

**NEBRASKA**

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DEPARTMENT OF TRANSPORTATION

## **NEBRASKA DEPARTMENT OF TRANSPORTATION**

**Construction Manager / General Contractor  
CM/GC**

### **REQUEST FOR QUALIFICATIONS**

**For**

**Niobrara E&W  
S-12-5(1011)  
CN 31674**

**RFQ Issuance Date: April 8, 2022  
SOQ Submittal Deadline: May 13, 2022  
RFQ Procurement Contract: RFQ-2205**

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**APPENDIX B: FORMAT AND ORGANIZATION OF STATEMENT OF QUALIFICATIONS**

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**ATTACHMENT 1: NDOT CONFLICT OF INTEREST POLICY FOR NIOBRARA E&W PROJECT**

# 1 BACKGROUND

## 1.1 Introduction

The Nebraska Department of Transportation (“NDOT”) is presenting this Request for Qualifications (“RFQ”) inviting prospective contractors and joint ventures (“Respondents”) to submit Statements of Qualifications (“SOQs”) for a Construction Manager/General Contractor (“CM/GC Contractor”) for Pre-Construction Services and Construction Work along approximately 12 miles of Highway N-12 in Knox County of Nebraska (the “Project”).

The purpose of the RFQ is to solicit information, in the form of SOQs, which NDOT will evaluate in order to select a shortlist of Respondents eligible to participate in the next step of the procurement process. ONLY SHORTLISTED RESPONDENTS WILL BE ELIGIBLE TO SUBMIT PROPOSALS FOR THE PROJECT.

## 1.2 Overview of CM/GC Delivery

CM/GC is a contracting method that involves NDOT executing a professional services agreement for Pre-Construction Services (“Pre-Construction Agreement”) with a construction firm to provide constructability, estimating, and other services during the Pre-Construction Services of the Project. The selected CM/GC Contractor will work collaboratively with NDOT and the Designer as an Integrated Project Team (“IPT”) to mitigate risk, improve the construction schedule, streamline the design process, and develop a project that adheres to NDOT’s budget.

Provided NDOT and the CM/GC Contractor have successfully collaborated in the pre-construction phase, NDOT will enter into negotiation for the GMP with the CM/GC Contractor for a scope of Construction Work, with associated commercial/risk allocations, for the Project. Upon successful negotiation of a final GMP, NDOT intends to enter into a contract with the CM/GC Contractor to provide such Construction Work for the Project (the “Construction Contract”).

If NDOT and CM/GC Contractor fail to reach agreement on GMP, or any component thereof, or the GMP is not within NDOT’s budget, then NDOT may reduce the construction scope and/or terminate the negotiations with the CM/GC Contractor and advertise the Project for public bidding and initiate separate procurement for selection of a general contractor to construct the Project.

## 1.3 Integrated Project Team

The Integrated Project Team, as referenced herein, is composed of NDOT, NDOT’s Design Consultant (“Designer”), and the CM/GC Contractor. The roles and responsibilities of each entity are described below.

### 1.3.1 NDOT

NDOT will administer and manage the Project. The NDOT Design Manager set forth in Section 4.4 of this RFQ will be the point of contact and primary NDOT position for Pre-

Construction Services. The NDOT Design Manager will guide design decisions while overseeing the collaborative process among the IPT.

### 1.3.2 Designer (Benesch)

The Designer (Benesch) is under contract with NDOT and is responsible for performing design and engineering services, preparing plans, specifications, and estimates (“PS&E”) and working collaboratively with the CM/GC Contractor and NDOT during the final design phase for the Project. The Designer will also provide design support services during the construction stage.

### 1.3.3 CM/GC Contractor

The CM/GC Contractor will be responsible under the Pre-Construction Agreement for performing Pre-Construction Services for the Project, which are to include reviewing the Designer’s design plans and specifications for constructability, providing value engineering alternatives, and preparing construction cost estimates, risk register, and overall construction schedule at every design phase submittal. The CM/GC Contractor will also, as part of the Pre-Construction Services, develop existing condition analysis, maintenance of traffic, and disruption avoidance planning, determine and identify any advance Construction Work that would be to the advantage of the Project or NDOT, and provide site logistics, construction sequences, and construction phasing analysis for the Project.

If NDOT and the CM/GC Contractor agree to terms, the CM/GC Contractor will also construct the Project, subject to the agreed budget and schedule in accordance with the Construction Contract.

## 1.4 Independent Cost Estimator

NDOT will retain an Independent Cost Estimator (“ICE”) who will provide comparative price estimates both during and at the end of design. The ICE will use existing market conditions for the cost estimates and to evaluate the GMP proposed by the CM/GC Contractor.

## 1.5 Abbreviations and Definitions

The following abbreviations are used in this document and are defined as shown below:

<b>AASHTO</b>	American Association of State Highway and Transportation Officials
<b>CM/GC</b>	Construction Manager/General Contractor
<b>EE</b>	Engineering Estimator
<b>EIS</b>	Environmental Impact Statement
<b>GMP</b>	Guaranteed Maximum Price
<b>H&amp;H</b>	Hydraulic and Hydrology
<b>ICE</b>	Independent Cost Estimator
<b>IPT</b>	Integrated Project Team
<b>LOC</b>	Limits of Construction

<b>MOT</b>	Maintenance of Traffic
<b>N-12</b>	Nebraska Highway 12
<b>NDOT</b>	Nebraska Department of Transportation
<b>NDEE</b>	Nebraska Department of Environment and Energy
<b>NEPA</b>	National Environmental Protection Act
<b>NESCA</b>	Nebraska Endangered Species Coordination Act
<b>NGPC</b>	Nebraska Game and Parks Commission
<b>NPDES</b>	National Pollutant Discharge Elimination System
<b>NPS</b>	National Park Services
<b>PM</b>	Project Manager
<b>PS&amp;E</b>	Plans, Specifications and Estimates
<b>RFP</b>	Request for Proposals
<b>RFQ</b>	Request for Qualifications
<b>ROD</b>	Record of Decision
<b>ROW</b>	Right-of-Way
<b>S-54D</b>	Nebraska and Santee Spur
<b>SHPO</b>	State Historic Preservation Office
<b>SOQ</b>	Statement of Qualifications
<b>SWPPP</b>	Storm Water Pollution Prevention Plan
<b>USACE</b>	United States Army Corps of Engineers
<b>USFWS</b>	U.S. Fish and Wildlife Service

Use of the term “include”, “includes” or “including” should be read as if followed by the words “without limitation” or “but not limited to”, as the case may be. Capitalized terms not otherwise defined in this RFQ are defined as shown in Exhibit A-1.2.

**EXHIBIT A-1.2**

<b>Term</b>	<b>Definition</b>
<b>Addenda/Addendum</b>	Supplemental additions, deletions, and modifications to the provisions of the RFQ issued after the advertisement date of the RFQ.
<b>Affiliate</b>	With respect to any member of the Respondent team, as applicable: <ul style="list-style-type: none"> <li>(a) any member, partner, or joint venture of such firm;</li> <li>(b) any individual or entity that directly or indirectly controls, or is controlled by, or is under common control with, such firm or any of its members, partners or joint venturers; and</li> <li>(c) any other entity for which 20% or more of the equity interest in such other entity is held directly or indirectly, beneficially or of record by (i) such firm, (ii) any of such</li> </ul>

Term	Definition
	firm's members, partners or joint venturers or (iii) any Affiliate of such firm under clause (b) of this definition.
<b>Apparent Successful Proposer</b>	The shortlisted Respondent initially selected, following evaluation of proposals, pursuant to the RFP.
<b>Construction Contract</b>	The written contract executed between NDOT and the CM/GC Contractor setting forth the obligations of the parties with respect to the Project, including, but not limited to, the performance of the Work, the furnishing of labor and materials, and the basis of payment.
<b>Construction Work</b>	The furnishing of labor, materials, equipment, services and other incidentals necessary to, or convenient for, the successful completion of the construction of the Project and otherwise the carrying out of the duties and obligations imposed by the Construction Contract.
<b>CM/GC Contractor</b>	The firm responsible for completing all CM/GC services on this Project.
<b>Designer</b>	Has the meaning set forth in <u>Section 1.3</u> .
<b>Draft Record of Decision</b>	The draft document prepared pursuant to the environmental process for the Project, reflecting the preferred alternative.
<b>Guarantor</b>	The parent company or other Affiliate of an Equity Member, or other entity (if any), that the Respondent may identify as an intended guarantor of Pre-Construction Agreement obligations and liabilities.
<b>Independent Cost Estimator</b>	Has the meaning set forth in <u>Section 1.4</u> .
<b>Integrated Project Team (IPT)</b>	Has the meaning set forth in <u>Section 1.3</u> .
<b>Key Personnel</b>	Individuals from the Respondent's organization, as identified in the Respondent's SOQ, to fill the positions specified in <u>Section 6.1.3</u> of the RFQ. Additional key personnel positions for the Project may be identified in the RFP.
<b>Plans, Specifications and Estimates (PS&amp;E)</b>	The plans, specifications and estimates to be developed by the Designer during the pre-construction phase with the CM/GC Contractor's input serving as construction manager.
<b>Pre-Construction Agreement</b>	The written agreement executed between NDOT and the CM/GC Contractor, outlining the scope of work for the Pre-Construction Services they were selected to provide and the payment method. The Pre-Construction Agreement includes reference to the qualifications-based selection, scope of work, notice to proceed, schedule, staffing, total cost and payment provisions, dispute resolution, suspension/termination, and other contractual requirements such as, business registration and licensing,

Term	Definition
	performance and accountability for its services, conflict of interest, and responsibilities for claims and liability insurance.
<b>Pre-Construction Services</b>	The services provided during the pre-construction phase of the Project.
<b>Project</b>	The proposed Highway N-12 corridor in Knox County.
<b>Project Baseline Schedule</b>	A schedule that clearly and unmistakably shows the critical path of activities demonstrating completion within the allotted time that supports each estimate
<b>Proposal</b>	The proposal submitted by the Respondent in response to the RFP, including any revisions thereto.
<b>Proposer</b>	The proposed CM/GC Contractor submitting a Proposal for the Project in response to an RFP.
<b>Public Records Act</b>	Nebraska Public Records Law; Section 84-712.
<b>Record of Decision</b>	The document prepared pursuant to the environmental process for the Project, reflecting the preferred alternative.
<b>Respondent</b>	The proposed CM/GC Contractor submitting an SOQ for the Project in response to this RFQ.
<b>Request for Proposals (RFP)</b>	A written solicitation issued by NDOT seeking Proposals to undertake the Project to be used to identify the most qualified Proposer.
<b>Request for Qualifications (RFQ)</b>	The written solicitation issued by NDOT to identify shortlisted Respondents eligible to receive the RFP for the Project.
<b>Right-of-Way</b>	The real property rights within which the Project is situated.
<b>Risk Register</b>	A listing of risk and opportunities, risk assessments, and an evaluation of mitigation and responsibility for those risks.
<b>SOQ Due Date</b>	The deadline to submit the SOQs set forth in <u>Section 4.3</u> ; as such date may be revised by Addenda.
<b>Statement of Qualifications (SOQ)</b>	The information prepared and submitted by a Respondent in response to this RFQ.
<b>Storm Water Pollution Prevention Plan</b>	Has the meaning set forth in <u>Section 2</u> .
<b>Value-Added Key Personnel</b>	Individuals identified by Respondents or Proposers in responses to this RFQ or any subsequent RFP for roles that, if the proffering Respondent or Proposer is the Apparent Successful Proposer, will be contractually obligated to engage for the Project
<b>Website</b>	The website for the Project procurement, at <a href="http://dot.nebraska.gov">http://dot.nebraska.gov</a> .



## 1.6 Project Description

The proposed Project includes two segments of the Nebraska Highway 12 (N-12) roadway east and west of the Village of Niobrara, in Knox County, Nebraska. The west segment starts just east of Verdel and extends east approximately 6.2 miles. The east segment starts just east of Niobrara and extends east approximately six (6) miles. The highway experiences flooding and damage due to high water levels associated with the Missouri River.

The purpose of the proposed project is to rehabilitate the existing roadway to maximize utilization, improve the safety and reliability, and bring the roadway up to current NDOT design standards for a major arterial highway between Verdel, Nebraska and Santee Spur (S-54D). The project is needed due to ongoing risk of flooding, unreliable operations, and interruptions to regional connectivity.

The ultimate configuration will be a two-lane roadway with paved shoulders. The new alignment will be shifted north or south and elevated approximately six (6) to eight (8) feet higher than the existing to meet the design year flood elevation. Traffic will be maintained throughout construction on either the existing lanes or temporarily constructed lane(s) by the use of appropriate traffic control devices and practices. It is anticipated that there will be five bridges, six bridge-sized box culverts, along with multiple box culverts and pipe culverts that will be constructed where necessary. Right-of-Way (ROW), wetland, and stream impacts are anticipated to occur with the proposed project.

For depictions of the Project, please see [Appendix A](#).

## 1.7 Project Goals

NDOT's vision is to rehabilitate the existing roadway to maximize utilization and improve the safety and reliability. The project is needed due to ongoing risk of flooding, unreliable operations, and interruptions to regional connectivity. Consistent with NDOT's vision, NDOT has established a set of goals for the Project. These goals are considered to be equal in value and importance to the Project, reflecting NDOT's view of a successful Project.

- a. Improve safety and operation of the transportation system and create a more resilient and reliable corridor.
- b. Challenge and motivate Respondents to identify cost savings through efficiency and innovation for an agreeable GMP.
- c. Successfully deploy the CM/GC delivery method of early contractor involvement in the design process.
- d. Provide high-quality design and construction.
- e. Minimize inconvenience to the traveling public and maximize safety of workers and the traveling public.
- f. Maintain excellent public and stakeholder relations through an effective outreach program and efficient maintenance of traffic.

- g. Minimize environmental impacts and ROW acquisition acres.
- h. A project that satisfies requirements for USACE 404/408 permits and participating resources agencies.

## 1.8 Project Status

For a detailed description of the Project's status, please see [Appendix A](#). Note that the information in [Appendix A](#) is currently under further development by NDOT and may be modified, reduced, or expanded with the release of the final RFP.

## 1.9 Plan of Finance

The Project is programmed in NDOT Transportation Construction Program. The preliminary estimate generated for the Niobrara E&W Project is \$250 to \$300 Million which includes preliminary engineering, utilities, ROW, mitigation, construction, and construction engineering.

Funding for this Project is expected to be obtained from settlement of an inverse condemnation action filed by NDOT in the United States Federal Court of Claims against the United States. That lawsuit alleges that segments of Nebraska Highway N-12 are occasionally flooded as the result of the operation of two dams along the Missouri River by the USACE. The purpose of the Project is to remedy the occasional flooding of Nebraska Highway N-12.

There is presently no agreement on the cost of the project or the amount the United States will pay to NDOT to fund the Project, presuming a settlement. It is not certain that the United States will settle. NDOT presently has no other funding source for construction of the Project. The pre-construction activities undertaken with the Pre-Construction Agreement, including achieving a GMP, are necessary in order to pursue the final settlement with the United States. The general concept of the Project has been provided by NDOT to the United States. The Project is currently in the process of review under the National Environmental Policy Act ("NEPA"), Section 404 of the Clean Water Act, and Section 408 River and Harbors Act.

Once the Project has moved through the environmental process, NDOT intends to work with the United States to reach an agreement on the fair and reasonable cost to design and construct the Project. NDOT expects to reach a settlement that will be consummated in the form of an agreed judgment in favor of NDOT and against the United States in the amount of the fair and reasonable cost of designing and constructing the Project.

NDOT has selected CM/GC project delivery based partly upon its belief that it will aid NDOT in the settlement process with the United States. The CM/GC Contractor will be expected to evaluate costs in an "open book" method in cooperation with NDOT and the United States, to assist in arriving at a GMP that constitutes the fair and reasonable cost to complete the actual construction of the project. The CM/GC Contractor will further be expected to provide documentation to support its project costs and to take reasonable action to help all parties understand and reconcile cost differences that may exist from the various efforts to properly estimate the cost of the Project. After analysis of the detailed cost information developed for the Project, NDOT anticipates that the GMP will be accepted by the United States as fair and reasonable, and that it will agree to settle in that amount by entry of judgment. NDOT will not enter into the Construction Contract if settlement has not been reached with the United States.

Construction on the Project cannot commence until settlement has been completed with the United States and funds delivered to NDOT. There is expected to be a time lag between the time that NDOT and the CM/GC Contractor reach an agreement on the GMP and the time that the United States, acting through the U. S. Department of Justice and the USACE, approve the terms of the settlement. NDOT estimates that the time lag may be between six (6) months and approximately one (1) year. The GMP is expected to include a fair and reasonable cost associated with the delay in the beginning of construction.

## **2 Scope Of Work Overview**

The CM/GC Contractor is being selected for this Project to join the Integrated Project Team. The CM/GC Contractor will be expected to provide the Integrated Project Team with construction expertise and technical experience, to assist in making decisions that meet the goals of the Project, support technical and logistical challenges, minimize risk, and provide input on items affecting construction schedule and costs.

The following are the Project elements to which the CM/GC Contractor will bring the most value during the Pre-Construction Services:

- a. Project grading and earthwork including means and methods.
- b. Borrow source identification necessary to construct the Project.
- c. Construction phasing, including but not limited to temporary paving and grading operations and durations which may impact environmental resources identified in the environmental documents and permits.
- d. Maintenance of traffic and accesses along the Project.
- e. Configuration and footprint needed for bridge and drainage structure construction including most economical means and methods and temporary elements required.
- f. Storm Water Pollution Prevention Plan (“SWPPP”) means and methods that maximize effectiveness for protection and restoration of temporary wetland impact.
- g. Mitigation site construction and cost.

As the Integrated Project Team progresses through the pre-construction phase, this list may be altered or refined.

### **2.1 Pre-Construction Services**

The CM/GC Contractor is an integral part of the IPT during the Pre-Construction Services. The Pre-Construction Services intend for the IPT to develop, implement, and maintain a spirit of cooperation and open communication among the parties so that the goals and objectives of each are clearly understood, problems are resolved promptly, and upon completion, the Project is deemed a success by all.

The CM/GC Contractor shall provide input on constructability, phasing, materials availability, cost, and schedule throughout the Pre-Construction Services of the Project. As a member of the Integrated Project Team, the CM/GC Contractor offers the skills and knowledge to provide:

- a. Information on constructability, phasing, and other design input as directed by NDOT.
- b. Estimates of the quantities of materials, labor, duration, sequencing, and equipment needed for construction.
- c. An understanding of the availability, cost, and capacities of materials, labor, and equipment.
- d. Identification of the potential risks and methods to mitigate them during the design process.

The CM/GC Contractor tasks during the Pre-Construction Services include, but are not limited to, the following:

- a. Provide a Project Manager and associated staff (including Key Personnel) to consult with, advise, assist, and provide recommendations to NDOT and the design team on all aspects of the planning, design, and proposed construction, as requested by NDOT. Please see Section 6.1.3 for a list of Key Personnel.
- b. Attend an initial Project Workshop that includes the following agenda items:
  - 1) Introduction of the Integrated Project Team.
  - 2) Introduction of the Project Stakeholders as determined by NDOT.
  - 3) Discussion of Project status, goals, objectives, schedule, funding, etc.
  - 4) Presentation of Project elements.
  - 5) Discussion of implementation of the Risk Register and how it will be used on the Project.
  - 6) Question and answer session.
- c. Implement a risk management strategy and develop and monitor the Risk Register.
- d. Provide technical assistance during the Pre-Construction Services as alternatives are evaluated and the environmental process is completed. The technical assistance may include providing risk assessments, constructability input, cost estimate, and schedule impacts for items such as construction access, laydown and staging areas, and MOT for alternatives being evaluated.

- e. Participate in design coordination meetings with the Integrated Project Team.
- f. Participate in the interim pricing milestone process, anticipated to occur at initial, functional, and final design plans and specifications submissions. More detail about these milestones will be provided in the Pre-Construction Agreement. This includes the following at each milestone:
  - 1) Conduct formal constructability, material, equipment, and labor availability reviews. These formal reviews will focus on identifying revisions to improve clarity for bidding, identifying potential design revisions that would reduce construction costs, and identifying elements to improve the time performance of the Project.
  - 2) Conduct formal risk analysis workshops with the IPT. The focus of the risk analysis workshops will be to identify potential risks and to assign cost and schedule impacts to each risk in order to better define pricing and contingency.
  - 3) Participate in price reconciliation meetings to reconcile components of the price that deviate from that of the ICE more than a stipulated amount. During price reconciliation meetings, NDOT may request that the CM/GC Contractor share the cost model in an “over-the-shoulder” environment with them to more fully understand how the proposed pricing was derived and to help reconcile differences. During these meetings, any sharing of or discussions about the CM/GC Contractor’s cost model will be limited to NDOT’s Design Manager, key estimating staff, and possibly the ICE. At the conclusion of each meeting all cost model data presented by the CM/GC Contractor will remain with the CM/GC Contractor and remain their property. The CM/GC Contractor is responsible for preparing and updating the cost model.
  - 4) Provide written documentation and recommendations to document decisions of the conceptual drawings being prepared by NDOT and the Designer, including conflicts and/or deficiencies noted.
  - 5) Prepare and submit a schedule that clearly and unmistakably shows the critical path of activities demonstrating completion within the allotted time that supports each estimate.
- g. Develop plans to address maintenance of two-lane two-way traffic and local access during construction.
- h. Provide informal oversight and constructability reviews with the Integrated Project Team on various specific elements of the Project and provide recommendations, including input on staging, sequencing, equipment storage, access, traffic control, storm water management, accelerated construction techniques (as applicable),

evaluation of bridge types, and materials that may be cost-effectively recycled during construction.

- i. During the development of the GMP, prepare and submit the Project Baseline Schedule, finalized budget, and schedule control management plan to ensure completion of construction within budget and within the allotted time.
- j. Work with and share information to support cost estimating with NDOT and the USACE, and the United States of Department Justice as a part of the litigation described elsewhere in this document.
- k. Confirm that environmental commitments will be implemented during construction including those from permits as applicable through review of design and permit applications. NDOT will provide the CM/GC Contractor with anticipated timelines required to obtain the necessary environmental clearances and permits on this Project.
- l. Provide constructability input on temporary construction and staging areas for environmental permits based on the proposed construction operations necessary for the design plans and specifications. Identify time and cost impacts and propose alternatives to minimize these environmental impacts.
- m. Assist NDOT in preparing the draft and final submissions of a Storm Water Pollution Prevention Plan (SWPPP).
- n. Develop, propose, and track innovations for Project construction. Document and track cost savings and schedule impacts associated with innovations in a matrix and submit to NDOT.
- o. Prepare and submit GMP Proposals to NDOT with appropriate backup documentation for construction schedule and estimate based on the requirements of the Pre-Construction Agreement.

## **2.2 GMP Component Validation Process**

When NDOT determines, with the CM/GC Contractor input, that the Project has been designed to a sufficient level of detail to allow for a constructible Project, the CM/GC Contractor and NDOT will utilize a validation process to be detailed in the RFP. The process generally involves validation of the overall GMP, and its components (including risk contingencies and CM/GC Contractor fees and markups) proposed by the CM/GC Contractor during negotiations with NDOT for the price of the Construction Work and utilization of the open-book estimates prepared throughout the Pre-Construction Services by the CM/GC Contractor in its role as construction manager.

## **2.3 Construction Services**

If the CM/GC Contractor and NDOT are successful in negotiating a GMP, and the CM/GC Contractor complies with requirements and conditions of award, the CM/GC Contractor shall:

- a. Execute a Construction Contract with NDOT.
- b. Construct and manage all construction while meeting all Project requirements as per the Construction Contract.
- c. Substantially complete the construction within the time allotted in the Construction Contract.

## **2.4 Co-Location Requirements**

The CM/GC Contractor's Key Personnel will be expected to attend workshops with the Integrated Project Team. These workshops are expected to take place in the Lincoln, Nebraska area at key design milestones (such as project kickoff, initial, functional, and final designs). Other meetings will be required and can be facilitated by use of teleconferences and/or internet meetings, as applicable.

## **3 NDOT REGULATIONS AND POLICIES**

### **3.1 State and Federal Requirements**

Respondents are advised that federal funds will not be used to fund any portion of the Project costs. However, the procurement documents and any agreements thereunder will conform to requirements of applicable State and Federal laws, regulations, and policies.

### **3.2 Bonds and Indemnity**

The selected CM/GC Contractor will be required to indemnify NDOT with respect to certain third-party claims arising out of the Pre-Construction Agreement or Work. The selected CM/GC Contractor will also be required to indemnify NDOT with respect to certain third-party claims arising out of the Construction Contract or work. The required indemnity provisions will be set forth in the RFP.

The CM/GC Contractor will be required to furnish a payment and performance bond upon execution of the Pre-Construction Agreement. A required bond form will be provided in the RFP.

The CM/GC Contractor will also be required to furnish a payment and performance bond upon execution of the Construction Contract. A bond form will be provided in the RFP.

As part of NDOT's evaluation of Respondent qualifications, and in accordance with [Section 6.2](#), Respondents will be required to demonstrate in their SOQs the capacity to obtain these payment and performance bonds. The Respondent's eligible surety or sureties ultimately committing to issue the bonds must evaluate a Respondent's financial capacity as sufficient to issue the Pre-Construction Agreement bond with a penal sum at or in excess of \$10 million and a Construction Contract bond with a penal sum at or in excess of \$300 million.

### **3.3 Prequalification and Required Licenses**

Each Respondent, including any Respondent submitting an SOQ as a joint venture, must be

authorized to do business in Nebraska and prequalified with the Construction Division (as provided in Nebraska Revised Statutes §§39-1351 and 1352 and NDOT Rules and Regulations Title 49 Section 002) in an amount deemed by NDOT to be sufficient to carry all Pre-Construction Services, the Construction Work, and all other work anticipated in this Project.

Any Respondent that is currently prequalified with the Construction Division must certify, in a letter, signed by the President, Chief Executive Officer, Chief Financial Officer, Treasurer, or equivalent position, in each case authorized and empowered to certify on behalf of its company, dated no earlier than 14 calendar days prior to the deadline for submission of the SOQ, certifying that:

- a. No material change has occurred in the respective entity's financial position since the date of its most recent prequalification by NDOT.
- b. No voluntary or involuntary bankruptcy, insolvency, liquidation, restructuring, suspension of payments, scheme or arrangement, appointment of provisional liquidated, receiver, or administrative receiver, resolution or petition for winding-up or similar proceeding, under any applicable law, in any jurisdiction, is imminent or threatened.
- c. Its financial position does not reflect any material contingent liabilities (including off-balance sheet liabilities), unusual forward or long-term commitments, and that, if a shortlisted Respondent is ultimately selected as the "Apparent Successful Proposer" (with its then-identified CM/GC team), the entity has sufficient financial capacity, strength, and ability to carry out the Project responsibilities for the Project.

Any Respondent that is not currently prequalified must submit an application and be prequalified at the time of submission of the Statement of Qualifications. NDOT requests the Respondent submit the application at least **14 days** prior to the date for submission of the Statement of Qualifications.

Additional information for prequalification requirements can be found using the link below:

<https://dot.nebraska.gov/business-center/business-opp/hwy-bridge-lp/prequal/>

### **3.4 Insurance Requirements**

The Pre-Construction Agreement will require proof of insurance providing coverage as set forth in Pre-Construction Insurance Requirements (Appendix D). The Construction Contract will require proof of insurance providing coverage as required in Construction Work Insurance Requirements (Appendix D).

### **3.5 Required Percentage of Work**

The CM/GC Contractor shall not be allowed to sublet, assign, or otherwise dispose of any portion of the Pre-Construction Agreement without consent of NDOT.

The CM/GC Contractor shall not be allowed to sublet, assign, or otherwise dispose of any



portion of the Construction Contract without consent of NDOT. NDOT will not allow the CM/GC Contractor to sublet more than seventy percent (70%) of the work under the Construction Contract, excluding specialty items. Specialty items are those services or items that are not usually furnished by a contractor performing the particular type of service contained in this RFQ and will be defined in the Construction Contract.

## 4 PROCUREMENT PROCESS

### 4.1 Statutory Authority

NDOT is issuing the RFQ in accordance with the provisions of Nebraska Revised Statutes Section 39-2818 to 39-2820 and other applicable provisions of law.

### 4.2 Overview

NDOT will use a two-step procurement to select the CM/GC Contractor. This RFQ represents the first step in the procurement to solicit from the Respondents' information, in the form of SOQs. In accordance with Section 7, NDOT will evaluate the SOQs received in response to this RFQ and, on the basis of these evaluations, intends, but is not bound, to shortlist **up to three** (3) Respondents in accordance with the procedures and evaluation criteria described in this RFQ.

As the second step in the procurement, NDOT intends to invite shortlisted Respondents to prepare and submit proposals in response to the RFP ("Proposals"). NDOT will evaluate and score all Proposals and select one of the shortlisted Proposers in accordance with the criteria and procedures to be set forth in the RFP.

NDOT anticipates that the successful Respondent, if also the Apparent Successful Proposer, will enter into a Pre-Construction Agreement with NDOT to provide Pre-Construction Services and is intended to be the general contractor for the Construction Work. The construction phase is not guaranteed. An agreement must be reached as to a GMP for the Construction Work and resulting Construction Contract.

### 4.3 Procurement Schedule

NDOT anticipates the following dates as Project milestones leading to Contract award. This schedule is subject to revision by Addenda and the RFP.

Task	Date
Advertise RFQ	April 8, 2022
Final date for receipt of Respondents' RFQ questions	May 3, 2022
SOQ Due Date	May 13, 2022
Shortlisting Notification	May 27, 2022
Anticipated issuance of RFP	June 3, 2022
Final date for receipt of Respondents' RFP questions	June 24, 2022
Anticipated issuance of Final RFP Addendum	July 1, 2022
Anticipated Proposal Due Date	July 8, 2022
Anticipated Announcement of CM/GC Contractor Selection	July 22, 2022

#### 4.4 Questions and Requests for Clarifications

The below named individual shall serve as the “NDOT Design Manager” for the Project.

**Nebraska Department of Transportation  
Roadway Design Division  
1500 HWY 2  
Lincoln, Nebraska 68502  
Attention: Kyle Keller  
Assistant Roadway Design Engineer**

**e-mail: [kyle.keller@nebraska.gov](mailto:kyle.keller@nebraska.gov)**

Comments, questions, and requests for clarification shall be submitted using [Form RFQ-C](#). Questions and comments, including requests for clarification or interpretation, shall (i) be sequentially numbered; (ii) specifically reference the relevant RFQ section and page number, unless such request is of general application (in which case the request for clarification shall so note); (iii) not identify the Respondent’s identity in the body of the question; (iv) conspicuously identify whether Respondent views its question or comment as confidential or proprietary in nature; and (v) be in a format compatible and readable by Microsoft Word. Only written comments, questions, and requests for clarification on [Form RFQ-C](#) and delivered by email will be considered. No verbal comments, questions, or requests for clarification, including those communicated by phone, will be accepted or considered. No comments, questions, or requests for clarification to any other NDOT office, consultant, or employee, or to other agency, will be considered.

The NDOT Design Manager is the only individual allowed to discuss this procurement with any interested parties, including Respondents. This restriction is in effect until time of Agreement execution. Any information from other sources may not be accurate and should not be relied upon by Respondents.

Include an electronic copy of the questions on [Form RFQ-C](#) on compact disc or thumb drive if the written request is sent by letter.

NDOT will respond only to those comments, questions, and requests for clarifications that NDOT deems to be material and that are not adequately addressed in previously provided documents. NDOT will state the comments, questions, and requests for clarification along with its responses. NDOT reserves the right to rephrase and consolidate comments, questions, and requests for clarification concerning the same or similar subject. NDOT will not post or formally respond to comments, questions and requests for clarification that (1) are claimed to be confidential or to contain confidential information or (2) request confidential responses. NDOT reserves the right to disagree with Respondent’s assessment regarding the confidentiality of information in the interest of maintaining a fair process or complying with applicable law. Under such circumstances, NDOT will inform Respondent and may allow Respondent to withdraw the question, rephrase the question, or have the question answered non-confidentially or, if NDOT

determines that it is appropriate to provide a general response, NDOT will modify the question to remove information that NDOT determines is confidential. NDOT may rephrase questions as it deems appropriate and may consolidate similar questions. NDOT may also create and answer questions independent of the Respondents' questions. NDOT will provide responses within a reasonable time following receipt, subject to the dates set forth in Section 4.3. NDOT will post its responses on the Website listed below.

<https://dot.nebraska.gov/business-center/business-opp/consult-service-opp/>

## **4.5 Addenda**

NDOT reserves the right to revise this RFQ by issuing Addenda to this RFQ up to a week prior to the SOQ Due Date specified in Section 4.3. NDOT will post Addenda on the Website.

Respondents shall monitor the Website identified above for information concerning this procurement, as teams responding to this RFQ must acknowledge in the transmittal letter ([Form A](#)) that they had access to and reviewed all materials posted on the Website. Courtesy notifications by NDOT of Addenda issuance will not be made. Failure by the Respondent to acknowledge, using [Form A](#), that they have reviewed all materials and Addenda may, in NDOT's sole discretion, result in the disqualification of the Respondent's SOQ.

Receipt of Addenda issued prior to submission of the Statement of Qualifications shall be acknowledged in the Transmittal Letter ([Appendix C](#), [Form A](#)).

## **4.6 Pre-Contractual Expenses**

Respondents are solely responsible for all costs and expenses of any nature associated with responding to the RFQ, including attending briefing(s) and providing supplemental information. NDOT will not reimburse such costs in whole or in part in any circumstance.

## **4.7 Intellectual Property**

The material and estimates prepared and submitted by the CM/GC Contractor for the Pre-Construction Services as part of the Pre-Construction Agreement shall become the property of NDOT.

# **5 STATEMENT OF QUALIFICATIONS SUBMITTAL REQUIREMENTS**

This section describes requirements that all Respondents must satisfy in submitting SOQs. NDOT expects SOQs submitted in response to this RFQ to provide enough information about the requested items so as to allow NDOT to evaluate the Respondents based on the criteria in this RFQ. Respondents are advised that inclusion of cost, work hours, and/or plan-sheet estimates in the SOQ is not allowed. Failure of any Respondent to submit its SOQ as required in this RFQ may, in NDOT's sole discretion, result in rejection of its SOQ. All rejected SOQs will be returned to the contact person identified in the SOQ.

## 5.1 General Requirements

[Appendix C](#) contains the required forms for the SOQ. Any material modification to the forms may result in the SOQ being declared non-responsive. If the Respondent submits information in its SOQ that it believes to be protected records under the Nebraska Public Records Act and that it wishes to protect from disclosure, the Respondent shall mark such information as provided in [Section 8.2](#).

## 5.2 Format Requirements

The Respondent's SOQ shall adhere to the format requirements regarding organization, number of copies, pages and binders, page format, clarity and conciseness, and other general format requirements set forth in [Appendix B](#). SOQs may contain additional information or materials beyond that required in [Appendix B](#), however, NDOT shall have no obligation to review such additional information or materials.

## 5.3 Packaging Requirements

Respondents shall individually label all packages constituting the SOQ as follows:

**RESPONSE TO THE  
REQUEST FOR QUALIFICATIONS  
FOR NIOBRARA E&W PROJECT**

## 5.4 Due Date, Time, and Location

All SOQs must be received no later than **3:00 pm (Central Standard Time)** on the SOQ Due Date specified in [Section 4.3](#). All SOQs shall be delivered by hand or express mail courier to the following address:

**NEBRASKA DEPARTMENT OF TRANSPORTATION  
ROADWAY DESIGN DIVISION  
1500 HWY 2  
LINCOLN, NEBRASKA 68502  
ATTENTION: KYLE KELLER, ASSISTANT ROADWAY DESIGN ENGINEER**

NDOT will acknowledge receipt of each SOQ by issuing a receipt stating the date and time the SOQ is received. Any SOQ submitted after the deadline set forth above will be rejected without opening, consideration, or evaluation and will be returned, unopened, to the sender.

Respondents are solely responsible for assuring that NDOT receives their SOQs by the specified delivery date and time at the address listed above. NDOT shall not be responsible for delays in delivery caused by weather, difficulties experienced by couriers or delivery services, misrouting of packages by courier or delivery services, improper, incorrect, or incomplete addressing of deliveries and other occurrences beyond the control of NDOT.

## 5.5 Quantities

Each Respondent must provide NDOT with **six (6)** identical hard copies of the SOQ, plus **six (6)** identical digital copies in a read-only, fully-searchable format on a flash drive. The SOQ must be identified on its front cover, in the upper right-hand corner, and on the spine as “# of 6,” as applicable.

Each SOQ shall be separated into loose-leaf three-ring binders (one binder for each copy) as described in [Section 5](#). Additional formatting requirements for the SOQ submittal can be found in [Appendix B](#) of this RFQ. All six (6) sets of the SOQ must be packed together in one or more sealed package. The outside of each sealed package must be clearly identified, labeled, and addressed as follows:

- a. Return address: Respondent’s name, contact person’s name, mailing address.
- b. Date of submittal.
- c. Contents labeled as “Niobrara E &W, 12-5(1011), CN 31674” and “Statement of Qualifications.”

## 6 STATEMENT OF QUALIFICATIONS CONTENTS

The contents in each SOQ shall include the items described below, organized in accordance with the outline set forth in [Appendix B, Table B-1](#). The Respondent shall provide brief, concise information that addresses the requirements of the Project consistent with the evaluation criteria described in [Section 7](#). Lengthy narratives containing extraneous information are discouraged.

### 6.1 SOQ

NDOT’s objective in requesting the information below is to identify Respondents whose team members and Key Personnel possess the technical qualifications, experience, capability, and capacity to successfully provide Pre-Construction Services, build the Project, and have a record of quality work and safety on similar projects.

The SOQ shall contain the following:

#### 6.1.1 Respondent Team Experience and Past Performance

The SOQ shall contain the following items documenting the Respondent team’s experience and past performance:

- a. [Form E – Project Contact Information](#)

Complete [Form E](#) for each project listed on [Forms E-1](#) and [E-2](#).

- b. [Forms E-1 and E-2 – Relevant Experience Tables](#)

The SOQ shall contain completed [Forms E-1](#) and [E-2](#), as follows:

1. Form E-1: Relevant Alternative Delivery Experience – Provide details for no more than three projects for highway construction, in compliance with the instructions set forth in the notes in Form E-1, and best meeting the evaluation criteria set forth in Section 7.3.1a for relevant CM/GC or alternative delivery experience. Respondents' inability to provide previous relevant experience examples will not disqualify the submitted SOQ.
2. Form E-2: Relevant Construction Experience – Provide details for at least two, but no more than four, projects of similar size and complexity to the Project\*, in compliance with the instructions set forth in the notes in Form E-2, and best meeting the evaluation criteria set forth in Section 7.3.1a for relevant construction experience.

*\* Note: A project of "similar size, environmental features, and complexity to the Project" includes any significant limited access highway project with multiple travel lanes and bridges.*

c. Project Descriptions

The SOQ shall include a project description for each project listed in Forms E-1 and E-2. Each project description shall be brief, meeting the page limitation found in Appendix B, and shall include the following information:

1. Description of how the work experience on the project addresses each of the evaluation criteria set forth in Section 7.3.1.
2. Techniques used to achieve the owner's price and schedule objectives.
3. Initial bid price and final contract price for the project. Provide the quantity (i.e., number) and dollar value of contract modifications and include the quantity and dollar value of contract modifications and claims, and explanation of the causes for contract price change(s), whether upward or downward.
4. Techniques used to avoid delays and minimize claims.
5. Initial scheduled completion date and actual completion date for the project. Include the amount of schedule delay or savings, and an explanation of the causes for the delay or savings.

d. Relevant Experience - Narrative

The SOQ shall contain a narrative that summarizes the Respondent's relevant experience in the areas listed below. For each such area, the Respondent shall identify the team member(s) to which the relevant experience applies, and the projects (from Forms E-1 and E-2) on which the team member(s) gained such experience. This narrative shall be brief and meet page limitation defined in Appendix B. Ideally, this would cover all criteria in Section 7.3.1 not captured by Forms E-1 and E-2.

1. Construction of highway bridges and highway structures.

2. Construction of highways under traffic with grade differentials, including strategies to minimize cost and maximize value.
3. Construction using innovative methods and materials.
4. Construction of rural highways in environmentally and culturally sensitive areas and community areas.
5. Identifying and managing items that add or reduce risk and cost to a project.
6. Experience with pre-construction services (e.g. CM/GC, value engineering, and constructability reviews) similar to the Pre-Construction Services for projects of similar size and complexity to the Project.

*\* Note: A project of “similar size and complexity to the Project” includes any significant limited access highway project with multiple travel lanes and bridges.*

### 6.1.2 Respondent Organization

#### a. Management Structure

Provide a narrative describing the Respondent’s team and management structure, how the Respondent will operate during the Pre-Construction Services, and transition into the construction phase for the Project under the Construction Contract.

#### b. Organizational Charts

Provide a graphic organizational structure chart, complete with working titles, for the Key Personnel and other team members (as applicable) during both the Pre-Construction Services and Construction Work of the Project.

### 6.1.3 Key Personnel

#### a. Form F – Proposed Key Personnel Information

The SOQ shall contain a completed [Form F](#) providing the information requested therein for each Key Personnel position.

#### b. Key Personnel Résumés

Provide separate résumés for all Key Personnel, as well as other relevant personnel included in the organization chart required under [Section 6.1.2](#). Résumés shall be limited to **two pages** each, will not be counted towards the overall SOQ page limit, and shall include the following information relevant to the experience set forth in the table below.

The table below provides a brief job description of the Key Personnel assigned to the Project. The number of years of relevant experience listed for each Key Personnel position represents a target goal for evaluation purposes and is not a mandatory or

minimum requirement for that position. Respondents should note that, notwithstanding that a Respondent may be shortlisted, NDOT reserves the right to disapprove a particular Key Personnel individual and require a shortlisted Respondent to replace such individual.

Key Personnel	Job Description/ Relevant Years of Experience
Project Manager	<p>This position is responsible for the CM/GC Contractor’s overall management and coordination during the Pre-Construction Services phase of the Project. This person could also serve the role of Construction Manager for this Project. This person will be the main point of communication to the Integrated Project Team:</p> <ul style="list-style-type: none"> <li>• Must have recent experience as a project manager, including managing the construction of at least one project of similar scope and complexity (10 years).</li> <li>• Demonstrated relevant experience collaborating with project owners and stakeholders, with a particular focus on improving constructability and developing staging/maintenance of traffic plans for highway construction.</li> <li>• Demonstrated relevant experience cost estimating, schedule development, and identifying and mitigating risk to a project.</li> </ul>
Construction Manager	<p>This position is primarily responsible for the CM/GC Contractor’s planning and execution of the Construction Work in the field. This position is expected to be an integrated member of the Integrated Project Team and attend project meetings where matters related to constructability, risk, schedule, and cost are discussed. This person could also serve the role of Project Manager for this Project. This person is expected to be on site during the construction of the Project:</p> <ul style="list-style-type: none"> <li>• Must have recent experience as a construction manager, including managing the construction of at least one project of similar scope and complexity (10 years).</li> <li>• Demonstrated relevant experience collaborating with project owners, designers, and stakeholders, with a particular focus on improving constructability and developing staging/maintenance of traffic plans.</li> <li>• Demonstrated relevant experienced with highway design plan constructability reviews.</li> </ul>
Value Added Staff (up to two)	<p>Include up to two (2) additional staff considered to be key to the success of the project. Examples include subject matter experts in estimating, risk analysis, MOT, scheduling, safety, public information or others.</p>



c. Express Commitment Regarding Key Personnel

Provide an express, written statement committing that the Key Personnel designated in the SOQ for the positions or roles described Section 6.1.3 shall be available to serve the role so identified in connection with the Project. While NDOT recognizes personnel availability and scheduling issues impact the Respondents, Respondents are urged only to identify and proffer personnel that they intend to make available for, and intend to assign to work on, the Project for the positions identified. See Section 7.5 regarding requirements for NDOT's written consent to changes in the Key Personnel. Procedures concerning such changes will be set forth in the RFP.

**6.1.4 Understanding and Approach to CM/GC Contracting**

Provide the following:

- a. A narrative explanation of the Respondent's understanding of CM/GC projects and the most important risks and challenges to their successful design and construction.
- b. A narrative description of the CM/GC Contractor's management and organizational approach for accomplishing the Project. The narrative should describe the methodology for integrating the different areas of expertise needed for Pre-Construction Services and construction functions into an efficient and effective organization. The management approach must reflect an understanding of the use of the CM/GC project delivery methodology for transportation projects. The narrative shall also provide a brief description of the significant functional relationships among participants outlined in the organization chart as described in Section 6.1.2.

**6.1.5 Safety Information**

The SOQ shall contain a Form S for each Respondent.

**6.1.6 Form PP-1 – Environmental Past Performance**

The SOQ shall contain a separate, completed Form PP-1.

**6.2 Appendix A - Legal**

Each Respondent, including any Respondent submitting a Proposal as a joint venture, must be meet the criteria described in Section 3.

Appendix A of the SOQ shall contain the following:

**6.2.1 Form A – Transmittal Letter**

The SOQ shall include a transmittal letter (Form A) executed in blue ink by a duly authorized official of the Respondent. For Respondents that are joint ventures, partnerships, limited liability companies, or other associations, the transmittal letter shall have appended to it separate letters (in the form of Form A-1) printed on the letterhead stationary of each Equity Member, with each such letter executed by the Official Representative of the corresponding Equity Member stating that representations,

statements, and commitments made in the SOQ on behalf of the Equity Member's firm have been authorized by, are correct, and accurately represent the role of the Equity Member's firm in the Respondent team, in each case with such powers of attorney as may be required pursuant to instructions within the forms.

### **6.2.2 Executive Summary**

The SOQ shall contain an executive summary, not exceeding **2 pages**. The executive summary shall be written in a non-technical style and shall contain sufficient information for reviewers with both technical and non-technical backgrounds to become familiar with the Respondent's SOQ and Respondent's ability to satisfy the legal, financial, and technical requirements of the Project.

### **6.2.3 Confidential Content Index**

The SOQ shall include a page executed by the Respondent that sets forth the specific items, including the section and page numbers within the SOQ at which such items are located, that the Respondent deems confidential, trade secret, or proprietary information protected by the Nebraska Public Records Act. The index shall be consistent with and identify all the Respondent's designations of "TRADE SECRET" or "CONFIDENTIAL INFORMATION" pursuant to Section 8.2. Blanket designations that do not identify the specific information shall not be acceptable and may be cause for NDOT to treat the entire SOQ as public information. Notwithstanding the foregoing, the list required under this section is intended to provide input to NDOT as to the confidential nature of a Respondent's SOQ, but in no event shall such list be binding on NDOT, determinative of any issue relating to confidentiality or a request for records under the Nebraska Public Records Act, or override or modify the provisions of the Nebraska Public Records Act or NDOT's responsibilities thereunder. If the SOQ contains no items that the Respondent deems confidential, trade secret or proprietary information protected by the Nebraska Public Records Act, the page executed by the Respondent shall so state.

### **6.2.4 Legal Structure**

Respondents are to be prequalified as described in Section 3.3.

### **6.2.5 Form L-1 – Respondent's Organization Information**

The SOQ shall include an executed original of [Form L-1](#) for the Respondent.

### **6.2.6 Form L-2 – Certification/Questionnaire**

The SOQ shall include an executed original of [Form L-2](#) for the Respondent.

### **6.2.7 Organizational Conflicts of Interest**

The SOQ shall include the following:

- a. Conflict of Interest Statement

A statement from the Respondent identifying any actual and/or potential conflicts of interests the Respondent may have as identified pursuant to the conflict of interest policy for the Project provided as [Attachment 1](#) to this RFQ. If any actual or potential conflict of interest is identified, the Respondent shall describe how it would be avoided or resolved by the participants through the RFQ and RFP phases of this procurement.

b. Affirmation Statement

A statement affirming that neither the Respondent nor any member of the Respondent team has offered employment to an NDOT procurement officer, procurement employee, or other NDOT employee having a significant procurement role with respect to the Project, nor have they had discussions with any such NDOT officer or employee concerning any such employment. For more information, see [Section 8.3](#).

c. Disclosure and Certification

A disclosure listing and identifying all former NDOT employees included in the Proposal team that have left NDOT in the 12 months preceding the date of issuance of this RFQ and a certification that no such former employee has made any material decisions about the Project while employed by NDOT. If there are no such individuals, the Respondent shall affirmatively state that there are none.

## 6.3 Appendix B – Financial Information

NDOT's objective in requesting the information below is to identify that the Respondent has resources to successfully complete the Project.

[Appendix B](#) of the SOQ shall contain the following:

### 6.3.1 Surety Letters

Provide evidence from a surety or an insurance company indicating that the Respondent is capable of obtaining a Performance Bond and Payment Bond upon execution of the Pre-Construction Agreement in an amount of at least \$10 million. This evidence shall take the form of a letter from a surety/insurance company indicating that such capacity exists for the Respondent. Letters indicating "unlimited" bonding capability are not acceptable.

Provide evidence from a surety or an insurance company indicating that the Respondent is capable of obtaining a Performance Bond and Payment Bond upon execution of the Construction Contract in an amount of at least \$300 million. This evidence shall take the form of a letter from a surety/insurance company indicating that such capacity exists for the Respondent. Letters indicating "unlimited" bonding capability are not acceptable.

The surety/insurance company providing such letter must be rated in one of the two top categories by two nationally recognized rating agencies, or "A minus" or better or "Class VIII" or better by "AM Best Company," and must indicate the relevant rating in the letter. The letter must specifically state that the surety/insurance company is an admitted

surety or insurer (approved by the Nebraska Department of Transportation), and has read this RFQ and evaluated the Respondent's backlog and work-in-progress in determining its bonding capacity. In instances where the response to [Section 3.3](#) contains descriptions of proposed or anticipated changes in the financial condition of the Respondent, or any other entity for which financial information is submitted as required hereby for the next reporting period, the surety/insurance company must certify that its analysis specifically incorporates a review of the factors surrounding such changes and identifying any special conditions which may be imposed before issuance of surety bonds for the Project.

NDOT has not yet determined the specific amount or form of payment and performance bonds that it will require. Respondents are advised that the RFP may, to the extent commercially available and determined appropriate by NDOT, require payment and performance bond amounts in an amount other than the amounts referenced in this RFQ. The bonds to be submitted at the time of the construction contract shall be in the amount of the GMP.

### **6.3.2 Financial Statements**

Any Respondent that, on the date of the issuance of this RFQ, is prequalified with the Construction Division must comply the requirements set forth in [Section 3.3](#)

## **7 EVALUATION PROCESS**

The objective of the RFQ step of this procurement is to shortlist Respondents with the legal, technical, financial, and management capability, capacity, and experience to successfully undertake and complete the pre-construction and construction of the Project. Accordingly, SOQs will be reviewed for responsiveness and evaluated against certain pass/fail criteria and qualitative evaluation factors, as described below. The information provided is intended to assist Respondents in organizing their teams and preparing their SOQs.

### **7.1 Responsiveness Review**

Each SOQ will be reviewed for (a) the Respondent's responsiveness to the requirements set forth in this RFQ, including review with respect to provisions of this RFQ that describe grounds for disqualification, (b) conformance to the RFQ instructions regarding organization and format, and (c) nonconformities, irregularities, and apparent clerical mistakes which are unrelated to the substantive content of the SOQ. Those SOQs deemed not responsive to this RFQ may be excluded from further consideration and the Respondent will be so notified. NDOT may also exclude from consideration any Respondent whose SOQ contains a material misrepresentation or failure to fully disclose required information.

### **7.2 Pass/Fail Evaluation**

Following, or in conjunction with, evaluation of each SOQ for responsiveness, NDOT will evaluate each SOQ against the pass/fail criteria described below. A Respondent must achieve a "pass" on all such pass/fail criteria in order for its SOQ to be evaluated qualitatively against the evaluation criteria described in [Section 7.3](#). To the extent any pass/fail criterion requires a determination or judgement by NDOT, such determination or judgement shall be made in NDOT's sole discretion.

- a. The SOQ contains an original Transmittal Letter ([Form A](#)) signed by the lead Equity Member, supplemental letters ([Form A-1](#)) signed by each other Equity Member on its firm letterhead, and, if necessary, copies of powers of attorney, as may be required in [Section 6.2](#).
- b. Neither the Respondent nor any other entity that has submitted [Forms L-1](#) and [L-2](#), legal information is currently disqualified, removed, debarred, or suspended from performing or bidding on work for the federal government or any state government.
- c. The information disclosed in the SOQ in response to [Sections 6.2](#), including in [Forms L-1](#) and [L-2](#) does not indicate a material risk that the Respondent is unable to carry out the Project responsibilities potentially allocated to it.
- d. The SOQ contains the statements, disclosure and certification regarding organizational conflicts of interest required under [Section 6.2.7](#), and NDOT has determined that (i) any actual or potential conflict of interest that is disclosed can be avoided or resolved through the RFQ and RFP phases of the procurement, and (ii) there exists no known violation by the Respondent (or each consortium or joint venture participant in Respondent, if applicable) of Nebraska Revised Statutes Section 39-2810.
- e. The Respondent's team does not include any Equity Member or Major Non-Equity Member that belongs to more than one Respondent organization or that has an Affiliate that belongs to another Respondent organization, unless NDOT in its sole discretion has granted a written waiver of the conflict of interest, and such written waiver is included with the SOQ.
- f. The Respondent makes the express, written commitments regarding Key Personnel, as required in [Section 6.1.3c](#).
- g. The Respondent, or CM/GC Contractor, has provided a letter or letters from one or more sureties, meeting the rating requirements set forth in, and making the required statements under, [Section 6.3.1](#).
- h. The Respondent (or each consortium or joint venture participant in Respondent, if applicable) is prequalified as of the SOQ Due Date with the Construction Division to at least the amount identified in [Section 3.2](#).
- i. The Respondent (or each consortium or joint venture participant in Respondent, if applicable) has provided the certification meeting the requirements set forth in [Section 3.3](#).
- j. The information disclosed in the SOQ in response to [Section 6.1.6](#), including [Form S](#), for the most recent three-year period and the average recordable injury/lost work rate. None of the information provided by Respondent in response to [Section 6.1.6](#) reflects serious, repeated, or multiple failures to comply with safety rules, regulations, or requirements within the most recent, preceding three-year period

## 7.3 Qualitative Evaluation Factors and Weightings

Each responsive SOQ that achieves a “pass” on all of the “pass/fail” criteria described in Section 6.2 will be evaluated against the qualitative evaluation factors, and scored based on the corresponding weightings, set forth below.

*Note: A project of “similar size and complexity” includes any significant highway project with multiple travel lanes and bridges.*

### 7.3.1 Respondent’s Team Experience and Past Performance (50%)

The background and experience of the Respondent and its individual team members, in Pre-construction Services (as applicable) and constructing projects similar in size and complexity to the Project will be evaluated in accordance with the sub-factors described below.

The extent to which the Respondent satisfies or exceeds the requirements for relevant construction experience as follows:

- a. Construction of at least two transportation projects each with a construction value of \$25 million or more that reached completion or substantial completion within the last ten years.
- b. Experience in phasing, staging, and managing maintenance of traffic for projects in a rural community area.
- c. Extent and depth of experience completing or substantially completing work for rural highways on time and within a fixed price.
- d. Experience in managing construction for rural highways projects in environmentally and culturally sensitive areas and community areas.
- e. Extent and depth of experience in completing construction of highway bridges.
- f. Experience developing a team environment working towards project goals during performance of pre-construction services similar to that anticipated within the scope of the Pre-Construction Services (e.g. CM/GC, value engineering, and constructability reviews) for projects of similar size and complexity to the Project.

### 7.3.2 Respondent’s Organization and Key Personnel (40%)

The Respondent’s organization and Key Personnel will be evaluated in accordance with the lead-factors described below.

- a) The length and depth of experience of the Respondent’s Project Manager and Construction Manager in successfully managing projects of size and complexity similar to the Project.
- b) Provide a narrative describing how the Respondent’s Key Personnel will contribute to building a professional and collaborative environment with NDOT and the Designer.

- c) A description of any past experience working jointly with owners and/or design firms on highway and/or bridge projects, with a particular focus on improving constructability and developing staging/maintenance of traffic plans for highways and how that experience provided value to the project owner.
- d) Provide a narrative describing the roles and responsibilities of the Respondent's Value-Added Key Personnel. The description should include their previous experience pertaining to that role and how this individual will add value to the Project.
- e) A commitment of time and availability for each of the Key Personnel. Describe where each of the Key Personnel will be headquartered during the Pre-Construction Services and Construction Work and identify any other commitments each of the Key Personnel have and how those will be managed to meet the commitments for this project.

### **7.3.3 Understanding and Approach to CM/GC Contracting (10%)**

The Respondent's Project Understanding and Approach will be evaluated in accordance with the lead-factors described below.

- a) The extent to which the Respondent demonstrates a complete understanding of CM/GC contracting, how it will add value to the Project, and of the most important risks and challenges to their successful design and construction.
- b) The extent to which the Respondent demonstrates how the Respondent's significant functional relationships among the participants outlined in the organization chart as described in Section 6.1.2, including its approach to successfully meet NDOT's goals described in Section 1.7.

## **7.4 SOQ Evaluation Procedure and Shortlisting Notification**

NDOT anticipates utilizing one or more committees to review and evaluate the SOQs in accordance with the above criteria and to make a shortlisting determination and recommendation to NDOT Deputy Director(s) for ratification. At various times during the deliberations, NDOT may issue one or more requests for written clarification to the individual Respondents. At its discretion, NDOT may also schedule interviews with one or more Respondents on a one-on-one basis, for the purpose of enhancing NDOT's understanding of the SOQs and obtaining clarifications of the terms contained in the SOQs.

NDOT may request the Respondents to verify or certify certain aspects of their SOQs. The scope, length, and topics to be addressed shall be prescribed by and subject to the discretion of NDOT. At NDOT's sole discretion, interviews may be requested at a later date. At the conclusion of this process, Respondents may be required to submit written confirmation of any new information and clarifications provided during an interview. Upon receipt of requested clarifications and additional information as described above, if any, the SOQs will be re-evaluated to factor in the clarifications and additional information.

Evaluations and rankings of SOQs are subject to the sole discretion of NDOT, NDOT staff, and such professional and other advisors as NDOT may designate. NDOT Deputy Director -

Operations and Deputy Director - Engineering will make the final determination of the Respondents to be shortlisted as deemed appropriate in NDOT's sole discretion applying the criteria described in Section 6.3 and in the best interests of the State of Nebraska.

Each Respondent will be notified in writing via e-mail and a hard copy letter whether it has been selected for the RFP. If only one Respondent responds to the RFQ or attains shortlisting status, NDOT may re-advertise, shortlist, or cancel the procurement in its sole discretion.

## **7.5 Changes in Respondent Organization and Key Personnel**

NDOT wants to ensure that Respondents are able to develop and attract the greatest range and depth of expertise as may be necessary to participate in the procurement to optimally design and construct the Project in an innovative, effective, and efficient manner. Accordingly, NDOT reserves the right and discretion to authorize Respondents to add or change team members, reorganize the Respondent entity and change Key Personnel throughout the procurement process until submittal of the Proposals, except in the event of potential organizational conflicts of interest and/or deficiencies in qualifications and experience for the proposed role.

Following submittal of the SOQs, the following actions may not be undertaken without NDOT's prior written consent, in its sole discretion:

- a. Deletion or substitution of a Respondent team member identified in its SOQ or a change in the role or scope of work of a Respondent team member.
- b. Deletion or substitution of Key Personnel identified in its SOQ or a change in the role or position of such personnel.
- c. Deletion or substitution of an Equity Member identified in its SOQ, a Guarantor or any other entity identified in its SOQ that will bear financial responsibility or liability for the performance of the Respondent.
- d. Other changes, direct or indirect, in the equity ownership or team membership of a Respondent as identified in its SOQ (excluding the transfer of shares in a publicly traded company that do not result in a change in control of such company).

Should a Respondent wish to make such a change it shall request, in writing, NDOT's consent. The written request shall provide, for any new or substitute entity or personnel, the same information required under this RFQ for such entity or personnel had it, he or she been part of the Respondent team as of the SOQ submission (including, without limitation, legal, financial, qualifications/ experience, and other information). If a Respondent wishes to delete an entity or change Key Personnel, the Respondent shall provide NDOT with information establishing that the Respondent remains qualified for shortlisting as contemplated under this RFQ. Any such change made without the written consent of NDOT may, at NDOT's sole discretion, result in the Respondent being disqualified.



## 8 COMMUNICATION, PUBLIC INFORMATION & ORGANIZATIONAL CONFLICTS OF INTEREST

### 8.1 Improper Communications and Contacts

The following rules of contact shall apply during the procurement for the Project, effective as of the date of issuance of this RFQ through the execution of the Contract. These rules are designed to promote a fair, unbiased, legally defensible procurement process. Additional rules or modifications to these rules may be issued by NDOT in connection with the draft RFP process and in the RFP. Contact includes face-to-face, telephone, facsimile, electronic mail (e-mail), or formal written communication, either directly or indirectly by an agent, representative, promoter, or advocate of a Respondent.

NDOT's Design Manager will serve as the primary point of contact during the RFQ procurement.

#### 8.1.1 Communication Process

NDOT is the single source of information regarding the Project and procurement. The procurement begins on the date of issuance of this RFQ and is anticipated to be completed with the award of the Contract.

The following rules of contact are now in effect and shall remain in effect until the earliest of (i) award and execution of the Contract, (ii) rejection of all Proposals by NDOT, or (iii) cancellation of the procurement:

- a. After submittal of SOQs, no Respondent or any of its team members may communicate with another Respondent or members of another Respondent's team with regard to the Project or the SOQs, except that a Respondent may communicate with a subcontractor that is on both its team and another Respondent's team (where neither this RFQ nor the conflict of interest policy set forth in [Attachment 1](#) precludes the subcontractor from being on more than one Respondent team), so long as those Respondents establish a protocol to ensure that the subcontractor will not act as a conduit of information between the teams. (Contact among Respondents and team members is allowed during NDOT sponsored workshops and meetings.)
- b. Contact between the Respondents and NDOT (questions and responses to questions) shall only be through NDOT's and Respondent's designated representative and shall be in writing. NDOT's designated representative is identified in [Section 4.4](#).
- c. The Respondents shall not contact NDOT employees, advisors, and any other person who will evaluate the SOQs regarding the Project or the procurement.
- d. The Respondents shall not contact employees of those parties identified under [Section 7.3.2](#) who are directly involved with the Project. NDOT shall provide any necessary coordination during the RFQ stage with such entities in order that, among other things, the procurement is implemented in a fair, competitive, and transparent manner and with uniform information.

- e. Any contact determined to be improper, at the sole discretion of NDOT, may result in disqualification.
- f. Any official contact regarding the Project will be disseminated in writing from NDOT on NDOT letterhead and signed by NDOT Design Manager identified in Section 4.4.
- g. NDOT will not be responsible for any oral communication or any other information or contact that occurs outside the official communication process specified herein.
- h. The Respondents shall not contact the following identified stakeholders regarding the CM/GC services and the Project, including employees, representatives, members, consultants, and advisors of the entities listed below. NDOT shall provide necessary coordination during the RFQ stage in order that the procurement is implemented in a fair, competitive, and transparent manner and with uniform information:
  - Environmental, regulatory and permitting agencies, including the United States Army Corps of Engineers;
  - Utilities owners along the Project corridor;
  - Villages of Verdel and Niobrara; and
  - Knox County.

## 8.2 Public Records

All written documents, correspondence, exhibits, photographs, reports, printed material, tapes, electronic disks, and other graphic and visual aids submitted to NDOT during this procurement, including as part of the response to this RFQ, are, upon their receipt by NDOT, the property of NDOT and are subject to the Nebraska Public Records Act. None of the aforementioned materials will be returned to the submitting parties. Respondents should familiarize themselves with the provisions of the Nebraska Public Records Act. In no event shall NDOT, or any of its agents, representatives, consultants, directors, officers, or employees be liable to a Respondent for the disclosure of all or a portion of an SOQ submitted under this RFQ.

If a Respondent has special concerns about information that it desires to make available to NDOT but which it believes constitutes a trade secret, proprietary information, or other information excepted from disclosure, such Respondent shall specifically and conspicuously designate that information as "TRADE SECRET" or "CONFIDENTIAL" in its filed response to this RFQ. Blanket, all-inclusive identifications by designation of whole pages or sections as containing proprietary information, trade secrets, or confidential commercial or financial information shall not be permitted and NDOT shall not be bound by such designation. The specific proprietary information, trade secrets, or confidential commercial and financial information must be clearly identified as such. NDOT will endeavor to advise the Respondent of any request pursuant to the Nebraska Public Records Acts and any other applicable laws for the disclosure of any material properly labeled as proprietary, trade secret, or confidential so as to allow the Respondent the opportunity to seek a court order to protect such materials from disclosure.

Under no circumstances, however, will NDOT be responsible or liable to the Respondent or any other party for the disclosure of any such labeled materials, whether the disclosure is deemed

required by law, by an order of court, or occurs through inadvertence, mistake, or negligence on the part of NDOT or its officers, employees, contractors, or consultants.

NDOT will not be required to advise a submitting party as to the nature or content of documents entitled to protection from disclosure under the Nebraska Public Records Act, as to the interpretation of the Nebraska Public Records Act, or as to the definition of trade secret. The submitting party shall be solely responsible for all determinations made by it under applicable laws and for clearly and prominently marking each and every page or sheet of materials with "TRADE SECRET" or "CONFIDENTIAL" as it determines to be appropriate. Each submitting party is advised to contact its own legal counsel concerning the Nebraska Public Records Act and other applicable laws and their application to the submitting party's own circumstances.

In the event of litigation concerning the disclosure of any material submitted by the submitting party, NDOT's sole involvement will be as a stakeholder retaining the material until otherwise ordered by a court and the submitting party shall be responsible for otherwise prosecuting or defending any action concerning the materials at its sole expense and risk. The submitting party shall reimburse NDOT for any expenses it incurs in connection with any such litigation.

## **8.3 Organizational Conflicts of Interest**

### **8.3.1 NDOT Consultant**

NDOT has developed a project-specific conflict of interest policy for the Project. A copy of the current policy is provided as [Attachment 1](#) to this RFQ. Respondents shall comply with this conflict of interest policy.

NDOT has engaged a number of consultants to assist and participate in the Project development stages, as well as assist NDOT during the procurement process for the Project. Respondent is prohibited from teaming with, receiving any advice or discussion (except discussion in a forum established pursuant to the RFP) any aspect relating to the Project or the procurement of the Project with any such consultants, including:

- HDR Engineering, Inc.
- Benesch
- Ballard Spahr LLP

NDOT may disqualify a Respondent, and refuse to enter into the Pre-Construction Agreement with the Apparent Successful Proposer, if NDOT determines that:

- a. The Respondent or the affiliated Proposer has made impermissible contact with any of NDOT consultants listed above with respect to this procurement and/or Pre-Construction Agreement; or
- b. The Respondent or the affiliated Proposer includes any of NDOT consultants listed above on the Respondent's or affiliated Proposer's team.

Any violation of the foregoing restrictions by any Respondent or the Apparent Successful Proposer will, in NDOT's sole discretion, constitute a failure to execute the Pre-Construction Agreement.

### 8.3.2 NDOT Employees Involved In Procurement

Respondents or any member of a Respondent team shall not offer employment to an NDOT procurement officer, procurement employee or other NDOT employee having a significant procurement role with respect to the Project.

NDOT has adopted the following conflict of interest policies for NDOT officers and employees:

- “Guidelines for Accelerated Project Delivery” (2016), Section 1 (Conflict of Interest Policy for Design-Build and Construction Manager/General Contractor); and
- [Attachment 1](#) to this RFQ.

NDOT may disqualify a Respondent from continued participation in this procurement process if it or any member of the Respondent’s team violates these provisions.

### 8.3.3 Participation in More than One Respondent Organization

NDOT may disqualify a Respondent from continued participation in this procurement process if it has any financial interest in any other Respondent or affiliate of any other Respondent.

## 9 PROTEST PROCEDURES

### 9.1 Applicability

This section sets forth the exclusive protest remedies available with respect to this RFQ. These provisions prescribe the exclusive procedures for protests which may only be brought for the following reasons:

- a. allegations that the terms of the RFQ are wholly ambiguous, contrary to legal requirements applicable to the procurement, or exceed NDOT’s authority;
- b. a determination as to whether an SOQ is responsive to the requirements of the RFQ or as to whether an SOQ passes the pass/fail criteria set forth in this RFQ; and
- c. shortlisting determinations.

The protest remedies described in this section are available regarding the above matters listed above notwithstanding other provisions in this RFQ which state that NDOT’s determination of a particular matter is in its sole discretion.

### 9.2 Required Early Communication for Certain Protests

Protests concerning the issues described in [Section 9.1](#) may be filed only after the Respondent has informally discussed the nature and basis of the protest with NDOT, following the procedures prescribed in this section. The Respondent shall initiate such informal discussions by a written request for a one-on-one meeting delivered to the address specified in [Section 4.4](#)

no later than **three** business days after the issuance of the RFQ (for protests concerning the issues described in Section 9.1a), the responsiveness or pass/fail determination at issue (for protests concerning the issues described in Section 9.1b), or the shortlisting determinations (for protests concerning the issues described in Section 9.1c), as applicable. The Respondent's failure to observe any of these deadlines shall constitute a waiver of the Respondent's right to the corresponding protest. The written request shall include an agenda for the proposed one-on-one meeting. NDOT will then set a date and time to discuss the nature and basis of the protest with the Respondent. If necessary to address the issues raised in a protest, NDOT may, in its sole discretion, make appropriate revisions to the RFQ documents by issuing Addenda.

### 9.3 Deadlines for Protests

- a. Protests concerning the issues described in Section 9.1a must be filed as soon as the basis for the protest is known, but no later than **seven** calendar days prior to the SOQ Due Date, unless the protest relates to an Addendum to the RFQ, in which case the protest must be filed no later than **five** business days after the Addendum is issued and NDOT gives notice that the discussion under Section 9.2 is concluded.
- b. Protests concerning the issues described in Section 9.1b must be filed no later than **ten** calendar days after receipt of the notification of non-responsiveness or failure to pass all pass/fail criteria set forth in this RFQ and NDOT gives notice that the discussion under Section 9.2 is concluded.
- c. Protests concerning the issues described in Section 9.1c must be filed no later than **ten** calendar days after the earliest of the notification of the shortlist and the public announcement of the shortlist and NDOT gives notice that the discussion under Section 9.2 is concluded.

### 9.4 Content of Protest

A protest shall completely and succinctly state the grounds for protest, its legal authority, and its factual basis, and shall include all factual and legal documentation in sufficient detail to establish the merits of the protest. The protest shall also include the name and address of the protestor and the Project number. Statements shall be sworn and submitted under penalty of perjury.

### 9.5 Filing of Protest

Protests shall be filed by hand delivery, as soon as the basis for protest is known to the Respondent or before the applicable deadline, to:

**Nebraska Department of Transportation,  
Director's Office  
1500 HWY 2  
Lincoln, NE 68502**

For any protests filed after the SOQ Due Date, the Respondent filing the protest shall concurrently send a copy of the protest to the other Respondents whose addresses may be obtained by contacting NDOT representative provided in Section 4.4.

## **9.6 Comments from Other Respondents**

Other Respondents may file statements in support of or in opposition to the protest within **five** calendar days of the filing of the protest. NDOT shall promptly forward copies of all such statements to the protestant. Any statements shall be sworn and submitted under penalty of perjury.

## **9.7 Burden of Proof**

The protestant shall have the burden of proving its protest by clear and convincing evidence. NDOT may, in its sole discretion, discuss the protest with the protestant and other Respondents. No hearing will be held on the protest. The protest shall be decided on the basis of written submissions.

## **9.8 Decision on the Protest**

NDOT's Director (who has not been involved in evaluation) shall issue a written decision regarding the protest within 30 calendar days after the filing of the detailed statement of protest. If necessary to address the issues raised in a protest, NDOT may, in its sole discretion, make appropriate revisions to this RFQ by issuing an Addendum.

The written decision of NDOT's Director shall be final and non-appealable.

## **9.9 Protester's Payment of Costs**

If a protest is denied, the Respondent filing the protest shall be liable for NDOT's costs reasonably incurred to defend against or resolve the protest, including legal and consultant fees and costs, and any unavoidable damages sustained by NDOT as a consequence of the protest.

## **9.10 Rights and Obligations of Respondents**

Each Respondent, by submitting its SOQ, expressly recognizes and agrees to the limitation on its rights to protest provided in this section, and expressly waives all other rights and remedies that may be available to the Respondent under law. These provisions are included in this RFQ expressly in consideration for such waiver and agreement by the Respondents. If a Respondent disregards, disputes, or does not follow the exclusive protest remedies provided in this section, it shall indemnify and hold NDOT and its officers, employees, agents, and consultants harmless from and against all liabilities, fees and costs, including legal and consultant fees and costs, and damages incurred or suffered as a result of such Respondent's actions. Each Respondent, by submitting a SOQ, shall be deemed to have irrevocably and unconditionally agreed to this indemnity obligation.

## **10 DEBRIEFING MEETINGS**

All Respondents submitting SOQs will be notified in writing of the results of the evaluation process. Respondents not shortlisted may request a debriefing. If requested, debriefings will be provided at the earliest feasible time after notification of the shortlisted Respondents. The

debriefing will be conducted by a procurement official familiar with the rationale for the shortlist decision.

Debriefings shall:

- a. Be limited to discussion of the unsuccessful Respondent's SOQ and may not include specific discussion of a competing SOQ.
- b. Be factual and consistent with the evaluation of the unsuccessful Respondent's SOQ.
- c. Provide information on areas in which the unsuccessful Respondent's SOQ had weaknesses or deficiencies.

Debriefing will not include discussion or dissemination of the thoughts, notes, or rankings of individual evaluator.

## **11 NDOT RESERVED RIGHTS**

In connection with this procurement, NDOT reserves to itself all rights (which rights shall be exercisable by NDOT in its sole discretion) available to it under applicable law, including without limitation, with or without cause and with or without notice, the right to:

- a. Develop the Project in any manner that NDOT, in its sole discretion, deems necessary.
- b. Modify the procurement process to address applicable law and/or the best interests of NDOT.
- c. Revise the scope, type, structure, and specific terms of this procurement.
- d. Negotiate with a Respondent without being bound by any provision in its proposal or other submittal provided in connection with this procurement and suspend or terminate negotiations at any time.
- e. Elect not to commence or continue negotiations with any responding Respondent.
- f. If NDOT is unable to negotiate a Contract to its satisfaction with a Respondent, elect to negotiate in succession with the next highest rated Respondent(s), terminate this procurement and pursue other developments or solicitations relating to the Project, or exercise such other rights under applicable law, as NDOT deems appropriate.
- g. Accept or reject any SOQs, proposals, responses, supplemental information or data, other submittals, or any parts thereof, received Respondents or Respondents at any time.
- h. Waive any informalities, irregularities, deficiencies, or omissions in or in connection with the SOQs, accept and review a non-conforming SOQ, or permit clarifications and supplements to any SOQ.

- i. Modify all dates set or projected in this RFQ.
- j. Issue Addenda, supplements, and modifications to this RFQ and the RFP.
- k. Require confirmation of information furnished by a Respondent, require additional information from a Respondent concerning its SOQ, and require additional evidence of qualifications to perform the work described in the RFQ.
- l. Cancel this RFQ, or the subsequent RFP, in whole or in part at any time prior to the execution by NDOT of the Contract, without incurring any cost obligations or liabilities, except as otherwise provided in the RFP.
- m. Modify the shortlisting determination based on subsequently learned information.
- n. Permit a Respondent to add, delete, or change firms and/or Key Personnel.
- o. Make all final determinations.
- p. Appoint evaluation committees to review SOQs and make recommendations regarding the SOQs, and seek the assistance of outside technical, financial, and legal experts and consultants in connection with the SOQ evaluations.
- q. Hold meetings and conduct discussions and correspondence with one or more of the Respondents regarding their SOQs.
- r. Seek and obtain information or data, from any source, that may assist NDOT in evaluating the SOQs.
- s. Disqualify any Respondent or Proposer under this RFQ, the RFP, or during the period between the RFQ and the RFP, for violating any rules or requirements of the procurement set forth in this RFQ, the RFP, or in any other communication from NDOT in connection with this procurement.
- t. Disqualify any Respondent that changes its submittal after the SOQ Submittal Deadline without NDOT's approval.
- u. Not issue a notice to proceed after execution of the Contract.
- v. Exercise any other right reserved or afforded to NDOT under this RFQ or applicable laws or regulations.
- w. Add or modify NDOT's reserved rights in Addenda to this RFQ and the subsequent RFP.

**THE RFQ DOES NOT COMMIT NDOT TO ENTER INTO A CONTRACT OR PROCEED WITH THE PROCUREMENT AS DESCRIBED HEREIN. NDOT ASSUMES NO OBLIGATIONS, RESPONSIBILITIES, OR LIABILITIES, FISCAL OR OTHERWISE, TO REIMBURSE ALL OR PART OF THE COSTS INCURRED OR ALLEGED TO HAVE BEEN INCURRED BY PARTIES CONSIDERING A RESPONSE TO OR RESPONDING TO THIS RFQ, OR ANY**



**SUBSEQUENT RFP. ALL SUCH COSTS SHALL BE BORNE SOLELY BY EACH RESPONDENT AND PROPOSER.**

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**APPENDIX A:**  
**PROJECT DESCRIPTION AND PROJECT STATUS**

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## 1. Project Description

As illustrated in [Figure 1](#), the Project will improve approximately 12 miles of N-12, located in Knox County, both east and west of Niobrara, and situated parallel to the Missouri River and the upstream end of the Lake, created by Gavins Point Dam.

The west segment is approximately 6.2 miles long and extends from just east of Verdel, on the west end, to 2.0 miles west of the bridge over the Niobrara River. The east segment is approximately 6.0 miles long and extends from just east of Buckeye Road, in Niobrara, to approximately 1.0 mile east of S-54D.

### **Project Flooding**

Several factors contribute to frequent flooding. The first is that Gavins Point Dam slows the current of the Missouri River and causes deposition of silt (aggradation) as the river enters the Lake, downstream of Niobrara. In addition, as the Missouri River passes the mouth of the Niobrara River, silt from the Niobrara River is deposited, causing greater aggradation. Aggradation has created a delta at the confluence of the Missouri and Niobrara rivers, raising the water levels of both rivers and causing flooding along N-12. Finally, Fort Randall Dam is operated approximately 35.5 miles upstream of the Niobrara River, and high releases of water from the dam combined with aggradation downstream can cause flooding.

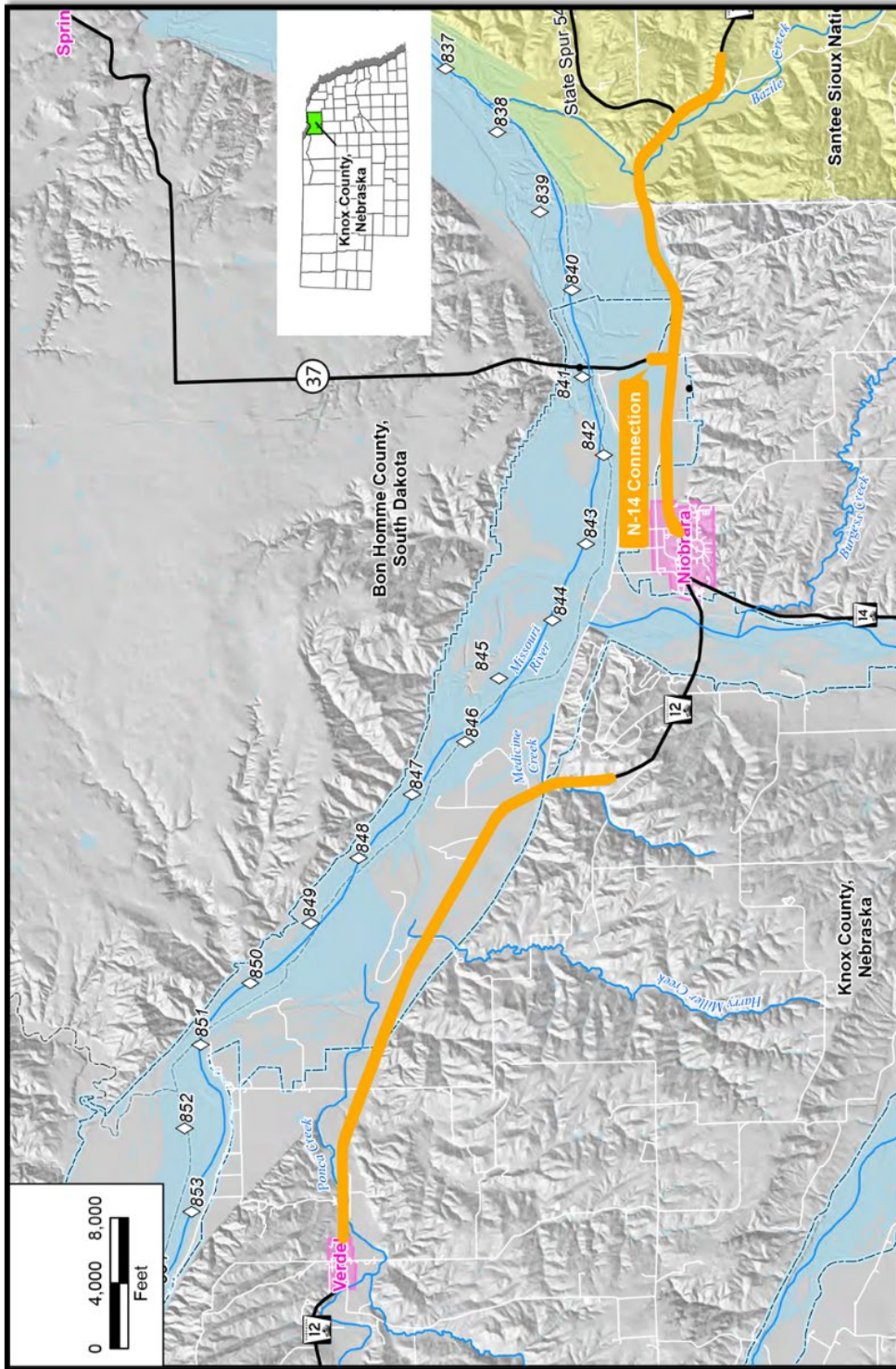
### **Proposed Typical**

The ultimate configuration will be a two-lane roadway with paved shoulders. The new alignment will be shifted north and/or south and elevated approximately six (6) to eight (8) feet higher than the existing to meet the design year flood elevation. Traffic will be maintained throughout construction on either the existing lanes or temporarily constructed lane(s) by the use of appropriate traffic control devices and practices. It is anticipated that there will be five bridges, six bridge-sized box culverts, along with multiple box culverts and pipe culverts that will be constructed where necessary. Right-of-Way (ROW), wetland, and stream impacts are anticipated to occur with the proposed project ([See Figure 2](#)).

### **Project Webpage**

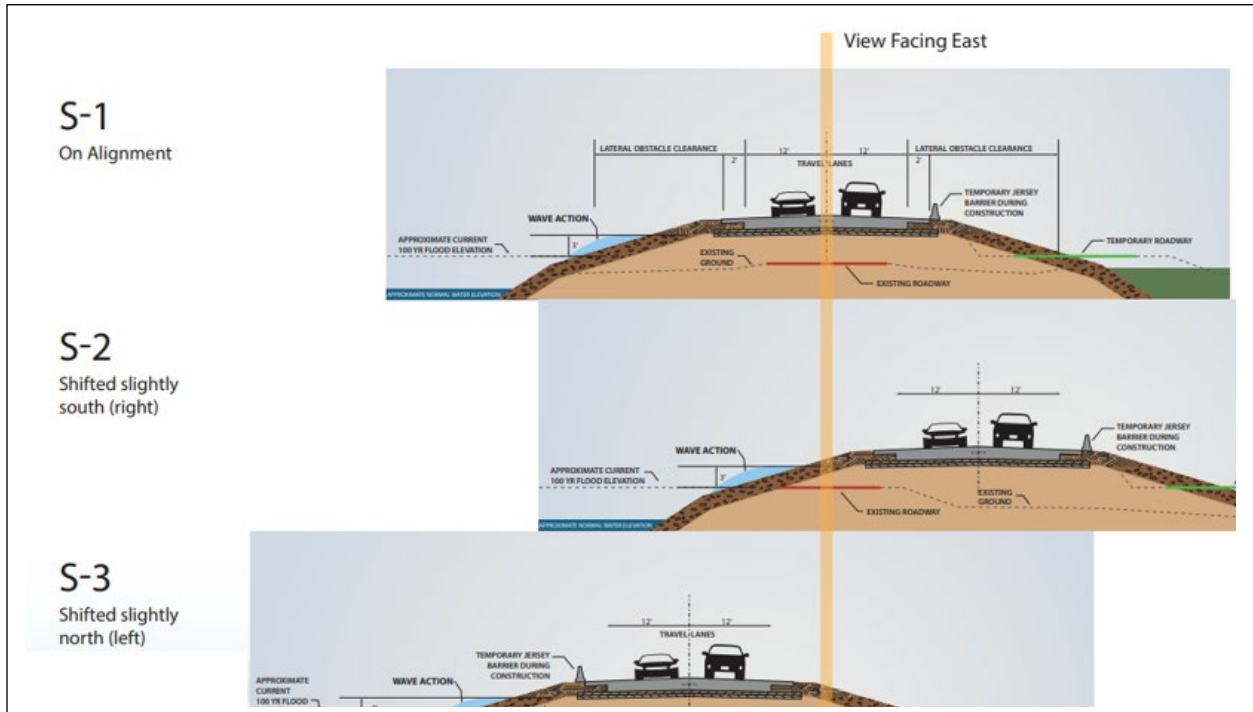
<https://dot.nebraska.gov/projects/future-projects/niobrara-east-west/>

**Figure 1 – General Location Map**





## Alternatives Analysis



NDOT studied three alternatives, S-1, S-2, and S-3 with the intent to minimize of impacts on the aquatic ecosystem (wetlands, streams, rivers) as a requirement of the Section 404(b)(1) guidelines (40 CFR 230.10(a)). Alternative S-3 had the fewest impacts on the aquatic ecosystem of all of the Action Alternatives. As such, NDOT reviewed Alternative S-3 and identified the following strategies to minimize impacts on the aquatic ecosystem:

- Shift temporary road to the right (south) of the existing roadway
- Adjusting top of culvert elevations to be at the 100-year flood elevation plus three (3) feet of wave action
- Adjusting the roadway profile to remain above the 100-year flood elevation plus three (3) feet of wave action while allowing the proposed profile to be lower than the existing profile
- Shifting the horizontal alignment to avoid wetland impacts
- Eliminating ditches located in areas where wetlands would be impacted

The combination of these minimization strategies form Alternative S-3 Minimized, which is NDOT's Applied-for Project.

The USACE will make a decision on whether or not to issue a permit after the Final EIS has been issued, other relevant agency determinations are received, and a final wetland mitigation plan is approved. At that time the USACE will prepare a Draft Record of Decision that will describe, in detail, the USACE's evaluation of the permit application. If the permit is granted, the Record of Decision will include any conditions attached to the Corps approval. At this time, the Corps plans to publish a Final EIS early 2023. A Section 408 Approval and 404 permit for the Project would occur after the Draft Record of Decision is issued. At this time, the timeline for when construction would begin is uncertain.

## **2. Design and Construction Requirements**

### **Design**

The Project design used in the development of the alignment uses current NDOT and AASHTO standards. NDOT standards will be utilized during the design of the Project. As appropriate, NDOT standards may be modified to conform to the performance-based specifications being prepared for the Project, subject to NDOT's sole discretion and relaxation approval by the Board of Public Roads Classifications and Standards.

### **Construction**

The Project must be constructed so as to maintain two way traffic throughout construction.

## **3. Project Status**

The status of the work being completed for the Project by NDOT is summarized as follows. Information will be updated in the RFP as applicable.

### **Survey**

NDOT has established horizontal and vertical control points for the Project and has acquired and processed survey to conduct H&H analysis and design for the Project.

### **Preliminary Engineering**

NDOT is currently preparing preliminary engineering documentation for the Project to support the EIS and associated environmental resource reviews.

### **Utilities**

No coordination to date.

### **Plans**

NDOT has designed the Project to a level of detail that does show LOC's; however, plan set production is still at a concept level.

### **Geotechnical**

Any soil boring information collected by NDOT will be provided during the Pre-Construction Services.

### **ROW Acquisition**

NDOT will begin ROW design followed by appraisal and acquisitions once the Final EIS has been published and a "Draft Record of Decision" has been provided from the USACE.

### **Permitting**

The Project will require several agency permits/approvals. The following table summarizes the anticipated required permits/approvals and their associated status:

**Anticipated Permits and Approvals Needed**

<b>Permit / Action</b>	<b>Agency</b>	<b>Status</b>
Clean Water Act Section 404 Individual Permit	U.S. Army Corps of Engineers (USACE)	Construction will be permitted by a Section 404 permit. The permitting process will follow the EIS completion.
Clean Water Act Section 401 Water Quality Certification	Nebraska Department of Environment and Energy (NDEE)	
Section 408 Approval	U.S. Army Corps of Engineers (USACE)	NDOT will acquire at 408 approval for work with USACE Fee Title land and within Civil Works Property of Gavins Point Dam. The first 408 submittal is anticipated in October 2022.
NEPA Compliance	U.S. Army Corps of Engineers (USACE)	NDOT will prepare environmental documentation for use by USACE for NEPA compliance. NEPA approval will be completed in conjunction with Section 404 permitting and Section 408 approval.
Endangered Species Act Section 7 Consultation	U.S. Fish and Wildlife Service (USFWS)	Section 7 Consultation will be completed by NDOT
Nebraska Endangered Species Coordination Act (NESCA) Consultation	Nebraska Game and Parks Commission (NGPC)	NESCA consultation with NGPC will be completed by NDOT
National Historic Preservation Act Section 106 Compliance	Nebraska State Historic Preservation Office (SHPO)	Consultation with Nebraska SHPO will be completed by NDOT
Floodplain Development Permit	Local Administrators	NDOT will obtain local floodplain permits.
NPDES Construction Storm Water General Permit	Nebraska Department of Environment and Energy (NDEE)	The NPDES Construction Storm Water General Permit and associated Stormwater Pollution Prevention Plan (SWPPP) will be the responsibility of the Design-Builder.
Section 7a	National Park Services (NPS)	NDOT will obtain the necessary approval for the Project.

**4. Additional Project Documentation**

The selected CM/GC Contractor will be provided additional documentation and NDOT resources during the Pre-Construction Services.



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**APPENDIX B:**  
**FORMAT AND ORGANIZATION OF STATEMENT OF QUALIFICATIONS**

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## 1. Organization

The SOQ shall be organized as follows and as depicted in Table B-1 below:

**One Volume** with divided (tabbed) sections:

- a) Appendix A – Legal Information
- b) Appendix A-1: Supplemental Legal Forms
- c) Appendix B – Financial Information
- d) Appendix C – Supplemental Narrative Forms
- e) Appendix C-1: Résumés

## 2. Pages and Binders

The volumes and appendix shall consist of loose-leaf pages that are 8 ½” by 11” and white, except for charts, exhibits, and other illustrative and graphical information, which may be submitted on 11” by 17” paper and folded to 8 ½” by 11”. The SOQ shall conform to the following page limitation requirements:

- a) Main SOQ narrative – a limit of **20 pages** in total
- b) Appendix A: Legal Information – no page limitation except the Executive Summary which will be limited to **2 pages** in total.
- c) Appendix A-1: Supplemental Legal Forms – no page limitation.
- d) Appendix B: Financial Information – no page limitation.
- e) Appendix C: Supplemental Narrative Forms – no page limitation.
- f) Appendix C-1: Résumés – a maximum of **2 pages** per individual Key Personnel.

The SOQ shall be organized into one separate three-ring binder, for SOQ narrative and appendices. The sections (and, optionally, subsections) shall be separated with lettered or numbered dividers (dividers will not be counted against the page limitation). Color photographs, renderings, and brochures shall be adequately bound and suitably protected for handling and circulation during review and evaluation.

## 3. Page Format

To meet the page limits requirement listed above, all text shall be in an Arial font that is a minimum of 11 points in size, single-spaced, and printed single-sided. Each page shall be numbered consecutively within each section (i.e., 1-1, 1-2...; 2-1, 2-2...; 3-1, 3-2..., etc.), and the page numbers shall be centered at the bottom of each page. Margins shall be not less than one inch at the top, bottom, and sides of all pages, except for headers and footers.

## 4. Clarity and Conciseness

Respondents should make every effort to present information clearly and concisely. Documentation that is difficult to read may be rejected and may lead to disqualification.

## **5. Reproducibility**

All SOQ pages shall be easily reproducible in black and white by standard photocopying machines.

## **6. Submittal Quantities**

Respondents shall deliver to NDOT **six (6)** copies of the SOQs. See Section 5.5 of the RFQ for additional requirements.

**Table B-1: Specifications for SOQs**

<b>SOQ Section</b>	<b>Section Title and Required Information</b>	<b>RFQ Reference</b>
<b>Main</b>	<p><b>Technical Information:</b></p> <ul style="list-style-type: none"> <li>• Respondent Team Experience and Past Performance:               <ul style="list-style-type: none"> <li>• Narrative of Relevant Experience;</li> <li>• Narrative of Project Descriptions;</li> <li>• Narrative of Management Structure; and</li> <li>• Proposed Organizational Charts.</li> </ul> </li> <li>• Key Personnel:               <ul style="list-style-type: none"> <li>• Brief narrative of Key Personnel experience; and</li> <li>• Commitment Regarding Key Personnel.</li> </ul> </li> <li>• CM/GC Understanding and Approach:               <ul style="list-style-type: none"> <li>• Narrative of CM/GC projects; and</li> <li>• Narrative of management and organizational approach.</li> </ul> </li> </ul>	<b>6.1</b>
<b>Appendix A</b>	<p><b>Legal Information:</b></p> <ul style="list-style-type: none"> <li>• Executive Summary;</li> <li>• Confidential Content Index;</li> <li>• Legal Qualifications and supporting documents;</li> <li>• Legal Structure;</li> <li>• <a href="#">Form A</a>, Transmittal Letter (to be signed by the Official Representative of the Respondent);</li> <li>• <a href="#">Form A-1</a>, SOQ Certification (to be signed by the Official Representative of the Respondent; and</li> <li>• Powers of Attorney (if applicable).</li> </ul>	<b>6.2</b>
<b>Appendix A-1</b>	<ul style="list-style-type: none"> <li>• <a href="#">Form L-1</a> Respondent's Organization Information;</li> <li>• <a href="#">Form L-2</a>, Certification / Questionnaire;</li> <li>• Conflict of Interest Statement; and</li> <li>• Executed teaming agreements or summaries of teaming agreement key terms.</li> </ul>	<b>6.2</b>
<b>Appendix B</b>	<p><b>Financial Information:</b></p> <ul style="list-style-type: none"> <li>• Surety Letters;</li> <li>• Prequalification Letter, <a href="#">Section 3.3</a></li> </ul>	<b>6.3</b>

**Table B-1: Specifications for SOQs**

<b>SOQ Section</b>	<b>Section Title and Required Information</b>	<b>RFQ Reference</b>
<b>Appendix C</b>	<p><b>Supplemental Narrative Forms:</b></p> <ul style="list-style-type: none"> <li>• <a href="#">Form PP-1</a>, Environmental Past Performance, with copies of citations;</li> <li>• <a href="#">Form E</a>, Project Contact Information;</li> <li>• <a href="#">Form E-1</a>, Relevant Alternative Delivery Experience;</li> <li>• <a href="#">Form E-2</a>, Relevant Construction Experience;</li> <li>• <a href="#">Form F</a>, Proposed Key Personnel Information; and</li> <li>• <a href="#">Form S</a>, Respondent Safety Questionnaire.</li> </ul>	<b>6.1</b>
<b>Appendix C-1</b>	<p><b>Résumés:</b></p> <ul style="list-style-type: none"> <li>• Key Personnel Résumés.</li> </ul>	<b>6.1.3</b>

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**APPENDIX C:**  
**FORMS**

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## Appendix C – List of Forms

<a href="#">Form A</a>	Transmittal Letter
<a href="#">Form A-1</a>	SOQ Certification
<a href="#">Form E</a>	Project Contact Information
<a href="#">Form E-1</a>	Relevant CM/GC Experience
<a href="#">Form E-2</a>	Relevant Construction Experience
<a href="#">Form F</a>	Proposed Key Personnel Information
<a href="#">Form L-1</a>	Respondent's Organization Information
<a href="#">Form L-2</a>	Certification / Questionnaire
<a href="#">Form PP-1</a>	Environmental Past Performance
<a href="#">Form RFQ-C</a>	Respondent's Clarification Request
<a href="#">Form S</a>	Respondent Safety Questionnaire

**Form A**  
**TRANSMITTAL LETTER**

**RESPONDENT:** \_\_\_\_\_

SOQ Date: [Insert Date]

Nebraska Department of Transportation  
Roadway Design Division  
1500 HWY 2  
Lincoln, NE 68502

Attn: Mr. Kyle Keller,

The undersigned (“Respondent”) is pleased to submit this Statement of Qualifications (this “SOQ”) in response to that certain Request for Qualifications dated as of April 8, 2022 (as amended, the “RFQ”), issued by the Nebraska Department of Transportation (“NDOT”) to design and construct the Niobrara E&W project. Capitalized terms have the meanings ascribed in the RFQ.

Enclosed, and by this reference incorporated herein and made a part of this SOQ Volume Binder, are the following:

- Main narrative
- Appendix A: Legal Information
- Appendix A-1: Legal Information
- Appendix B: Financial Information
- Appendix C: Supplemental Narrative Forms
- Appendix C-1: Résumés.

Respondent acknowledges receipt, understanding, and full consideration of all materials posted on NDOT’s website <http://dot.nebraska.gov> as set forth in Section 5.5 of the RFQ, and the following Addenda and sets of questions and answers to the RFQ:

*[Respondent to list any addenda to this RFQ by dates and numbers prior to executing Form A. Respondent to also list the latest “as of” the RFQ Respondent’ Clarification Request and NDOT Responses as posted on NDOT website.]*

Respondent represents and warrants that it has read the RFQ and agrees to abide by the contents and terms of the RFQ and the SOQ. Without limiting the foregoing, Respondent accepts and agrees to all the terms and conditions for protest set forth in Section 9 (Protest Procedures) of the RFQ, and specifically acknowledges NDOT’s reserved rights in Section 11 (NDOT Reserved Rights) of the RFQ.

Respondent understands that if it is selected the legal entity constituting the CM/GC Contractor will enter into an Agreement for Pre-Construction Services and, if the GMP is agreed by NDOT, undertake the Construction Work in accordance with the terms, and subject to the conditions, governing the same under the Contract.





**Form A**

**TRANSMITTAL LETTER**

1. Sample signature block for corporation or limited liability company:

*[Insert Respondent's name]*

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

2. Sample signature block for partnership or joint venture:

*[Insert Respondent's name]*

By: *[Insert general partner's or equity member's name]*

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

*[Add signatures of additional general partners or equity members as appropriate]*

3. Sample signature block for attorney in fact:

*[Insert Respondent's name]*

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Attorney in Fact

**Form A-1**  
**SOQ CERTIFICATION**

[OFFICIAL LETTERHEAD OF ENTITY EXECUTING LETTER.]

[SOQ DATE]

Nebraska Department of Transportation  
Roadway Design Division  
1500 HWY 2  
Lincoln, NE 68502

ATTN: Mr. Kyle Keller,

I, [NAME OF AUTHORIZED REPRESENTATIVE], am the [TITLE OF AUTHORIZED REPRESENTATIVE] of [NAME OF MAJOR TEAM MEMBER], which is a member of the [NAME OF RESPONDENT] team.

I certify that:

- a) I have read and understand the information contained in the Request for Qualifications issued by the Nebraska Department of Transportation for the Niobrara E&W Project and the attached statement of qualifications (SOQ) submitted by [NAME OF THE RESPONDENT TEAM];
- b) to the best of my knowledge and belief all information contained in the SOQ, and information submitted concurrently or in supplemental documents with the SOQ, is complete, current and true;

*[DELETE THE THIRD BULLET, BELOW, ONLY IF THE ENTITY SIGNING THIS CERTIFICATION IS THE RESPONDENT'S LEAD FIRM. OTHERWISE, DELETE THIS NOTE AND KEEP THE THIRD BULLET.]*

- c) all representations, statements, and commitments in the SOQ made by [NAME OF LEAD FIRM] on behalf of [NAME OF MAJOR TEAM MEMBER] have been authorized by, are correct, and accurately represent the role of [NAME OF MAJOR TEAM MEMBER] on the [NAME OF RESPONDENT] team.

I acknowledge that any false, deceptive, or fraudulent statements in the SOQ can result in denial of shortlisting status and other consequences provided by law.

---

(Signature)

---

(Name Printed)

## Form E

### PROJECT CONTACT INFORMATION

**Name of Respondent:**

Provide the information requested below for each project listed in Forms E-1 and E-2.

<b>Project Name</b>	<b>Respondent Team Members Participating on Project</b>	<b>Name of Project Owner</b>	<b>Name and Title of Owner's Contact Person</b>	<b>Contact Person's Address, Telephone Number and Email Address</b>
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				

**Form E-1 – RELEVANT CM/GC EXPERIENCE**

Experience of Alternative Delivery or Pre-Construction Services of Reference Projects

Name of Respondent:

PROJECT AND LOCATION (1), (2) & (3)	GENERAL PROJECT DESCRIPTION	PROJECT COST (4) & (5)	START/END DATES OF RESPONDENT TEAM'S SERVICE	% OF WORK COMPLETED BY April 8, 2022	LEVEL OF COMPANY'S PARTICIPATION (6) & (7)	ROLE OF COMPANY FOR PRE- CONSTRUCTION SERVICES
1.						
2.						
3.						

Notes:

1. A maximum of three projects may be included. In order for project experience cited in this [Form E-1](#), list only projects for Alternative Delivery or Pre-Construction Services for highway construction projects. [Form E-1](#) and previous experience is not counted towards responsiveness.
2. Only list projects on which the Respondent worked within the past 10 years (measured from the date of issuance of this RFQ).
3. Only list projects where the Respondent held a minimum 30% of the ultimate responsibility for the Project.
4. In thousands of United States Dollars. Identify exchange rates of amounts in other currencies using the exchange rate as of April 8, 2022, including the benchmark on which the exchange rate is based.
5. Project Cost means the total construction cost budgeted or, if the project is complete, the total construction cost of the completed project.
6. Show company's participation in terms of money and percentage of the Pre-Construction Services.
7. For projects/contracts list role(s) (lead estimator, grading specialist, etc.).

**Form E-2 – RELEVANT CONSTRUCTION EXPERIENCE**

Experience of the CM/GC Contractor in the Construction of Reference Projects

Name of Respondent: \_\_\_\_\_

Name of CM/GC Contractor: \_\_\_\_\_

PROJECT NAME AND LOCATION (1), (2) & (3)	GENERAL PROJECT DESCRIPTION	PROJECT COST (4) & (5)	START/END DATES OF RESPONDENT TEAM'S SERVICE	% OF WORKS COMPLETED BY April 8, 2022	LEVEL OF COMPANY'S PARTICIPATION (6) & (7)	ROLE OF COMPANY FOR THE PROJECT
1.						
2.						
3.						
4.						

Notes:

- A maximum of four projects may be included. In order for project experience cited in this [Form E-2](#) to be considered responsive, list only projects for which the corporate entity (company, joint-venture, partnership or consortium) providing the construction experience is the Respondent's CM/GC Contractor itself, or a controlled subsidiary of said CM/GC Contractor. If the latter is the case, so indicate. Project experience provided by a parent or sister company of the CM/GC Contractor shall not be considered responsive to this RFQ.
- Only list projects on which the CM/GC Contractor worked within the past 10 years.
- Only list projects where the CM/GC Contractor did not sublet more than seventy percent (70%) of the work. If the CM/GC Contractor is a joint venture, only list projects from joint-venture members that did not sublet more than seventy percent (70%) of the work of the CM/GC Contractor's potential construction work for the Project.
- In thousands of United States Dollars. Identify exchange rates of amounts in other currencies using the exchange rate as of April 8, 2022 and identify the benchmark on which the exchange rate is based.
- Project Cost means the total construction cost budgeted or, if the project is complete, the total construction cost of the completed project.
- Show company's participation in terms of money and percentage of the construction work for the listed project.
- The information sought above shall be limited only to the construction contract.

## Form F

### PROPOSED KEY PERSONNEL INFORMATION

Name of Respondent: \_\_\_\_\_

Key Personnel Position	Name of Individual	Years of Relevant Experience <sup>1</sup>	Education and Registrations <sup>2</sup>	Firm Name	Reference Name, Title, Telephone Numbers & Email Address <sup>3</sup>
<b>Project Manager</b>		_____ years on transportation projects. _____ years managing the construction of transportation projects (_____ years of CM/GC experience).			
<b>Construction Manager</b>		_____ years on transportation projects. _____ years managing the construction of transportation projects (_____ years of CM/GC experience).			
<b>Value Added</b>					
<b>Value Added</b>					

## Form F

### PROPOSED KEY PERSONNEL INFORMATION

- <sup>1</sup> *For each individual proposed, please enter the number of years of relevant experience in the blank spaces provided. In cases where the individual has no relevant experience, please enter "0" in the corresponding blank space.*
- <sup>2</sup> *For each individual proposed, please indicate any degrees, professional licenses, registrations, and training relevant to the corresponding Key Personnel position.*
- <sup>3</sup> *Provide three references for each position identified on [Form F](#).*



**Form L-1**

**RESPONDENT'S ORGANIZATION INFORMATION**

**PART 1**

**RESPONDENT TEAM SUMMARY**

<b>RESPONDENT</b>	
<b>CONTACT PERSON</b>	
<b>ADDRESS</b>	
<b>TELEPHONE NUMBER</b>	
<b>EMAIL ADDRESS</b>	

<b>MAJOR TEAM MEMBER</b> <i>(Duplicate Part 1 for each Major Team Member)</i>	
<b>NAME OF FIRM</b>	
<b>CONTACT PERSON</b>	
<b>ADDRESS</b>	
<b>TELEPHONE NUMBER</b>	
<b>EMAIL ADDRESS</b>	

**PART 2**

**TEAM MEMBER INFORMATION**

Name of Respondent: \_\_\_\_\_

Name of Entity Completing [Form L-1](#): \_\_\_\_\_

Entity's Role (check one box for entity completing [Form L-1](#) as applicable):

Respondent;  Major Team Member;  Guarantor; or

Other (describe): \_\_\_\_\_

Year Established: \_\_\_\_\_ State of Organization: \_\_\_\_\_

**Form L-1**

**RESPONDENT'S ORGANIZATION INFORMATION**

Federal Tax ID No. (if applicable): \_\_\_\_\_ Telephone No.: \_\_\_\_\_

North American Industry Classification Code: \_\_\_\_\_

Name of Official Representative Executing Forms A and A-1: \_\_\_\_\_

Individual's Title: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Type of Business Organization\* (check one):

- Corporation
- Partnership
- Joint Venture
- Limited Liability Company
- Other (describe): \_\_\_\_\_

\* If the entity completing this [Form L-1](#) is a partnership or any other form of a joint venture, attach to this [Form L-1](#) the executed teaming agreement. If an executed teaming agreement does not yet exist, attach a summary of the key terms of the anticipated agreement, including the percentages of ownership roles of the various parties and anticipated execution date.

A. Business Address: \_\_\_\_\_  
Headquarters: \_\_\_\_\_  
Office Performing Work: \_\_\_\_\_

B. Describe the role of the entity in the space below.

\_\_\_\_\_  
\_\_\_\_\_

C. If the entity completing this [Form L-1](#) is a joint venture or newly formed entity (formed within the past two years), complete a separate [Form L-1](#) and [Form L-2](#) for each member or partner of the entity and attach it to the SOQ. In addition, identify the name of such members or partners in the space below.

Name

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Form L-1**

**RESPONDENT'S ORGANIZATION INFORMATION**

Under penalty of perjury, I certify that the foregoing is true and correct, and that I am the firm's Official Representative:

By: \_\_\_\_\_ Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_ Date: \_\_\_\_\_

*[Please make additional copies of this form as needed.]*

## Form L-2

### CERTIFICATION / QUESTIONNAIRE

Name of Respondent:

---

Firm Name:

---

Complete for each Major Team Member and Guarantor:
<p>1. Has the firm or any Affiliate<sup>1</sup>, or the owners, officers, or managing employees of either the firm or any affiliate, failed to complete any work it agreed to perform, or had a contract terminated because it was in default, within the past ten years (measured from the date of issuance of this RFQ) and within North America? If yes, describe.</p>
<p>2. Has the firm or any Affiliate<sup>1</sup> or any director, officer, or employee of either the firm or any affiliate been, in North America, indicted or convicted of bid or other contract-related crimes or violations (e.g., fraud, bribery, collusion, conspiracy, antitrust, etc.) or any felony or misdemeanor related to performance under a contract within the past five years (measured from the date of issuance of this RFQ)? If yes, describe.</p>
<p>3. Has the firm or any Affiliate<sup>1</sup> sought protection under any provision of any bankruptcy act or been subject to a receivership or involuntary bankruptcy proceeding within the last ten years measured from the date of issuance of this RFQ)? If yes, describe, and provide information concerning any work completed by a surety as a result of the bankruptcy or receivership.</p>
<p>4. Has the firm or any Affiliate<sup>1</sup> been debarred, disqualified, removed, or suspended from performing work for the federal government, any state or local government, or any foreign government within North American, within the last five years (measured from the date of issuance of this RFQ)? If yes, describe.</p>
<p>5. Has the firm or any Affiliate* been found liable in a civil suit or found guilty in a criminal action for making any false claim or other material misrepresentation to a public entity (including any foreign government in North America) within the past ten years (measured from the date of issuance of this RFQ)? If yes, as to each such inquiry, state the name of the public agency, the date of the inquiry, the grounds on which the public agency based the inquiry, and the result of the inquiry.</p>
<p>6. Has any construction project in North America performed or managed by the firm or, to the knowledge of the undersigned, any Affiliate<sup>1</sup>, involved repeated or multiple failures to comply with safety laws, regulations, rules, or requirements as commonly tracked by the construction industry (including those of a foreign government) within the past ten years (measured from the date of issuance of this RFQ)? If yes, please identify the team members and the projects, provide an explanation of the circumstances, and provide owner contact information including telephone numbers.</p>
<p>7. Has the firm or any Affiliate<sup>1</sup> been disqualified by an owner of a public works project in North America for submitting a "nonresponsive" bid or proposal, or having been found "not responsible" within the last five years (measured from the date of issuance of this RFQ)? If yes, describe.</p>

<sup>1</sup> Note: "Affiliate" has the meaning set forth in Section 1.5 of the RFQ.

## Form L-2

### CERTIFICATION / QUESTIONNAIRE

<p>8. Has the firm or any Affiliate<sup>1</sup> been found, adjudicated, or determined by any state court, state administrative agency, including, but not limited to, the Industrial Commission of Nebraska, federal court or federal agency, to have violated or failed to comply with any law or regulation of the United States or any state within the past ten years (measured from the date of issuance of this RFQ) governing prevailing wages (including but not limited to payment for health and welfare, pension, vacation, travel time, subsistence, apprenticeship or other training, or other fringe benefits) or overtime compensation?</p>
<p>9. Have any adverse claims, disputes, or lawsuits between the owner of a public works project in North America and the firm or any Affiliate<sup>1</sup>, in which the claim, settlement, or judgment exceeds \$50,000, settled within the past five years (measured from the date of issuance of this RFQ)? If yes, describe. Provide any information concerning any work completed by a surety during the past five years.</p>
<p>10. Has the firm or any Affiliate<sup>1</sup> been convicted of violating a State or Federal law relating to the employment of undocumented aliens within the past five years (measured from the date of issuance of this RFQ)? If yes, describe.</p>
<p>11. List (on a separate page) up to five financial institutions with which the firm or any Affiliate<sup>1</sup> has done the most business within the past five years and identify the individual at each institution who was in charge of the firm's accounts. Indicate the address, telephone number, and Email address of each individual.</p>
<p>12. Has a surety firm completed performance of a contract in North America on behalf of the firm or any Affiliate<sup>1</sup> or paid for completion of a contractor's performance because the firm or any affiliate was in default or terminated by the project owner within the last five years (measured from the date of issuance of this RFQ)? If yes, describe.</p>
<p>13. Has the firm or any Affiliate<sup>1</sup> been issued a citation by any governmental body for violation of any environmental law, regulation, or permit pertaining to performance of work on a transportation project in North America within the last ten years (measured from the date of issuance of this RFQ)? If yes, describe in <a href="#">Form PP-1</a>.</p>

*(Must be signed by an officer of the firm)*

Under penalty of perjury, I certify that the foregoing is true and correct, and that I am the firm's Official Representative:

**Firm:** \_\_\_\_\_  
**By:** \_\_\_\_\_  
**Title:** \_\_\_\_\_

**Form PP-1**

**ENVIRONMENTAL PAST PERFORMANCE**

**Name of Respondent:**

---

**Name of Firm:**

---

**Environmental Citations of Non-Compliance:**

Attach all listed citations to this Form.

Name of Citation	Year Received	Project and Location	Work for Which Citation Received

**Form RFQ-C**

**Respondent's Clarification Request**

**Niobrara E&W Project**

**Respondent/Firm Name:** \_\_\_\_\_

**Respondent Address:** \_\_\_\_\_

**Respondent Contact Information**

**Authorized Representative:** \_\_\_\_\_

**Email Address:** \_\_\_\_\_

RFQ Section No. or Appendix	Question	Reserved for Department Response

## Form S

### RESPONDENT'S SAFETY QUESTIONNAIRE

Name of Respondent: \_\_\_\_\_

Firm Name: \_\_\_\_\_

*Note: Safety Questionnaire shall be provided by each Major Team Member.*

(a) Provide the following information for the past three years:

Item	2019	2020	2021
<b>Experience Modification Rate</b>			
<b>Lost Work Rate</b>			
<b>Employee hours worked</b> (Do not include non-work time, even though paid)			
<b>Number of lost workday cases</b>			
<b>Number of restricted workday cases</b>			
<b>Number of cases with medical attention only</b>			
<b>Number of fatalities</b>			

(b) Are internal accident reports and report summaries sent to management? To what levels and how often?

Position	No	Yes	Monthly	Quarterly	Annually

(c) Do you hold site meetings for supervisors?      Yes \_\_\_\_\_      No \_\_\_\_\_  
 How Often?      Weekly\_\_\_\_      Biweekly\_\_\_\_      Monthly\_\_\_\_      Less often, as needed\_\_\_\_

(d) Do you conduct Project Safety Inspections?      Yes \_\_\_\_\_      No \_\_\_\_\_  
 By Whom? \_\_\_\_\_

\_\_\_\_\_

How Often?      Weekly\_\_\_\_      Biweekly\_\_\_\_      Monthly\_\_\_\_



## Form S

### RESPONDENT'S SAFETY QUESTIONNAIRE

(e) Does the firm have a written Safety Program?    Yes \_\_\_\_\_    No \_\_\_\_\_

(f) Does the firm have an orientation program for new hires?    Yes \_\_\_\_\_    No \_\_\_\_\_

If yes, what safety items are included? \_\_\_\_\_

---



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(g) Does the firm have a program for newly hired or promoted foremen?

Yes \_\_\_\_\_    No \_\_\_\_\_    If yes, does it include instruction of the following?

Topic	Yes	No
<b>Safety Work Practices</b>		
<b>Safety Supervision</b>		
<b>On-site Meetings</b>		
<b>Emergency Procedures</b>		
<b>Accident Investigation</b>		
<b>Fire Protection and Prevention</b>		
<b>New Worker Orientation</b>		

(h) Does the firm hold safety meetings which extend to the laborer level?

Yes \_\_\_\_\_    No \_\_\_\_\_

How often?    Daily \_\_\_\_\_    Weekly \_\_\_\_\_    Bi-Weekly \_\_\_\_\_    Less often, as needed \_\_\_\_\_

(i) (For Respondent only) Indicate the safety record on the last Project to which the indicated key personnel were assigned:

Key Person	Total Hours Worked by All Employees	Number of Lost Workday Cases	Number of Restricted Workday Cases	Number of Cases with Medical Attention	Number of Fatalities on Project

## Form S

### RESPONDENT'S SAFETY QUESTIONNAIRE

	on Project	on Project	on Project	Only on Project	
<b>Project Manager</b>					
<b>Construction Manager</b>					
<b>Value Added</b>					
<b>Valued Added</b>					

- (j) Has OSHA cited and assessed penalties against your firm for any "serious," "willful," or "repeat" violations of its safety or health regulations in the past five years?

Yes \_\_\_\_\_ No \_\_\_\_\_

(If yes, attach a separate signed page describing the citations, including information about the dates of the citations, nature of the violation, the project on which the citation(s) was or were issued, and the amount of penalty paid, if any. If the citation was appealed to the Occupational Safety and Health Appeals Board and a decision has been issued, state the case number and the date of the decision.)

- (k) Has the Federal Occupational Safety and Health Administration cited and assessed penalties against your firm in the past five years?

Yes \_\_\_\_\_ No \_\_\_\_\_

(If yes, attach a separate signed page describing each citation.)

---

**APPENDIX D:  
INSURANCE**

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## PRE-CONSTRUCTION SERVICES INSURANCE REQUIREMENTS

### A. CM/CG Contractor agrees to:

- (1) Make a detailed review of its existing insurance coverage.
- (2) Compare that coverage to the expected scope of the work under this Agreement.
- (3) Obtain the insurance coverage that it deems necessary to fully protect CM/GC Contractor from loss associated with the work. Also, CM/CG Contractor shall have, at a minimum, the insurance described below:

### B. General Liability –

- (1) Limits of at least:
  - a. \$ 1,000,000 Per Occurrence
  - b. \$ 2,000,000 General Aggregate
  - c. \$ 2,000,000 Completed Operations Aggregate (if applicable)
  - d. \$ 1,000,000 Personal/Advertising Injury
- (2) CM/CG Contractor shall be responsible for the payment of any deductibles.
- (3) 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.
- (4) General Aggregate to apply on a Per Project Basis.
- (5) The State of Nebraska, Department of Transportation, must be named as Additional Insured on a primary and non-contributory basis.
- (6) Consultant agrees to waive its rights of recovery against State. Waiver of subrogation in favor of the State of Nebraska, Department of Transportation must be added to, or included in, the policy.
- (7) Contractual liability coverage must be on a broad form basis and not be amended by any limiting endorsements.
- (8) If work is being done near a railroad track, the 50' railroad right of way exclusion must be deleted.
- (9) 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, please refer to the following section entitled "Pollution Coverage.")

## PRE-CONSTRUCTION SERVICES INSURANCE REQUIREMENTS

### C. Pollution Coverage –

- (1) In the event that the standard pollution exclusion as provided by CG0001 has been amended, coverage may be substituted with a separate Pollution Liability policy or a Professional Liability policy that includes pollution coverage in the amount of \$1,000,000 per occurrence or claim, and \$1,000,000 aggregate.
- (2) 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 CM/CG Contractor.

### D. Automobile Liability –

- (1) Limits of at least:
  - a. \$ 1,000,000 CSL Per Accident
- (2) Coverage shall apply to all Owned, Hired, and Non-Owned Autos.
- (3) CM/CG Contractor agrees to waive its rights of recovery against the LPA and the State of Nebraska, Department of Transportation. Waiver of Subrogation in favor of the LPA and the State of Nebraska, Department of Transportation, shall be added to the policy.

### E. Workers' Compensation –

- (1) Limits: Statutory coverage for the state where the project is located.
- (2) Employer's Liability limits:
  - a. \$100,000 Each Accident
  - b. \$100,000 Disease – Per Person
  - c. \$500,000 Disease – Policy Limit
- (3) CM/CG Contractor agrees to waive its rights of recovery against State. Waiver of subrogation in favor of the State of Nebraska, Department of Transportation shall be added to, or included in, the policy

### F. Professional Liability –

- (1) Limits of at least:
  - a. \$ 1,000,000 Per Claim
  - b. \$ 1,000,000 Annual Aggregate
- (2) Coverage shall be provided for three years after work/project completion.

## PRE-CONSTRUCTION SERVICES INSURANCE REQUIREMENTS

### G. Electronic Data and Valuable Papers –

- (1) Limits of at least:
  - a. \$100,000 Electronic Data Processing Data and Media
  - b. \$25,000 Valuable Papers

### H. Umbrella/Excess –

- (1) Limits of at least:
  - a. \$ 1,000,000 Per Occurrence
  - b. \$ 1,000,000 Annual Aggregate
- (2) Policy shall provide liability coverage in excess of the specified Employers Liability, Commercial General Liability and Auto Liability.
- (3) The State of Nebraska, Department of Transportation, must be an “Additional Insured”.
- (4) CM/CG Contractor agrees to waive its rights of recovery against State. Waiver of subrogation in favor of the State of Nebraska, Department of Transportation must be added to, or included in, the policy.

### I. Additional Requirements –

- (1) If any of the work is sublet, equivalent insurance shall be provided by or on behalf of the subconsultant or subconsultants (at any tier).
- (2) Any insurance policy shall be written by a reputable insurance company acceptable to State or with a current Best’s Insurance Guide Rating of A – and Class VII or better and authorized to do business in Nebraska.
- (3) Prior to CM/CG Contractor beginning work on a project under this agreement, CM/CG Contractor shall provide State evidence of such insurance coverage in effect in the form of an ACORD (or equivalent) certificate of insurance executed by a licensed representative of the participating insurer(s). Certificates of insurance must show the State as the certificateholder.
- (4) For so long as insurance coverage is required under this agreement CM/CG Contractor shall notify State when CM/CG Contractor knows, or has reason to believe, that any insurance coverage required under this agreement will lapse, or may be canceled or terminated. CM/CG Contractor shall forward any pertinent notice of cancellation or termination to State at the address listed below by mail (return receipt requested), hand-delivery or facsimile

## PRE-CONSTRUCTION SERVICES INSURANCE REQUIREMENTS

transmission within two (2) business days of receipt by CM/CG Contractor of any such notice from an insurance carrier. Notice shall be sent to:

Nebraska Department of  
Transportation Consultant  
Services – Insurance  
1500 Highway 2, P. O. Box 94759  
Lincoln, NE 68509-4759  
[NDOT.ConsultantInsurance@nebraska.gov](mailto:NDOT.ConsultantInsurance@nebraska.gov)

- (5) 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.
- (6) The Limits of Coverage's set forth in this document are minimum limits of coverage. The limits of coverage shall not be construed to be a limitation of the liability on the part of CM/CG Contractor or any of its subconsultants/tier subconsultants. The carrying of insurance described shall in no way be interpreted as relieving CM/CG Contractor, or any tier subcontractor of any responsibility or liability under the Agreement.
- (7) If there is a discrepancy of coverage between this document and any other insurance specification for this project, the greater limit or coverage requirement will prevail.

## CONSTRUCTION WORK INSURANCE REQUIREMENTS

1. Prior to execution of the Construction Services Contract, the CM/GC Contractor shall obtain insurance coverage to fully protect it from loss associated with the work, and have at a minimum the insurance described below:

a. General Liability:

(1) Limits of at least:

- (i) \$ 1,000,000 per Occurrence
- (ii) \$ 2,000,000 General Aggregate
- (iii) \$ 2,000,000 Completed Operations Aggregate
- (iv) \$ 1,000,000 Personal and Advertising Injury

(2) CM/GC Contractor shall be responsible for the payment of any deductibles.

(3) 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.

(4) The General Aggregate shall apply on a Per Project Basis.

(5) The State of Nebraska, Department of Transportation, 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.

(6) CM/GC Contractor agrees to waive its rights of recovery against the State of Nebraska, Department of Transportation. Waiver of Subrogation in favor of the State of Nebraska, Department of Transportation shall be added to the policy.

(7) Contractual liability coverage shall be on a broad form basis and shall not be amended by any limiting endorsements.

(8) If work is being performed near a railroad track, the 50' railroad right-of-way exclusion must be deleted.

(9) 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 (3) years after final acceptance and payment.

(10) 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).

(11) Policy shall not contain a total or absolute pollution exclusion. Coverage shall be provided for pollution exposures arising from products and completed operations



## CONSTRUCTION WORK INSURANCE REQUIREMENTS

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 \$1,000,000 per occurrence and \$2,000,000 aggregate. If coverage is provided by a "claims made" form, coverage will be maintained for three (3) years after project completion. Any applicable deductible is the responsibility of the CM/GC Contractor.

b. Automobile Liability:

(1) Limits of at least:

(i) \$ 1,000,000 CSL per Accident

(2) Coverage shall apply to all Owned, Hired, and Non-Owned Autos.

(3) If work is being performed near a railroad track, the 50-foot railroad right-of-way exclusion must be deleted.

(4) CM/GC Contractor agrees to waive its rights of recovery against the State of Nebraska, Department of Transportation. Waiver of Subrogation in favor of the State of Nebraska, Department of Transportation, shall be added to the policy.

(5) Automobile liability coverage shall be obtained from an insurance carrier who is licensed in Nebraska and any other State in which the project is located.

c. Workers' Compensation:

Limit: Statutory coverage for Nebraska and for any other State in which the project is located.

(1) Employer's Liability limits:

(i) \$500,000 Each Accident

(ii) \$500,000 Disease – Per Person

(iii) \$500,000 Disease – Policy Limit

(2) CM/GC Contractor agrees to waive its rights of recovery against the State of Nebraska, Department of Transportation. Waiver of Subrogation in favor of the State of Nebraska, Department of Transportation shall be added to the policy.

(3) Workers' compensation coverage shall be obtained from an insurance carrier who is licensed in Nebraska and any other State in which the project is located.

(4) Where applicable, the Longshore and Harborworkers Compensation Act endorsement shall be attached to the policy.

d. Umbrella/Excess:

(1) Limits of at least:

## CONSTRUCTION WORK INSURANCE REQUIREMENTS

(i) \$1,000,000 per Occurrence

(2) Policy shall provide liability coverage in excess of the specified Employers Liability, Commercial General Liability and Automobile Liability.

(3) The State of Nebraska, Department of Transportation, shall be an "Additional Insured."

(4) CM/GC Contractor agrees to waive its rights of recovery against the State of Nebraska, Department of Transportation. Waiver of subrogation in favor of the State of Nebraska, Department of Transportation shall be provided.

e. Pollution Liability:

(1) When "hazardous wastes" or contaminated or polluted materials must be handled and/or moved, the CM/GC Contractor shall obtain Pollution Liability Coverage with minimum limits of \$1,000,000 per occurrence and \$2,000,000 aggregate.

(2) If, during the course of construction, hazardous wastes, contaminated or polluted material are discovered on the project, the CM/GC 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.

f. Additional Requirements:

(1) The CM/GC Contractor shall provide and carry any additional insurance required by the Construction Services Contract.

(2) Except as otherwise provided herein, all insurance shall be kept in full force and effect until after the State releases the CM/GC Contractor from all obligations under the Construction Services Contract.

(3) (i) 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.

(ii) 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.a., 1.d. and 1.e. of this Specification.

(iii) (a) When a CM/GC 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 1.b. of this Specification.

(b) Furthermore, it shall be the duty of the CM/GC Contractor to ensure that the owner-operator of the truck has such insurance in effect. The CM/GC Contractor shall maintain evidence that any truckers so utilized (at any tier) are insured to the

## CONSTRUCTION WORK INSURANCE REQUIREMENTS

minimum limits specified and be able to furnish documentation of the same on demand.

(c) Failure to ensure that insurance coverage exists and failure to maintain evidence thereof shall be considered a breach of the Construction Services Contract.

(4) Any insurance policy shall be written by an insurance company with a Best's Insurance Guide Rating of A – VII or better.

(5) Prior to execution of the Construction Services Contract, CM/GC Contractor shall provide the State of Nebraska, Department of Transportation evidence of such insurance coverage in effect in the form of an ACORD® (or equivalent) certificate of insurance executed by a licensed representative of the participating insurer(s). Certificates of insurance shall show the Nebraska Department of Transportation as the certificate holders.

(6) 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 Construction Services Contract.

(7) 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 CM/GC Contractor or any of its subcontractors/tier subcontractors. The carrying of insurance described shall in no way be interpreted as relieving the CM/GC Contractor, subcontractor, or tier subcontractors of any responsibility or liability under the Construction Services Contract.

(8) 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.

(9) For so long as insurance coverage is required under this Construction Services Contract, the CM/GC Contractor shall have a duty to notify the State of Nebraska Department of Transportation when the CM/GC Contractor knows, or has reason to believe, that any insurance coverage required under this Construction Services Contract will lapse or may be cancelled or terminated. The CM/GC Contractor must forward any pertinent notice of cancellation or termination to the State of Nebraska Department of Transportation by mail (return receipt requested), hand delivery, or email within two (2) business days of receipt by CM/GC Contractor of any such notice by an insurance carrier. Notice shall be sent to the following address:

## **CONSTRUCTION WORK INSURANCE REQUIREMENTS**

Nebraska Department of Transportation  
Construction Division - Insurance Section  
1500 Highway 2, Lincoln, NE 68502

or

P.O. Box 94759 Lincoln, NE 68509-4759

Email: [NDOT.ConstructionInsurance@nebraska.gov](mailto:NDOT.ConstructionInsurance@nebraska.gov)

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**ATTACHMENT 1:  
CONFLICT OF INTEREST POLICY**

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## ATTACHMENT 1

### NDOT Conflict of Interest Policy For Niobrara E&W Project

Capitalized terms used in this NDOT Conflict of Interest Policy (this "Policy"), but not otherwise defined, in the RFQ, have the meanings ascribed in Section 2 below.

Without limiting the Respondents' obligations, and NDOT's rights, under Section 11 of the RFQ and Section 3.8 of this Policy, no Respondent may engage the Services (with respect to the Project), or include among the Respondent team, any Consultant that presents a Conflict of Interest.

#### 1.0 Purpose

This Policy prescribes Conflict of Interest rules applicable to private entities, including Consultants and Respondents, participating or desiring to participate in NDOT's planning, procurement, design, and construction of the Project. A private entity's failure to comply with this Policy may result in potential liability to NDOT and the private entity's preclusion from participation in the Project. This Policy is intended to apply in the context of NDOT's development of the Project.

#### 2.0 Definitions

Term	Definition
<b>Affiliate</b>	Means with respect to any Person: (a) any member, partner or joint venture of such Consultant; (b) any individual or entity that directly or indirectly controls, or is controlled by, or is under common control with, such Consultant or any of its members, partners or joint venturers; and (c) any other entity for which 20% or more of the equity interest in such other entity is held directly or indirectly, beneficially or of record by (i) such Consultant, (ii) any of such Consultant's members, partners or joint venturers or (iii) any Affiliate of such Consultant under clause (b) of this definition.
<b>Conflict of Interest</b>	Means that because of other activities or relationships with other Persons, a Person is unable or potentially unable to render impartial assistance or advice to NDOT, or the Person's objectivity in performing the scope of the work for the Project is, or might be, otherwise impaired, or a Person has an unfair competitive advantage. The following are non-exclusive examples of conflicts of interest: (a) a Person is among NDOT consultants (identified in <u>Section 8.3.1</u> of the RFQ); (b) a Person previously provided Services to NDOT with respect to the Project (whether as a direct or indirect Consultant to or an employee of NDOT);

<b>Term</b>	<b>Definition</b>
	(c) a Person who currently or previously provides/d services to NDOT is an equity owner, team member, direct or indirect Consultant of or to a Respondent for the Project; and (d) a Person who currently or previously provides/d services to NDOT is/ has a financial interest in any of the foregoing entities.
<b>Conflict of Interest Policy or Policy</b>	Means this Attachment 1 NDOT Conflict of Interest Policy for Niobrara E&W Project.
<b>Consultant</b>	Means any Person or business entity, any individual employee of such entity, or any division and/or Affiliate of such entity previously or currently retained, or in the process of being retained, by NDOT to provide Services in connection with the Project, including subconsultants and individual employees of subconsultants.
<b>NDOT</b>	Means the Nebraska Department of Transportation.
<b>Person</b>	Individual person or entity, including joint ventures, partnerships, limited liability companies, corporations, consortiums, teams or other groups or organizations of individuals or entities, or the individuals and entities that make up such groups,
<b>Policy</b>	Means this Attachment 1 NDOT Conflict of Interest Policy for Niobrara E&W Project.
<b>Project</b>	The proposed Highway N-12 corridor in Knox County.
<b>Respondent</b>	Means any Person that have submitted a statement of qualifications or proposal for work on the Project or are interested in submitting a statement of qualifications or proposal for services on the Project.
<b>Services</b>	Means, in the context of this Policy, consulting services related to the Project, which may include, but are not limited to, some or all of the following: planning services; procurement services; federal and state environmental services; financial advisory services; legal services; risk management analysis or services; insurance advice or services; traffic and revenue studies; program oversight; design and construction management services; design concept services; preliminary engineering services (including right-of-way, structures, survey and utility); and public and community outreach services.

### 3.0 Conflicts of Interest

#### 3.1 Public Policy Purpose

This section prescribes NDOT's public policy guiding the Conflicts of Interest Policy relating to Consultants participating or desiring to participate in the planning, procurement, design, or construction of the Project. The Policy:

- Protects the integrity and fairness of the planning, procurement, design, or construction of the Project;

- Avoids circumstances where a Consultant or Respondent obtains, or appears to obtain, an unfair competitive advantage as a result of Services performed for NDOT by a Consultant or information obtained from NDOT by a Consultant;
- Provides guidance to Consultants and Respondents, or potential Consultants and Respondents, so they may assess, and make informed decisions concerning, their decision to provide Services on the Project or to submit or participate on a Respondent team submitting a statement of qualifications and/or proposal related to the design, or construction of the Project; and
- Protects NDOT's interests and confidential and sensitive Project-specific information.

### **3.2 Applicability**

This Policy applies to Consultants who desire to participate in, have participated in or are participating in the performance of Services for NDOT related to the Project. This Policy may prohibit or restrict the ability of a Respondent to have a Consultant participate on a Respondent team as an equity owner or team member, act as a consultant or subconsultant to the Respondent, or have a financial interest in the Respondent or an equity owner or team member of a Respondent. This Policy relates solely to the Project and does not address NDOT's approach or policy(ies) with respect to conflicts of interest on other state transportation projects, if any.

### **3.3 Conflicts of Interest Disclosure**

#### **3.3.1 Obligation to Disclose**

Consultants and Respondents participating in the Project shall arrange their affairs so as to reasonably prevent Conflicts of Interest. Any Consultant or Respondent having an actual or potential Conflict of Interest shall disclose the matter to NDOT in writing to the following individual:

**Nebraska Department of Transportation  
Roadway Design Division  
1500 HWY 2  
Lincoln, NE 68502**

**Attention: Kyle Keller, Assistant Roadway Design Engineer**

**Email: [kyle.keller@nebraska.gov](mailto:kyle.keller@nebraska.gov)**

Disclosures will also be requested of Respondents as part of responses to this RFQ and any subsequent Request for Proposals relating to the design and construction of the Project.

A Consultant's and Respondent's Conflict of Interest disclosure obligation is ongoing. Consultants and Respondents shall undertake reasonable due diligence, including necessary conflict searches, to determine whether new actual or potential Conflicts of Interest arise. Due diligence should extend to investigation of past relationships and, if the Consultant being investigated is an entity, to officers or directors of the Consultant. If a Consultant or Respondent becomes aware of an actual or potential Conflict of Interest at any time during its participation in



the Project, the Consultant or Respondent, as applicable, shall promptly disclose the matter to NDOT as described herein.

Respondents shall deliver all requests for waiver of an actual or potential Conflict of Interest to the Procurement Manager specified above.

### **3.3.2 Failure to Comply**

If a Consultant or Respondent fails to comply with this Policy (to include the submission and response process in Section 3.8 below), including failure to comply with any mitigation measures imposed under this Policy, or otherwise fails to disclose an actual or potential Conflict of Interest, NDOT may, in its sole discretion:

- Preclude and/or disqualify the Consultant and its Affiliates, including any Respondent with whom the Consultant is or had affiliated, from participation in the planning, procurement, design, and/or construction of the Project, including any competitive process associated therewith;
- Require the Consultant and its Affiliates, including any Respondent with whom the Consultant is or had Affiliated, to implement mitigation measures;
- Segregate or terminate the Consultant and its Affiliates, including any Respondent with whom the Consultant is or had Affiliated, from planning, procurement, design, and/or construction of the Project; and/or
- Pursue any and all other rights and remedies available at law, in equity or set forth in the RFQ or subsequent Request for Proposals, which rights and remedies shall include the right to seek any and all direct or indirect costs and damages resulting from the Consultant's or Respondent's failure to comply with this Policy, including, but not limited to, costs resulting from third-party challenges to the procurement or NDOT's re-procurement of the Project.

### **3.4 Period in Which a Conflict of Interest Applies**

If NDOT Director or designee determines that the performance of services by a Consultant creates an actual or potential Conflict of Interest, the provisions in this Policy and any decisions made by NDOT related to such actual or potential Conflict of Interest (including prohibitions, mitigation measures, etc.) shall continue and apply for the duration of the planning, procurement, design, and construction of the Project, provided that NDOT Director or designee may, on a case-by-case basis and in his or her sole discretion, modify the length of this time period in writing if he/she determines that the modification is in the best interests of NDOT and the Project.

### **3.5 Application to Consultant Employees and New Employers**

If, in NDOT's determination, the performance of the Services described in this Policy raises a potential or actual Conflict of Interest for a Consultant, such Conflict of Interest shall apply individually to any employee of such Consultant that has participated in a material way in the performance of the Services on the Project. If such individual leaves the Consultant's employment, the potential or actual Conflict of Interest shall continue to apply to both the individual as well as the Consultant for the applicable period set forth in Section 3.4 of this

Policy. If a Conflict of Interest applies to an individual, the Conflict of Interest and prohibition with respect to the individual will not apply to the individual's new place of employment (subject to the next sentence), unless the new employer is an Affiliate of the employee's previous employer. If the new employer is not an Affiliate of the previous employer and is otherwise eligible to perform Services for NDOT pursuant to this Policy and applicable law, the new employer will remain eligible despite the employment of the individual, but mitigation measures may be required of the new employer with respect to the employee.

### **3.6 Federal and State Requirements**

#### **3.6.1 Federal Laws**

For federal-aid projects and in certain other circumstances, NDOT must comply with the Federal Highway Administration's organizational conflict of interest regulations found in 23 Code of Federal Regulations §636.116. NDOT reserves the right to cancel any contract without penalty or further obligation if any Person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of NDOT is, at any time while the contract or an extension of the contract is in effect, an employee or agent of any other party to the contract in any capacity or a consultant to any other party to the contract with respect to the subject matter of the contract. Respondents' attention is directed to such federal and state laws and regulations. Nothing in this Policy is intended to limit, modify, supersede or otherwise alter the effect of those laws and regulations, and NDOT will apply this Policy consistent with those laws and regulations.

#### **3.6.2 Limitations on NDOT Consents and Approvals**

To the extent that application of the federal and state laws and regulations described in Section 3.6.1 of this Policy would preclude or limit participation by a Consultant or an individual with respect to the Project, then notwithstanding any other aspect of this Policy or any contrary decision by NDOT in response to an actual or potential Conflict of Interest under this Policy, such federal and state laws and regulations shall control and be determinative. Under no circumstances shall a decision, approval or consent by NDOT in response to a disclosure, request or actual or potential Conflict of Interest under this Policy be considered an opinion with respect to the applicability or effect of such federal and state laws or regulations, and Consultant shall bear all responsibility and liability for determining if a conflict under federal and/or state laws or regulations exists in relation to the Consultant's Services to NDOT or proposed work on the Project.

### **3.7 Reserved**

### **3.8 Determination Regarding Provision of Services for the Project**

#### **3.8.1 Discretion of NDOT**

Unless otherwise indicated in this Policy, all approvals, actions or discretion under this Policy and with respect to an actual or potential Conflict of Interest shall be within the sole discretion of NDOT.

### 3.8.2 Determination Process

In response to a disclosure under Section 3.3 above or information NDOT obtains independent of a Consultant or Respondent, and in response to requests for waiver, NDOT will conduct a review. NDOT Director or designee will determine whether a Consultant has an actual or potential Conflict of Interest that should prevent the Consultant from (i) being a Respondent, (ii) participating as an equity owner, team member, consultant or subconsultant of or to a Respondent for the Project, (iii) having a financial interest in any of the foregoing entities with respect to the Project or (iv) otherwise participating in the design and/or construction of the Project. NDOT will also analyze what actions may be appropriate to avoid, neutralize or mitigate any actual or potential Conflict of Interest.

NDOT Director or designee retains the ultimate and sole discretion to act on behalf of NDOT hereunder and to determine on a case-by-case basis whether an actual or potential Conflict of Interest exists, whether to grant a waiver, and what actions may be appropriate to avoid, neutralize, or mitigate any actual or potential Conflict of Interest. Once NDOT Director or designee makes this determination, NDOT will send the Consultant a written notice regarding the decision and, if participation is approved, whether the approval and participation is limited or subject to the Consultant meeting certain conditions.

### 3.8.3 Determination Factors

NDOT Director or designee will consider some or all of the following factors when making the determination:

**PART A** Whether the Consultant will not, or in the case of the previous performance of Services did not, have access to or obtain knowledge of confidential or sensitive information, procedures, policies, decisions and processes that does or could provide an unfair competitive advantage with respect to the procurement, design, or construction of the Project;

**PART B** Whether the data and information provided to the Consultant in the performance of the Services is either not material to the procurement for the Project or is generally available on a timely basis to all Respondents;

**PART C** The type of Services at issue;

**PART D** The particular circumstances at issue, including the Consultant's ability to effectively implement the safeguards described in Section 3.8.4 of this Policy, including an ethical wall, or to otherwise mitigate the Conflict of Interest in a manner satisfactory to NDOT;

**PART E** The specialized expertise, if any, needed by NDOT and Respondents to implement the Project;

**PART F** The period of time between the previous work for NDOT and the potential Conflict of Interest situation;

**PART G** Whether the Consultant's work for NDOT has been completed or is ongoing;

**PART H** The potential impact on the procurement and implementation of the Project, including impacts on competition;

**PART I** Whether, with respect to a Consultant's prior environmental services related to the Project, if any, a record of decision or finding of no significant impact has been issued for the Project; and

**PART J** Any other factors or circumstances deemed relevant by NDOT.

### **3.8.4 Restrictions, Conditions and Exceptions**

In order to address actual or potential Conflicts of Interest, NDOT Director or designee as part of providing his or her consent to the participation of a Consultant may, in his or her sole discretion:

- (a) Restrict the scope of Services the Consultant may be eligible to perform for NDOT or the Respondent team in order to further the intent and goals of this Policy; and
- (b) Condition a consent, approval, determination or exception as NDOT Director determines appropriate to further the intent and goals of this Policy, including by requiring the Consultant or Respondent to implement certain safeguards, including:
  - i) The execution of confidentiality agreements satisfactory to NDOT, which may, among other things, include the segregation and protection of information obtained as a result of the Consultant's prior or ongoing work for NDOT or from former or current NDOT employees; and/or
  - ii) The execution of ethical wall agreements satisfactory to NDOT, which (i) segregate certain personnel from participation in the Project, (ii) bar such personnel from communicating regarding the Project, the procurement or Services with any person working for or with the Consultant, and (iii) require implementation of procedures to prevent such personnel from accessing any files and communications of the Consultant regarding the Project, the procurement or Services; and/or
  - iii) The execution of agreements satisfactory to NDOT regarding the dissemination of work product and materials created as a result of the Consultant's prior or ongoing work for NDOT, including dissemination to NDOT and restrictions on dissemination by the Consultant to any Respondent team, including a team on which they intend to participate.

### **3.8.5 Withdrawal or Amendment of NDOT Consents and Approvals**

NDOT shall not withdraw or amend a prior consent or approval granted to a Consultant under this Policy unless:

- a. The application of the federal and state laws and regulations described in Section 3.6 of this Policy requires the consent or approval to be withdrawn or amended; or
- b. NDOT decides, in its sole discretion, to withdraw or amend the consent or approval based on factual circumstances that NDOT has been made aware of

that were not disclosed when NDOT made its original decision, or factual circumstances that are new or have changed since NDOT made its original decision; or

- c. The Consultant or Respondent team fails to comply with any mitigation measures imposed under this Policy.

### **3.9 Procurement and Financial Services**

Independent of the process described in Section 3.8 of this Policy, a Consultant actively engaged in performing procurement services or financial services with respect to the Project may not be a Respondent or participate as an equity owner, team member, consultant or subconsultant of or to a Respondent for the Project, or have a financial interest in any of the foregoing entities with respect to the Project.

### **3.10 Multiple Services**

If a Consultant is providing more than one category or type of Services to NDOT for the Project (e.g., environmental services as well as procurement services) and there are differences in this Policy's considerations, standards, restrictions, limitations and outcomes applicable to those categories or types of Services, the standards, restrictions, limitations and outcomes applicable to a category that are more stringent will be applied (e.g., if a Consultant were only providing preliminary engineering services that have been completed, they may be approved to participate on a Respondent team, whereas, if they were also providing ongoing procurement services for the Project, they may not be approved to participate on a Respondent team).

### **3.11 Provisions are Nonexclusive**

The provisions in this Policy do not address every situation that may arise in the context of NDOT's planning, procurement, design, or construction of the Project nor require a particular decision or determination by NDOT Director or designee when faced with facts similar to those described in this Policy. In addition, at any time NDOT may impose additional policies, procedures and limits related to conflicts of interest or similar issues with respect to the Project or any other NDOT projects.