

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

NEBRASKA DEPARTMENT OF ROADS
LETTING DATE: February 05, 2015

CALL ORDER: 820 CONTRACT ID: 8974

CONTROL NO./SEQ. NO.: 80974 /000 PROJECT NO.: RD-20-4(1029)

TENTATIVE START DATE: 08/17/15 CONTRACT TIME: 15 WORKING DAYS

LOCATION: US-20, ATKINSON - O'NEILL
IN COUNTY: HOLT

BIDDER

GROUP 8 SPECIALTY

NOTES

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

THE NUMBER OF _____ 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 NDOR in a written format through the Bid Express (BidX) website at <https://www.bidx.com/ne/lettings>. Likewise, NDOR will post answers exclusively to the BidX website. All official answers will be identified as “Authorized by NDOR.” **Questions will not be answered verbally.**

STATE OF NEBRASKA
DEPARTMENT OF ROADS

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.

April 4, 1995

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.

April 4, 1995

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.

April 4, 1995

**SPECIAL PROVISIONS
FOR
STATE
PROJECT NO. RD-20-4(1029)**

GENERAL CONDITIONS

Bids for the work contemplated in this proposal form will be received at the office of the Nebraska Department of Roads in Room 104 of the Central Office Building at 1500 Highway 2 at Lincoln, Nebraska, on February 5, 2015, until 1:30 P.M.

- a. Bids submitted by mail should be addressed to the Nebraska Department of Roads, 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 2007 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 per cent of the contractors in the same business or field of endeavor as the contractor filing this proposal.

STATUS OF UTILITIES

The following information is current as of October 30, 2014.

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

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

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

The right of way for this project has been acquired and physical possession is held by the State of Nebraska and ready for the Contractor's use, except tracts listed below:

Unacquired Right-of-Way Tracts as follows:

Tract Number	Status of Tract	Hearing Date
None	None	None

Right-of-Way Tracts with Pay Items:

Tract Number	Pay Items
None	None

- No encroachments on the old right of way.
- Acquisition of right of way is not required for this project.

**SPECIAL PROSECUTION AND PROGRESS
(Contaminated Work, Internal Liquidated Damage)**

Any pavement surface that is contaminated by the Contractor with petroleum products, solvents, or other deleterious materials may be subject to repair at no cost to the Department. Any bituminous mixture that is contaminated by the Contractor with petroleum products, solvents, or other deleterious materials may be rejected. If the bituminous mixture is already incorporated in the work, it shall be removed and replaced by the Contractor at no additional cost to the Department. In addition, for each occurrence, the Contractor will be:

- (1) charged lane rental for the additional disruption of traffic during the repair work, and
- (2) the Contractor shall be responsible for all required traffic control devices, flagging, pilot car, etc.

$$\begin{aligned} \text{Lane Rental} &= [(1 - (\%T \div 100)) \times (\text{vpwh}) \times (\$ \text{Pass.}) + (\%T \div 100) \times (\text{vpwh}) \times (\$ \text{Trucks})] \times D \\ &= [(1 - 0.13) \times (221) \times (\$0.23) + (0.13) \times (221) \times (\$ 0.44)] \times 10 \\ &= [\$44.22 + \$12.64] \times 10 \\ &= \$568.69 / \text{lane} / \text{hour} \rightarrow \text{Rounded to } \$570 / \text{lane} / \text{hour}. \end{aligned}$$

Where: ADT = 3,381
 % Vehicles during work hours (7 a.m. – 6 p.m.) = 72 ±%
 vpwh = Vehicles per work hour = $[(\% \text{vpwh} \div 100) \times (\text{ADT} \div \# \text{lanes})] / 11 = 221$
 % T = % Trucks = 13%
 \$ Pass. = \$0.23
 \$Trucks = \$0.44
 D = Delay (in minutes) = The actual delay time resulting from a reduction of the posted speed, a flagging delay, or any other traffic delay that is the result of the repair or replacement work. A flagging delay will be estimated at 10 minutes.

Any portion of an hour shall be considered as one whole hour.

**SPECIAL PROSECUTION AND PROGRESS
(Microsurfacing)**

The Contractor will not be allowed to place any Microsurfacing before June 1, 2015, or after September 12, 2015, unless otherwise directed by the Engineer.

**SPECIAL PROSECUTION AND PROGRESS
(District 8 – Type II Cones on Centerline for Flagging Operations)**

The Contractor shall place a minimum of seven (7) up to a maximum of fifteen (15) Type II 42” (1070 mm) Reflective Cones on centerline with the advanced warning signs used for flagging operations (at each flagger’s location), as described in the project traffic control plans.

The work of installing, maintaining, and removing the Type II 42” (1070 mm) Reflective Cones on centerline shall be considered subsidiary to the item “Flagging”.

ENVIRONMENTAL COMMITMENT

Control No.: 80974

Project No.: RD-20-4(1029)

Project Name: Atkinson – O’Neill

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.

(Responsible Party for the measure is found in parentheses)

Conservation Measure for Environmentally Sensitive Areas

The Contractor shall not stage, store, waste or stockpile materials and equipment in undisturbed locations, or 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.
(Contractor, NDOR District)

- See **Attachment 1** for a list of potential wetlands and/or other potential regulated waters identified from a desktop review of published resources. The above condition pertains to the areas as listed on Attachment 1. If access to any of these areas is required to complete the project construction, the NDOR Construction Project Manager shall coordinate with the Environmental Permits Unit to determine need for field verification and/or permitting requirements prior to disturbance of the area. (Contractor, District Construction)

Contact Person: Justin Williams, Highway Environmental Biologist, (402) 479-3812

General Conservation Conditions

Changes in Project Scope. If there is a change in the project scope, the project limits, or environmental commitments, the NDOR Environmental Section must be contacted to evaluate potential impacts prior to implementation. Environmental commitments are not subject to change without prior written approval from the NDOR Environmental Section.

Threatened and Endangered Species. The Contractor shall reference the AGC Endangered Species Guide or 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 construction. These guidance documents can be found at:

- http://www.agcne.org/services/es_guide.htm
- http://outdoornebraska.ne.gov/wildlife/programs/nongame/Endangered_Threatened.asp

If federal or state listed species are observed during construction, stop work and contact the NDOR Environmental Section to determine action required prior to resuming work.

Refueling. Refueling will be conducted within the confines of the paved roadway surface or within the boundaries of an approved stockpile/staging site.

Restricted Activities. Any project related activities that occur outside of the project limits (includes the paved surface and within 12 inches of the paved surface) must be environmentally cleared/permitted with the Nebraska Game and Parks Commission as well as any other appropriate agencies by the Contractor and those clearances/permits shall be submitted to the District Construction Project Manager prior to the start of the above listed project activities. The Contractor shall submit a NDOR Plant Site/Stockpile Site Request Identification and Evaluation Form (DR Form 56) and/or a Borrow Site/Waste Site Request Identification and Evaluation Form (DR Form 119) as appropriate, and include information such as an aerial photo showing the proposed activity site, a plan-sheet or drawing showing the location and dimensions of the activity site, ground photos showing the existing conditions at the proposed activity site, etc. The Contractor must receive notice of acceptance from NDOR, prior to starting the above listed project activities. These project activities cannot adversely affect state and/or federally listed species or designated critical habitat. Fill cannot be placed in Wetland, Stream or other Waters of the U.S. without authorization.

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.

Ground Disturbance Activities. No ground disturbing activities are allowed in association with this project, outside of the footprint of the paved area and the necessary soil disturbance to taper an earth shoulder (would occur within 12 inches of the existing surfaced roadway).

Contact Person: Melissa Marinovich, Highway Environmental Biologist, (402) 479-3546

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 NDOR/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 NDOR'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)

Contact Person: Wendy Austin, Highway Environmental Biologist, (402) 479-3632

Attachment 1

NDOR Environmental Permits Unit
M.M. = Mile Marker/Reference Post
Rt = Right side
Lt = Left side

Environmentally Sensitive Areas

Wetlands – DO NOT DISTURB (Toe of Slope to edge of R.O.W.)

M.M. XXX+XX Rt/Lt to XXX+XX Rt/Lt

M.M. 291+13 to 291+19 Lt
M.M. 291+18 to 291+20 Lt/Rt
M.M. 292+78 to 292+80 Lt/Rt
M.M. 296+50 to 296+52 Lt/Rt
M.M. 296+70 to 296+73 Lt/Rt
M.M. 297+11 to 197+17 Lt/Rt
M.M. 297+29 to 297+38 Lt/Rt
M.M. 297+69 to 297+79 Lt/Rt
M.M. 297+90 to 297+92 Lt/Rt
M.M. 297+90 to 298+01
M.M. 298+15 to 298+24 Lt
M.M. 299+12 to 299+15 Rt
M.M. 299+49 to 299+54 Rt
M.M. 301+24 to 301+30 Lt
M.M. 301+30 to 301+39 Rt
M.M. 303+39 to 303+43 Lt/Rt
M.M. 304+07 to 304+16 Lt/Rt
M.M. 304+18 to 304+29 Rt
M.M. 304+29 to 304+31 Lt/Rt
M.M. 305+07 to 305+12 Lt/Rt
M.M. 305+85 to 306+09 Rt
M.M. 306+68 to 306+70 Lt

**SPECIAL PROSECUTION AND PROGRESS
(Migratory Birds)
(A-42-1112)**

The Department of Roads will, to the extent practicable, schedule the letting of projects such that clearing and grubbing can occur outside of the primary nesting season in Nebraska which has been determined to generally occur between April 1 and September 1. Work on structures, such as but not limited to bridges and culverts, should occur outside the primary swallow nesting season, April 15 to September 30, unless approved methods of avoiding nesting have been taken on the bridge and/or culvert structures. The nesting dates above are a guide only, nesting can occur outside of those dates. Work outside of those dates is not exempt from compliance with the Migratory Bird Treaty Act.

The Contractor shall, to the extent possible, schedule work on structures, such as but not limited to bridges and culverts, and clearing and grubbing activities to occur outside the primary nesting season in Nebraska. However, if circumstances dictate that project construction or demolition must be done when nesting migratory birds may be present, a survey of the number of active nests and species of birds shall be conducted by qualified personnel representing the Contractor, and assisted by the Project Manager (PM), NDOR Environmental Section staff, or the United States Department of Agriculture (USDA) Animal and Plant Health Inspection Service (APHIS) - Wildlife Services Office. If the survey finds that nests will be impacted by the proposed construction, the Contractor may be responsible for delays.

The following guidance is provided for compliance with the Migratory Bird Treaty Act for construction of NDOR projects:

1. The Contractor shall submit a plan to the NDOR regarding how he intends to accomplish bridge demolition or clearing and grubbing of the project to avoid conflict with nesting migratory birds.
2. The Contractor must submit a temporary erosion control plan tailored to fit the plan for clearing and grubbing.
3. If construction operations result in unavoidable conflict with nesting migratory bird's eggs or young, which will result in "taking" nests and their contents, the Contractor should notify the NDOR Project Manager (PM). The PM shall notify the Environmental Section of Planning and Project Development by telephone at 402-479-4766.
4. The NDOR Environmental Section will then determine if assistance in conducting the survey will be provided by the NDOR Environmental Section (if available) or from the USDA APHIS - Wildlife Services Office and arrange for assistance with the survey of nest numbers, bird species, etc. Results of the survey shall be maintained by the NDOR until project completion.
5. If the nesting survey is required, and the project was awarded prior to the nesting season, and the Contractor did not accomplish clearing/grubbing and/or work on bridge/culvert structures outside the nesting season, the Contractor will reimburse the Department of Roads for each survey required at \$1,000 per survey. If the project was awarded during the nesting season, and construction activities are such that clearing/grubbing and/or work on bridge/culvert structures must be accomplished prior to any other activity on the project, then there will be

no charge assessed for the initial survey. The Contractor is responsible for removing all trees surveyed, that do not contain active nests, and for taking appropriate measures on bridge/culvert structures, within 3 days of the survey. Reimbursement for additional surveys may be charged if the Contractor fails to remove the trees within 3 days of the survey, and requires an additional survey. Survey reimbursement will be determined on a project specific basis, considering the project timeline and associated activities.

6. If an active nest is found during the survey, the Contractor should do everything possible to restructure his activities and leave the nest undisturbed until the young fledge. Fledging could occur within a week, or up to a month, after the survey depending on the species of bird and whether the nest contained eggs or young. Also depending on the species of bird and their sensitivity to disturbance, a buffer of up to 30 feet surrounding the tree with the active nest could be required.
7. If construction cannot be rescheduled to allow the birds to fledge, and it is determined as an unavoidable "take" circumstance, the Contractor shall stop all work within 30 feet of the active nest and coordinate with the Construction Project Manager to determine how to proceed. The Construction Project Manager will then coordinate with the NDOR Environmental Section and they will facilitate coordination with the US Fish and Wildlife Service and the Federal Highway Administration (for projects using Federal-aid) to determine the appropriate way to address the active nest. No work shall occur within 30 feet of the active nest until US Fish and Wildlife Service coordination is complete and the requirements of the Migratory Bird Treaty Act are satisfied.
8. It is the Contractor's responsibility to schedule his work to accommodate the process of conducting a survey(s) and submitting the necessary documentation if avoidance is not practicable. The Contractor shall be responsible for using any legal and practical method to prevent the nesting of birds in order to prevent the need for any survey and prevent the need for additional surveys. It is understood and agreed that the Contractor has considered in the bid all of the pertinent requirements concerning migratory birds (including endangered species) and that no additional compensation, other than time extensions if warranted, will be allowed for any delays or inconvenience resulting in these requirements.

STORM WATER DISCHARGES (A-43-0408)

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 (A-43-0307)

All bidders must provide to the NDOR 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 NDOR 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.

PROPOSAL GUARANTY BID BOND (A-43-0307)

Paragraphs 1.a. and 1.b. of Subsection 102.15 in the *Standard Specifications* are void and superseded by the following:

- a. OPTION 1 - (Project Specific Paper Bid Bond). The Bid Bond shall be executed on an original Department Bid Bond Form, which may be obtained from the Department. The original Bid Bond shall be delivered to the Department with the bid. A reproduction or a copy of the original form will not be accepted and will cause the bid not to be opened and read.
- b. OPTION 2 - (Annual Bid Bond). The Department at its discretion may allow a bidder to place an "Annual Bid Bond" on file with the Department. This bond would cover all projects the bidder bids for a 12-month period shown in the bond. The bidder must indicate in the bid submittal to the Department that their "Annual Bid Bond" applies to the submitted bid. The original Annual Bid Bond shall be executed on the Department of Roads Bid Bond Form, which may be obtained from the Department. A reproduction or a copy of the original form will not be accepted.

**WORKER VISIBILITY
(A-43-0507)**

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."

**VALUE ENGINEERING PROPOSALS (VEP)
(A-43-0807)**

Subsection 104.03 in the *Standard Specifications* is amended to include the following:

14. A VEP will not be accepted if the proposal is prepared by an Engineer or the Engineering Firm who designed the contract plans.

**LEGAL RELATIONS AND RESPONSIBILITY TO THE PUBLIC
(A-43-0210)**

Paragraph 4.a. of Subsection 107.01 in the *Standard Specifications* is void and superseded by the following:

4. a. Whenever the Contractor violates any governing Federal, State or Local environmental quality regulation and/or is in noncompliance with any environmental commitment, the violating activity must cease immediately until the appropriate remedy can be determined by: the Engineer, the NDOR Environmental Section, the Federal Highway Administration (for projects utilizing Federal-aid) and other agencies, as deemed appropriate. The Engineer, with assistance from the NDOR Environmental Section and the FHWA, will provide a written order confirming the appropriate corrective action to the Contractor. Work can resume to normal conditions once the Engineer determines that the violation or non-compliance has been addressed in accordance with the order for corrective action.

Subsection 107.01 in the *Standard Specifications* is amended to include the following two paragraphs:

5. Should the Contractor encounter any previously unidentified hazardous materials, the Engineer shall be promptly notified. The Contractor shall suspend

operations in the area involved until such time that arrangements are made for their proper treatment or removal.

6. The Contractor shall prevent the transfer of invasive plant and animal species. The Contractor shall wash equipment at the Contractor's storage facility prior to entering the construction site. The Contractor shall inspect all construction equipment and remove all attached vegetation and animals prior to leaving the construction site.

**SPECIAL PROSECUTION AND PROGRESS
(Federal Immigration Verification System)
(A-43-1209)**

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 NDOR 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.

**CONTRACT TIME ALLOWANCE
(A-43-0911)**

Paragraph 5. of Subsection 108.02 of the *Standard Specifications* is void and superseded by the following:

5. Each week, the Engineer shall post on the Department's website a report of working days or calendar days charged. The Contractor then has 14 days from the day the Engineer's report is posted to provide a written explanation of why he/she does not concur with the working days or calendar days as assessed.

Paragraph 6.b. of Subsection 108.02 of the *Standard Specifications* is amended to include the following:

- (4) If the time allowance for the contract has been established on a calendar day basis, the Contractor is expected to schedule the work and assign whatever resources are necessary to complete the work in the time allowance provided regardless of the weather. Accordingly, regardless of anything to the contrary contained in these *Specifications*, the Department will not consider delays caused by inclement or unseasonable weather as justification for an extension of the contract time allowance unless:
 - i. the weather phenomena alleged to have contributed to or caused the delay is of such magnitude that it results in the Governor issuing a Disaster Declaration, **and**
 - ii. the weather phenomena alleged to have contributed to or caused the delay can clearly be shown to have directly impacted the work on the critical path identified on the Contractor's schedule.

Paragraphs 10.b. and 10.c. of Subsection 108.02 of the *Standard Specifications* are void and superseded by the following:

- b. (1) If the extra work is not in the original contract, time extensions will be granted by determining the actual time necessary to accomplish the extra work.
- (2) If the extra work is the result of the addition of additional quantities of existing contract items, time extensions will be granted by either:
 - (i) determining the actual time necessary to accomplish the extra work; or
 - (ii) determining the additional time to be granted by comparing the value of the additional quantities of work to the total amount of the original contract when measurement of the actual additional time is not possible or practical.
- (3) In either case, only the time necessary to perform the extra work of the additional quantities of existing contract items when the extra work or the additional quantities of existing contract items are deemed to be the current controlling operation will be granted as a time extension.

- c. Increases in quantities of work associated with traffic control items measured by the day will not be considered for extending the contract time allowance. Overruns of traffic control items that are measured by methods other than time may be considered for extending the contract time allowance, but they must be deemed to be a controlling operation when the overrun of quantities occurs.

**PARTIAL PAYMENT
(A-43-1110)**

Paragraph 2. of Subsection 109.07 of the *Standard Specifications* is void and superseded by the following:

- 2. When the value of the work completed during a semi-monthly period exceeds \$10,000, the Contractor will receive semi-monthly progress estimates from which the Department shall make such retentions as may be allowed by the contract, provided that the nature and quality of the completed work are satisfactory and provided further that the progress of the work conforms to the requirements of Subsection 108.07.

Paragraph 3.b. of Subsection 109.07 of the *Standard Specifications* is void and superseded by the following:

- b. Under normal circumstances, the Department shall not retain any earnings on a progress estimate. However, the Department reserves the right to retain such amounts as are necessary for material deficiencies, anticipated liquidated damages, unpaid borrow, and for other reasons to protect the Department's interests.

**PARTIAL PAYMENT
(A-43-0611)**

Paragraph 4. of Subsection 109.07 of the *Standard Specifications* is void and superseded by the following:

- 4. a. (1) Upon presentation by the Contractor of receipted bills, billing invoices, or such other documentation sufficient to satisfy the Engineer and verify the Contractor's or subcontractor's actual costs for the materials, payments may also be allowed for acceptable nonperishable materials purchased expressly to be incorporated into the work and delivered in the vicinity of the project or stored in acceptable storage places within Nebraska.
- (2) Materials not delivered and stored in the immediate vicinity of or on the actual project site must be clearly marked to identify the project on which they are to be used, must be segregated from similar materials at the storage site, and cannot be included in a supplier's inventory of material available for sale for other purposes.
- (3) All items eligible for partial payment as stored materials must be available for verification, sampling, and measurement.

- b. The amount to be included in the payment will be determined by the Engineer, but in no case shall it exceed 100 percent of the value of the materials documented. This value may not exceed the appropriate portion of the value of the contract item or items in which such materials are to be incorporated, nor shall the quantity in any case exceed the total estimated quantity required to complete the project.
- c. Payment will not be approved when the documented value of such materials amounts to less than \$1,000.00, when the progress of the work is not in accordance with the requirements set forth in Subsection 108.07, or when the material can reasonably be expected to be incorporated into the work and eligible for payment as completed work on a progress estimate within 15 days of being placed into storage.
- d. Deductions at rates and in amounts which are equal to the payments will be made from estimates as the materials are incorporated into the work.
- e. Payment for the materials shall not in itself constitute acceptance, and any materials which do not conform to the specifications shall be rejected in accordance with Subsection 106.05.
- f. The Contractor shall be responsible for all damages and material losses until the material is incorporated into the work and the work is accepted.
- g. Partial payment will not include payment for fuels, supplies, form lumber, falsework, other materials, or temporary structures of any kind which will not become an integral part of the finished construction.
- h. No partial payments will be made on living or perishable plant materials until planted.

**BUY AMERICA
(A-43-0212)**

Subsection 106.07 in the *Standard Specifications* is void and superseded by the following:

106.07 -- Buy America

- 1. The Buy America rule requires that steel or iron materials be produced domestically, and only those products which are brought to the construction site and permanently incorporated into the completed project are covered. Construction materials, forms, etc., which remain in place at the Contractor's convenience, but are not required by the contract, are not covered.
- 2. To further define the coverage, a domestic product is a manufactured steel construction material that was produced in one of the 50 States, the District of Columbia, Puerto Rico, or in the territories and possessions of the United States.
- 3. All manufacturing processes to produce steel or iron materials (i.e., smelting, and any subsequent process which alters the steel or iron material's physical form or shape, or changes its chemical composition) must occur within one of the 50

States, the District of Columbia, Puerto Rico, or in the territories and possessions of the United States, to be considered of domestic origin. This includes processes such as casting, rolling, extruding, machining, bending, grinding, drilling, and coating. Coating includes epoxy coating, galvanizing, painting, and any other coating that protects or enhances the value of the material. The manufacturer shall include a statement on the material test report or certification that all material described above except the coating material is a domestic product.

4. Raw materials used in the steel or iron materials may be imported. All manufacturing processes to produce steel or iron materials must occur domestically. Raw materials are materials such as iron ore, limestone, waste products, etc., which are used in the manufacturing process to produce the steel products. Waste products would include scrap; i.e., steel no longer useful in its present form from old automobiles, machinery, pipe, railroad tracks and the like. Also, steel trimmings from mills or product manufacturing are considered waste. Extracting, crushing, and handling the raw materials which is customary to prepare them for transporting are exempt from Buy America. The use of pig iron and processed, pelletized, and reduced iron ore manufactured outside of the United States may be used in the domestic manufacturing process for steel and/or iron materials.
5. Notwithstanding this requirement, a minimum of foreign steel or iron materials will be permitted if its value is less than one-tenth of one percent of the total contract cost or \$2,500, whichever is greater.
6. Upon completion of all work utilizing steel or iron products, the Prime Contractor shall furnish a letter to the State on company letterhead and signed by an officer of the company stating that documentation is on file certifying that all steel or iron materials brought to the construction site and permanently incorporated into the work complied in all respects with the Buy America requirements.

BORROW, WASTE, STOCKPILE, AND PLANT SITE APPROVAL (A-43-0512)

Subsection 107.02 in the Standard Specifications is amended to include the following:

4. Site Approval:
 - a. When borrow is obtained from a borrow site or waste excavation is placed at sites which are not shown in the contract, or the Contractor plans to use a plant or stockpile site which is not shown in the contract, the Contractor shall be solely responsible for obtaining all necessary site approvals. The Department will provide the procedures necessary to obtain approvals from the U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, Nebraska State Historical Society, Nebraska Game and Parks Commission, and Nebraska Department of Natural Resources on the NDOR website. The Contractor shall also be responsible for obtaining a Discharge Number from the Nebraska Department of Environmental Quality (NDEQ) that allows work under the current Construction Stormwater Permit. The Contractor shall also be

responsible for obtaining any and all other permits required by local governments.

- b. It is anticipated that it may require 60 calendar days or more for the Contractor to obtain the necessary approvals. The Contractor will not be allowed to begin work at borrow or waste sites until the necessary approvals are obtained. No extension of completion time will be granted due to any delays in securing approval of a borrow or disposal site unless a review of the time frames concludes that there were conditions beyond the Contractor's control.

Paragraph 7. of Subsection 205.02 in the Standard Specifications is void and superseded by the following:

- 7. Borrow and Waste Site Approval:
 - a. Borrow and waste site approvals shall be in accordance with Section 107.02.
 - b. Material shall not be removed from borrow sites until preliminary cross sections and representative soil samples have been taken by the Engineer. The Contractor shall notify the Engineer a sufficient time in advance of the opening of any borrow site so that cross sections may be taken.
 - c. Material shall be removed in a manner that will allow accurate final cross sections to be taken for determining the quantity of excavation. The surfaces of the borrow sites shall be bladed and shaped to drain as shown in the contract or as directed by the Engineer.

**SPECIAL PROSECUTION AND PROGRESS
(Subletting or Assigning of Contract)
(A-43-0414)**

Subsection 108.01 in the Standard Specifications is void and superseded by the following:

108.01 – Subletting or Assigning of Contract

- 1. a. (1) The Contractor will not be allowed to sublet, assign, sell, transfer, or otherwise dispose of any portion of the contract or any right, title, or interest therein; or to either legally or equitably assign any of the money payable under the contract or the claims without the prior written consent of the Engineer.
- (2) With the Engineer's consent, the Contractor may sublet up to 70 percent of the work.
- (3) Any items designated in the contract as "specialty items" may be performed by subcontract.

- (4) The cost of any subcontracted “specialty items” may be deducted from the total contract cost before computing the percentage of work required to be performed by the Contractor.
 - (5) Subcontracts, or transfer of contract, will not release the Contractor of any liability under the contract and bonds.
 - b. Certain items of work may be performed without a subcontract. A list of items not requiring a subcontract is available from the Engineer.
2. The performance of any work by a subcontractor before the date of authorization by the Department shall subject both the Contractor and subcontractor to the imposition of appropriate sanctions by the Department.
3. a. The Contractor’s request to sublet work shall be made electronically to the NDR Construction Engineer using project management software identified by the Department. A signed subcontract agreement shall be on file in the Contractor’s office when the request is made. The subcontract agreement must provide that the subcontracted work will be completed according to the terms of the contract. The required and Special Provisions contained in the proposal shall be physically included in any subcontract.
 - b. On all Federal-aid projects, a scanned copy (.pdf format) of the signed subcontract agreement shall be included with the subcontracting request. (Federal-aid projects can be identified by inclusion in the Proposal of Form FHWA-1273 (REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS)).**
 - c. Scanned copies (.pdf format) of all executed subcontracts, written agreements, and/or lease agreements used to meet DBE goals shall be submitted to the NDR Construction Engineer with the subcontracting request. These copies must show labor cost, material prices, overhead and profit.
4. a. Second tier subcontracts will be allowed.
 - b. If a DBE firm subcontracts work to another firm, only work subcontracted to another DBE firm can be counted toward meeting a DBE goal.
 - c. All requests for second tier subcontracting shall be submitted to and approved by the Prime Contractor before they are forwarded to the NDR Construction Engineer for approval.
5. All subcontract documents relating to the contract shall be maintained during the course of the work and preserved for a period of three years thereafter. These documents shall be available for inspection by authorized representatives of State and Federal agencies. Scanned copies (.pdf format) of the signed subcontract agreements not specifically identified elsewhere in this Subsection shall be furnished to the Department upon request.
6. The Contractor may discuss a proposed subcontract with the Engineer before entering into a signed subcontract agreement, but final approval will not be granted until a formal request and proper certification has been received by the Department.

7. On projects requiring submittal of certified payrolls, all subcontractor payrolls shall be checked by the Contractor before submittal to the Engineer.
 8. a. The Prime Contractor, and subcontractors when subletting work to lower tier subcontractors, shall include language which can be identified as a "Prompt Payment Clause" as a part of every subcontract for work and materials.
 - b. (1) The language constituting the "Prompt Payment Clause" will require payment to all first tier subcontractors for all labor and materials --- for work completed to date --- within 20 calendar days of receipt of progress payments from the Department for said work. Similar language in a contract between a subcontractor and a lower-tier subcontractor will require payment to the lower tier subcontractor for all labor and materials --- for work completed to date --- within 10 calendar days of receipt of progress payments from the prime Contractor for said work.
 - (2) The language constituting the "Prompt Payment Clause" will also stipulate the return of retainage within 30 calendar days after the satisfactory completion of the work by the subcontractor as evidenced by inclusion of the work on a progress payment.
 - (3) Additionally, the language constituting the "Prompt Payment Clause" may stipulate the subcontractor's obligation to return to the Contractor or subcontractor, as the case may be, any overpayments which result from adjustments to measured and recorded quantities as part of the preparation of subsequent progress payments or the final records. Overpayments shall be returned to the Prime Contractor or subcontractor, as the case may be, within 20 calendar days of receiving notice of the adjusted quantities and the amount of the overpayment.
 - c. The Prime Contractor of subcontractors, as the case may be, may withhold payment only for just cause and shall not withhold, delay, or postpone payment without first receiving written approval from the Department.
 - d. (1) The failure by the Prime Contractor to abide by the agreements identified in the "Prompt Payment Clause" without just cause, including the timely return of retainage, is a material breach of this contract which may result in the Department withholding the amount of payment from the prime Contractor that should have been paid to the subcontractor, termination of this contract, or other such remedy as the Department deems necessary.
 - (2) Additionally, the failure of any subcontractor to abide by the agreements identified in the "Prompt Payment Clause" without just cause, including the timely return of retainage to lower tier subcontractors, or by failing to return overpayments in a timely manner when the language permitted in Paragraph 8.b.(3) above is included in the subcontract may result in the Department withholding subcontract approval for other work until the overpayments have been returned.
9. a. (1) For Davis Bacon (DBRA)-covered projects and Non-DBRA-covered projects, a Contractor or subcontractor may wish to use another individual owner-operator or trucking company to supplement his or her hauling

- fleet. (The Department will not recognize multiple individuals claiming to be collectively identified as a single "owner operator.")
- (2) This supplemental individual or company must either become a subcontractor (first tier or lower tier, as the case may be) or be otherwise documented by the utilizing Contractor or subcontractor by entering into a lease agreement for the trucks and showing the driver (or drivers) from the supplemental company on the Prime Contractor's or subcontractor's payrolls in the manner described below.
 - (3) Payrolls will only be accepted from the Prime Contractor or approved subcontractors.
- b. (1) If the decision is made to subcontract the hauling, the Prime Contractor must first notify the NDOR Construction Office to request subcontract approval. As part of the subcontract approval process --- at any tier --- the proper certificates of insurance must be provided before approval will be granted.
- (2) Additionally, on DBRA-covered projects, the Prime Contractor must submit payrolls for all subcontractors --- at any tier.
- c. (1) Owner/Operators of trucks hired by a Contractor or subcontractor to supplement his or her hauling fleet are not subject to Davis Bacon wage requirements. However, they must still be shown on a payroll prepared by the Contractor or subcontractor for whom they are working with the notation "owner/operator."
- (2) Any other employees of the "owner/operator" must appear on the certified payroll in complete detail and must be compensated according to the wage rates established for the project.
- d. In the event a Prime Contractor or subcontractor elects to not subcontract the supplemental driver or drivers but instead chooses to "carry the workers/truckers on their payroll," the following requirements must be met:
- (1) The Prime Contractor's or subcontractor's certified payroll must contain the names of all workers/truck drivers, and the payroll should identify their supervisors (including "owner-operators").
 - (2) Pay checks for the workers/truckers in question must be drawn against the Prime Contractor's or subcontractor's payroll or other account.
 - (3) Owner/Operators need only be identified as such on the payroll. Additional drivers, if any, from the "owner-operator's" company must appear on a payroll in complete detail and be compensated according to the wage rates established for the project.
 - (4) The Prime Contractor or subcontractor must enter into a lease agreement for the trucks driven by such drivers, and the lease agreement must show that the compensation for the leased equipment is on a time basis and not based on the amount of work accomplished. The lease agreements must be available for inspection by NDOR personnel.

- (5) Any supplemental truckers employed under this arrangement must still carry the minimum automobile liability coverage specified in the contract. It shall be the duty of the Prime Contractor to ensure that the supplemental truckers have such coverage in effect. Evidence of proper insurance must be presented for verification on demand.

**ELECTRONIC SHOP DRAWINGS
(A-43-0215)**

Paragraphs 5,6, and 7 of Subsection 105.02 of the Standard Specifications are void and superseded by the following:

5. a. The Contractor shall provide electronic working drawings in a Portable Document Format (PDF). The PDFs shall be sized to print on an 11x17 inch sheet of paper and have a minimum resolution of 300 dpi. Each sheet of the shop drawings shall have a space provided for an electronic stamp that measures 2.5 inches x 3.5 inches when printed.
- b. Electronic working drawing files shall be named with the following file naming format:
- Control Number_Brief Description_Date.pdf
- For example: 12345_FloorDrains_05Feb2015
12345_FloorDrainCoverLetter_05Feb2015
- c. The project number, control number, and project location as it appears on the plans shall be shown on the front sheet of each Shop Drawing file. Structure numbers shall be included, if applicable.
6. No electronic working drawings shall be submitted to the Engineer unless they have been checked by the Contractor. The electronic submittal shall be accompanied by a Contractor's letter of approval in a PDF format. This letter shall also be named with the format shown in the example above. The letter of approval shall clearly indicate that the Contractor is responsible for any errors on the working drawings.
7. a. Electronic submittals shall be submitted by email to the following address:
- DOR.ShopDrawings@nebraska.gov
- b. Attachments shall be limited to 25 MB of data per email. Larger files shall be separated and sent in multiple emails.
- c. Electronic working drawings will only be accepted from the Prime Contractor.
8. Any reference to hard copy shop drawings in the contract shall be considered void.

**LIABILITY INSURANCE
(A-55-0414)**

Subsection 107.13 in the Standard Specifications is void and superseded by the following:

107.13 – Liability Insurance

Prior to execution of the contract, the Contractor shall obtain insurance coverage to fully protect it from loss associated with the work, and have at a minimum the insurance described below:

1. General Liability:
Limits of at least:
 - \$ 1,000,000 per Occurrence
 - \$ 2,000,000 General Aggregate
 - \$ 2,000,000 Completed Operations Aggregate
 - \$ 1,000,000 Personal and Advertising Injury
- a. Contractor shall be responsible for the payment of any deductibles.
- b. Coverage shall be provided by a standard form Commercial General Liability Policy (CG0001 or equivalent) covering bodily injury, property damage including loss of use, and personal injury.
- c. The General Aggregate shall apply on a Per Project Basis.
- d. The State of Nebraska, Department of Roads, shall be named as an Additional Insured on a primary and non-contributory basis including completed operations for three (3) years after final acceptance and payment.
- e. Contractor agrees to waive its rights of recovery against the State of Nebraska, Department of Roads. Waiver of Subrogation in favor of the State of Nebraska, Department of Roads shall be added to the policy.
- f. Contractual liability coverage shall be on a broad form basis and shall not be amended by any limiting endorsements.
- g. If work is being performed near a railroad track, the 50' railroad right-of-way exclusion must be deleted.
- h. Products and completed operations coverage in the amount provided above shall be maintained for the duration of the work, and shall be further maintained for a minimum period of three years after final acceptance and payment.
- i. Coverage shall be included for demolition of any building or structure, collapse, explosion, blasting, excavation and damage to property below surface of ground (XCU coverage).

- j. Policy shall not contain a total or absolute pollution exclusion. Coverage shall be provided for pollution exposures arising from products and completed operations as per standard CG0001 Pollution Exclusion or equivalent. If the standard pollution exclusion as provided by CG0001 has been amended, coverage must be substituted with a separate Pollution Liability policy of \$1.0 million per occurrence and \$2.0 million aggregate. If coverage is provided by a “claims made” form, coverage will be maintained for three years after project completion. Any applicable deductible is the responsibility of the Contractor.
2. Automobile Liability:
Limits of at least:
\$ 1,000,000 CSL per Accident
- a. Coverage shall apply to all Owned, Hired, and Non-Owned Autos.
 - b. If work is being performed near a railroad track, the 50-foot railroad right-of-way exclusion must be deleted.
 - c. Contractor agrees to waive its rights of recovery against the State of Nebraska, Department of Roads. Waiver of Subrogation in favor of the State of Nebraska, Department of Roads, shall be added to the policy.
 - d. Automobile liability coverage shall be obtained from an insurance carrier who is licensed with the Nebraska Department of Insurance.
3. Workers' Compensation:
Limit: Statutory coverage for the State where the project is located.
Employer's Liability limits: \$500,000 Each Accident
\$500,000 Disease – Per Person
\$500,000 Disease – Policy Limit
- a. Contractor agrees to waive its rights of recovery against the State of Nebraska, Department of Roads. Waiver of Subrogation in favor of the State of Nebraska, Department of Roads shall be added to the policy.
 - b. Workers' compensation coverage shall be obtained from an insurance carrier who is licensed with the Nebraska Department of Insurance.
 - c. Where applicable, the Longshore and Harborworkers Compensation Act endorsement shall be attached to the policy.
4. Umbrella/Excess:
Limits of at least:
\$1,000,000 per Occurrence
- a. Policy shall provide liability coverage in excess of the specified Employers Liability, Commercial General Liability and Automobile Liability.
 - b. The State of Nebraska, Department of Roads, shall be an “Additional Insured.”
 - c. Contractor agrees to waive its rights of recovery against the State of Nebraska, Department of Roads. Waiver of subrogation in favor of the State of Nebraska, Department of Roads shall be provided.

5. Pollution Liability:
 - a. When “hazardous wastes” or contaminated or polluted materials must be handled and/or moved, the Contractor shall obtain Pollution Liability Coverage with minimum limits of \$1,000,000 per occurrence and \$2,000,000 aggregate.
 - b. If, during the course of construction, hazardous wastes, contaminated or polluted material are discovered on the project, the Contractor shall immediately cease any operation that may disturb these materials, and shall immediately notify the Engineer of all facts related to the discovery of these materials.
 - c. Unforeseen work related to the discovery of hazardous, contaminated or polluted materials on the project, and the extra cost, if any, of pollution liability coverage will be handled as “extra work.”
6. Additional Requirements:
 - a. The Contractor shall provide and carry any additional insurance required by the Special Provisions.
 - b. Except as otherwise provided herein, all insurance shall be kept in full force and effect until after the State releases the Contractor from all obligations under the contract.
 - c.
 - (1) If any of the work is sublet, equivalent insurance shall be provided by or on behalf of the subcontractor or subcontractors (at any tier) to cover all operations.
 - (2) Approved trucking subcontractors (at any tier) who are being utilized only for the purpose of hauling materials shall be exempt from the requirements of Paragraphs 1, 4, and 5.
 - (3)
 - (i) When a Contractor or subcontractor chooses to employ a trucker by carrying the driver on his or her payroll and entering into a lease agreement for the truck, the owner-operator of the truck shall be required to comply with the Automobile Liability provisions of Paragraph 2.
 - (ii) Furthermore, it shall be the duty of the Prime Contractor to ensure that the owner-operator of the truck has such insurance in effect. The Prime Contractor shall maintain evidence that any truckers so utilized (at any tier) are insured to the minimum limits specified and be able to furnish documentation of the same on demand.
 - (iii) Failure to ensure that insurance coverage exists and failure to maintain evidence thereof shall be considered a breach of the contract.
 - d. Any insurance policy shall be written by an insurance company with a Best’s Insurance Guide Rating of A – VII or better.
 - e. Prior to execution of the contract, Contractor shall provide the State of Nebraska, Department of Roads evidence of such insurance coverage in effect in the form of an Accord (or equivalent) certificate of insurance executed by a licensed representative of the participating insurer(s). Certificates of insurance shall show the Nebraska Department of Roads as the certificate holders.

- f. For so long as insurance coverage is required under this agreement, the Contractor shall have a duty to notify the Department when the Contractor knows, or has reason to believe, that any insurance coverage required under this agreement will lapse, or may be cancelled or terminated. The Contractor must forward any pertinent notice of cancellation or termination to the Department at the address listed below by mail (return receipt requested), hand-delivery, or facsimile transmission within 2 business days of receipt by Contractor of any such notice from an insurance carrier. Notice shall be sent to:
 - Nebraska Department of Roads
 - Construction Division --- Insurance Section
 - 1500 Highway 2, P.O. Box 94759
 - Lincoln, NE 68509-4759
 - Facsimile No. 402-479-4854
- g. Failure of the owner or any other party to review, approve, and/or reject a certificate of insurance in whole or in part does not waive the requirements of this agreement.
- h. The limits of coverage set forth in this document are suggested minimum limits of coverage. The suggested limits of coverage shall not be construed to be a limitation of the liability on the part of the Contractor or any of its subcontractors/tier subcontractors. The carrying of insurance described shall in no way be interpreted as relieving the Contractor, subcontractor, or tier subcontractors of any responsibility or liability under the contract.
- i. If there is a discrepancy of coverage between this document and any other insurance specification for this project, the greater limit or coverage requirement shall prevail.

CONSTRUCTION DETAILS

TEMPORARY WATER POLLUTION CONTROL (B-3-1014)

Section 204 in the Standard Specifications is void.

CONSTRUCTION STORMWATER MANAGEMENT CONTROL (B-3-1014)

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 (B-3-1014)

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 (B-3-1014)

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 NDOR Erosion and Sediment Control Inspector Certification is obtained by completing an Erosion and Sediment Control Inspector Training Course provided by the Nebraska Department of Roads 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
(B-3-1014)**

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 NDOR-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) (B-3-1014)

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 NDOR 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 NDOR's Avian Protection Plan located at:
<http://www.transportation.nebraska.gov/environment/guides/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
(B-3-1014)**

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 persons 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.

**TYPE B HIGH INTENSITY WARNING LIGHTS
(D-6-0307)**

All references in the plans to Type B High Intensity Warning Lights shall be considered void. The plans will not be revised to reflect this change.

**TEMPORARY TRAFFIC CONTROL DEVICES
(Type II Barricades, Reflectorized Drums, 42" (1070 mm) Reflective Cones, and
Vertical Panels)
(D-6-1112)**

Paragraph 2.d. of Subsection 422.03 in the Standard Specifications is void and superseded by the following:

- d. (1) Reflectorized drums used for traffic warning or channelization shall be constructed of lightweight, flexible, and deformable materials, be a minimum of 36 inches (900 mm) in height, and have a minimum width of 18 inches (450 mm), regardless of orientation. The predominant color of the drum shall be orange.
- (2) Steel drums shall not be used.
- (3) The markings on drums shall be horizontal, shall be circumferential, and shall display four 6-inch (150 mm) wide bands of retroreflective sheeting, alternating fluorescent orange - white – fluorescent orange - white. The fluorescent orange sheeting shall meet the luminance requirements of the following table.

FHWA Luminance Factor

Sheeting Type	Luminance Factor Y_T		
	Min	Max	Fluorescence Luminance Factor Limit, Y_F
Fluorescent Orange	25	None	15

- e. When approved by the Engineer or shown in the plans, 42" (1070 mm) reflective cones may be used in lieu of Type II Barricades or Reflectorized Drums. 42" (1070 mm) reflective cones shall include a 30-pound (14 kg) rubber base and display four 6-inch (150 mm) wide bands of retroreflective sheeting, alternating fluorescent orange - white - fluorescent orange - white. 42" (1070 mm) reflective cones shall not be used for lane-closure tapers or shifts.
- f. Rubber base-mounted 36-inch vertical panels shall not be used for channelization when the speed limit exceeds 40 miles per hour.

Paragraph 2.b. of Subsection 422.04 of the Standard Specifications is void and superseded by the following:

- b. (i) Type II Barricades, Reflectorized Drums, and 42" (1070 mm) Reflective Cones shall be counted as "Barricades, Type II" and measured for payment by the number of calendar days each is in place and positioned as shown in the plans or as directed by the Engineer.
- (ii) Vertical Panels shall be measured for payment as permanent "Sign Days" (by the each) by the number of calendar days each vertical panel unit is in place and positioned as shown in the plans or as directed by the Engineer.

Paragraph 2.c. of Subsection 422.04 of the Standard Specifications is amended to include Reflectorized Drums.

Paragraphs 3. and 4. of Subsection 422.05 of the Standard Specifications are void and superseded by the following:

3. a. The pay item "Barricade, Type II" is used to pay for three items ("Barricades, Type II", "42" (1070 mm) Reflectorized Cones", and "Reflectorized Drums").
- b. "Barricades, Type II", which includes "42" (1070 mm) Reflectorized Cones", and "Reflectorized Drums", is paid for as an "established" contract unit price item. The established unit price is identified on the "Schedule of Items" shown in the Proposal.
4. Payment for vertical panels includes all posts, brackets, or hardware necessary to install and maintain the vertical panel units.

WORK ZONE TRAFFIC CONTROL SIGNS (D-6-1212)

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).

TEMPORARY PAVEMENT MARKING

Paragraph 6. of Subsection 422.04 in the Standard Specifications is void and superseded by the following:

To provide for the safety of the traveling public, the Contractor will be required to place temporary yellow reflectorized traffic centerline delineation on two-lane, two-way roads. On multi-lane roads, when traffic is proceeding in the same direction on both sides of the line, the centerline shall be white. The reflectorized material used for the centerline delineation shall be chip seal markers similar to those supplied by Renco, Inc. or Dapco (Davidson Plastics Co.). The temporary lane markers shall be applied on the approximate centerline at 40-foot intervals on the straightaway and at 20-foot intervals on curves. The markers shall be applied to a clean dry road surface before any asphalt materials are applied. The markers shall be applied as directed by the manufacturer. After the microsurfacing is applied on the initial lane, the plastic cap shall be removed on every other marker. The plastic cap shall be removed on the remaining markers after the microsurfacing is applied on the adjacent lane.

Temporary pavement marking shall be measured by the station from the beginning to the end of the work, and shall be paid for at the contract unit price per Station for the item "Temporary Broken Lines". This price shall be full compensation for furnishing and installing the chip seal markers and for all labor, equipment, tools and incidentals necessary to complete the work.

MICROSURFACING (E-6-0509)

The references to the term "Latex" in Section 514 - Microsurfacing in the Standard Specifications is void and superseded with the term "Polymer".

Paragraph 1. and Table 514.01 of Subsection 514.02 of the Standard Specifications are void and superseded by the following:

1. The emulsion for use in this work shall be CSS-1H polymer modified material and shall conform to the requirements of AASHTO M 208, plus the requirements presented in Table 514.01, except that the requirements for cement mixing test will be waived.

Table 514.01
CSS-1 H Properties

AASHTO T 59 *	Residue after Distillation	62% Minimum
AASHTO T 53	Softening Point (Distilled Water Bath)	135°F Minimum
AASHTO T 202	Viscosity @ 60°C (140°F), Pa's (Poises) Minimum	800 (8000)

*The distillation temperature for this test should be held at 350°F for 20 minutes. Higher temperatures may cause the polymers to break down. The residue shall be stirred to insure a homogeneous material before taken out of the still.

1. a. Each load of emulsion shall be accompanied with a Certificate of Analysis/Compliance to assure that it is consistent with that used in the mix design and conforms to the above stated property specifications. A Bill of Lading can also be used as long as it lists the same requested information.

Subsection 514.02 of the Standard Specifications is amended to provide that the Fine Aggregate Angularity shall be a minimum of 45.0 in accordance with AASHTO T 304 Method A.

Paragraph 2.c. of Subsection 514.02 of the Standard Specifications is void.

Paragraph 8.a. of Subsection 514.02 of the Standard Specification is void and superseded by the following:

8. a. The emulsion shall contain a minimum of 3% polymer solids by weight of asphalt. The polymer material shall be milled or blended into the asphalt or emulsifier solution prior to the emulsification process.

Paragraph 8.c. is amended to include the following:

8. c. Within 3 hours of placement, there shall be no large aggregates displaced, if a person's full weight is placed flatly through the heel of a shoe on the surface, and the heel is twisted 180 degrees,

Paragraph 9.b. of Subsection 514.02 of the Standard Specifications is void and superseded by the following:

9. b. The design shall list all the ingredients of the mixture, the Contractor shall submit, in writing, ten NDR working days prior to beginning microsurfacing production, a tentative design, and test results from ASTM D6372 Wear Loss (Wet-Track Test), 1 hour and 6 day soak, ASTM D6372 Wet Cohesion Tests at 30 and 60 minutes, ISSA TB-114 Wet Stripping and ISSA TB-113 Mix time at 77°F, to the NDR Flexible Pavement Engineer at the Central Laboratory for approval. Requirements are shown in Table 514.03.

Table 514.03

Microsurfacing Mix Design Requirements		
Property	Test	Requirements
Wear Loss (Wet Test Track)	ASTM D6372 (1hour soak) (6 day soak)	50 g/ft ² , maximum 75g/ft ² , maximum
Wet Cohesion	ASTM D6372 @30 minutes @60 minutes	10 in-lbs, minimum 17 in-lbs, minimum
Wet Stripping	ISSA TB-114	90%, minimum
Mix Time @ 77°F	ISSA TB-113	Controllable to 120 seconds, minimum

Paragraph 9.d.(3). of Subsection 514.02 of the Standard Specifications is void.

Paragraph 8. of Subsection 514.03 of the Standard Specifications is void and superseded by the following:

8. The laydown box shall be capable of using either a rigid metal primary strike off or a flexible rubber strike off. This strike off shall have 3 elevation adjustments to provide for quarter point elevation adjustments. Behind the primary strike off shall be a secondary strike off which is cantilevered to the laydown box. The secondary strike off shall have a flexible rubber squeegee and be equipped with elevation adjustments matching the primary strike off. The secondary strike off shall have a pivot point where it can be tilted for texturing or raised off the surface.

Subsection 514.03 of the Standard Specifications is amended to include the following:

11. The laydown machine/mixing unit shall be calibrated before placement begins. The Contractor shall furnish the necessary accessories, materials, personnel and shall perform the tests and calibrations on the equipment under the supervision of the Engineer.
12. The aggregate feeder and emulsion pump shall be calibrated using the Calibration Computation Spreadsheet included in the Microsurfacing Workbook provided by NDR.
13. Emulsion pump calibration shall be based on the average of three (3) calibration tests. The emulsion pump calibration tests shall be performed at pump rates that encompass those emulsion pump rates that will be used during production, or at a fixed production pump rate if the rate of microsurfacing (in pounds per revolution) will remain fixed throughout production. The individual test results shall not vary more than 0.5 percent from the average of the three tests.
14. The aggregate feed rate calibration shall consist of the development of a graphical relationship of the gate setting (opening size in inches) versus aggregate feed rate (pounds of dry aggregate per count). This relationship will be used by the Contractor to select the aggregate gate height that will produce

microsurfacing that conforms to the Contractor's mix design. The aggregate feed rate calibration shall consist of the following:

- a. The production aggregate-gate-height setting shall be selected based on the following:
 - (1) The three (3) various gate settings shall be selected to provide a production setting that is encompassed by the calibration gate settings. The calibration gate setting values shall plot equidistant along the aggregate gate height axis of the graphical relationship chart.
 - (2) The feed-rate tests shall be performed at a consistent aggregate belt speed (aggregate count rate) that is consistent with the aggregate belt speed that will be used during production. The aggregate feed-rate calibration tests shall have a minimum duration of feed-rate counts to produce a minimum of 1000 lbs of wet aggregate per test.
 - (3) Adjustment for the moisture content of the aggregate to convert to a dry weight of aggregate shall be made.
 - b. The results of the three (3) calibration tests shall be provided to the Engineer and plotted. The fixed aggregate-gate-height setting (production gate height setting) shall be selected by the Contractor. This setting shall produce a uniform proportion of aggregate and emulsion that conforms to the Contractor's mix design. The Engineer shall be notified of any changes to the aggregate/emulsion proportion or to the aggregate gate height.
 - c. The aggregate feed rate shall be calibrated based on the average of three (3) calibration tests. These calibration tests shall be performed at the fixed aggregate-gate-height setting (production gate height setting). These calibration tests shall be performed at aggregate feeder rates that encompass those aggregate feeder rates that will be used during production, or at the fixed aggregate feeder rate if the rate of microsurfacing (in pounds per revolution) will remain fixed throughout production. The individual test results shall not vary more than 0.5 percent from the average of the three tests.
15. The calibration results shall be approved by the Engineer prior to placement of microsurfacing.
 16. The Contractor shall notify the Engineer of all feed rate adjustments. A lock shall be placed on the aggregate feeder gate and the emulsion pump shall be mechanically linked to the aggregate feeder to insure that the fixed aggregate/emulsion proportion is not altered without the Engineer's knowledge.

Paragraph 10. of Subsection 514.04 of the Standard Specifications is void and superseded by the following:

10. Regardless of the rut depth, the microsurfacing shall be placed in two separate applications.
 - a. The first pass will bring the ruts up to a minimum level of the existing pavement profile, and shall be performed using a scratch course. A scratch course does not require the use of a secondary strike off behind the rigid metal primary strike off plate. The first pass will not be subject to the repairs required in Paragraph 17 of Subsection 514.04 in these Special Provisions.
 - b. The second pass shall place microsurfacing material over the entire lane.

Subsection 514.04 of the Standard Specifications is amended to include the following:

13. On the first production day, a 1000 foot test strip shall be placed and approved before full production begins. The Contractor shall construct the test strip using the approved job mix design, laydown procedures and equipment that will be used on the project.
 - a. Full production shall not begin until the Engineer has determined that:
 - (1) The material is curing properly to allow normal traffic on the surfaced roadway within 1 hour, by placing their full weight flatly through the heel and sole of the shoe for 2 seconds having no aggregate stick to the shoe's heel or sole when lifted from the surface.
 - (2) The mix is in conformance with the mix design criteria.
 - (3) The edge lines are placed straight and remain straight.
 - (4) No lumping, balling or unmixed aggregate exist.
 - (5) The surface texture is uniform and free of streaks, slick spots or excessive drag marks.
 - b. When a test strip produces a mixture or surface that does not meet the specifications, the test strip shall be rejected and will not be measured as part of completed work. The Contractor shall remove and replace the test strip at no additional cost or overlay the test strip with microsurfacing that conforms to the project specifications, at the Engineer's discretion. The edges and ends of overlaid material shall be feathered to conform to the longitudinal and transverse joint requirements in Paragraphs 18 and 19 of this section.
 - c. Accepted test strips, when placed in areas that are to be microsurfaced, will remain in place and be measured as part of the completed work.
 - d. A new test strip will be performed when there is field evidence that the system is not performing as specified or is out of control.

14. Microsurfacing shall cure to allow turning truck traffic within 3 hours. Adequate cure shall be verified by a person's full weight placed flatly through the heel of a shoe on the surfaced roadway and the heel twisted 180 degrees without large aggregate displacement. Adequate cure shall also be verified through actual traffic conditions. Microsurfacing that exhibits large aggregate displacement after 3 hours from either the shoe test or actual traffic shall be removed and replaced at no cost to the Department.
15. The Contractor shall construct the microsurfacing as shown in the plans or as directed by the Engineer.
16. The restored transverse pavement cross section as measured using a 10-foot straightedge shall not exceed 3/8 inch. This shall not apply to any area within 12-inches of the edge line, lane line, or center line.
17. Construct the surface course without excessive scratch marks, tears, rippling, or other surface irregularities. Repair tear marks greater than 1/2-inch wide and 4 inches long and marks greater than 1-inch wide and 1-inch long. Repair transverse ripples or streaks greater than 1/4-inch in depth as measured by a 4-foot straightedge. All repairs shall be either hand repairs made immediately after placement and before the microsurfacing material has broken, full-width repairs that shall require removing the full width of microsurfacing and replacing with microsurfacing that conforms to the project specifications, or overlay the defective area(s) with microsurfacing that conforms to the project specifications. Hand repairs shall have a finished surface texture and color that matches the adjacent microsurfacing. The edges and ends of overlaid material shall be feathered to conform to the longitudinal and transverse joint requirements in Paragraphs 17 and 18 of this section.
18. Constructed longitudinal joints, with no more than 1/2-inch overlap thickness as measured with a 4-foot straightedge, and less than a 3-inch overlap on adjacent passes. Longitudinal construction joints and lane edges shall coincide with the proposed painted lane lines. Place overlapping passes, on the uphill side, to prevent ponding of water.
19. Construct transverse joints, with no more than 1/4-inch difference in elevation across the joint as measured with a 4-foot straightedge.
20. Construct edge lines along curbs, shoulders, lane lines and centerline with no more than 2 inches of horizontal variance in any 100-foot location. No runoff in these areas will be permitted.
21. The Contractor may restrict traffic to one-way while applying the microsurfacing. This restriction shall be limited to the length of time and distance required to cure the microsurfacing sufficiently to prevent damage by traffic. During the time traffic is restricted to one lane, a flagger shall be stationed at each end of the restricted section. A pilot vehicle shall be used to lead the traffic through the restricted section. The work shall be so coordinated that the pilot vehicle shall make a round trip in fifteen minutes or less. The Contractor shall take whatever other means necessary to protect the microsurfacing from damage by traffic. Any damage done by traffic shall be repaired by the Contractor at no cost to the State.

Subsection 514.05 of the Standard Specifications is amended to include the following:

4. The volume of "Emulsified Asphalt for Microsurfacing" may be determined using the emulsion pump revolution counter, as an alternative to using refinery certified volumes, provided the emulsion pump revolution counter is calibrated as described in Subsection 514.03, Paragraph 13 of these Special Provisions. Refinery certificates with certified volumes shall be provided to the Engineer. This payment alternative must be requested by the Contractor prior to the placing of microsurfacing and approved by the Engineer.
5. The weight of "Aggregate for Microsurfacing" may be determined using the aggregate feeder counter, as an alternative to using an approved scale, provided the aggregate feeder counter is calibrated as described in Subsection 514.03, Paragraph 14. of these Special Provisions. Lading certificates for the aggregate shall be provided to the Engineer. This payment alternative must be requested by the Contractor prior to the placing of microsurfacing and approved by the Engineer.
6. The "Microsurfacing Placement" shall be measured by the Station along the project centerline without regard for width or depth of the work and without regard for the number of passes needed to complete the work. The work of placing the Microsurfacing in all ruts is included in this measurement. When lug-outs, driveways and intersections will be microsurfaced as shown on the plans, they shall be considered subsidiary. Microsurfacing of driveways or intersections that extends past the end of the radius, in excess of 50 feet will be included in the pay length. Measurement of these segments will begin at the end of the radius.

Subsection 514.06 of the Standard Specifications is amended to include the following.

1.	Pay Item	Pay Unit
	Microsurfacing Placement	Station

Paragraph 4. of Subsection 514.06 of the Standard Specifications is void and superseded by the following:

4. Emulsions which are outside the specified property ranges of AASHTO M 208 and Table 514.01, shall be paid for at the contract unit price multiplied by the pay factor determined in Table 514.04. If the resultant Pay Factor for the material indicates rejection as an option, the Engineer will determine if the non-compliant material will be removed.
 - a. When disputes arise in test results, the NDR will select an independent laboratory for referee testing on the remainder of the sample. The identity of the independent laboratory will not be revealed until the selected laboratory had completed the referee testing.
 - b. Only the Contractor can initiate dispute resolution, and request referee testing.
 - c. Only referee testing results obtained within 14 days of sampling will be valid.

- d. If the independent lab's tests indicate failing results and pay deductions equal to or greater than the NDR's, the Contractor will reimburse the NDR for the cost of testing. If the independent lab's tests indicate that the material meets specifications or is at a pay deduction less than the NDR's, the NDR will assume the cost of testing. When the independent lab's tests indicate a pay deduction, the lesser of the NDR's and the independent lab's deductions will be applied.

Table 514.04

Tolerances and Pay Factors		
Specified Property	Tolerance	Pay Factor
AASHTO T 59, Residue after Distillation	≥ 61.0%	1.00
	60.0% - 60.9%	0.75
	< 60.0%	0.40 or Reject
AASHTO T 53, Softening Point	≥ 131.5°F	1.00
	< 131.5°F	0.75 or Reject
<p>Pay Factors for Tests for ALL other Properties Specified</p> <p>1.00 for deviation of ± less than or equal to 10% 0.75 for a deviation of ± greater than 10% to less than or equal to 25% 0.40 or Reject for deviation of ± greater than 25%</p> <p>Note 1: When more than one specified property exceeds specification tolerances, the largest Pay Factor Reduction will be applied.</p>		

FOG SEAL

Subsection 513.02 is void and superseded by the following:

Fog seal shall be of the type and grade shown in the plans, and asphalt shall conform to the requirements of Subsections 1031.01 or 1032.01. The Fog Seal emulsion shall be SS-1H or CSS-1H.

Section 513 of the Standard Specifications is amended to include the following:

1. The rate of dilution of the emulsified asphalt will be 1 part water to 1 part emulsified asphalt. The percentage residue by distillation of the diluted emulsified asphalt shall be no less than 28.5%.
2. The emulsified asphalt shall be diluted in the field under the supervision of the Engineer or at the terminal. If the emulsified asphalt is diluted at the terminal:
 - a. the bill of lading or delivery ticket shall state the dilution rate, and
 - b. a one-quart field sample may be requested by the NDOR Bituminous Laboratory. This sample shall be submitted to the NDOR Bituminous Laboratory to verify the

requirements of Subsections 1031.01 and 1032.01, with the exceptions of Saybolt Furol Viscosity, Storage Stability and Cement Mixing.

3. The rate of application shall be approximately 0.12 gallons per square yard.
4. Excess accumulations of fog seal materials within low spots or pockets shall be squeegeed out or sand blotted.

Paragraph 2. of Subsection 513.05 in the Standard Specifications is void and superseded by the following:

2. When materials do not meet plan and specification requirements, deductions will be made according to Table 513.01.

Section 513 is amended to include the following Table:

Table 513.01

<p style="text-align: center;">Emulsion Pay Factor Schedule</p> <p style="text-align: center;">Test of Residue Percentage</p> <p style="text-align: center;">1.00 for a deviation of minus less than or equal to 0.5 % 0.75 for deviation of minus greater than 0.5 % to less than or equal to 2.5 % 0.40 or Reject for deviation of minus greater than 2.5%</p> <p style="text-align: center;">Tests for ALL other properties Specified</p> <p style="text-align: center;">1.00 for a deviation of \pm less than or equal to 10% 0.75 for a deviation of \pm greater than 10% to less than or equal to 25% 0.40 or Reject for deviation of \pm greater than 25%</p> <p>Note Largest Pay Factor Reduction will be applied.</p>

- a. When disputes arise in test results, the NDOR will select an independent laboratory for referee testing on the remainder of the sample. The identity of the independent laboratory will not be revealed until the selected laboratory has completed the referee testing.
- b. Only the Contractor can initiate dispute resolution, and request referee testing.
- c. Only referee testing results obtained within 14 days of sampling will be valid.
- d. If the independent lab's tests indicate failing results and pay deductions equal to or greater than the NDOR's, the Contractor will reimburse the NDOR for the cost of testing. If the independent lab's tests indicate that the material meets specifications or is at a pay deduction less than the NDOR's, the NDOR will assume the cost of testing. When the independent lab's tests indicate a pay deduction, the lesser of the NDOR's and the independent lab's deductions will be applied.

**PROPOSAL GUARANTY
(A-40-0307)**

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 the Proposal Guaranty Bid Bond Section of these Special Provisions.

* * * * *

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SCHEDULE OF ITEMS

CONTRACT ID: 8974

PROJECT(S): RD-20-4(1029)

CALL ORDER NO. : 820

LINE NO	ITEM DESCRIPTION	APPROX. QUANTITY AND UNITS	UNIT PRICE		BID AMOUNT	
			DOLLARS	CTS	DOLLARS	CTS
SECTION 0001 GROUP 8 SPECIALTY						
0001	0001.08 BARRICADE, TYPE II	3150.000 BDAY	0.50000		1575.00	
0002	0001.10 BARRICADE, TYPE III	108.000 BDAY	.		.	
0003	0001.90 SIGN DAY	3375.000 EACH	.		.	
0004	0002.45 TEMPORARY BROKEN LINES	876.000 STA	.		.	
0005	0002.60 OVERLAY SOLID LINES	1752.000 STA	.		.	
0006	0002.76 PERMANENT PAVEMENT MARKING, PAINT	202500.000 LF	.		.	
0007	0003.10 FLAGGING	30.000 DAY	.		.	
0008	0003.20 FURNISHING AND OPERATING PILOT VEHICLE	15.000 DAY	.		.	
0009	0030.90 MOBILIZATION	LUMP		LUMP	.	
0010	8008.50 AGGREGATE FOR MICROSURFACING	4209.000 TON	.		.	

NEBRASKA DEPARTMENT OF ROADS

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DATE: 12/12/14

SCHEDULE OF ITEMS

CONTRACT ID: 8974

PROJECT(S): RD-20-4(1029)

CALL ORDER NO. : 820

LINE NO	ITEM DESCRIPTION	APPROX. QUANTITY AND UNITS	UNIT PRICE		BID AMOUNT	
			DOLLARS	CTS	DOLLARS	CTS
0011	8070.05 MINERAL FILLER FOR MICROSURFACING	TON 85.380	.		.	
0012	9009.15 MICROSURFACING PLACEMENT	STA 875.996	.		.	
0013	9052.10 EMULSIFIED ASPHALT FOR MICROSURFACING	GAL 144670.000	.		.	
0014	9053.20 FOG SEAL	GAL 18690.000	.		.	
0015	L860.50 ENVIRONMENTAL COMMITMENTS - CONTRACTOR COMPLIANCE	LUMP		LUMP	.	
	SECTION 0001 TOTAL				.	
	TOTAL BID				.	