

INFORMATIONAL PROPOSAL

(For information only, not to be used for bidding)

NEBRASKA DEPARTMENT OF TRANSPORTATION

LETTING DATE: December 14, 2017

CALL ORDER: 210
CONTROL NO. SEQ. NO.: 22725 001

TENTATIVE START DATE: 04/30/2018
LOCATION: I-80, 50TH ST. EAST, OMAHA
IN COUNTY: DOUGLAS

CONTRACT ID: 2725Y1
PROJECT NO.: M-80-9(1217)

CONTRACT TIME: 10 Working Days

BIDDER

GROUP 5L LANDSCAPING

NOTES

THE TOTAL AMOUNT OR WORK WHICH WILL BE ACCEPTED IN
THIS LETTING IS LIMITED TO \$ _____

THE NUMBER OF GROUP _____ CONTRACTS WHICH WILL BE
ACCEPTED IN THIS LETTING IS LIMITED TO _____.



NOTICE TO ALL BIDDERS

To report bid rigging activities, call: 1-800-424-9071

The U.S. Department of Transportation (DOT) operates the above toll-free “hotline” Monday through Friday, 8:00 a.m. to 5:00 p.m. eastern time. Anyone with knowledge of possible bid rigging, bidder collusion, or other fraudulent activities should use the “hotline” to report such activities.

The “hotline” is part of the DOT’s continuing effort to identify and investigate highway construction contract fraud and abuse and is operated under the direction of the DOT Inspector General. All information will be treated confidentially and caller anonymity will be respected.

LETTING QUESTIONS

Prior to the letting, any questions pertaining to the Special Provisions or the Plans for this project should be submitted to NDOT in a written format through the Bid Express (BidX) website at <https://www.bidx.com/ne/lettings>. Likewise, NDOT will post answers exclusively to the BidX website. All official answers will be identified as “Authorized by NDOT.” **Questions will not be answered verbally.**

STATE OF NEBRASKA
DEPARTMENT OF TRANSPORTATION

Required Provisions Supplemental to the
Standard Specifications for Highway Construction

I. Application

These contract provisions shall apply to all work performed on the contract by the contractor with his own organization and with the assistance of workmen under his immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

The contractor shall insert in each of his subcontracts all of the stipulations contained in the Special Provisions and these Required Provisions.

A breach of any of the stipulations contained in these Required Provisions may be grounds for termination of the contract.

II. Equal Opportunity

1. **Selection of Labor**

During the performance of this contract, the contractor shall not discriminate against labor from any other state.

2. **Nebraska Fair Employment Practices Act**

The contractor shall not discriminate against any employee or applicant for employment, to be employed in the performance of this contract with respect to his hire, tenure, terms, conditions, or privileges of employment, because of his race, color, religion, sex or national origin. The contractor agrees to post in a conspicuous place or places a notice to be provided by the State Highway Department which sets forth excerpts of the Act.

3. **Nebraska Equal Pay Act**

The contractor shall not discriminate on the basis of sex by paying wages to employees of one sex at a lesser rate than the rate paid to employees of the opposite sex for comparable work on jobs which have comparable requirements. An abstract of the Act is included on the notice which is provided by the State Highway Department.

November 7, 2017

III. Employment of Labor

1. General

No person under the age of sixteen (16) years, and no one whose age or physical condition is such as to make his employment dangerous to his health or safety, or to the health and safety of others shall be employed on any project. This paragraph shall not be construed to deny the employment of older people or physically handicapped persons, otherwise employable, where such persons may be safely assigned to work which they can ably perform.

No person currently serving sentence to a penal or correction institution shall be employed on any project.

Except as specifically provided under this section, workers who are qualified by training or experience to be assigned to projects of this character shall not be discriminated against on any grounds whatsoever.

2. Payrolls

Payrolls and basic records relating thereto will be maintained during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working on the site of the work.

The contractor's and subcontractor's payroll records shall be available for inspection by authorized representatives of the State Highway Department and authorized representatives of Federal Agencies.

The wages of labor shall be paid in legal tender of the United States, except that this condition will be considered satisfied if payment is made by a negotiable check, on a solvent bank, which may be cashed readily by the employee in the local community for the full amount, without discount or collection charges of any kind. Where checks are used for payment the contractor shall make all necessary arrangements for them to be cashed and shall give information regarding such arrangements.

No fee of any kind shall be asked or accepted by the contractor or any of his agents from any person as a condition of employment on the project.

No laborers shall be charged for any tools used in performing their respective duties except for reasonably avoidable loss or damage thereto.

Every employee on the work covered by this contract shall be permitted to lodge, board and trade where and with whom he elects and neither the contractor nor his agents, nor his employees shall directly or indirectly require as a condition of employment that an employee shall lodge, board or trade at a particular place or with a particular person.

No charge shall be made for any transportation furnished by the contractor or his agents to any person employed on the work.

November 7, 2017

No individual shall be employed as a laborer on this contract except on a wage basis, but this shall not be construed to prohibit the rental of teams, trucks or other equipment from individuals. No such rental agreement, or any charges for feed, gasoline, supplies, or repairs on account of such agreement, shall cause any deduction from the wages accruing to any employee except as authorized by the regulations hereinbefore cited.

IV. Safety and Accident Prevention

In the performance of this contract, the contractor shall comply with all applicable Federal, State and local laws governing safety, health and sanitation. The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions, on his own responsibility or as the contracting officer may determine, reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

V. Subletting or Assigning the Contract

The contractor shall perform with his own organization contract work amounting to not less than 30 percent of the total contract amount except that any items designated in the contract as "Specialty Items" may be performed by subcontract and the amount of any such "Specialty Items" so performed may be deducted from the total contract amount before computing the amount of work required to be performed by the contractor with his own organization.

Any items that have been selected as "Specialty Items" for the contract are listed as such in the Special Provisions found elsewhere in the contract.

No portion of the contract shall be sublet, assigned, or otherwise disposed of except with the written consent of the contracting officer or his authorized representative. Requests for permission to sublet assign or otherwise dispose of any portion of the contract shall be in writing and accompanied by a showing that the organization which will perform the work is particularly experienced and equipped for such work. The contractor shall give assurance that the minimum wage for labor as stated in his proposal shall apply to labor performed on all work sublet, assigned or otherwise disposed of in any way. Consent to sublet, assign or otherwise dispose of any portion of the contract shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract.

November 7, 2017

**SPECIAL PROVISIONS
FOR
STATE
PROJECT NO. M-80-9(1217)**

GENERAL CONDITIONS

Bids for the work contemplated in this proposal form will be received at the office of the Nebraska Department of Transportation in Room 104 of the Central Office Building at 1500 Highway 2 at Lincoln, Nebraska, on December 14, 2017, until 1:30 P.M.

- a. Bids submitted by mail should be addressed to the Nebraska Department of Transportation, c/o Contract Lettings Section, P.O. Box 94759, Lincoln, NE 68509-4759.
- b. Bids submitted electronically over the internet, shall be submitted using www.bidx.com.

The 2017 Edition of the Standard Specifications for Highway Construction, including all amendments and additions thereto effective at the date of the contract, are made a part of these Special Provisions, through reference.

The Required Provisions dated April 4, 1995, are attached to and are a part of this proposal form.

The attention of bidders is directed to the Required Provisions covering subletting or assigning the contract.

The proposal contains a statement that the contractor is complying with, and will continue to comply with, fair labor standards in the pursuit of his business and in the execution of the work contemplated in this proposal.

Fair labor standards shall be construed to mean such a scale of wages and conditions of employment as are paid and maintained by at least fifty percent of the contractors in the same business or field of endeavor as the contractor filing this proposal.

TRAINING SPECIAL PROVISIONS

This On-the-Job Training (OJT) Program was created by the Federal Highway Administration (FHWA) and the Nebraska Department of Transportation (NDOT) to fulfill the Training Special Provisions requirements of federal-aid construction contracts (23 CFR 230, Appendix B to Subpart A). The purpose of the provision is to address the under-representation of minority and female workers in the construction trades through the assignment of OJT training goals. Therefore, the training and upgrading of minorities and women toward journeyman status is a primary objective of this Training Special Provision.

Accordingly, the Contractor shall make every effort to enroll minority and women trainees (e.g., by conducting systematic and direct recruitment through public and private sources likely to yield minority and women trainees) to the extent that such persons are available within a reasonable area of recruitment.

All Contractors will be responsible for demonstrating the steps that they have taken to recruit minority and women trainees prior to a determination as to whether the Contractor is in compliance with this Training Special Provision. This training commitment is not intended, and shall not be used, to discriminate against any applicant for training, whether a member of a

minority group or not. The Contractor shall provide on-the-job training aimed at developing full journey-level status in the type of trade or job classification involved. The number of training hours under this Training Special Provision will be assigned to each Contractor as set forth below.

1. Under the NDOT Contractor-Specific On-the-Job Training (OJT) Program, OJT hours will be assigned to Contractors and will not be contract or project specific, except as noted in paragraph "a." below.
 - a. Contractors who **have not** received an OJT assignment and are awarded a federally funded project let by NDOT will be required to fulfill the number of OJT hours as identified in each contract. The number of training hours to be provided under this contract shall be: 0 hours.

A Contractor who has received an OJT assignment will be allowed to provide training on any NDOT-let project on which the Contractor is working as either a Prime Contractor or a subcontractor. A Contractor will have the flexibility to transfer trainees from one project to another after providing notification of the transfer to NDOT.
 - b. **If this project does not have a contract-specific training requirement, or if the number of training hours is set at zero (0), NDOT will add a training pay item with a nominal 100-hour quantity, that may overrun or underrun, which will be utilized only if the Contractor elects to provide training on this contract.**
2. In January each year, NDOT will allocate OJT assignments to Contractors based on the total average dollar amount of all work performed by a Contractor on NDOT-let projects during the previous three (3) calendar years. The total dollar amount will consist of:
 - a. The total dollar amount of the Contractor's prime contracts let by NDOT (both federal and state funded) minus the total dollar amount of the work subcontracted out to others, and
 - b. The total dollar amount of the subcontract work the Contractor performed for others on NDOT-let projects.

The Contractor’s average dollar amount for the previous three calendar years will be calculated, and training hours will then be assigned as follows:

<u>Three Year Average</u>	<u>Training Assignments</u>
Under \$2,500,000	0 hours
\$2,500,000 to 5,000,000	1,000 hours
Over \$5,000,000 to 7,500,000	1,500 hours
Over \$7,500,000 to 10,000,000	2,000 hours
Over \$10,000,000 to 15,000,000	3,000 hours
Over \$15,000,000 to 20,000,000	4,000 hours
Over \$20,000,000 to 25,000,000	5,000 hours
Over \$25,000,000 to 30,000,000	6,000 hours
Over \$30,000,000 to 40,000,000	8,000 hours
Over \$40,000,000 to 50,000,000	10,000 hours
Over \$50,000,000 to 60,000,000	12,000 hours
Over \$60,000,000	15,000 hours

Example: Contractor A, who averaged \$28.66 million, would be assigned 6,000 hours of OJT. Contractor B, who averaged \$10.33 million, would be assigned 3,000 hours of OJT. Contractor C, who averaged \$2.26 million, would not be assigned any OJT hours.

	2011	2012	2013	3 Year Average	2014 OJT Assignment
Contractor A	24.3	33.4	28.3	28.66	6,000 hours
Contractor B	9.3	11.9	9.8	10.33	3,000 hours
Contractor C	2.3	1.4	3.1	2.26	0 hours

3. The OJT hours assigned to a Contractor in January are to be completed during that calendar year (e.g., OJT hours assigned in January of 2014 are to be completed during the period of January 1, 2014 thru December 31, 2014).
 - a. If a Contractor exceeds the number of OJT hours assigned for a calendar year, the Contractor may request to bank up to 30 percent of the excess hours. Banked hours may then be credited toward the Contractor’s OJT assignment for the next calendar year.
4. A Contractor who has not received an annual OJT assignment and is required to provide OJT on a contract-specific basis cannot receive credit for any OJT hours provided by any other Contractor working on the project who has received a Contractor-specific OJT assignment.
5. Completion of the annual OJT assignment is the Contractor’s responsibility. The Contractor is not allowed to assign any of the OJT hours to any other Contractor. The Contractor must make a Good Faith Effort to enroll an adequate number of trainees and provide the trainees a sufficient number of hours training to achieve the Contractor’s annual OJT assignment.
6. While trainees may be assigned to NDOT-let federally or state funded projects, the Contractor should attempt to schedule and assign trainees so that at least 50 percent of a trainee’s hours are earned on federally funded projects - unless otherwise approved in advance by NDOT.

7. The Contractor must use an OJT program approved by NDOT and/or the FHWA. An OJT program shall be approved if it is reasonably calculated to meet the equal employment opportunity obligations of the Contractor and qualify the average trainee for journey-level status in the job classification concerned by the end of the training period. An approved OJT program must specify the number of hours required for a trainee to achieve journey-level status in each job classification. Furthermore, apprenticeship programs registered with the U.S. Department of Labor, Bureau of Apprenticeship and Training, or with a State apprenticeship agency recognized by the Bureau and training programs approved but not necessarily sponsored by the U.S. Department of Labor, Manpower Administration, Bureau of Apprenticeship and Training, shall also be considered acceptable provided they are being administered in a manner consistent with the equal employment obligations of federal-aid highway construction contracts.
8. The Contractor shall furnish each trainee a copy of the OJT Program he/she will follow in providing the training. The Contractor shall also provide each trainee with a certification showing the type and length of training satisfactorily completed.
9. The Contractor's Equal Employment Opportunity (EEO) Officer shall be responsible for administering the Contractor's OJT and monitoring the trainees' progress. The EEO Officer shall serve as the point of contact for NDOT regarding OJT information, documentation, and conflict resolution. If necessary, the EEO Officer may designate another individual to assist with the OJT monitoring responsibilities. NDOT must be provided the name and contact information for any such designee.
10. At least seven (7) days prior to commencing training, the Contractor must submit a "Request for Trainee Approval" form to NDOT for each individual to be enrolled as a trainee and a tentative list of the projects to which the trainee will be assigned. Requests for Trainee Approval may be submitted by mail, fax, or email.
11. If the Contractor submits a "Request for Trainee Approval" form to NDOT for an individual who is not a minority or female, or cannot replace departing trainees with minorities or females, the Contractor must also produce sufficient Good Faith Efforts documentation of the type set forth below. NDOT may reject non-minority male trainees for entry into the program if it determines that a Contractor failed to make sufficient Good Faith Efforts to hire minorities or female trainees and/or the Contractor failed to document or submit evidence of its Good Faith Efforts to do so.
12. Any training hours provided to a trainee prior to the Contractor receiving approval from NDOT will not be credited toward the Contractor's annual OJT assignment.
13. When an individual is first enrolled as a trainee, the individual will be approved for the number of hours of OJT required to achieve journey-level status in the classification for which the individual is to receive training. (A Contractor will not be penalized if a trainee does not achieve the full number of hours for which the trainee is approved.)
14. If the Contractor is unable to provide a trainee the full number of training hours required to achieve journey-level status on one project, the trainee should be transferred to other NDOT-let projects on which the Contractor is working.

15. At least one (1) day before all such transfers of trainees are made, the Contractor must provide NDOT in writing the name of the trainee and current project, the project to which the trainee will be transferred, and when the transfer is to take place. Notifications of trainee transfers may be submitted by mail, fax, or email.
16. Any training hours provided to a transferred trainee prior to the Contractor having notified NDOT of the transfer will not be credited toward the Contractor's annual OJT assignment.
17. No individual may be employed as a trainee in any classification in which they have successfully completed training leading to journey-level status or in which they have been employed at journey-level. No individual may be employed as a trainee in any classification with a lower skill level than any classification in which they have successfully completed training leading to journey-level status or in which they have been employed at journey-level (e.g., an individual who has achieved journey-level status as an equipment operator may not be trained as a laborer). The Contractor should satisfy this requirement by including appropriate questions in the employee application or by other suitable means. Regardless of the method used, the Contractor's records should document the findings in each case.

An individual may be trained in multiple classifications that require relatively equal skill levels but different skill sets (e.g., an individual who has received training as a milling machine operator may also receive training as a roller operator, or a scraper operator, etc.). Preferably, an individual should have achieved journey-level status in a classification before beginning training in another classification.

The Contractor must request and receive approval from NDOT for an individual to receive training in a classification other than the classification for which the individual was originally approved. Any training hours provided prior to receiving approval from NDOT will not be credited toward the Contractor's annual OJT assignment.

18. Training shall be provided in construction crafts rather than clerk-typist or secretarial-type positions. Training is permissible in positions that are not assigned to a specific project such as office engineers, estimators, timekeepers, shop mechanics, etc., if the selected OJT program includes these classifications. Training in such positions will not be eligible for reimbursement, but will be eligible to be credited toward the Contractor's annual OJT assignment.
19. Some off-site training is permissible as long as the training is an integral part of an approved OJT program and does not comprise a significant part of the overall training (e.g., 16 hours training per trainee per year in areas such as jobsite safety or accident response would be permissible). A copy of a training certificate, agenda, or curriculum must be provided to verify off-site training.
20. The Contractor will be reimbursed \$2.00 per each hour of training provided in accordance with an approved OJT program and the NDOT Training Special Provisions.
21. Contractors shall be allowed to transfer trainees or utilize trainees on other NDOT-let projects which do not contain the Training Special Provisions. NDOT will utilize a Change Order / Supplemental Agreement to incorporate the Training Special Provisions and the appropriate pay item into the contracts of such projects.

22. On all federally funded NDOT-let projects, trainees must be paid at least 60 percent of the appropriate minimum journey-level rate specified in the contract for the first half of the training period, 75 percent for the third quarter, and 90 percent for the last quarter of the training period - or the appropriate rates approved by the U.S. Department of Labor or the U.S. Department of Transportation in connection with the program in which the trainee is enrolled.
23. In order to document and evaluate a trainee's progress toward journey-level status, the Contractor must provide NDOT at the end of each month a "Special Training Provision Monthly On-The-Job Training Report" listing each trainee, the number of hours trained during the month, and the total number of hours trained as of the date of the report.

NOTE: The monthly reporting requirements may change if/when on-line reporting is implemented by NDOT.

24. If a trainee's employment is terminated for any reason prior to completion of the number of OJT hours for which the individual was approved, the Contractor must make Good Faith Efforts to replace the trainee with another minority or female.
25. Contractors must submit an annual summary report to NDOT by January 15th each year giving an account of all trainee hours provided during the previous year. The report shall show a breakdown of training provided on each project and/or contract.
26. Contractors will have fulfilled their OJT responsibilities if they have provided acceptable training for the number of hours assigned, or have demonstrated that they made a Good Faith Effort to provide the number of OJT hours assigned. Where a Contractor cannot meet his or her annual training hour goal with females and minorities, the Contractor remains responsible for demonstrating the Good Faith Efforts taken in pursuance of the goal. Examples of what actions constitute Good Faith Efforts are set forth below. NDOT will make compliance determinations regarding the Training Special Provisions based upon either attainment of the annual goal or Good Faith Efforts to meet it.
27. Good Faith Efforts are those designed to achieve equal opportunity through positive, aggressive, and continuous results-oriented measures (23 CFR § 230.409(g)(4)). Good Faith Efforts should be taken as trainee-hiring opportunities arise and when minorities and women are under-represented in the Contractor's workforce. NDOT will consider all Contractors' documentation of Good Faith Efforts on a case-by-case basis and take into account the following:
 - a. Availability of minorities, females, and disadvantaged persons for training;
 - b. The potential for effective training;
 - c. Duration of the contract;
 - d. Dollar value of the contract;
 - e. Total normal work force that the average Contractor could be expected to use;
 - f. Geographic location;

- g. Type of work;
- h. The need for journey level individuals in the area.

Good Faith Efforts may include, but are not limited to, documentation of efforts to:

- Contact minority and female employees to gain referrals on other minority and female applicants;
 - Refer specific minorities and females to training programs and specifically request these trainees by name in the future;
 - Upgrade minority and female unskilled workers into the skilled classifications when possible;
 - Accept applications at the project site or at the Contractor's home office;
 - Review and follow up on previously received applications from minorities and females when hiring opportunities arise;
 - Maintain monthly evaluations that monitor efforts made to achieve diversity in the Contractor's workforce in general (i.e., significant numbers of minorities and females employed on a company-wide basis);
 - Provide incentives for project management personnel or superintendents when hiring goals are met on a project (i.e., similar to performance bonuses paid when a job is completed in a timely manner and under budget).
28. Liquidated damages will be assessed the Contractor for failure to demonstrate a Good Faith Effort to achieve their full OJT assignment or for failure to demonstrate a Good Faith Effort to achieve their full OJT assignment with minority and women trainees.
- Liquidated damages will be assessed at the rate of \$4.00 per hour for the number of OJT hours not achieved or, even if achieved, the number of OJT hours in which the Contractor fails to demonstrate Good Faith Efforts to hire minorities and women. (e.g., if the Contractor was assigned 3,000 hours but only achieved 2,000 hours and did not demonstrate a Good Faith Effort, the liquidated damages would be assessed at 1,000 hours x \$4.00 = \$4,000.00.)
29. NDOT will invoice a Contractor for liquidated damages assessed as a result of the Contractor's failure to demonstrate a Good Faith Effort to achieve the number of OJT hours assigned.
- The Contractor's failure to promptly pay any invoice for liquidated damages may result in the Contractor being disqualified to bid work with NDOT for a time period determined by the Director/State Engineer.
30. At the end of the calendar year, if the dollar amount of work the Contractor performed on NDOT-let projects is substantially below the three-year average upon which the Contractor's OJT assignment was based, the Contractor's OJT goal for that year may be adjusted according to the table in Paragraph 2. above.

31. The established per hour unit price for the item "Training" shall be full compensation for all costs incurred, which includes but is not limited to providing the necessary supervision, labor, equipment, tools and material. Any additional costs due to payment of wages in excess of the minimum rates specified and for the payment of any fringe benefits shall not be paid for directly, but shall be considered subsidiary to the items for which direct payment is made.

AMENDMENT TO CONSTRUCTION TRAINING REPORT REQUIREMENTS

The last sentence under Paragraph C., on Page 5 of the Standard Federal Equal Employment Opportunity Construction Contract Specifications, dated November 3, 1980, is void.

FHWA Form 1409 "Federal-aid Highway Construction Contractor's Semi-Annual Training Report" is not required.

STATUS OF UTILITIES

The following information is current as of September 8, 2017.

At this time, no utilities have been required to relocate their facilities.

Aerial and/or underground utilities may exist within the limits of this project. The Contractor shall determine to his satisfaction the extent of occupancy of any underground utilities located within the respective construction areas and the extent of conflict with the proposed work under this contract.

Any utility adjustments or interruption of service for the convenience of the Contractor shall be the sole responsibility of the Contractor.

To arrange for utilities to locate and flag their underground facilities, contact Diggers Hotline of Nebraska at 1-800-331-5666 or dial 811.

Any work necessary will be concurrent with construction.

STATUS OF RIGHT-OF-WAY

All work is to be performed within the existing Right of Way as located by the Engineer.

SPECIAL PROSECUTION AND PROGRESS (Ingress and Egress)

The Project is located on the north side of I-80 about 0.30 miles east of 50th Street. The Contractor will be allowed to enter and leave the work site via an Interstate Shoulder Closure located at the approximate midpoint of the work site. The Contractor will be required to complete the day's work and have the temporary signs removed and the shoulder open for normal operations prior to 3:30 pm on every work day.

NOTICE TO BIDDERS

Subsections 102.01 and 102.02 of the Standard Specifications are void. Contractor prequalification for this project is not required.

ENVIRONMENTAL COMMITMENT

Project No.: M-80-9(1217) **Control/Contract No.:** 22725

Maintenance Activity: Planting trees

Below are the Conservation Conditions that will be required for this project. All conditions and regulations of any permit obtained for this project will be followed by the Contractor. The NDOT District Environmental Coordinator and District Maintenance Superintendent(s) will serve as an NDOT point of contact.

Wetlands

The Contractor shall not stage, store, waste or stockpile materials and equipment in known/potential wetlands and/or known/potential streams that exhibit a clear “bed and bank” channel. Potential wetland areas consist of any area that is known to pond water, swampy areas or areas supporting known wetland vegetation or areas where there is a distinct difference in vegetation (at lower elevations) from the surrounding upland areas.

Threatened & Endangered Species

District 2 is within the range of multiple State and Federally Listed Threatened & Endangered Species. Range maps and County Lists for these species can be found on the Nebraska Game and Parks Commission website (found below).

Planting Trees as outlined below is allowed with the following General Conservation Conditions.

General Conservation Conditions

Threatened and Endangered Species. The Contractor shall reference the Nebraska Game and Parks Commission website for a reference of federal and state listed species that may occur in the project vicinity prior to starting project maintenance operations. These guidance documents can be found at:

- <http://outdoornebraska.gov/atriskspecies/>

If federal or state listed species are observed during maintenance operations, stop work and contact the NDOT District Environmental Coordinator and District Maintenance Superintendent to determine action required prior to resuming work. Coordination with NDOT Environmental Section will be required if Night-Time work is needed.

Refueling. The Contractor shall conduct refueling only within non-wetland and non-stream locations. Areas adjacent to wetlands and/or streams will be avoided. Spills shall be reported to the NDOT District Environmental Coordinator and District Maintenance Superintendent. The contractor shall be responsible for cleanup of spilled fuel or any other Hazardous Materials,

such as engine oil, hydraulic fluid, antifreeze, etc. used in the contract specified maintenance activity. The Contractor is required by NDOT's Standard Specification Section 107 (legal relations and responsibilities to the public) to handle and dispose of contaminated material in accordance with applicable laws.

The District Environmental Coordinator shall be responsible for recording and tracking of the spill event through NDOT's DIRK Database.

<http://www.transportation.nebraska.gov/ref-man/specbook-2007.pdf>

Restricted Activities. The following project activities shall, to the extent possible, be restricted to between the beginning and ending points of the project, within the right-of-way designated on the project plans.

- Construction debris waste disposal areas
- Asphalt plants
- Haul roads
- Stockpiling areas
- Staging areas
- Material storage sites

Waste/Debris. Construction waste/debris will be disposed of in areas or a manner which will not adversely affect state and/or federally listed species and/or designated critical habitat. (Contractor)

Encountering Unexpected Waste

If contaminated soils and/or water or hazardous materials are encountered, then all work within the immediate area of the discovered hazardous material shall stop until NDOT/FHWA is notified and a plan to dispose of the Hazardous Materials has been developed. Then NDEQ shall be consulted and a remediation plan shall be developed for this project. The potential exists to have contaminants present resulting from minor spillage during fueling and service associated with construction equipment. Should contamination be found on the project during construction, the NDEQ shall be contacted for consultation and appropriate actions to be taken. The Contractor is required by NDOT's Standard Specification section 107 (legal relations and responsibilities to the public) to handle and dispose of contaminated material in accordance with applicable laws. (Contractor)

Ground Disturbance

Any and all ground disturbance shall be limited to fill material locations only, with any fill material disturbances not to exceed the depth of the fill material. (Contractor)

Unmarked Human Burial Sites

The contractor shall comply with the Nebraska Unmarked Human Burial Sites and Skeletal Remains Protection Act, Sections 12-1201 – 12-1212. If human skeletal remains or burial goods associated with an unmarked human burial in the ground or on the ground are discovered, then all work in the immediate area of the discovery shall stop and the contractor shall contact the NDOT District Environmental Coordinator. The NDOT District Environmental Coordinator will then comply with Section 12-1205, notification of local law enforcement in the county in which the remains or burial goods are found. The NDOT District Environmental Coordinator will promptly consult with the appropriate federal, state, and tribal agencies to determine if further field investigations are required before maintenance operations may resume. Pertinent legal authorities covering such discoveries include: the National Historic Preservation Act, the Native American Graves Protection and Repatriation Act, the Archeological Resources Protection Act, the Nebraska Unmarked Burial Sites and Skeletal Remains Protection Act, and the Nebraska Archeological Resources Protection Act.

Any discovered archeological or paleontological objects or deposits are not the property of the Contractor. The NDOT Environmental Coordinator will consult with appropriate federal, state, or tribal agencies to determine the proper disposition of such remains.

STORM WATER DISCHARGES (1-43-1217)

In compliance with the Federal Water Pollution Control Act, authorization to discharge storm water on this project has been granted under National Pollutant Discharge Elimination System (NPDES) General NPDES Permit Number NER110000 for Storm Water Discharges from Construction Sites to Waters of the State of Nebraska. This permit became effective on January 1, 2008.

Contractors are advised that, under the Construction Storm Water General Permit, ***plant sites, camp sites, storage sites, and borrow or waste sites not shown on the plans may be subject to separate NPDES permit authorization requirements for stormwater discharges from those locations.*** Contractors shall be responsible for verifying the need for NPDES permit coverage with the Nebraska Department of Environmental Quality (NDEQ). When required for these locations, the filing of a "Notice of Intent" shall be made by the Contractor directly to the NDEQ.

Additionally, asphalt (SIC Code 2951) or concrete (SIC Code 3273) batch plants that are owned by a private contractor and are operated on a contract-for-service basis to perform work for the Contractor completing the project may be subject to NPDES General Permit Number NER000000 for Industrial Storm Water Discharges. While the plant may be required for completion of the project, it is not under the control of the Department (or other project owner); and the filing of a "Notice of Intent" shall be made by the Contractor directly to the NDEQ.

The NDEQ may be contacted at 402-471-4220 for additional information.

**REQUIRED SUBCONTRACTOR/SUPPLIER QUOTATIONS LIST
(1-43-1217)**

All bidders must provide to the NDOT the identity of all firms who provided quotations on all projects, including both DBEs and non-DBEs. This information must be on a form provided by the NDOT Contracts Office.

If no quotations were received, the bidder must indicate this in the space provided.

Each bidder will be required to submit one list per letting to cover all projects bid.

**WORKER VISIBILITY
(1-43-1217)**

Pursuant to Part 634, Title 23, Code of Federal Regulations, the following modified rule is being implemented:

Effective on January 1, 2008, all workers within the right-of-way who are exposed either to traffic (vehicles using the highway for purposes of travel) or to construction equipment within the work area shall wear high-visibility safety apparel.

High-visibility safety apparel is defined to mean personal protective safety clothing that:

- 1 - is intended to provide conspicuity during both daytime and nighttime usage, and
- 2 - meets the Performance Class 2 or Class 3 requirements of the ANSI/ISEA 107-2004 publication titled "American National Standards for High-Visibility Safety Apparel and Headwear."

**SPECIAL PROSECUTION AND PROGRESS
(Federal Immigration Verification System)
(1-43-1217)**

The Contractor shall register with and use a Federal Immigration Verification System to determine the work eligibility status of newly hired employees physically performing services within the State of Nebraska. The Prime Contractor shall contractually require every subcontractor to register with and use a Federal Immigration Verification System to determine the work eligibility status of newly hired employees physically performing services within the State of Nebraska.

The Federal Immigration Verification System shall be an electronic verification of the work authorization program of the Illegal Immigration Reform and Immigration Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program. The Contractor may use 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 equivalent program shall comply with the Immigration Reform and Control Act of 1986.

The Prime Contractor shall furnish a letter to the NDOT Construction Division in Lincoln on company letterhead and signed by an officer of the company stating that documentation is on file certifying that the Contractor and all subcontractors have registered with and used a Federal Immigration Verification System. The Contractor shall maintain all records of registration and use for a period of three years and make records available upon request. The Contractor shall contractually require subcontractors to maintain all records for a period of three years and make records available upon request.

Payment will not be made to the Contractor for using the Federal Immigration Verification System or the maintenance of the records. This work shall be subsidiary to the work being performed.

The Contractor's Certification shall become part of the final records of the Contract. The Department considers this document to have direct bearing to the beginning interest date and may affect the amount of interest earned.

**PROPOSAL GUARANTY BID BOND (BID BOND)
(1-43-1217)**

Paragraph 1.b. of Subsection 102.14 in the Standard Specifications is void.

CONSTRUCTION DETAILS

**TEMPORARY WATER POLLUTION CONTROL
(2-1-1217)**

Section 204 in the Standard Specifications is void.

**CONSTRUCTION STORMWATER MANAGEMENT CONTROL
(2-1-1217)**

A. General

1. This Section defines some best management practices (BMPs) for erosion and sediment control measures and construction practices the Contractor shall use to prevent soil erosion and avoid water pollution.
2.
 - a. The Department and the Contractor are co-permittees of the NPDES Construction Storm Water General Permit.
 - b. The Contractor shall comply with all conditions required by the current NPDES Construction Storm Water General Permit.

3. The Contractor shall exercise every reasonable precaution throughout the life of the contract to prevent silting of the waters of the state, the project site, and adjacent property. Construction of drainage facilities, as well as performance of other contract work which will contribute to the control of siltation, shall be carried out in conjunction with earthwork operations or as soon thereafter as is practicable.
4. a. The Contractor shall take sufficient precautions to prevent pollution of the waters of the state, the project site, and adjacent property from construction debris, petroleum products, chemicals, or other harmful materials.

The Contractor shall conduct and schedule the operations to avoid interference with any protected species.
- b. The Contractor shall comply with all applicable statutes relating to pollution of the waters of the state and fish and game regulations.
5. All construction debris shall be disposed in a manner that it cannot enter any waterway. Excavation shall be deposited as to protect the waters of the state from siltation.
6. All erosion and sediment control measures shall be properly installed and maintained by the Contractor until all permanent drainage facilities have been constructed, and all slopes are sufficiently vegetated to be an effective erosion deterrent; or until tentative acceptance of the work.
7. All erosion and sedimentation resulting from the Contractor's operations and the weather conditions must be corrected by the Contractor.

LIMITATION OF OPERATIONS (2-1-1217)

A. General

1. The maximum exposed surface area for the Contractor's operations in excavation, borrow, and embankment is 18 acres (72,800 m²) plus an equal area of clearing and grubbing/large tree removal. A written request for an increase in the maximum exposed surface area may be approved by the Engineer. This approval will be based on the soil, moisture, seasonal conditions, the Contractor's operation, or other conditions.
2. The Engineer shall have the authority to reduce the maximum exposed surface area when any of the following conditions warrant:
 - a. Soil and moisture conditions are such that erosion is probable.
 - b. Seasonal conditions may force extended delays.
 - c. Proximity to the waters of the state requires more stringent controls.

- d. Equipment and personnel available on the job is not sufficient to properly maintain erosion and dust control measures.
 - e. Any other environmental condition in the area that may exist which would be affected by erosion from the project.
3. Construction operations in rivers, streams, wetlands, and impoundments shall be restricted to those areas specifically shown in the contract. Rivers, streams, wetlands, and impoundments shall be promptly cleared of all false work, piling, debris, or other obstructions placed therein or caused by the construction operations.
 4. Fording and operation of construction equipment within streams and wetlands will not be allowed, unless explicitly allowed in the contract. Streams are defined as any area between the high banks, regardless of the flow conditions.

CONSTRUCTION METHODS (2-1-1217)

A. General

1. The Contractor shall conduct all construction activities and install temporary erosion control measures, as necessary, to control sediment and avoid soil erosion during construction.
2. The Contractor shall incorporate all permanent erosion control features into the project at the earliest practicable time.
3. Construction stormwater management control measures for Contractor obtained work areas located outside the right-of-way, such as borrow site operations, haul roads, plant sites, staging sites, waste sites, equipment storage sites, etc. are the sole responsibility of the Contractor. All construction stormwater management control measures for these areas are at the Contractor's expense. The Contractor is responsible for securing all required permits for use of these sites.
4. The construction stormwater management procedures contained herein shall be coordinated with any permanent erosion control measures specified elsewhere in the contract to the extent practical to assure economical, effective, and continuous erosion and sediment control throughout the construction period.
5. The Contractor shall be responsible to limit erosion and prevent siltation into the waters of the state during the construction period, as well as during the times that work may be suspended.
6.
 - a. All erosion and sediment control items shall be installed by personnel who are knowledgeable in the principles and practice of various BMP installations.
 - b. The installation of all erosion and sediment control items shall be done under the direct supervision of the Contractor's employee who has successfully completed training provided by the Department and has

been certified as an Erosion and Sediment Control Inspector (Inspector). The Contractor's Inspector shall be present at each site during installation to direct and inspect all erosion and sediment control BMP installations.

- i. The NDOT Erosion and Sediment Control Inspector Certification is obtained by completing an Erosion and Sediment Control Inspector Training Course provided by the Nebraska Department of Transportation and passing the examination that accompanies the training.
- c. The Contractor shall notify the Engineer of all employees, who have been certified as Inspectors, who will be on the project to direct and inspect all erosion and sediment control BMP installations.
- d. No payment will be made for any erosion and sediment control item unless a Contractor's Inspector was present to directly supervise and inspect the work.
- e. No payment will be made for any erosion and sediment control item that is not properly installed. All erosion and sediment control items shall be installed as per the contract.

ENVIRONMENTAL COMMITMENT DOCUMENT (2-1-1217)

A. Environmental Commitment Document

- 1. a. An Environmental Commitment Document will be created by the Department to identify all project specific environmental commitments and will be included in the Contract.
- b. The Department will provide information for the following, when applicable:
 - i. Storm Water Pollution Prevention Plan (SWPPP)
 - ii. U.S. Army Corps of Engineers (USACE) Section 404 Permit
 - iii. Nebraska Department of Environmental Quality 401 Water Quality Certification
 - iv. State Title 117 Waters (USACE Non-Jurisdictional)
 - v. Floodplain Permit
 - vi. Historic Clearance
 - vii. Endangered Species Act Clearance
 - viii. Nebraska Nongame and Endangered Species Conservation Act Clearance

- ix. National Environmental Policy Act Compliance
 - x. NPDES Construction Stormwater Permit (within Right-of-Way limits, only)
 - xi. Conservation Measures
 - xii. Migratory Bird Treaty Act
 - xiii. Bald and Golden Eagle Protection Act Compliance
 - xiv. Other pertinent issues
- c. The Contractor shall provide information for the following, when applicable:
- i. Temporary Erosion Control Plan
 - ii. Spill Prevention and Control Plan
 - iii. Migratory Bird Treaty Act Compliance Plan
 - iv. Name and telephone number of the Contractor's representative responsible for the Environmental Commitments
 - v. Name and telephone number of the employees that are NDOT-Certified Erosion and Sediment Control Inspectors
 - vi. Critical Path Construction Schedule
 - vii. Other items as defined elsewhere in the contract

**STORM WATER POLLUTION PREVENTION PLAN (SWPPP)
(2-1-1217)**

A. General

1. A SWPPP is required for projects that construction activities will cause a land disturbance of one (1) acre or more. The Department will prepare the SWPPP for the areas within the Right-of-Way, temporary easements and permanent easements.
2. For projects not requiring a SWPPP, the Contractor shall comply with the requirements of Environmental Commitment Document, Paragraph 1.b. of this Special Provision, as applicable.
3. Contractor obtained work areas, located on private property, are not included in the NDOT Project SWPPP.

B. Temporary Erosion Control Plan

1. The Contractor shall prepare and submit the Temporary Erosion Control Plan prior to the start of any work. The Contractor shall not begin work until the Temporary Erosion Control Plan has been submitted to the Engineer and appropriate erosion control measures are in place. Payment for any work on the contract will be withheld if erosion control measures are not in place or properly maintained.
2. The Temporary Erosion Control Plan will be reviewed at project progress meetings. All active Contractors shall have their Inspectors present and work in cooperation to determine any necessary changes. Necessary changes will be documented on the Temporary Erosion Control Plan by the Engineer.
3. Payment for preparing the Temporary Erosion Control Plan, inspections and meeting reviews are subsidiary to items that direct payment is made.

C. Spill Prevention and Control Plan

1. All project activities shall be addressed in the Spill Prevention and Control Plan. The Contractor shall prepare and submit the plan to the Engineer and install all appropriate spill prevention and control measures prior to the start of any work.
2. The Spill Prevention and Control Plan shall clearly state measures to prevent, contain, document and clean up a spill. It shall state measures for disposal of the contaminated material, disposal documentation and incident review to train personnel to prevent spills from reoccurring.
3. Spill Prevention and Control Plans are applicable to construction sites where hazardous materials are stored, used and/or generated onsite. Hazardous materials include, but not limited to: hazardous wastes, pesticides, paints, cleaners, petroleum products, fertilizers, solvents and porta-potty wastes.
4. Direct payment will not be made for the Spill Prevention and Control Plan.

D. Migratory Bird Treaty Act Compliance Plan

1. The Contractor shall not begin work until a Migratory Bird Treaty Act Compliance Plan has been submitted to the Engineer and appropriate nesting migratory bird avoidance measures are in place.
2. a. The Contractor shall clearly state the necessary measures they intend to use to avoid a "Take" of nesting migratory birds in the Migratory Bird Treaty Act Compliance Plan. Measures may include but are not limited to:
 - i. Clearing and grubbing prior to April 1st or after September 1st
 - ii. Tree removal prior to April 1st or after September 1st
 - iii. Clearing empty nests on structures prior to April 1st

- iv. Maintaining clear structures until commencement and throughout the duration of work on structures
 - v. Netting structures to prevent nesting
 - vi. Commitment to perform surveys according to protocol
 - vii. Hire a biologist to survey areas to be disturbed prior to commencement of work during the nesting season
 - viii. Submittal of required bird survey reports
 - ix. Training of Contractor Personnel to insure compliance
3. a. The Migratory Bird Treaty Act Compliance Plan is applicable to the entire project site to avoid the "Take" of migratory birds protected under the Migratory Bird Treaty Act.
- b. "Take" is defined as: pursuit, hunt, shoot, wound, kill, trap, capture, collect, or attempt to pursue, hunt, shoot, wound, kill, trap, capture, or collect.
4. The Migratory Bird Treaty Act Compliance Plan shall adhere to the NDOT's Avian Protection Plan located at:

<http://www.dot.nebraska.gov/media/3952/avian-protection-plan.pdf>

Direct payment will not be made for the Migratory Bird Treaty Act Compliance Plan.

E. SWPPP Inspection

- 1. The Contractor shall accompany the Engineer on inspections in accordance with the NPDES Construction Storm Water General Permit.
- 2. The SWPPP will be maintained and updated by the Engineer as work progresses and site conditions change to accurately describe the BMPs that are currently in place.
- 3. The Contractor's participation in SWPPP inspections, maintenance and updates shall begin on the first day construction activities cause land disturbance and end on the date of project completion as evidenced as the completion date in the District Engineer's Letter of Tentative Acceptance.
- 4. a. The Contractor's Inspector shall be responsible for ensuring that all BMPs are installed in accordance with the contract or the manufacturers' recommendations. The Contractor's Inspector shall be capable of reading and interpreting these documents.
- b. The Contractor's Inspector shall be familiar with product and structural BMPs. The Contractor's Inspector shall inspect, assess, and supervise the maintenance of erosion and sediment control BMPs to ensure

compliance with the NPDES Construction Storm Water General Permit while preserving BMP functionality.

5. Payment for project inspection is subsidiary to items that direct payment is made.

ENVIRONMENTAL COMMITMENT ENFORCEMENT (2-1-1217)

A. General

1. This specification establishes payment and disincentive assessment for the Contractor's performance in complying with Contract Environmental Commitments.
2. Deficiencies are described but not limited to:
 - a. Failure to install pollution prevention control BMPs as work progresses or as described in the SWPPP.
 - b. Failure to maintain existing pollution prevention control BMPs.
 - c. Failure to remove non-functioning pollution prevention control BMPs.
 - d. Failure to comply with USACE Section 404 Permit requirements.
 - e. Failure to comply with NPDES Construction Storm Water General Permit requirements.
 - f. Failure to comply with all applicable statutes relating to pollution of the waters of the state.
 - g. Exceeding the maximum exposed surface area for excavation of 18 Acres without written request for permission and written approval.
 - h. Failure to comply with wildlife species specific conservation conditions.
 - i. Failure to comply with the Contract.
 - j. Failure to comply with the Engineers directives.

B. SWPPP Deficiency Notification

1. The Engineer will document and direct the Contractor to correct deficiencies.
2.
 - a. The Contractor shall commence correcting deficiencies, provide adequate equipment and personnel, and diligently pursue correcting deficiencies without cessation until all deficiencies have been corrected.
 - b. The count of Working Days and/or Calendar Days will continue during the time period that corrective work is being performed.

- c. Delays to the project as a result of the Contractor conducting corrective actions for the Contract Environmental Commitments will not constitute a valid reason for an extension of the contract time allowance.
3. Deficiencies shall be corrected within seven (7) calendar days of notification or within an approved extension. When deficiencies are not corrected within seven (7) calendar days or within an approved extension, the Engineer will make a disincentive assessment to the contract as stated herein.
4.
 - a. If soil, weather, or other conditions prevent the Contractor from completing the corrective actions within seven (7) calendar days, the Contractor shall notify the Engineer in writing. The Contractor's letter shall state the reasons preventing corrective action within the time allowed. The Contractor shall propose a written Corrective Action Plan within 48 hours. Corrective work shall continue while the Corrective Action Plan is developed. The Contractor's Corrective Action Plan must contain a course of action and a time frame for completion. If the reasons and the Corrective Action Plan are acceptable, the Engineer may extend the time in which to complete the corrective work.
 - b. The Contractor will be allowed to proceed with the plan as proposed without incurring a disincentive assessment. If all corrective work is completed within the time allowance shown in the Notification or within an approved extension, a disincentive assessment will not be imposed upon the Contractor.
 - c. Storm events or soil and weather conditions occurring on other projects, which interfere with a Contractor completing corrective actions on the project within seven (7) calendar days, will not be justification for a time extension to complete the corrective work.
5. If all corrective work identified in the Notification has not been completed at the end of the seventh (7th) calendar day after the Initial Notice Date or within an approved extension, a Shut-Down Notice will be issued on the eighth (8th) calendar day after the Initial Notice Date or on the calendar day following the last day of an approved extension.
6. All operations shall cease as of the date and time cited in the Shut-Down Notice. The Contractor shall work, exclusively, on the deficiencies until all have been corrected or as directed by the Engineer. Upon issuance of the Shut-Down Notice, a disincentive of \$500.00 per deficiency per calendar day will be assessed thru the day the corrective work is completed, inclusive.
7. The Engineer may require the Contractor to provide a written Procedures Plan that describes the process to prevent reoccurrence of deficiencies. The written Procedures Plan shall be provided within two (2) calendar days of the request. Failure to correct all deficiencies and provide a Procedures Plan may result in payments being withheld until such time that procedures are outlined.
 - a. Payment for preparing a written Procedures Plan is subsidiary to items that direct payment is made.

C. Storm Event Restoration – Incentive and Disincentive

1. The Department will pay “Storm Event Restoration - Incentive” when the Contractor completes the restoration work to eliminate the pollution prevention control deficiencies within seven (7) calendar days of Notification or within an approved extension. Multiple deficiencies may be included in one notification. If the restoration work has not been completed within seven (7) calendar days after the Initial Notice or within an approved extension, payment for the item of “Storm Event Restoration - Incentive” will not be made.
2. A storm event is defined as a storm exceeding 0.50 inch of rain in a 24 hour period.
3. The Department will notify the Contractor of pollution prevention control deficiencies.
4. a. Payment for the item of “Storm Event Restoration - Incentive” may not be made when the Contractor is notified to correct pollution prevention devices not installed in accordance with the contract or the manufacturer’s recommended installation instructions.
5. If the restoration work is not completed within seven (7) calendar days or within an approved extension, a disincentive assessment of \$500.00 per deficiency per calendar day will be assessed. The disincentive assessment will begin on the eighth (8th) calendar day after the issuance of the Initial Notice Date or on the calendar day following the last day of an approved extension(s) and continue through the day that the restoration work is completed, inclusive.

D. Method of Measurement

1. a. “Storm Event Restoration – Incentive” will be measured by the each upon completion of restoration of all deficiencies included in a notification within the allowed time and only one payment per notification is allowed when multiple deficiencies are included on the notification.
b. If deficiencies from multiple notifications are restored during the same restoration operation, only one (1) incentive is eligible for payment.
c. If multiple notifications are the result of successive storm events and deficiencies are transferred to ensuing notifications, incentive payment is only eligible for the latest notification.
2. “Storm Event Restoration – Disincentive” will be measured by the calendar day in accordance with Paragraph C.5. above.

E. Basis of Payment

1.	Pay Item	Pay Unit
	Storm Event Restoration – Incentive	Each
	Storm Event Restoration – Disincentive	Calendar Day

2. All equipment, materials, etc. used in the restoration work will be paid for in accordance with Division 800 of the Standard Specifications.
3. Payment is full compensation for all other incidentals required to complete the restoration work included in the notification within the allowed time.

F. Environmental Commitments – Contractor Compliance

1. To provide payment for all plans, inspections, surveys, reports, travel, qualified inspection person's, carrion removal, and any other subsidiary activities for the work of implementing threatened and endangered species commitments, temporary erosion control or any other environmental commitments prescribed in the contract.
2. Multiple visits to the project may be required to comply with environmental commitments prescribed in the contract.

G. Method of Measurement

1. No measurement is required.

H. Basis of Payment

1.

Pay Item		Pay Unit
	Environmental Commitments – Contractor Compliance	Lump Sum
2. Partial payments will be made as follows:
 - a. The Department will pay 50 percent of the total amount bid for the item Environmental Commitments – Contractor Compliance within seven (7) calendar days after the Notice to Proceed Date.
 - b. Upon completion of 50 percent of the Original Contract Amount, the Department will pay 30 percent of the amount bid for the item Environmental Commitments – Contractor Compliance.
 - c. Upon completion of 75 percent of the Original Contract Amount, the Department will pay the remaining 20 percent of the amount bid for the item Environmental Commitments – Contractor Compliance.
 - d. Failure to comply with any or all of the contract requirements, included for payment under the item of Environmental Commitments – Contractor Compliance, will preclude all payment for the item, including any previous payment.
3. Payment is full compensation for all work prescribed in the contract.

I. Immediate Action Deficiencies

1. Deficiencies that pose an imminent threat to the environment are considered an emergency situation. These deficiencies will be identified in the Immediate Action Deficiencies Section of the Environmental Commitment Deficiency

Notification Form. The corrective work for Immediate Action Deficiencies shall begin immediately and continue without cessation until completed.

2. The Engineer will issue a shut-down notice. All work on the contract shall cease until the corrective work has been completed. The Engineer may allow the Contractor to continue working in areas unaffected by the Immediate Action Deficiency, provided corrective actions are being actively performed on the deficiency.
3. Immediate Action Deficiencies are not eligible for an incentive payment.
4. The Contractor will be assessed a disincentive assessment of \$1,000.00 per deficiency per calendar day for failure to begin corrective actions or failing to continue to completion as directed by the Engineer or by the regulatory agency with jurisdiction.
5. Examples of Immediate Action Deficiencies include but are not limited to:
 - a. Threatened & Endangered Species habitat protection deficiencies
 - b. USACE Section 404 Permit Noncompliance
 - c. Petroleum Spills/Tank Leakage
 - d. Hazardous Material Spills

J. Rights Reserved

1. The Department reserves the right to initiate and perform corrective action on any deficiencies which result from the Contractors' actions, inactions, or for failure to comply with the NPDES Construction Stormwater General Permit, USACE Section 404 Permit, or any other applicable permit.
2. The Contractor shall be liable to the Department for any and all costs incurred by the Department for corrective actions taken by the Department.
3. It is expressly understood that the provisions of this specification shall not relieve the Contractor of their responsibilities nor shall it relieve the Surety of its obligation for and concerning any just claim.
4. The Contractor shall indemnify and save harmless the Department and all of its representatives from any and all actions or claims brought because of the Contractor's actions, inactions, or for failure to comply with the NPDES Construction Storm Water General Permit, USACE Section 404 Permit, or any other applicable permit.

HAZARDOUS MATERIALS MANAGEMENT (2-1-1217)

Description

This work shall consist of minimizing the exposure of the environment, including waters of the state, to hazardous materials. This specification also includes the requirements for clean-up of releases of hazardous materials.

Material Requirements

1. Prior to beginning work on the project, the Contractor shall prepare a Spill Prevention and Control Plan (SPCP) that clearly states measures to prevent a spill, contain a spill, clean up a spill, dispose of contaminated materials and train personnel to prevent and control spills. The plan shall include the notification contacts, as well as the processes and timeframes to address the situation in the event that a spill occurs. The following shall be included in the plan:
 - a. A site plan showing locations for loading of equipment and materials, storage of equipment and materials, equipment fueling and wash areas, portable toilet locations and waste disposal areas.
 - b. Descriptions of the following that may be used on projects:
 - i. Best Management Practices (BMPs) for secondary containment.
 - ii. Description of spill response equipment and materials, including safety and clean up equipment.
 - iii. Preventative inspection and maintenance techniques for equipment to minimize leaks.
 - iv. Procedures for filling tanks and equipment to prevent spills.
 - v. Procedures for containing, diverting, isolating and cleaning up a spill.
 - vi. Procedures and BMPs to be administered at bridge and culvert sites to ensure that hazardous materials do not runoff.
 - (1) When water is present, immediate action to contain and remediate a spill is required.
 - (2) The Contractor shall notify the NDOT Project Manager and NDEQ upon release of any quantity of material to waters of the state. The NDOT Project Manager will notify the NDOT Environmental Section upon notification of a release.
 - vii. Spill training agenda and materials for the Contractor's staff and subcontractors.

- c. Identify individuals responsible for implementing the plan.
 - d. Specify how and when to notify appropriate authorities such as Nebraska Department of Environmental Quality and Nebraska State Patrol.
2. The Contractor shall provide and maintain a spill kit with appropriate materials to clean up minor spills on site as described in the Spill Prevention and Control Plan. A minor spill is defined as a release that is less than the reportable quantity for a given material and not entering waters of the state.
 3. Material Safety Data Sheets (MSDS) shall be maintained on site for all hazardous materials being used or stored for the project. The MSDS Sheets shall contain reportable quantities and spill response information.

Construction Methods

1. The Contractor shall store paints, solvents, pesticides, petroleum products, and other hazardous materials in areas with secondary containment.
2. Hazardous materials storage, including portable toilets, shall be restricted to specific areas away from:
 - a. vehicular traffic
 - b. restricted areas shown on the plans
 - c. waters of the state, including wetlands (50 feet minimum distance)
 - d. Wellhead Protection Areas, unless designated in a Wellhead Protection Plan that has been approved by the local authority.
3. The Contractor shall inspect hazardous material containers weekly to ensure that all containers are clearly identified and that no leaks are present.
4. The Contractor shall inspect the site weekly to ensure that cleanup procedures are posted and that a spill kit is adequately stocked and readily available.
5. The Contractor shall verify and update the SPCP site maps as necessary during inspections to accommodate changes in the site.
6. A spill kit shall be readily available, in close proximity and appropriately stocked when applying petroleum based or other hazardous materials to bridge and culvert sites.
7. The Contractor shall develop, implement and maintain a training program regarding hazardous materials management. Training of the Contractor's staff and subcontractors shall be conducted to ensure that workers are knowledgeable of the procedures, materials and equipment outlined in the SPCP. The Contractor shall maintain a database of individuals that have been trained.
 - a. Specific hazardous materials and their handling procedures shall be discussed during safety briefings.

8. The Contractor shall maintain and provide to the Project Manager, upon request, a record of all spills occurring on site. This record shall include:
 - a. The circumstances leading to the spill
 - b. The date of the release
 - c. Measures taken to resolve the incident
 - d. Measures taken to prevent a reoccurrence
9. The Contractor shall follow NDEQ notification procedures for all spills in excess of a reportable quantity as defined by NDEQ Title 126 or the products MSDS Sheets. The NDOT Project Manager will notify the NDOT Environmental Section.
10. The Contractor shall follow all local, state and federal regulations associated with the release and/or cleanup, including disposal of the hazardous material.

Method of Measurement and Basis of Payment

1. Direct payment will not be made for work associated with Hazardous Materials Management, but is considered subsidiary to the items for which direct payment.
2. The Contractor shall solely bear all penalties and costs associate with the containment, cleanup, remediation and disposal of material associated with a spill.

**WORK ZONE TRAFFIC CONTROL SIGNS
(4-3-1217)**

The Department has adopted the FHWA 2009 Manual of Uniform Traffic Control (MUTCD) and the 2011 Nebraska Supplement to the MUTCD as the official guidance for work zone traffic control signs. Many work zone traffic control signs have been revised, redesigned, or replaced in the 2009 MUTCD (and 2011 Nebraska Supplement). Accordingly, all work zone signs shall comply with the following:

- 1- All signs, regardless of age, shall meet the design standards of the 2009 MUTCD (and 2011 Nebraska Supplement).

FURNISHING AND PLANTING OF PLANT MATERIALS

Paragraphs 1.d.(1)(iv) of Subsection 825.02 in the Standard Specifications are void and superseded by the following:

- (iv) Fall, Balled and Burlapped or container grown Deciduous – August 14 to October 15.

Paragraph 1.d.(1) of Subsection 825.02 is amended to provide that these dates may be extended by the Engineer if weather and soil conditions permit.

Paragraph 2. of Subsection 825.02 is void and superseded by the following:

2. All plant materials shall be grown in a State inspected nursery unless specified otherwise. All trees shall be balled and burlapped (B&B), container grown (C.G.) as indicated on the plans. Larger sized stock of the species listed may be used if stock conforms to the American Standard for Nursery Stock published by the American Association of Nurserymen, Inc. current edition. The Engineer must approve all species substitutions in writing.

Paragraph 7 of Subsection 825.02 is amended to include the following:

Prior to installation of plant materials, a representative from the Roadside Stabilization Unit shall review the tree location staking to ensure locations are suitable for plant growth.

Paragraph 12.a. of Subsection 825.02 is amended to include the following:

The Contractor shall supply a 4-liter plastic bag mulch sample to the NDOT Roadside Stabilization Unit or the Engineer for approval.

Paragraph 12.b. of Subsection 825.02 is void and superseded by the following:

- 12.b. Landscape mulch shall consist of shredded hardwood chips which have been screened and are free of any green foliage, twigs, rocks, sawdust, wood shavings, dirt, growth or germination inhibiting ingredients, or other foreign materials.

Subsection 825.02 is amended to include the following:

The tree guards shown in the plans shall be 6-inch (150 mm) diameter by a minimum of 24-inches (450 mm) in height corrugated polyethylene pipe.

Paragraph 6.a. and 6.c. of Subsection 825.03 is void and superseded by the following:

- 6.a. For the balled and burlapped or container grown plants, the Contractor shall set the ball carefully into the hole on undisturbed soil at the proper planting depth as shown in the plans.
- 6.c. Containers shall be completely removed from plants before setting in the hole. All twine shall be cut away from the trunk and removed from balled and burlapped plants. The bottom of wire baskets shall be cut away before plants are set into the planting hole and the remainder of all wire baskets shall be cut off and removed from the ball. The burlap shall all be removed from the ball before backfilling begins.

Paragraph 6.e. of Subsection 825.03 is amended to include all empty containers from plant materials.

Paragraph 11 of Subsection 825.03 is amended to include the following:

- 11.c. Tree guards shall be installed around deciduous trunks before mulching. The material and labor for tree guards is considered subsidiary to other items of work for which direct payment is made

Paragraph 13. of Subsection 825.03 is amended to include the following:

- 13.d. Spread mulch over all planted areas to a depth of 3 inches. Do not place mulch directly against the tree trunk. Do not place mulch inside the tree guard.

Paragraph 15.a. of Subsection 825.03 is void and superseded by the following:

- 15.a. The establishment period will not begin until all of the following items of work, as required by the specifications, the special provisions, and the plans, have been performed on each and every plant: ground preparation, providing, planting, backfilling, watering, pruning, water basin construction, application of chemical vegetation control, mulching, and installation of tree guards.

Paragraph 15.c. of Subsection 825.03 is void and superseded by the following:

- 15.c. The establishment and maintenance period shall be for a period of one year. Maintenance of plantings shall begin immediately after each plant is planted and continue until the acceptance of plant materials by the representative of the Roadside Stabilization Unit. The one year of the establishment and maintenance period shall be from the acceptance of materials, as described by paragraph 15.a. of Subsection 825.03 to one year from which the plant material was planted.

The first sentence of paragraph 15.d. of Subsection 825.03 is amended to read:

- 15.d. During the establishment period, the Contractor shall properly maintain all materials under the contract and shall replace all unacceptable plant material in the spring planting season of each year.

Paragraph 15.d.(7) of Subsection 825.03 is amended to include that the weeds shall not be allowed to attain a growth of over 6-inches (150 mm) before being removed.

Table 825.02 in Subsection 825.05 is void and superseded by the following:

Maximum Payment Percentages of Contract Unit Price (Fall Planting Only)		
Percent Authorization	Time Payment is Authorized	Criterion for Payment
60% of the contract price of each applicable item.	After Planting Complete.	1. Plant materials meet the Specifications, have been properly stored and transported to the work site.
An additional 10% of the contract price of each applicable item.	November 30 of the year planted, or an agreed date.	1. Plant materials have been properly maintained as specified during the establishment period. 2. The Project Manager will determine at the "Time Payment is Authorized" date whether procedures have been properly performed for the time interval indicated. At the November 30 authorization date, all established procedures from time of planting will be evaluated. 3. The Contractor will notify the Project Manager when the establishment procedures are being accomplished in order to get paid for the work. If all establishment procedures are not performed, the Contractor will forfeit the 10% payment for establishment work for the interval(s) which were unacceptable and the Contractor cannot regain that payment. 4. An inspection will be conducted around November 1 to determine the number of plants that are acceptable. 5. If a plant is determined to be not acceptable, any 10-percent payment for establishment work after that determination will not be made. However, plants that are replaced before June 1 of the original planting year will be considered original plants.
An additional 10% of the contract price of each applicable item.	June 30 of the maintenance year.	After completion of all replacement plantings, all establishment procedures from the time of initial planting until end of the first maintenance year will be evaluated.
An additional 10% of the contract price of each applicable item.	July 31 of the maintenance year, or an agreed date.	After completion of all replacement plantings, all establishment procedures from the time of initial planting until July 31 of the maintenance year will be evaluated.
The last 10% of the contract price for all acceptable items.	At the end of the maintenance year, from the original planting date.	1. After completion of replacement plantings 2. All establishment procedures are complete and verified by the Engineer on all material from the initial planting. 3. The representative of the Roadside Stabilization Unit has inspected the project and determined the acceptability of each plant based on the normal growth habit for the species or variety.

Paragraph 3. of Subsection 825.05 is void and superseded by the following:

The Engineer, Contractor, and a representative of the NDOT Roadside Stabilization Unit will meet at the following times during the establishment and maintenance period:

- a. At the completion of planting to determine if the plants and maintenance are in an acceptable condition to begin the establishment and maintenance period. The Contractor shall notify the Engineer and the NDOT Landscape Architect when planting is complete so that the meeting date and time can be scheduled. To meet the requirements for an acceptable condition, all plants must be installed, be the proper plant specified or agreed upon substitute, be in good condition as

described by the specifications, and all other installation requirements of Section 825 achieved.

- b. At the completion of planting and determination of acceptance, the Engineer, Contractor and the NDOT Landscape Architect or a representative will establish the dates for the end of the first year, end of the second year and any further evaluations described by Table 825.02 as amended by these specifications.
- c. At the end of the first year of the establishment and maintenance period to determine if the plants are in an acceptable growing condition and if the establishment and maintenance procedures have been followed.
- d. At the end of the second year of the establishment and maintenance period to determine if the plants are in an acceptable growing condition and if the establishment and maintenance procedures have been followed.
- e. The requirements and procedures of Paragraph 15. of Subsection 825.03 shall be followed during each year of the establishment and maintenance period. The Contractor shall make any and all replacements as required by the specifications during the one-year period.

Paragraph 5.a. of Subsection 825.05 is void and superseded by the following:

- 5.a. If establishment procedures were properly performed, project manager notified, etc., for the indicated time intervals in Table 825.02, then on the dates listed in Table 825.02 a payment for each period equivalent to 10% of the contract price of each item will be made on all acceptable plants.

The last sentence of paragraph 6.c. of Subsection 825.05 is void and superseded by the following:

If plants are not replaced, the Project Manager will deduct the 60% payment made at the original planting and will not make the final 10% payment due at the end of the last establishment period.

PROPOSAL GUARANTY (1-37-1217)

As an evidence of good faith in submitting a bid for this work, the bidder shall indicate the type of bid bond applied to this project in accordance with Subsection 102.14 of the Standard Specifications.

210INFDEC17

INDEX

CONSTRUCTION DETAILS 18
 CONSTRUCTION METHODS 20
 CONSTRUCTION STORMWATER MANAGEMENT CONTROL 18

ENVIRONMENTAL COMMITMENT 14
 ENVIRONMENTAL COMMITMENT DOCUMENT 21
 ENVIRONMENTAL COMMITMENT ENFORCEMENT 25

FURNISHING AND PLANTING OF PLANT MATERIALS 32

GENERAL CONDITIONS 6

HAZARDOUS MATERIALS MANAGEMENT 30

LIMITATION OF OPERATIONS 19

NOTICE TO BIDDERS 14

PROPOSAL GUARANTY 36
 PROPOSAL GUARANTY BID BOND (BID BOND) 18

REQUIRED SUBCONTRACTOR/SUPPLIER QUOTATIONS LIST 17

SPECIAL PROSECUTION AND PROGRESS
 (Federal Immigration Verification System) 17
 (Ingress and Egress) 13

STATUS OF RIGHT-OF-WAY 13
 STATUS OF UTILITIES 13
 STORM WATER DISCHARGES 16
 STORM WATER POLLUTION PREVENTION PLAN (SWPPP) 22

TEMPORARY WATER POLLUTION CONTROL 18
 TRAINING SPECIAL PROVISIONS 6
 AMENDMENT TO CONSTRUCTION TRAINING REPORT REQUIREMENTS 13

WORK ZONE TRAFFIC CONTROL SIGNS 32
 WORKER VISIBILITY 17

