process will lead to a conclusion that no Individual Project Level Evaluation (IPLE) document would need to be prepared; the effort to prepare an IPLE or perform consultation on adverse effects to T&E species is not included in this scope.

f. Farmland

Perform an assessment of impact to farmland using Form AD-1006 (or Form-AD-106 for corridor-type projects), Farmland Conversion Impact Rating. Coordinate with the local office of the Natural Resources Conservation Service (NRCS) or USDA Service Center. Prime and other important farmlands will be identified, and any severance and access impacts will be quantified.

g. Wetlands, Waters of the U.S., Waters of the State

Perform a wetland delineation of any wetlands within the project impact area, using the U.S. Army Corps of Engineers (USACE) 1987 Wetlands Delineation Manual and the Midwest regional supplement. Prepare a wetland delineation report (meeting NDOR and USACE requirements) documenting the findings; the report would be part of the NDOR Biological Evaluation. Evaluate the potential impact to wetlands, and coordinate with

USACE as needed. Determine Section 404 permit requirements. It is anticipated that an Individual Permit will not be required, but a Nationwide Permit would be needed if wetlands are present within the project footprint.

h. Floodplains

Determine the impacts to the South Branch of Papillion Creek floodplain and stormwater drainage. It is assumed that a floodplain permit will be needed.

i. Regulated Materials

Conduct an evaluation of regulated material issues via a Phase I Environmental Site Assessment (ESA). Confirm status of regulated (hazardous) material sites identified in the study area. Conduct a site visit to investigate the potential for hazardous materials along the BNSF Railway line and other industrial properties near the project. Evaluate the potential level of risk and the impacts from construction. Document the results in a Phase I ESA. A Phase II ESA to determine the type and extent of contamination is assumed to not be required.

j. Water Quality

Review the project area for any wellhead protection area as determined through review of NDEQ records. Evaluate potential impacts to water quality from stormwater runoff into streams and sewer systems. It is assumed that a National Pollutant Discharge Elimination System (NPDES) construction stormwater permit and a Stormwater Pollution Prevention Plan would be needed.

k. Construction Impacts

Evaluate impacts to air quality, noise, streams, water quality (primarily sedimentation from runoff), access to businesses, and traffic congestion in the Study Area caused by construction activities. Evaluate impacts from any needed detours.

l. Aesthetics and other values

Evaluate impacts to visual resources. Determine if the project would provide multiple use opportunities.

m. Permitting and Environmental Commitments

Determine the need for permits. Describe any best management practices to be used to mitigate project impacts. Include any environmental commitments agreed upon with agencies.

n. Other Resources

It is assumed that there are no wild and scenic rivers, or rivers designated on the Nationwide Rivers Inventory. It is assumed that the study area is in attainment for all criteria air pollutants. It is assumed that there are no sensitive land uses in the project area and that a noise study is not required.

6.2 NEPA Documents

a. NEPA Determination Form

Prepare the NEPA Determination Form for Federal-Aid Projects and submit to Sarpy County for forwarding to NDOR. Revise and resubmit the form as necessary to address NDOR comments, and subsequent FHWA comments.

b. Documented Categorical Exclusion

Prepare a Documented CE addressing the project. Three versions of the CE will be prepared. An initial draft will be submitted to Sarpy County and NDOR. This version will be revised in accordance with comments received and submitted to FHWA. FHWA comments will be addressed in the final version of the CE.

c. Green Sheet

Prepare an NDOR Green Sheet indicating NEPA compliance and permits acquired, and documenting environmental commitments for the Project.

6.3 Environmental Permit Applications and Approvals

a. Section 404 Nationwide Permit with Section 401 Certification

A Section 404 Nationwide Permit with Section 401 Certification is assumed to be needed. HDR will conduct permit coordination with USACE. A 404 Nationwide Permit Application (with automatic 401 certification) would be prepared based on the findings of the wetland delineation and the project footprint boundary determined through the design process.

b. NPDES Construction Stormwater Permit and SWPPP

A NPDES general storm water discharge permit application for construction activities (with a stormwater pollution prevention plan (SWPPP)) is assumed to be required. A Notice of Intent (NOI) for a NPDES permit will be prepared for Sarpy County signature and submittal to NDEQ. A draft SWPPP will be prepared for compliance with NOI requirements, with three copies (total) provided to Sarpy County (one for the County, one for the City of La Vista, and one for the future construction contractor to supplement and modify according to the specifics of their approach for the job).

c. Floodplain Development Permit

A Floodplain Development Permit application would be prepared for Sarpy County and is addressed under Task 7.4.

d. FAA Airspace Obstruction Analysis

Though not included on the CE Documentation Form for Federal Aid Projects, the Project must comply with the Title 14 Code of Federal Regulations (FAR) Part 77, Objects Affecting Navigable Airspace. The Millard Airport is within the criteria distance for evaluation of compliance with FAR 77. In accordance with Federal Aviation Administration (FAA) requirements, an airspace obstruction analysis will be completed to determine if any permanent or temporary (construction) components of the Project would obstruct navigable airspace. If an obstruction of airspace is determined, a Notice of Proposed Construction or Alteration will be prepared for Sarpy County to sign and submit to the FAA.

7. HYDRAULICS

Perform hydraulic analysis for floodplain permitting requirements of roadway design concepts of 132nd Street and Giles Road. The primary focus of the hydraulic analysis under Task 7 will address the intersection improvements; however, a cursory hydraulic analysis of a conceptual long-term viaduct plan will also be performed for identification of potential hydraulic issues under Task 9.1.

7.1 Agency Coordination

This task includes coordination with local floodplain management agencies regarding floodplain development permit requirements. These agencies include Sarpy County, the City of LaVista, and the Papio-Missouri River Natural Resources District (P-MRNRD). Review methodology and models proposed for hydraulic evaluation with floodplain management agencies and obtain concurrence with proposed project approach.

7.2 Hydraulic Modeling

Perform hydraulic analysis required to provide data for preparation of roadway geometric revisions & grading activities and to provide supporting documentation for preparation of a floodplain development permit. The HEC-RAS hydraulic model of South Papillion Creek from draft FEMA floodplain mapping updates will be used for this project. This 'best available' information will become regulatory in 2010 and is the data recommended for use by the local floodplain management agencies. A cursory field review will be performed to verify site conditions relative to the draft FEMA floodplain information, and the following FEMA directed process will be used for hydraulic analysis:

- Execute HEC-RAS model and compare the results to the water surface profiles as provided by the P-MRNRD. Explain discrepancies, if they exist. This model will become the duplicate effective model (DEM).
- Review the DEM and any survey information of the project area to determine if modifications of the DEM are necessary. It is anticipated that no modifications will be necessary; therefore, the DEM will be taken directly as the corrected effective model (CEM) without modification. The downstream boundary conditions for the Project will be based on information in the recent FEMA floodplain mapping update.
- Modify the CEM for proposed roadway modifications; this will become the proposed model.
- Execute the proposed model to determine hydraulic effect on South Papillion Creek water surface profiles for the proposed roadway condition and, if necessary, identify up to two (2) mitigation alternatives required to meet "no-rise" criteria for the base flood condition. Flow rates published by FEMA in draft floodplain mapping updates will be used for hydraulic analysis.
- cursory hydraulic analysis of a conceptual long term roadway design will also be performed for identification of potential hydraulic issues with the conceptual long-term viaduct plan.

7.3 Documentation

Prepare draft technical memorandum documenting the hydraulic analysis of the proposed roadway project for review and comment by local floodplain management agencies.
Prepare final technical memorandum incorporating agency comments.

7.4 Floodplain Permitting

Prepare and submit a floodplain development permit application and no-rise certification. The hydraulic analysis technical memorandum will be submitted with the application as supporting documentation. Response to agency review comments will also be performed as part of this task.

8. TRAFFIC ANALYSIS AND SIGNAL DESIGN

8.1 Traffic Analysis

Perform operational analysis to aide conceptual development of roadway design concepts for 132nd Street and Giles Road. The traffic analysis will include evaluation of both the interim intersection improvements and build-out viaduct concept.

Previous studies and available traffic counts will be reviewed and an existing conditions analysis will be prepared based on the best available data. Opening day and future year volumes (2035) will be developed for use in evaluating future no-build, interim and ultimate viaduct concepts.

Opening day and build-out volume scenarios will be identified. Operational evaluations will be conducted with Synchro 7 software for the study intersections to determine geometric needs of the at-grade intersections. Traffic signal warrants will be investigated to determine signalization needs and provide documentation of signalization needs. Turn lane storage lengths will be calculated with the NDOR Poisson distribution method for validation of the turn lane storage lengths provided through Synchro. Findings and recommendations will be documented in a technical memorandum.

8.2 Traffic Signal and Interconnect Design

Traffic signal design plans will be developed for the north and south intersections of 132nd Street and Giles Road. The signal design will include plans for interconnection. Included in this task is coordination with BNSF railroad to provide any interconnection between the proposed traffic signals and the existing railroad crossings on Giles Road and 132nd Street.

9. ROADWAY DESIGN

9.1 Conceptual Roadway Alternatives

Develop two roadway alternatives for a Giles Road viaduct over the Papillion Creek and discuss advantages / disadvantages of each option. The alternatives will compare cost, geometrics, hydraulics, traffic analysis, and constructability. HDR will recommend the preferred alternative.

9.2 Typical Sections

This task includes effort to develop the roadway typical sections for the full reconstruction, widening, and median work.

9.3 Roadway Horizontal / Vertical Alignment

This task will include developing horizontal and vertical alignments for Giles Road and 132nd Street. Effort to develop the Plan and Profile sheets and Centerline Control sheets are included in this task.

9.4 Roadway Cross-Sections and Earthwork

This task will include developing cross sections at 50' intervals and at select locations to provide plan clarity. The cross sections will be plotted with a vertical stack to reduce the sheet count. Included in this task is the development of limits of construction and final earthwork quantities. Phased earthwork is not included.

9.5 Storm Sewer Design

Finalize the drainage plan sheets and develop the drainage profiles for the storm sewer system. This task also includes effort for adjustments to the drainage design to mitigate utility conflicts.

9.6 Construction and Removals

Develop construction and removal sheets with appropriate notes detailing build and removal items.

9.7 Joints and Spot Elevations

This task includes developing and drafting plan sheets with joint spot elevation information at full reconstruction areas and developing a typical joint layout to be used in widening areas. Spot elevations will be provided at intersections and non-typical transitional sections.

9.8 Erosion Control

This task includes final design and drafting of erosion control items on the Construction plan sheets. Design will be based upon the current version of the NDOR Drainage Design and Erosion Control Manual.

9.9 Cover / Summary of Quantities / General Information sheets

This task includes the development of a cover sheet, a summary of quantities sheet, and two general information sheets.

9.10 Geometric Plans

Develop geometric plans which address the final geometric design and placement of the geometric data notes.

9.11 Drainage Design

Determine hydrology for the minor watersheds and design cross culvert structures for size and length. A cross section will be developed for each structure to document the design. Three cross culverts are assumed. Layout the proposed storm sewer system and conduct a review to identify if conflicts with existing utilities exist.

9.12 Striping and Signing

This task includes effort to develop the striping and signing plans. The signing plan is limited to general traffic control signage.

9.13 Construction Phasing / Traffic Control Plans

This task includes effort to develop the construction phasing and traffic control plans identifying the sequence of construction. Included with this task is the development of temporary pavement geometric data, spot elevations, and construction notes. The traffic control plans will follow current MUTCD standards for temporary signing, striping, and barricades.

9.14 Construction Estimates

Provide two construction cost estimate, one at Plan-in-Hand and the second at PS&E submittal.

9.15 Plan-in-Hand

Meet with Sarpy County and the City of La Vista and evaluate the plans in the field. Effort to compose a plan-in-hand report is included.

9.16 Special Provisions

This task includes preparation of special provisions needed to support the NDOR Standard Specifications for Highway Construction, current edition at time of final submittal.

9.17 CAD File Submittals

This task identifies the effort to prepare electronic CADD files as a deliverable to the City. The design will be completed using MicroStation and Geopak.

9.18 Revisions \ Quality Control

Time has been estimated based upon past experience with similar projects.

10. RIGHT OF WAY DESIGN

The consultant will determine the limits of construction (L.O.C.'s) and new design (pavement, sidewalks, sewers, drives, culverts, retaining wall,) on the Ownership Strip Map. The Consultant shall input culvert notes and drive notes on the Ownership strip map. The consultant shall design the new ROW according to these general guidelines.

- (a) New right-of-way acquisition will be limited to 1' behind the proposed sidewalk.
- (b) Permanent easements will be acquired where storm sewer connections are made to the existing storm sewer if the connections are outside of the existing / proposed ROW. Permanent easements may also be acquired where retaining walls are located to allow access to the walls for maintenance.
- (c) Temporary easements will be acquired where grading is necessary outside of the proposed ROW.

A review meeting will be arranged with Sarpy County and the City of La Vista prior to development of the individual tract maps and legal description(s). It is assumed that two tract maps will be required for the following properties:

1. Lot 1 – I-80 Industrial Park 2, Replat 1 (Parcel Number 11577002)
2. Lot 1 – I-80 Industrial Park 2 (Parcel Number 011575182)

These tracts are located south of Giles road between Interstate 80 and 132nd Street. If additional properties are impacted by the construction limits, these tracts could be incorporated into the right-of-way design by supplemental agreement.

Delineate right of way acquisition, permanent easements, and temporary easements. Included in this effort are the development of separate tract drawings and legal description of the property and the necessary takings. Title research will be provided by the County. It is assumed that a registered land surveyor with the County will review and seal these documents.

11. CONSTRUCTION MANAGEMENT SERVICES

Construction management services can be added to this scope by supplement agreement if the County chooses.

DELIVERABLES

1. Preliminary Draft, Draft, and Final NEPA Determination Form
2. Preliminary Draft, Draft, and Final Documented Categorical Exclusion
3. Draft and Final Green Sheet
4. Biological Evaluation Form
5. Wetland Delineation Report
6. NRCS Farmland Impact Form
7. Phase I Environmental Site Assessment
8. Section 106 Form
9. FAA Airspace Obstruction Analysis
10. Digital copies of the hydraulic models
11. Draft & Final Hydraulic Analysis Memorandum
12. Floodplain development permit application and no-rise certification
13. NPDES NOI Application
14. NPDES Draft SWPPP
15. Section 404 Nationwide Permit Application (with Section 401 Certification)
16. Traffic Analysis Memorandum
17. Plan sets including:
 - a. Base plan set
 - b. Preliminary Design Plans / Ownership Plans with cost estimate
 - c. Functional Design Plans
 - d. Limits of Construction Plans / Appraisal Plans & Tract Maps
 - e. Final Design Plans / Negotiation Plans with cost estimate

SERVICES AND INFORMATION TO BE PROVIDED BY SARPY COUNTY

1. Deed and Title Research
2. Right-of-Way negotiation and acquisition
3. City and County owed utility type, size, casing and location
4. Names and addressed of known utilities
5. All pertinent reports on planning, traffic studies, and development
6. Current traffic counts and accident data
7. Survey control points and bench marks
8. As-built plans of the existing streets, bridges, and utilities

ASSUMPTIONS AND UNDERSTANDINGS

Hydraulics Analysis / Environmental

1. Initial agency coordination and the cursory field visit are assumed to occur on the same day and be attended by 2 HDR personnel.
2. Level of effort and fee for hydraulic modeling assumes the 'best available' FEMA HEC-RAS model will be used as a baseline model. A new hydraulic model will not be developed.
3. It is anticipated that the duplicate effective model (DEM) will be taken directly as the corrected effective model (CEM) without modification (no modifications will be necessary to the DEM). If modifications are necessary, the DEM would be modified to include survey information of the project area as an additional service.

4. Proposed condition hydraulic model will be developed for one (1) proposed roadway design alternative. Additional roadway design alternatives could be evaluated as additional services.
5. Up to two mitigation alternatives will be evaluated to achieve a no-rise condition. If more than two mitigation alternatives are required, they would be evaluated as additional services.
6. It is assumed that a no-rise condition can be obtained for the 100-yr design discharge based on the proposed roadway design. The possibility exists of an increase in water surface elevation that can not be mitigated with an alternative acceptable to the Client. If a no-rise condition cannot be achieved and a map revision is necessary, a FEMA Conditional Letter of Map Revision and associated hydraulic analyses can be prepared as additional services.
7. Models will be operated using 100-year peak flow rates.
8. Up to two conceptual long term roadway designs will be included in a cursory hydraulic analysis. No conceptual long term roadway designs will be included in the floodplain development permit application or the no-rise certification.
9. Effort regarding the response to agency review comments for floodplain permitting assumes effort will be limited to the hours specified in the contract.
10. A Documented Categorical Exclusion is the assumed NEPA document. If additional study to perform an Environmental Assessment or Environmental Impact Statement is required, this service can be provided by supplemental agreement.
11. The Project is assumed to not adversely affect T&E species and Section 106 resources.

Roadway / Traffic

1. Plans will be developed in accordance with current NDOR practices for CAD, sheet set-up, and Standard Specifications for Highway Construction.
2. This scope of service does not include the following:
 - a. Temporary traffic signalization
 - b. Permanent lighting outside the signalized intersection
 - c. Trail design
 - d. Retaining wall design
 - e. Landscaping / Streetscaping
 - f. Public or Private utility relocations beyond adjusting existing features to grade.
3. The design plans will be prepared as a single construction package.
4. NDOR or Sarpy County will provide a pavement determination
5. NDOR or Sarpy County will print / distribute / advertise and award the project at letting.
6. The existing bridge will be used-as-constructed except guardrail modification.

SCHEDULE

Attached as Exhibit "B"

FEE ESTIMATE

Attached as Exhibit "C"

SHEET COUNT

Attached as Exhibit "D"

SITE LOCATION

Attached as Exhibit "E"

NDOR CONFLICT OF INTEREST AND DISCLOSURE FORM

Attached as Exhibit "F"

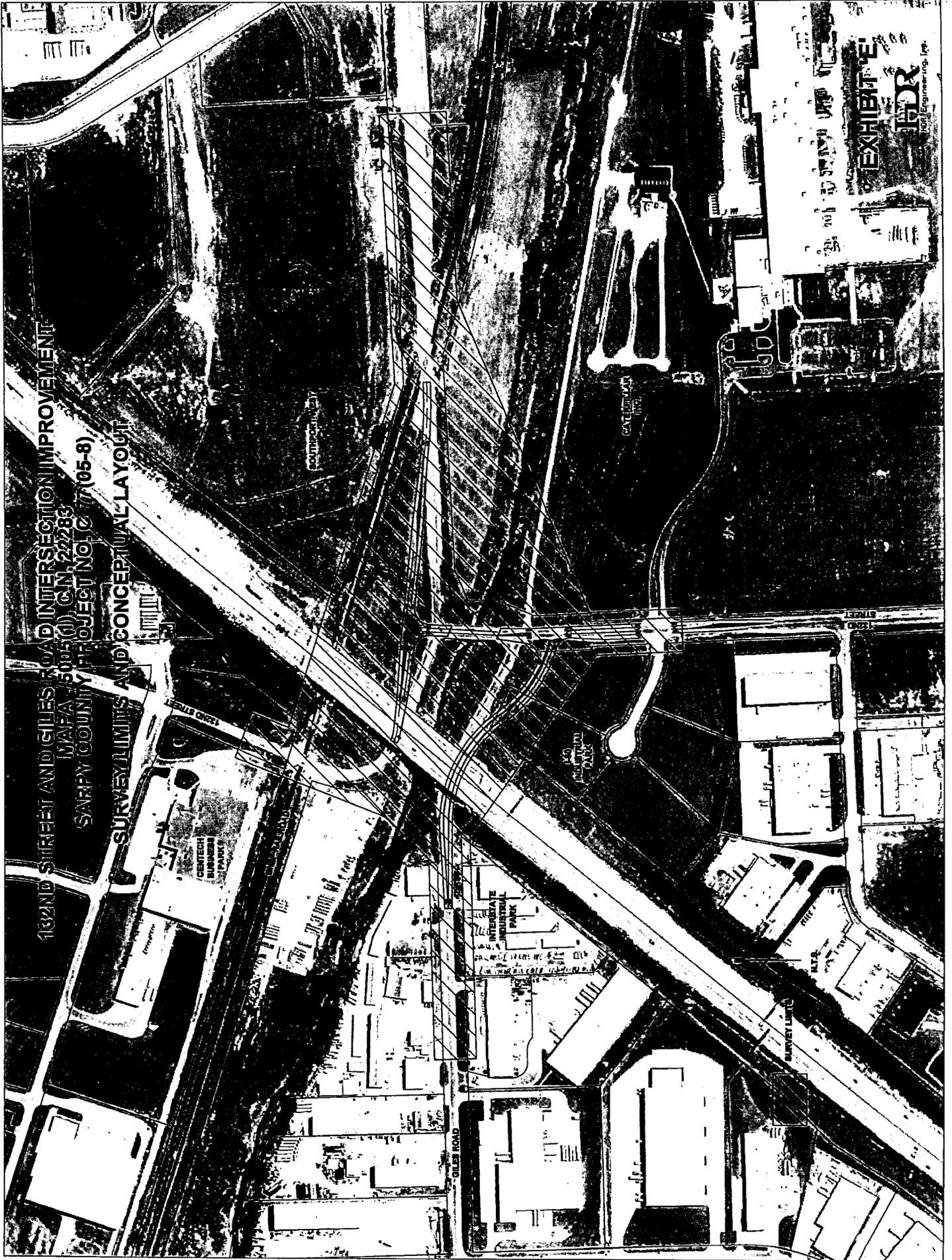
132ND STREET AND GILES ROAD INTERSECTION IMPROVEMENT
 MAPA - 5005(1), C.N. 22283
 SАРY COUNTY PROJECT NO. C-77(05-8)

Task Name	2010												2011											
	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar		
Notice to Proceed			◆ 8/2																					
Survey			▬																					
Conceptual Development				▬																				
Base Plans					▬																			
Traffic Analysis					▬																			
Utility Coordination Meeting 1						◆ 10/27																		
Preliminary Design Plans / Ownership Plans							▬																	
Submit Draft Hydraulic Analysis												◆ 12/21												
Plan-in-Hand													◆ 1/6											
Submit NEPA Determination Form														◆ 1/24										
Functional Design									▬															
Public Information Meeting															◆ 3/15									
Limits of Construction Plans / Appraisal Plans										▬														
Utility Coordination Meeting 2																◆ 5/25								
Draft Documented CE																								
Final Documented CE																								
Final Design Plans / Negotiation Plans																								
Plans to NDOR PS&E / Permits																								
Project Advertising																								
Letting																						◆ 2/1		

Exhibit B	Task -		Milestone	◆	External Tasks	
	Split		Summary		External Milestone	◆
	Progress		Project Summary		Deadline	↓

STAFF HOUR TABULATION

Item	Task	Prin.	PM / Sr. Eng. / Sr. Sci	Eng. / Sci. / Designer	CAD / GIS	Clerical	Total	
1	Project Management	8	100			16	124	
2	Field Survey	Subconsultant Expense						
3	Project Meetings / Site Inspections	-	42	42	-	-	84	
4	Data Collection and Review	-	-	24	-	-	24	
5	Public Involvement							
5.1	Data / Document Management	-	-	12	-	6	18	
5.2	Public Meeting	-	16	32	24	-	72	
5.3	One-on-One meetings	-	20	-	-	-	20	
6	Environmental							
6.1	Environmental Studies	-	38	150	28	24	240	
6.2	NEPA Documents	-	28	72	12	12	124	
6.3	Environmental Permits	-	24	112	16	12	164	
7	Hydraulics							
7.1	Agency Coordination	-	-	14	2	-	16	
7.2	Hydraulic Modeling	-	12	48	14	-	74	
7.3	Documentation	-	3	16	6	4	29	
7.4	Floodplain Permitting	-	1	16	2	-	19	
8	Traffic Analysis and Signal Design							
8.1	Traffic Analysis	-	8	84	-	6	98	
8.2	Traffic Signal and Interconnect	-	8	128	56	-	192	
9	Roadway Design							
9.1	Conceptual Roadway Alternatives	-	16	44	-	-	60	
9.2	Typical Sections	-	-	12	16	-	28	
9.3	Roadway Horizontal / Vertical Alignments	-	12	40	20	-	72	
9.4	Final Roadway Cross Sections	-	-	24	32	-	56	
9.5	Storm Sewer Design	-	8	24	16	-	48	
9.6	Construction and Removals	-	4	24	24	-	52	
9.7	Joints and Spot Elevations	-	4	36	16	-	56	
9.8	Erosion Control	-	4	16	12	-	32	
9.13	Construction Phasing / Traffic Control	-	16	58	36	-	110	
9.9	Cover / Quantities / General Information	-	-	17	17	-	34	
9.10	Geometrics	-	4	38	11	-	53	
9.11	Drainage Design	-	7	23	-	-	30	
9.12	Striping and Signing	-	-	11	11	-	22	
9.14	Construction Estimate	-	-	19	-	-	19	
9.15	Plan-in-Hand	-	7	34	-	-	41	
9.16	Special Provisions	-	11	19	-	-	30	
9.17	CAD File Submittal	-	-	7	-	-	7	
9.18	Revisions / Quality Control	-	11	11	-	-	22	
10	Right-of-Way							
10.1	Ownership Plans	-	4	12	8	-	24	
10.2	Appraisal Plans / Tract Maps	-	8	24	8	-	40	
10.3	Negotiation Plans	-	-	4	4	-	8	
10.4	PS&E & Final Plans	-	-	4	4	-	8	
TOTAL HOURS		8	416	1,251	395	80	2,150	



THOMAS A. LYNAM

SARPY COUNTY SURVEYOR

• 15100 SOUTH 84th STREET • PAPILLION, NEBRASKA 68046 • 402.339.4606 • FAX: 402.339.6555 •

Memo

To: Sarpy County Board of Commissioners

From: Tom Lynam, Sarpy County Surveyor *TAL*

Subject: Agreement Intersection of 132nd Street and Giles Road

Date: July 23, 2010

I recommend approval of the Agreement with HDR Engineering for Preliminary Engineering services for improvements to the Intersection of 132nd Street & West Giles Road. This was agreed with the City of LaVista and is an interim solution and is also part of a long range solution for this area.

If you have any questions, please feel free to contact me.



NDOR CONFLICT OF INTEREST AND DISCLOSURE FORM

LOCAL PUBLIC AGENCIES

Purpose

This checklist provides assistance to consultants in screening for potential organizational conflicts of interest. The checklist must be completed and signed by the consultant and LPA and submitted to the Nebraska Department of Roads (NDOR) prior to or with the signed consultant Local Public Agency (LPA) agreement.

Please note that this checklist serves as a guide only, and that there may be additional potential conflict situations not covered by this checklist. If a consultant determines a potential conflict of interest exists that is not covered by this checklist, that potential conflict must still be disclosed.

Conflict of Interest

No official or employee of a State or any other governmental instrumentality who is authorized in his official capacity to negotiate, make, accept or approve, or to take part in negotiating, making, accepting or approving any contract or subcontract in connection with a project shall have, directly or indirectly, any financial or other personal interest in any such contract or subcontract. No engineer, attorney, appraiser, inspector or other person performing services for a State or a governmental instrumentality in connection with a project shall have, directly or indirectly, a financial or other personal interest, other than his employment or retention by a State or other governmental instrumentality, in any contract or subcontract in connection with such project. No officer or employee of such person retained by a State or other governmental instrumentality shall have, directly or indirectly, any financial or other personal interest in any real property acquired for a project unless such interest is openly disclosed upon the public records of the State highway department and of such other governmental instrumentality, and such offer, employee or person has not participated in such acquisition for an in behalf of the State.

Use of the Disclosure Form

The consultant and LPA must complete the attached disclosure form and submit it to NDOR/LPA with their proposal. If potential conflict of interest exists, they must be disclosed on the form. A disclosure will not necessarily disqualify a consultant from being awarded a contract. The disclosure form must be provided separate from the bound proposal, and it will not be provided to selection committee members. NDOR/LPA representatives will review the disclosure and the appropriateness of the proposed mitigation measures to determine if the consultant may be awarded the contract despite the potential conflict.

Material Representation

The consultant is required to submit the attached disclosure form either declaring to the best of its knowledge and belief, either that no potential conflict exists, or identifying potential conflicts and proposing remedial measures to ameliorate such conflicts. The consultant must also update conflict information if such information changes after the submission of the proposal. Information provided on the form will constitute a material representation as to the award of this contract. NDOR/LPA reserves the right to cancel or amend the resulting contract if the selected consultant failed to disclose a potential conflict, which it knew or should have known about, or if the consultant provided information on the disclosure form that is materially false or misleading.

Reviewing Potential Conflicts

NDOR/LPA recognizes that consultants must maintain business relations with other public and private sector entities in order to continue as viable businesses. This fact will be taken into account as the appropriateness of proposed measures to mitigate potential conflicts is evaluated. It is not the intent of NDOR/LPA to disqualify consultants based merely on the existence of a business relationship with another entity, but rather only when such relationships causes a conflict that potentially impairs the consultant's ability to provide objective advice to NDOR/LPA. Consultants would be disqualified only in those cases where a potential conflict cannot be adequately mitigated.

An organizational conflict of interest may exist in any of the following cases:

- The consultant, or its principals, own real property in a location where there may be a positive or adverse impact on the value of such property based on the recommendations, designs, appraisals, or other deliverables required by this contract.
- The consultant is providing other services to a governmental or private entity and the consultant knows or has reason to believe, that entity's interests are, or may be, adverse to the client's interests with respect to the specific project covered by this contract. **Comment:** The existence of a business relationship with another entity would not ordinarily need to be disclosed. Rather, this focuses on the nature of services commissioned by the other entity. For example, it would not be appropriate to proposed on a NDOR project if a local government has also retained the consultant for the purpose of persuading NDOR to stop or alter the project plans.
- The contract is for right-of-way acquisition services or related services (e.g. geotechnical exploration) and the consultant has an existing business relationship with a governmental or private entity that owns property to be acquired pursuant to the contract.
- The consultant is providing real estate or design services to a private entity, including but not limited to, developers, whom the consultant knows or has good reason to believe, own or are planning to purchase property affected by the project covered by this contract, when the value or potential uses of such property may be affected by the consultant's performance of work pursuant to this contract. "Property affected by the project" includes property that is in, adjacent to, or in reasonable proximity to current or potential right-of-way for the project. The value or potential uses of the private entity's property may be affected by the consultant's work pursuant to the contract when such work involves providing recommendations for right-of-way acquisition, access control, and the design or location of frontage roads and interchanges. **Comment:** This provision does not presume consultants know or have a duty to inquire as to all information regarding cases where the consultant has reason to believe that its viability of a project it is performing for the other entity.
- The consultant has a business arrangement with a current NDOR/LPA employee or immediate family member of such an employee, including promised future employment of such a person, or a subcontracting arrangement with such a person, when such arrangements are contingent on the consultant being awarded this contract. This item does not apply to pre-existing employment of current or former NDOR/LPA employees, or their immediate family members. **Comment:** This provision is not intended to supersede any NDOR/LPA policies applicable to its own employees accepting outside employment. This provision is intended to focus on identifying situations where promises of employment have been made contingent on the outcome of this particular procurement. It is intended to avoid a situation where a consultant may have unfair access to "inside" information.
- The consultant has, in previous work for the state/LPA, been given access to information relevant to this procurement or this project that is classified as "private" or "nonpublic" and such data potentially provides the consultant with an unfair advantage in preparing a proposal for this project. **Comment:** This provision will not, for example, necessarily disqualify a consultant who performed some preliminary work from obtaining a final design contract, especially when the results of such previous work are public data available to all other consultants. Rather, it attempts to avoid an "unfair advantage" when such information cannot be provided to other potential consultants.
- The consultant has, in previous work for the state/LPA, helped create the solicitation by performing work such as: writing this solicitation, or preparing evaluation criteria or evaluation guides for this solicitation.
- The consultant, or any of its principals, because of any current or planned business arrangement, investment interest, or ownership interest in any other business, may be unable to provide objective advice to the state/LPA.

DISCLOSURE OF POTENTIAL CONFLICT OF INTEREST

Having had the opportunity to review the Organizational Conflict of Interest Checklist, the consultant hereby indicates that it has, to the best of its knowledge and belief:

- Determined that no potential organizational conflict of interest exists.
 Determined a potential organizational conflict of interest as follows:

Describe nature of potential conflict:

Describe measures proposed to mitigate the potential conflict:

Mable Trull

Consultant Signature

6-9-10

Date

Ther A. G.

LPA Signature

6/15/2010

Date

If a potential conflict has been identified, please provide name and phone number for a contact person authorized to discuss this disclosure form with NDOR personnel.

Consultant Name

Phone

LPA Name

Phone

Exhibit "F"