

NEBRASKA DEPARTMENT OF TRANSPORTATION

**CONSTRUCTION MANAGER / GENERAL CONTRACTOR
(CM/GC)**

REQUEST FOR PROPOSALS

FOR THE

RED CLOUD SOUTH BRIDGE PROJECT



INSTRUCTIONS TO PROPOSERS

Project Number: STP-281-1(116)

Control Number: 42717

Issued:

October 17, 2025 – DRAFT

[November 21, 2025 - Final](#)

2 PROCUREMENT PROCESS

2.1 Procurement Method

The Contractor is being procured using a single step RFP process with interview consistent with the CM/GC contract procurement requirements in CFR 635.504, Nebraska Revised Statute 39-2817 through 39-2819, and the Guidelines for Alternative Project Delivery, dated February 16, 2024:

<https://dot.nebraska.gov/media/pbmd4eiv/ndot-final-alternative-delivery-guidelines-2024-signed.pdf>

2.2 Authorized Representatives

NDOT has designated the following individual to be its authorized representative for the procurement (**Authorized Representative**) who will provide all official Project communications:

Kyle Keller, [PE](#)
Project Development Engineer
1500 Nebraska Parkway, Lincoln, NE 68502
[Phone:](#) 402-479-4798
[Email: kyle.keller@nebraska.gov](mailto:kyle.keller@nebraska.gov)

2.3 Procurement Schedule

The following represents the current anticipated schedule for the procurement.

Procurement Schedule

Activity	Anticipated Date
Issue Draft RFP	October 17, 2025
Deadline to Submit Questions on Draft RFP	October 27, 2025 (12:00 p.m. CT)
Issue Responses to Questions on Draft RFP	October 31, 2025
RSVP for Pre-Proposal Meeting	November 4, 2025 (12:00 p.m. CT)
Pre-Proposal Meeting (optional attendance)	November 12, 2025 (10:00 a.m. CT)
Issue Final RFP	November 21, 2025
Letters of Interest Due	December 2, 2025 (12:00 p.m. CT)
Deadline to Submit Questions on Final RFP	December 2, 2025 (12:00 p.m. CT)
Issue Responses to Questions and Addendum 1 (if required)	December 5, 2025
Proposal Due Date	December 19 15 , 2025 (12:00 p.m. CT)
Proposer Interviews	January 14-15, 2025 27-28, 2026
Highest Ranked Proposer Announced	January 29 February 3 , 2026

Activity	Anticipated Date
CM/GC Master Contract Executed	February 20, 2026

All dates set forth above and elsewhere in this RFP are subject to change, in NDOT's sole discretion. Changes to dates will be communicated to Proposers.

2.4 Rules of [Contact](#)

The rules of contact remain in effect until the identification of the Highest Ranked Proposer or until the formal cancellation of the procurement by NDOT. The Proposer shall comply with all applicable Laws and refrain from lobbying any governmental authority in connection with the procurement process.

Contact includes face-to-face, telephone, facsimile, electronic mail (e-mail), social media, instant messages, texts, or formal written communication.

No employee, member, agent, advisor, or consultant of any Proposer, or Major Participants may undertake any ex-parte communications, directly or indirectly, regarding this procurement with any other Proposer or representative of NDOT, or FHWA, including staff, advisors, contractors, or consultants, except for communications expressly permitted by this ITP.

Proposers may contact stakeholders regarding the Project, including employees, representatives, members and consultants of stakeholders only after receiving prior written approval from NDOT. Requests for such contact shall be submitted in writing to NDOT's Authorized Representative.

The list of stakeholders for this Project includes the following:

- Environmental regulatory and permitting agencies
- Utility owners along the project corridor
- City of Red Cloud
- Willa Cather Foundation

Any official information regarding the Project will be in writing and signed by NDOT's Authorized Representative.

2.5 Questions and Responses Regarding the RFP

The Proposer may submit questions and request written clarifications using [Form H \(Proposer Questions\)](#) prior to the dates specified in [Section 2.3](#). In completing [Form H](#), the Proposer shall specify the relevant document (e.g., the ITP, Master Contract, Form of Preconstruction Services Amendment, etc.), including the relevant page and section number, for reference. The Proposer is encouraged to submit all questions at one time and in one submission.

FORM E

PERSONNEL WORK ASSIGNMENT FORM AND COMMITMENT OF AVAILABILITY

Name of Proposer: _____

Key Personnel Assignment	Name of Individual and Employer
Project Manager	
Construction Manager	
Lead Estimator	
Project Controls Manager	

Proposer's Name: _____ (the "Proposer")

Employer's Name: _____ (the "Employer")

~~[Note: duplicate as necessary to ensure all employers execute]~~

COMMITMENT OF AVAILABILITY

The ~~Proposer and named Key Personnel, the~~ employer of the named Key Personnel, and the Proposer commit that if the Proposer is awarded the Contract, the ~~employer's~~ Key Personnel ~~named in the Proposal~~ will be committed, available and active ~~for the periods necessary~~ to fulfill ~~their~~ Project responsibilities.

Proposer's Name [replicate as necessary, one per Key Personnel]

Proposer: _____

Signed: _____

Printed Name: _____

Title: _____

[replicate as necessary:]

Employer's Name

Employer of named Key Personnel: _____

Signed: _____

Printed Name: _____

Title: _____

Named Key Personnel: _____

Signed: _____

Printed Name: _____

Title: _____

NEBRASKA DEPARTMENT OF TRANSPORTATION

CONSTRUCTION MANAGER / GENERAL CONTRACTOR (CM/GC)

CM/GC Master Contract

FOR THE

Red Cloud South Bridge Project

Project Number: STP-2811-1(116)

Control Number: 42717

ISSUED:

October 17, 2025 – DRAFT

November 21, 2025 – FINAL

Preconstruction Services Amendment shall replace or amend all prior Preconstruction Services Amendments. The Parties shall engage in good faith negotiations to finalize any Preconstruction Services Amendment on a timely basis. Each Preconstruction Services Amendment shall include:

1. The scope of Preconstruction Services;
2. An anticipated completion date for the Preconstruction Services; and
3. The Preconstruction Compensation Cap, hourly rates, anticipated distribution of hours, and allowable direct expenses.

The Parties anticipate that Exhibit A (*Form of Preconstruction Services Amendment*) may need to be modified as the Contractor advances the Preconstruction Services. The Department may, on its own initiative or at the request of the Contractor, determine that modification of Exhibit A is needed and notify the Contractor in writing of the proposed modification. Upon notification by the Department, and mutual agreement of the Parties, the modification shall be appended to the Contract without further action.

The Preconstruction Phase shall continue until:

1. The Department exercises its right to terminate under Section 11 (*Termination*);
2. The Preconstruction Compensation Cap for the Preconstruction Phase is reached;
3. One or more Construction Services Amendments have been executed for all Project scope; or
4. For the Department's convenience.

2.1.1 Preconstruction Multiplier

The Preconstruction Multiplier for all Preconstruction Services labor, including all Subcontracted Preconstruction Work, shall be 1.45, and applied to the actual cost of labor. For more information regarding how the Preconstruction Multiplier is applied to the hourly rates, refer to Attachment 3 to Exhibit A (*Form of Preconstruction Services Amendment – ~~Fees and~~ Payment*). Direct expenses during the Preconstruction Phase shall be reimbursed in accordance with Attachment 3 to Exhibit A.

2.2 Construction Phase

2.2.1 Construction Services Amendment

The Construction Phase shall begin upon execution of the first Construction Services Amendment. Development of the Construction Services Amendment shall be part of the Preconstruction Services. The Parties shall engage in good faith negotiations to finalize the first and subsequent Construction Services Amendments on a timely basis.

The first and subsequent Construction Services Amendments shall include the requirements specified in Exhibit B (*Form of Construction Services Amendment*). An executed Construction Services Amendment shall not be modified except through a Change Order.

Construction Services shall be authorized by the execution of one or more Construction Services Amendments. There may be instances where insufficient information is available to fully develop the Construction Services Amendment prior to progressing the Work including but not limited to acquisition of long lead time materials, and other Construction Services. In this event, the Department may, in its sole discretion, waive certain requirements specified in Exhibit B.

It is the Department's intent that the Contractor construct the Project through as few Construction Services Amendments as practicable.

If the Parties are unable to come to agreement on any Construction Services Amendment, then the Department may, in its sole discretion, do any combination of the following:

1. For all executed Construction Services Amendments, direct the Contractor to complete the Construction Services identified in the Construction Services Amendment, but contract with another contractor to construct the remainder of the Project; or
2. Terminate this Contract pursuant to Section 11 (*Termination*)

2.2.1.1 Construction Service Amendment GMPs

Each Construction Services Amendment shall have a Construction Services Amendment Guaranteed Maximum Price (**GMP**). The Project's Total Construction GMP shall be the sum of all Construction Services Amendment GMPs. Each Construction Services Amendment GMP shall be computed as the sum of the following and any other components agreed to by the Parties:

1. The Contractor's reasonable, good faith estimate of the cost of the Construction Services for the Construction Services Amendment;
2. The Construction Markup;
3. The cumulative total amount of Department Risk Contingency is specific to the Construction Services Amendment documented in the Risk Register (to be included as Attachment 5 of the Construction Services Amendment) which shall include other details relating to relief for each Risk Register Event (e.g., assumptions regarding quantities, unit prices). See Section 2.3 (*Risk Register*) for more information on Risk Register Events; and
4. Such other amounts as may be agreed upon by the Parties.

Construction Services Amendment GMPs shall be developed on an Open Book Basis, and the Department shall have the right to access and copy all records, accounts, and other data used by the Contractor in connection with the preparation of any Construction Services Amendment GMP.

Upon reaching the Construction Services Amendment GMP for any given Construction Services Amendment, the Contractor shall not have recourse to the Construction Services Amendment GMP of other Construction Services Amendments without documenting the Department's Approval via Change Order to both Construction Services Amendments.

2.2.2 Construction Markup Percentage

The Construction Markup to be applied to eligible Construction Services expenses shall be [11%]. For more information on what items are included as part of the Construction Markup, refer to Attachment 1, ~~Section G~~ of Exhibit A, Section D.5 (*Form of Preconstruction Services Amendment – Cost Estimating – Price Reconciliation*).

2.3 Risk Register

The Contractor shall assist the Department in development of a Risk Register with respect to the entire Project in accordance with the guidelines and principles described in Attachment 1, ~~Section E~~ of Exhibit A, Section D.2 (*Form of Preconstruction Services Amendment – Risk Management and Workshops*).

Amendments, as applicable, in no case less than in accordance with Good Industry Practice, and in accordance with all implied warranties arising pursuant to Nebraska Law.

4.2.2 Standard of Care for Construction Work

The Contractor shall construct the Project and perform the Construction Services as designed (in accordance with the Contract and that of applicable Construction Services Amendments, as applicable, and as reflected in the corresponding Design Plans), free from defects and deficiencies, and in accordance with Good Industry Practice, and in accordance with all implied warranties arising pursuant to Nebraska Law. The Contractor shall perform the Construction Services as the Project is designed, in a good, safe, and workmanlike manner.

Furthermore, the Contractor shall perform the Construction Services in accordance with (a) the requirements, terms and conditions set forth in the Contract, (b) all Laws, (c) each Construction Schedule, (d) the requirements, terms and conditions set forth in all Governmental Approvals, and (e) the requirements of the Approved quality-related plans, if any, in each case taking into account the limits of the Site and constraints affecting it and the Project.

5 PAYMENT & COMPENSATION

5.1 Preconstruction Phase Compensation

All terms and conditions for compensation for Preconstruction Services are identified in the executed Attachment 3 to Exhibit A (*Preconstruction Services Amendment - ~~Fees and~~ Payment*)

5.2 Construction Phase Compensation

All terms and conditions for compensation for Construction Services are identified in the executed Construction Services Amendment Exhibit B, Section 5 (*Construction Services Amendment, Construction Services Amendment Compensation*).

6 CONTRACT DEFAULT

6.1 Termination for Cause/Default

6.1.1 Events of Default

The Contractor shall be in default of the Contract upon occurrence of any one or more of the following events or conditions:

1. The Contractor fails, following authorization by the Department, to begin the Work under the Contract within ten (10) Business Days;
2. The Contractor fails to perform the Work with sufficient resources to ensure the prompt completion thereof;
3. The Contractor fails to perform the Work in accordance with the Contract;
4. The Contractor discontinues or suspends the prosecution of the Work wrongfully or for reasons not permitted in the Contract;
5. The Contractor fails to resume performance of Work, which has been suspended or stopped, within a reasonable time after receipt of notice from the Department to do so or (if applicable) after cessation of the event preventing performance;
6. The Contractor breaches any other agreement, representation, or warranty contained in the Contract, or the Contractor fails to perform any other obligation under the Contract;

7. The Contractor fails to provide and maintain the required insurance or Contract Bond;
8. The Contractor assigns or transfers the Contract or any right or interest therein, contrary to Section 14.5.2 (*Assignment by the Contractor; Changes of Control; Change of Organization*);
9. The Contractor fails, without good cause, to make payment when due for labor, equipment, or materials in accordance with the Contract, its agreements with Subcontractors, or applicable Law; fails to comply with any Law or Governmental Approval; or fails to comply with the instructions of the Department consistent with the Contract;
10. The Contractor becomes insolvent, generally does not pay its debts as they become due, admits in writing its inability to pay its debts, or makes an assignment for the benefit of creditors;
11. Insolvency, receivership, reorganization, or bankruptcy proceedings have been commenced by or against the Contractor and not dismissed within sixty (60) Calendar Days;
12. Any representation or warranty made by the Contractor in the Contract or in any certificate, schedule, instrument, or other document delivered pursuant to the Contract shall have been false or materially misleading when made;
13. The Contractor loses its Department prequalification status;
14. The Contractor ceases or fails to enforce its Drug-Free Workplace Policy;
15. (i) there occurs any disqualification, suspension, or debarment (distinguished from ineligibility due to lack of financial qualifications), or other exclusion from bidding, or proposing or contracting with a federal or a State of Nebraska department or agency of (A) the Contractor; (B) any Contractor-Related Entity (excluding Subcontractors), or (C) any affiliate of the Contractor for whom transfer of ownership would constitute a Change of Control, or (ii) the Contractor has not dismissed any Subcontractor whose Work is not substantially complete and who it is aware of (exercising all reasonable diligence) is determined disqualified, suspended or debarred, or otherwise excluded from bidding, or proposing or contracting with a federal or a State of Nebraska department or agency;
16. The Contractor is a party to fraud;
17. The Contractor fails to pay Liquidated Damages due to the Department within the timeframes specified in this Contract;
18. The Contractor changes or substitutes Key Personnel without Department approval;
19. The Contractor fails to satisfy any Completion Deadline; or
20. The Contractor fails to timely observe or perform or cause to be observed or performed any other material covenant, agreement, obligation, term or condition required to be observed or performed by the Contractor under the Contract.

6.1.2 Right to Cure

The Department agrees to provide the Contractor and Surety ten (10) Business Days' notice and opportunity to cure any default before declaring any the Contract in default, provided that no such notice and opportunity to cure is required for any default which by its nature cannot be cured or for any default that poses an immediate and imminent danger to public health or safety. If a default is curable, but by its nature cannot be cured within ten (10) Business Days, as reasonably determined by the Department, the Department agrees not to declare an event of default provided

6. The Department may deduct from any amounts payable by the Department to the Contractor such amounts payable by the Contractor to the Department, damages payable to the Department under the Contract;
7. The Department, without incurring any liability to the Contractor, shall have the right to:
 - i. Take the performance of all or a portion of the Work from the Contractor (without the use of the Contractor's equipment, tools, and instruments) and enter into an agreement with another Person for the completion of such Work, if the Contractor or Surety has not proceeded satisfactorily within the cure period described in Section 6.1.2 (Right to Cure);
 - ii. Use of such other methods, as in the opinion of the Department, will be required for the completion of the Project.
8. Require the Surety to take the performance of all or a portion of the Work from the Contractor (without the use of the Contractor's equipment, tools, and instruments) and enter into an agreement with another Person for the completion of such Work; ~~or~~
9. "Step-in" to perform the obligations of the Contractor, and if the Department "steps-in", the Department exercises any right to perform any obligations of the Contractor, in the exercise of such right the Department may, but is not obligated to, among other things:
10. Perform or attempt to perform, or cause to be performed, such Work;
11. Spend such sums as the Department deems necessary and reasonable to employ and pay such engineers, consultants, and contractors, and obtain materials and equipment as may be required for the purpose of completing such Work;
12. Execute all applications, certificates, and other documents as may be required for completing the Work;
13. Modify or terminate any contractual arrangements;
14. Take any and all other actions which it may in its sole discretion consider necessary to complete the Work; and
15. Prosecute and defend any action or proceeding incidental to the Work.
16. Without limiting Section 6.3.1 (Liability of Contractor; Cumulative, Non-Exclusive Remedies of the Department) and Section 6.3 (Department Right of Offset), recover any and all damages available at Law on account of the occurrence of a Contractor event of default; or
17. Exercise any other right or remedy available at law or in equity.

6.3 Department Right of Offset

Notwithstanding whether there exists any Contractor event of default, the Department may deduct and offset the amount of any demand for payment of money or damages from the Contractor to the Department then due and owing to the Department and not otherwise subject to dispute by the Contractor from and against any amounts the Department may owe to the Contractor pursuant to this Contract. The Department will not deduct disputed amounts from payments owed hereunder until the amount in dispute exceeds expected remaining payments under the Contract, with payment pending resolution of the dispute.

continue to be responsible for maintenance of traffic in accordance with the applicable Construction Services Amendment. Additionally, the Contractor shall continue to be responsible for maintenance during construction in accordance with the Contract. If only part of the Work is suspended, the Contractor shall be entitled to payment for the costs allocated to the Work not suspended.

11 TERMINATION

The Department may terminate the Contract and the performance of the Work by the Contractor for its own convenience if the Department determines, in its sole discretion, that a termination is in the best public, state, or national interest. The Department shall notify the Contractor of its decision to terminate by delivering to the Contractor a written Notice of Termination specifying the extent of termination, its effective date, and any remaining Work necessary to place the Project in an acceptable condition, as determined by the Department in its sole discretion. Termination of the Contract shall not relieve any Surety of its obligation for any Claims arising out of the Work performed. Termination may occur before or after Work has begun.

11.1 Notice of Termination

After receipt of a Notice of Termination, and except as otherwise directed by the Department, the Contractor shall immediately proceed as follows, regardless of any delay in determining or adjusting any amounts due under this Section 11:

1. Stop Work as specified in the Notice of Termination.
2. Communicate to all affected Subcontractors such Notice of Termination and that their Subcontracts are not to be further performed unless otherwise authorized in writing by the Department.
3. Place no further Subcontracts or orders for materials, services, or facilities, except as necessary to complete the continued portion of the Work, if any, or for mitigation of damages.
4. Terminate all Subcontracts to the extent that they relate to the Work terminated.
5. Assign to the Department in the manner, at the times, and to the extent directed by the Department, all of the right, title, and interest of the Contractor under the Subcontracts so terminated, in which case the Department will have the right, in its sole discretion, to accept performance, settle, or pay any or all claims arising out of the termination of such Subcontracts.
6. Settle all outstanding liabilities and claims arising out of such termination of Subcontracts, with the Approval or ratification of the Department, to the extent it may be required, which Approval or ratification shall be final.
7. Provide the Department with an inventory list of all materials previously produced, purchased, or ordered from Suppliers for use in the Work and not yet used in the Work, including its storage location, as well as any documentation or other property required to be delivered hereunder, which is either in the process of development or previously completed but not yet delivered to the Department, and such other information as the Department may request; and transfer title and deliver to the Department, in the manner, at the times, and to the extent, if any, directed by the Department of:

8-a. Fabricated or unfabricated parts, the Work in process, completed Work, supplies, and other material produced or acquired for the Work terminated; and

- ~~9-b.~~ The completed or partially completed drawings (including plans, elevations, sections, details, and diagrams), specifications, records, samples, information, and other property that would have been required to be furnished to the Department if the Work had been completed.
- ~~10-8.~~ Complete performance, in accordance with the Contract, of all Work not terminated.
- ~~11-9.~~ Take all action that may be reasonably necessary, or that the Department may direct, for the safety, protection, and preservation of:
- ~~12-a.~~ The public;
 - ~~13-b.~~ The Work; and
 - ~~14-c.~~ The equipment, machinery, materials, and property related to the Contract that is in the possession of the Contractor and in which the Department has or may acquire an interest.
- ~~15-10.~~ As authorized by the Department in writing, use the Contractor's best efforts to sell, in a manner, at the times, to the extent, and at the price or prices directed or authorized by the Department, any property of the types referred to in subsection 7 above; provided, however, that the Contractor:
- ~~16-a.~~ Is not required to extend credit to any purchaser; and
 - ~~17-b.~~ May acquire the property under the conditions prescribed and at prices Approved by the Department.
- ~~18-11.~~ The proceeds of any transfer or disposition will be applied to reduce any payments to be made by the Department under the Contract or paid in any other manner directed by the Department. If requested by the Department, withdraw from the portions of the Site designated by the Department and remove such materials, equipment, tools and instruments used by, and any debris or waste materials generated by, the Contractor and any Subcontractor in the performance of the Work as the Department may direct.
- ~~19-12.~~ Take other actions related to the termination that are directed by the Department.

11.2 Post-Termination Responsibilities

Immediately after the Department determines that the Contractor has completed the Work directed to be completed in accordance with the Notice of Termination and such other Work as may have been ordered to secure the Project for termination, the Contractor shall not be required to provide for continuing safety, security, or maintenance at the Site. Subsequent to the determination that all materials have been stored in the manner and at the locations directed by the Department, further handling of such materials shall be the responsibility of the Department.

11.2.1 Termination Settlement

After receipt of a Notice of Termination, the Contractor shall submit a final termination settlement proposal to the Department in the form and with the certification prescribed by the Department. The Contractor shall submit the proposal promptly, but no later than ninety (90) Calendar Days from the effective date of termination, unless the Contractor has requested a time extension in writing within such ninety (90) day period and the Department has agreed in writing to allow such an extension. The Department will review the Contractor's termination settlement proposal and will act upon it, return it with comments, or reject it. If the Contractor fails to submit the proposal

within the time allowed, the Department may determine, on the basis of information available to it, the amount, if any, due to the Contractor because of the termination and shall pay the Contractor the amount so determined.

The Contractor and the Department may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of termination of Work pursuant to this Section 11. Such negotiated settlement may include a reasonable allowance for profit solely on Work that has been completed as of the termination date and subsequently accepted by the Department but not an amount for lost, anticipated, or unearned profit or other costs disallowed in this Section 11. Such agreed upon termination settlement amount, exclusive of settlement costs, shall not exceed the Total Construction GMP as reduced by the amount of payments otherwise made and as further reduced by the cost of the Work not terminated, as determined by the costs allocated to such Work in the Schedule of Values. Upon determination of the termination settlement amount, the Contract will be amended accordingly, and the Contractor will be paid the agreed amount. Unless otherwise agreed to by the Parties as a part of a negotiated settlement, the Department's execution and delivery of any settlement agreement shall not affect any of its rights under the Contract with respect to completed Work.

11.2.2 Disagreement on Termination Settlement

If the Contractor and the Department fail to agree, as provided in Section 11.2.1 (Termination Settlement), upon the whole amount to be paid to the Contractor in whole or in part by reason of the termination of Work pursuant to this Section 11, the amount payable (exclusive of interest charges) shall be determined by the Department in accordance with the following:

1. For Terminations for Convenience, the Department will pay the Contractor the sum of the following amounts for Work performed prior to the effective date of the Notice of Termination, as such amounts are determined by the Department:

2-a. The Contractor's actual reasonable out-of-pocket cost (without Construction Markup) for all Work performed, including mobilization, demobilization, and Work done to secure the Project for termination, including reasonable overhead and accounting for any refunds payable with respect to insurance premiums, deposits, or similar items, as established to the Department's satisfaction. In determining the reasonable cost, deductions will be made for the cost of materials to be retained by the Contractor, amounts realized by the sale of materials, and for other appropriate credits. Deductions will also be made for the cost of damaged materials. When, in the opinion of the Department, the cost of an item of Work is excessively high due to costs incurred to remedy or replacement of defective or rejected Work, the reasonable cost to be allowed will be the estimated reasonable cost of performing that Work in compliance with the requirements of the Contract, and the excessive actual cost will be disallowed.

3-b. As to Construction Markup on the actual out-of-pocket cost permitted in paragraph 1(a) above, a sum determined by the Department to be fair and reasonable; provided, however, that if it appears that the Contractor would have sustained a loss on the entire Contract had it been completed, no Construction Markup shall be included or allowed, and an appropriate adjustment shall be made by reducing the amount of the settlement to reflect the indicated rate of loss.

4-c. The cost of settling and paying claims arising out of the termination of Work under Subcontracts, exclusive of the amounts paid or payable on account of

supplies or materials delivered or services furnished by the Subcontractor prior to the effective date of the Notice of Termination under the Contract, which amounts shall be included in the cost on account of which payment is made under Section 11.1 (Notice of Termination).

- ~~5.d.~~ The reasonable out-of-pocket cost (including reasonable overhead) of the preservation and protection of property incurred pursuant to Section 11.1(9), and any other reasonable out-of-pocket cost (including overhead) incidental to termination of Work under the Contract including the reasonable cost to the Contractor of handling material returned to the vendor, delivered to the Department, or otherwise disposed of as directed by the Department, and including a reasonable allowance for the Contractor's administrative costs in determining the amount due to the Contractor as the result of the termination of Work under the Contract.
- ~~6.e.~~ The actual out-of-pocket costs of any non-perishable materials or supplies identified in Section 11.1(7) that are specifically fabricated for the Project and permanently incorporated into the Project;
- ~~7.f.~~ The actual out-of-pocket costs associated with any materials identified in Section 11.1(7) that the Department, in its sole discretion, may utilize on the Project.
- ~~8.~~ For Termination for default, the Department, ~~in its sole discretion, will pay the Contractor the sum of the following amounts for Work performed prior to the effective date of the Notice of Termination, as such amounts are determined by the Department:~~
- ~~9.2.~~ ~~The will pay the~~ Contractor's actual reasonable out-of-pocket cost (without Construction Markup) for all Work performed, excluding mobilization, demobilization, and Work done to secure the Project for termination, including reasonable overhead and accounting for any refunds payable with respect to insurance premiums, deposits, or similar items. In determining the reasonable cost, deductions will be made for the cost of materials to be retained by the Contractor, amounts realized by the sale of materials, and for other appropriate credits. Deductions will also be made for the cost of damaged materials.
- ~~10.~~ ~~The~~ Additionally, the Department, in its sole discretion, will pay the Contractor the actual out-of-pocket costs associated with any materials identified in Section 11.1(7) that the Department, ~~in its sole discretion,~~ may utilize on the Project.
- ~~11.~~ All costs and charges incurred by the Department, together with the cost of completing the Work under Contract, shall be deducted from any money due or which may become due to the Contractor. In case the expense so incurred by the Department shall be less than the sum which would have been payable under the Contract if it had been completed by the Contractor, then the Contractor shall be entitled to receive the difference, and in case such expense shall exceed the sum which would have been payable under the Contract, then the Contractor and the Surety shall be liable and shall pay to the Department the amount of said excess.
- ~~12.~~ The actual out-of-pocket costs of any non-perishable materials or supplies identified in Section 11.1(7) that are specifically fabricated for the Project and permanently incorporated into the Project;
- ~~13.~~ The actual out-of-pocket costs associated with any materials identified in Section 11.1(7) that the Department, in its sole discretion, may utilize on the Project.

NEBRASKA DEPARTMENT OF TRANSPORTATION

**CONSTRUCTION MANAGER / GENERAL CONTRACTOR
(CM/GC)**

Preconstruction Services Amendment

FOR THE

RED CLOUD SOUTH BRIDGE PROJECT

Project Number: STP-281-1(116)

Control Number: 42717

ISSUED:

October 17, 2025 – DRAFT

[November 21, 2025 – FINAL](#)

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Attachments:

Attachment 1 – Scope of Services

Attachment 2 – Fee Proposal

Attachment 3 ~~– Fees and~~ Payment

PRECONSTRUCTION SERVICES AMENDMENT

This Preconstruction Services Amendment ("Amendment") is intended to govern all Preconstruction Services (**Services**) performed as part of the CM/GC Master Contract (**Contract**).

NEBRASKA DEPARTMENT OF TRANSPORTATION

[Contractor Name]

PROJECT NO. STP-281-1(116)

CONTROL NO. 42717

THIS AMENDMENT is between the Nebraska Department of Transportation ("Department") and [Contractor] ("Contractor"), collectively referred to as the "Parties".

SECTION 1. DURATION OF THE AMENDMENT

1.1 Effective Date

This Amendment is effective when executed by the Parties.

1.2 Expiration Date

This Amendment expires when the Services have been completed to the satisfaction of the Department, when this Amendment is replaced by an additional Preconstruction Services Amendment, or upon written notice to the Contractor that the Services are no longer needed.

1.3 Duration of the Amendment

The Amendment duration is from the Effective Date to the Expiration Date. The Amendment duration is "specified" under Neb. Rev. Stat. § 73-506 to the period of time necessary for a Contractor to complete the applicable phase or phases of the Work for this particular federal, state, or locally funded construction Project, ~~including when applicable, the time during construction of the Project.~~

SECTION 2. SCOPE OF SERVICES

The Scope of Services for this Project is set out in Attachment 1 – Scope of Services and incorporated herein by this reference.

Attachment 1 – Scope of Services sets out the Services reasonably necessary ~~and costs reasonably estimated~~ for the Contractor to participate in the Preconstruction Phase so that the Project ~~advanced~~ advances in compliance with the Contract and Laws. The Contractor agrees to provide the services listed Attachment 1, for Project NH-6-7(187)STP-281-1(116), Control No. 2276142717, in Douglas Webster County, Nebraska.

The Department reserves the right to add to, subtract from, or alter the Scope of Services at any time, upon agreement between the Parties.

SECTION 3. STAFFING ~~PLAN~~

~~The Contractor has provided the Department with a Staffing Plan. The Staffing Plan identifies the employees of the Contractor and, when applicable Subcontractors, who are anticipated to provide Services under this Amendment.~~ The Contractor understands that the Department is relying on Key Personnel ~~from the Staffing Plan~~ consisting of the Project Manager, Construction Manager, Lead Estimator, and Project Controls Manager to be primarily responsible for completing the Services under this Amendment. ~~The Contractor and, when applicable, Subcontractors, may make occasional temporary changes to the Key Personnel. However, any permanent~~ Any change to the Key Personnel

~~will require~~requires prior written Approval from the Department. The Department has the right to revoke the Contract if any Key Personnel is removed, replaced, or added to without the Department's written Approval. The Department does not approve requests for modification without justification, which could include death of a team member, changes in employment status, bankruptcy, inability to perform, or organizational conflict of interest. The written request must document that the proposed removal, replacement, or addition is equal to or better than the Key Personnel provided in the Proposal.

To obtain the Department's approval, the Contractor shall provide a written request to the Department's Project Manager that includes:

The nature and reason for the desired change; and

A statement of how the change is to meet the required qualifications for the position.

In its discretion, the Department may use the criteria specified in the Contract, the RFP and the qualifications submitted by the Proposer to evaluate all requests.

SECTION 4. ~~FEES AND~~FEES PROPOSAL AND PAYMENTS

The Contractor's Fee Proposal and Preconstruction Compensation Cap is attached as Attachment 2 – Fee Proposal.

The requirements for Contractor payment under this Amendment are attached as Attachment 3 - ~~Fees~~and Payments.

SECTION 5. AGREEMENT SIGNING PROCESS

This instrument may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Signatures may be made and delivered electronically.

[CONTRACTOR FIRM NAME]

[Contractor Signatory Name]

[Contractor Signatory Title]

EXECUTED by the Contractor on: **[DATE]**

NEBRASKA DEPARTMENT OF TRANSPORTATION

[Department Signatory Name]

[Department Signatory Title]

EXECUTED by the Department on: **[DATE]**

NOTE: THESE REQUIREMENTS ARE SUBJECT TO CHANGE BASED ON THE PROJECT. MEETING FREQUENCY AND ATTENDANCE WILL BE DETERMINED AFTER CONTRACT AWARD

ATTACHMENT 1 – SCOPE OF SERVICES

SECTION A. INTRODUCTION

The Preconstruction Phase is intended for the Department, its Designer (Engineer of Record), and the Contractor to develop, implement, and maintain a spirit of cooperation and open communication so that the goals and objectives of each are clearly understood, problems are resolved, and the Project is deemed to be a success.

The Contractor shall provide input on aspects of the design; constructability; phasing; materials selection, availability and procurement; cost; and construction schedule throughout the Preconstruction Phase. The Contractor offers the skills and knowledge to provide:

1. Information on constructability, phasing, and other design input;
2. Information on content and level of detail needed for Design Plans and specifications for construction;
3. Quantities, pricing, and availability of materials, and equipment needed for construction;
4. Estimates regarding availability of labor resources needed for construction;
5. Estimates of the durations, sequencing, and related scheduling impositions considering the foregoing, as related to construction; and
6. Identification of the methods, costs, and impacts on the foregoing materials, equipment, labor resources, and schedule to mitigate risks identified during the Preconstruction Phase.

The Contractor shall provide the following Services:

~~Attend a Project Scoping Workshop, as described in Section D(1) – Project Scoping Workshop below;~~

~~Participate in design coordination meetings with the Department;~~

~~Provide input for and assist in identification of Project risks and risk management strategies.~~

~~Provide recommendations to the Department on each aspect of the planning, design, and proposed construction;~~

~~Develop, propose, and track Innovations and potential strategies for Project construction;~~

~~Document and track cost savings, other benefits, and schedule impacts associated with Innovations in a matrix and submit to Department;~~

~~Provide technical assistance to the Department as alternatives are evaluated and the environmental process is completed. The technical assistance will include risk assessments, constructability input, cost estimates, and identification of schedule impacts for items such as structure type/configuration, construction access, laydown and staging areas, and MOT for alternatives being evaluated;~~

~~Participate in the Pricing Milestone process, anticipated to occur at Baseline, Intermediate, and Final Design Plans and specifications submissions. This process involves developing Opinion of Probable Construction Costs (OPPCs), construction schedules, and providing input for the Risk Register;~~

~~Provide constructability reviews with the Department on various elements of the Project and provide recommendations;~~

~~During the development of the Construction Services Amendment GMP, prepare and submit a Construction Schedule, as well as an overall budget, if the Project is separated into more than one Construction Services Amendment, to ensure completion of construction within budget and within the allotted time;~~

~~Confirm that measures to ensure compliance with environmental commitments will be implemented during construction including those from Governmental Approvals as applicable through review of design and permit applications. The Department will provide the Contractor with anticipated timelines required to obtain the necessary environmental clearances and Governmental Approvals for the Project;~~

~~Provide constructability input on temporary construction and staging areas for Governmental Approvals 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;~~

~~Assist the Department in preparing the draft and final submissions of a Storm Water Pollution Prevention Plan (SWPPP);~~

~~Prepare and submit OPCCs and, upon request, GMP proposals to Department with appropriate backup documentation including the Construction Schedule;~~

~~Negotiate in good faith and finalize the GMP and Construction Services Amendment(s); and~~

~~Such other services as may be required to perform the obligations assigned to the Contractor under this Scope of Services.~~

SECTION B. ACKNOWLEDGEMENT OF PRE-AGREEMENT SCOPING, PRICING

The Contractor acknowledges and agrees that, prior to the Effective Date, it met with the Department to review the ~~existing~~ Preconstruction Services Scope of Services. ~~The purpose of this meeting was to establish~~It further acknowledges that, together with the Department, procedures ~~were established~~ and a plan ~~developed for~~ the performance of tasks, assumptions ~~were documented~~, deliverables ~~identified~~, and a schedule related to the Preconstruction Services ~~was agreed to~~.

~~Following this meeting, the~~The Contractor ~~prepared~~has reviewed and participated in the development of a detailed scope of services, ~~which is~~ included in this Attachment 1. The Contractor also established the Preconstruction Compensation Cap for the finalized scope of services, as outlined in Attachment 2 – Fee Proposal.

The Contractor further acknowledges, agrees, represents, and warrants that any costs, fees, or expenses incurred in preparing the ~~revised~~final Preconstruction Services Scope of Services or determining its fee are not included in the fee itself.

SECTION C. PROJECT MANAGEMENT

The Contractor shall coordinate each task being accomplished by their respective personnel to ensure Services ~~completion stages are~~ completed on schedule ~~as to the dates detailed in~~ the Preconstruction Services Schedule, ~~as modified from time to time upon agreement of the Parties~~.

1. General Project Management

The Contractor shall perform Project management duties, monitor Project schedules, workload assignments and internal cost controls throughout the Project, in accordance with ~~Section H – Schedule Development~~ below. ~~Also included are efforts to prepare and process invoices and monthly progress~~

~~reports. Prepare project correspondence with Department and maintain Project records, the approved preconstruction schedule. This task and duties shall include the following:~~

- ~~1-a) Periodic Prepare monthly invoices and progress reporting reports;~~
- ~~Coordination with Department's Authorized Representative;~~
- ~~b) Quality Coordinate with the Department and its representative;~~
- ~~Perform quality control and general quality management of the Services; and~~
- ~~c) Creation; and maintenance of the~~
- ~~4-d) Create and maintain the Contractor Staffing Plan.~~

Section D. ~~MEETINGS~~

1.2. ~~Project Scoping Workshop~~Kickoff Meeting

~~This workshop will be~~ The Project Kickoff Meeting marks the formal start of ~~the collaborative environment and is meant to introduce everyone from~~ collaboration between the Contractor, Designer, ~~the Independent Cost Estimator (ICE-), and Department. The the Department. This meeting introduces~~ Key Personnel and establishes the foundation for transparent Project development.

~~Facilitated by the Department, the meeting will present known Project information known about the Project and the Contractor will identify, including scope, goals, constraints, and develop Project gaps and information necessary for Project developmentschedule and Pricing Milestones. The Contractor will identify gaps and outline additional data needs to support design and pricing efforts.~~

~~The Contractor will attend a Project Scoping Workshop that includes the following agenda items:~~

~~Introduction and partnering protocols and approach;~~

Agenda topics include:

- Introductions;
- Overview of CM/GC Key Concepts;
- Communication protocols;
- Introduction of the Project stakeholders as determined by Department;
- Discussion of Project elements, including but not limited to current Project status, reiterated Project goals, Project constraints, schedule impositions, and milestonesand Preconstruction Schedule;
- Process for design input, identification, analysis, evaluation, presentation, and consideration, and, if applicable, resolution by the attendees of (i) alternative strategies and (ii) the design and specification development process;
- ~~Discussion~~Introduction of ~~development of the~~risk management process, including risk identification, valuation, and assignment/sharing processes, tracking, and mitigation;
- Introduction of design concepts and ~~preparation, updating, constructability discussion; and population of the Risk Register; and~~
- Question and answer session.

Assumptions: The Contractor ~~shall~~will participate in onea single Project Scoping WorkshopKickoff Meeting, to be held at a mutually agreed-upon location. The anticipated duration of this meeting is expected to last approximately four (4) hours. ~~The Contractor shall have all identified~~All designated Key Personnel in attendance~~from the Contractor shall be present.~~

2. Progress Meetings

3. Pricing Kickoff Meeting

The Contractor ~~shall~~will participate in ~~progress and partnering meetings as and when scheduled~~a Pricing Kickoff Meeting facilitated by the ~~Designer or Department or as proposed and scheduled by~~to establish foundational pricing assumptions and input standards for the development of future cost and schedule estimates. This meeting will serve to align the Contractor, ~~The, ICE, and Department on~~protocols for Open-Book cost estimating, including how changes in scope, quantity, and Contractor shall agree on which meetings~~phasing will be in-person or may be attended virtually.~~

~~These progress~~communicated and ~~partnering meetings will be used to coordinate and track the~~Preconstruction Services progression and resolve problems. The Contractor shall be prepared to discuss any and all reservations, ideas, and challenges to~~managed throughout the Project.~~

~~As between the Department and the Contractor, the Department will provide meeting notes that include details discussed, and all action items and assignments relating~~lifecycle. An agenda will be provided prior to the meeting within one week of the meeting. The Contractor shall provide comments to the meeting minutes within two (2) Business Days of receipt.

~~The agenda and discussion topics for these meetings may include the following:~~

~~Activities from last meeting;~~

~~Core CM/GC focus areas:~~

- ~~1. Design, design coordination;~~
- ~~2. Constructability, construction planning (including MOT);~~
- ~~3. Project planning;~~
- ~~4. Risk, Risk Register, risk mitigation, risk valuation;~~
- ~~5. Environmental permitting, planning, and environmental compliance;~~
- ~~6. Cost, and ultimately, iterative OPCCs and the GMP; and~~
- ~~7. Project Construction Schedule.~~

~~Problems and challenges encountered/anticipated and potential solutions;~~

~~Innovation development;~~

~~Preconstruction Services Schedule updates.~~

~~Action Items.~~

~~Assumptions: The Contractor and Department will have 1 progress and partnering meeting monthly. It will participate in a single Pricing Kickoff Meeting, to be held at a mutually agreed-upon location. The meeting is anticipated that the expected to last approximately four (4) hours. The Contractor shall have three (3) up to four (4) staff in attendance.~~

4. Initial Risk Workshop

~~The Contractor shall attend an Initial Risk Workshop. In coordination with the Department, the Contractor shall assist in the identification, assignment of a risk champion, development of and performance of risk mitigation efforts, and tracking of Project risks~~

~~Assumptions: The Contractor shall participate in one (1) initial workshop which will be held at a mutually agreed upon location and last up to four (4) hours during the course of one (1) Business Day and have all Key Personnel in attendance.~~

3.5. Coordination Meetings

The Contractor shall attend and participate in ~~weekly~~a coordination ~~meetings and impromptu meetings~~meeting every three (3) weeks as ~~may be~~ requested by ~~the~~ Department. These meetings shall occur ~~outside of regularly scheduled progress meetings and~~ at a time mutually agreeable to all Parties, which agreement shall not be unreasonably withheld, conditioned, or delayed by the Contractor. Coordination meetings will be held virtually unless otherwise requested by ~~the~~ Department or the Contractor.

~~The Department expects this task to include the following:~~

~~Three (3) staff from the Contractor; and~~

~~Within three (3) working days after the close of each meeting, Department will prepare and submit to the Contractor one copy of a report summarizing the decisions reached.~~

4. Task Force Meetings

~~The Contractor shall participate in task force meetings to solve problems, resolve conflicts, and discuss Project specific design and construction related topics, such as roadway, geotechnical, grading, structures, and MOT. The Department and Contractor shall agree on which meetings will be in person or may be attended virtually.~~

~~Assumptions: The Contractor and Department will have weekly specialized meetings. The Contractor will have~~should expect up to have up to three (3) ~~staff in attendance.~~

5. Initial Cost Workshop, Quantity Reconciliation, and Pricing Meetings

~~The Contractor shall of the Key Personnel participate in at this meeting with the Department to establish certain pricing information assumptions and various other input standards for formulation of future cost and schedule estimates. The purpose of this meeting will be to establish pricing assumptions as well as to establish the plan to communicate changes in scope, quantity, and phasing between the Contactor, the ICE, and the Department in order to affirm a consistent foundation for estimation as a part of the Open-Book cost estimates prepared for this Project is to discuss the overall health of the Project and provide an open forum to identify Project challenges and solutions. The ICE and EOR will not participate in this meeting.~~

SECTION D. PRICING, RISK MANAGEMENT, AND DEVELOPMENT OF THE CONSTRUCTION SERVICES AMENDMENT

The Contractor shall, in coordination with the Department and ICE, establish and maintain a transparent, production-based cost estimating model in accordance with the most current version of the CM/GC Approach to Pricing Document (available online). This includes ensuring that all assumptions, risks, contingencies, and quantity-based cost breakdowns, aligned with Department standard bid items, are clearly defined and understood.

The Contractor shall actively participate in the Department-led Risk Management process by continuing to assist in identifying Project risks and executing mitigation strategies. This effort includes participation in formal Risk Workshops, employing the process developed during the Initial Risk Workshop to identify actual and potential risks. During pricing, and in cooperation with the ICE, the Contractor shall assign cost and schedule impacts to each risk event.

The Contractor shall assist in the development of all documentation necessary to complete the Construction Services Amendment.

1. Design and Constructability Workshop

The Contractor shall participate in a Project Design and Constructability Workshop at each Pricing Milestone, starting with providing input on the conceptual design (presented

at the Project Kickoff Meeting) and continuing through final design. The purpose of these Workshops is to:

- a) Provide recommendations on each aspect of the design targeting constructability and cost-effective solutions;
- b) Assist in the development and identification of innovations;
- c) Offer input related to the level of detail necessary for quantity takeoff and pricing;
- d) Identify risks for inclusion in the Risk Register and assist in the development of mitigation strategies;
- e) Strategize on construction phasing and sequencing in support of MOT plan development;
- f) Provide other input and comments to support the Project, including identification of potential changes necessary in assumed limitations of operation; and
- g) Assist in the identification of potential plan errors and omissions.

As described in Section D: Pricing Milestones, upon receipt of the milestone plans, and in advance of the Design and Constructability Workshop, the Contractor shall perform a plan review and document all comments in a form agreed upon by the parties, typically using Bluebeam Revu, and make such comments available to the Department. The Contractor shall also place all comments in a comment resolution log, the form of which will be provided by the Department.

The Contractor shall provide information and propose adjustments on the Designer's design effort as relates, at a minimum, to the following:

- 1. Maintenance of Traffic (MOT)
- 2. Availability of labor and materials
- 3. Time for construction
 - a. Work hours (night/day)
 - b. Winter work
 - c. Begin/completion dates
 - d. Calendar days
- 4. Access during construction
 - a. Businesses/Local traffic
 - b. Emergency vehicles
 - c. Postal delivery
- 5. Bridge design
 - a. Grades
 - b. Drainage
 - c. Phasing
 - d. Vertical clearance
- 6. Structures
 - a. Type
 - b. Configuration

c. Materials

d. Railing

7. Temporary Works (e.g. detours, signage, lighting, drainage, shoring, etc.)

8. MSE wall details (materials, drainage, etc.)

9. Earthwork

10. Quantities

11. Utility conflicts

12. Right-of-Way (ROW) – early tracts (as needed)/access easements

13. Geotechnical

a. Settlement time

b. Unsuitable material

c. Available borrow material

14. Environmental

a. Hazardous waste materials

b. Stormwater

c. Aquatic resources

d. Special events – coordination with the local community (as necessary)

e. Dust control

f. Stormwater Prevention Pollution (SWPPP)

15. Permitting

16. Landscaping (i.e. seeding, sodding, irrigation, etc.)

17. Temporary site (e.g. plant, borrow)

18. Equipment storage; materials staging

Salvaging opportunities~~The Contractor shall attend and actively participate in this meeting by:~~

~~Directing an open discussion regarding specific assumptions and inputs used to create the cost models and OPGCs; and~~

~~Discussing cost and pricing development and process for design input, analysis, evaluation, and resolution of the Contractor's input into the design and specification development process.~~

19.

20. Coordination with others, including Project stakeholders

Assumptions: The Contractor shall ~~participate in the meeting which~~ plan to attend a formal Design and Constructability Workshop associated with each Pricing Milestone and have all Key Personnel in attendance. The workshops will be held at ~~Department and a location agreed to by the parties and~~ each will last up to ~~8~~four (4) hours during the course of one (1) Business Day. ~~The Contractor will have up to five (5) staff in attendance. In addition to the~~

2. Risk Management

~~Building upon the Initial Cost Workshop, the Contractor shall participate in weekly Pricing Meetings in the weeks leading up to and after each of the OPCCs, the topics to discuss will include quantity reconciliation, approach to quantity development, and review and discussion regarding pricing assumptions.~~

~~6. Initial Risk Workshop~~

~~The Contractor shall attend an Initial Risk Workshop. In coordination with the Department, the Contractor shall assist in the identification, assigning, mitigation, and tracking of Project risks~~

~~Assumptions: The Contractor shall participate in the meeting which will be held at Department and last up to 4 hours during the course of one Business Day and have up to five (5) staff in attendance.~~

~~Section E. RISK MANAGEMENT AND WORKSHOPS~~

~~The, the~~ Contractor shall continue to assist the Department in the identification of Project risks as well as assist or lead assigned risk avoidance, reduction, and mitigation strategies.

The Contractor shall participate in formal ~~risk analysis workshops with the Department.~~Risk Workshops. The focus of the ~~risk analysis~~ workshops will be ~~to employ the process developed at the Initial Risk Workshop~~ to identify actual and potential risks and to assign cost and schedule impacts to each risk in cooperation with the ICE. This task includes but is not limited to assisting with or conducting probability calculations, cost, or schedule impacts.

~~Assumptions: The Contractor shall plan to attend a formal risk analysis meeting~~Risk Workshop associated with each ~~pricing milestone~~Pricing Milestone and have all Key Personnel in attendance. The ~~meetings~~workshops will be held at Department a mutually agreed upon location, and each will last up to four (4) hours each during the course of one (1) Business Day.

Deliverable: The Contractor shall in a form to be provided by the Department, submit written documentation ~~for the Risk Register~~ specifying the associated value, savings, and cost of risk avoidance, reduction, and mitigation strategies ~~during~~. This shall be provided at each Pricing Milestone, at a minimum.

The Contractor shall also submit, at the time of each OPCC, a report that summarizes the decisions Approved by the Department for risk elimination or reduction and associated value of each decision in terms of cost and savings in direct relationship with its OPCC.

3. Pricing Milestones

The Preconstruction Phase is structured around three milestones that align with the progression of the Design Plans: Baseline, Intermediate, and Final (Pricing Milestone). Throughout the design phase, tasks related to constructability, risk, schedule, and cost shall be continuously monitored, refined, and integrated into each Pricing Milestone. These responsibilities will be jointly assigned to the Contractor and the Department to promote alignment and accountability. As each milestone is reached, additional project information will become available to the Contractor, enabling more informed execution of Preconstruction Services. The corresponding Submittals are intended to capture and reflect the evolving development and design of the Project.

The Contractor shall submit written reviews with redlined drawings, plans, and specifications after each Pricing Milestone that include but are not limited to the following:

1. Constructability;
2. Construction phasing;
3. Innovations; and
4. Project Construction Schedule

The Contractor shall conduct such formal constructability, material, equipment, and labor availability reviews as necessary to substantiate the OPCCs and ultimately, the GMP. These Pricing Milestone reviews will focus on identifying revisions to improve clarity for bidding, identifying potential design revisions to reduce construction costs, and identifying elements to improve the time performance of the Project. The Contractor shall document decisions related to items 1 through 5 identified above.

The cost model used to prepare the OPCCs/GMP shall be prepared in a format agreed upon in advance by the Department and the Contractor. The Work Breakdown Structure (WBS) will have activities tied to the Department's list of standard pay items.

The Department anticipates formal review and pricing exercises at the three Pricing Milestones identified above. The content and completeness of each Pricing Milestone will be determined by agreement between the Contractor, the Department, the ICE, and the Designer. It shall be the responsibility of the Contractor to verify that the information contained in the Design Plans and specifications contain sufficient information to:

1. Build a WBS;
2. Prepare quantity take-offs;
3. Develop a Construction Schedule;
4. Identify potential Innovations;
5. Verify construction means and methods;
6. Verify limits of construction;
7. Verify Right-of-Way needs, both temporary and permanent; and
8. Verify preliminary environmental impacts at the Baseline Pricing Milestone and final environmental impacts at the Intermediate Pricing Milestone.

These formal reviews will be in addition to any weekly and monthly coordination activities. The Contractor shall provide contemporaneous feedback on items 1 through 8 above during the weekly and monthly coordination meetings as well.

Working with the Department and the ICE, the Contractor shall cooperate in the development of a pricing schedule that will including activities such as:

1. Provide formal comments on the items listed above;
2. Development of WBS;
3. Design and constructability review, including an approach to quantity development;
4. Weekly estimate coordination meetings;
5. Quantity reconciliation meeting;
6. Price reconciliation meeting;
7. Submittal of cost model and items such as detailed HCSS reports or equivalent; and
8. Submittal of basis of estimate and pricing notes.

At each Pricing Milestone the Contractor shall provide the Department the following:

1. Constructability review report, in form and substance acceptable to the Department;
2. Potential Innovations;
3. Preliminary staging and temporary site (e.g., plant and borrow sites) locations;
4. Preliminary MOT concept;

5. Preliminary material selections including but not limited to, culverts, bridges, other structures, earthwork, pavement base, and retaining walls;
6. Preliminary plan for compliance with environmental commitments;
7. Preliminary Construction Schedule; and
8. Items for inclusion in the Risk Register

Section F. CONSTRUCTION CONTRACT DEVELOPMENT

The Other Pricing Meetings: In addition to the Pricing Kickoff and Pricing Milestone Meetings, the Contractor shall participate in the following other meetings to support consistent and transparent cost development:

1. A two (2) hour Pricing Coordination Meeting (PCM) at each Pricing Milestone;
2. Weekly one (1) hour Quantity and Pricing Coordination Meetings leading up to and during each Pricing Milestone;
3. An eight (8) hour Pricing Milestone and Reconciliation Meeting at each Pricing Milestone, further described in Section 5 – Price Reconciliation; and
4. Up to four (4) one (1) hour GMP and Risk Register Finalization Workshops at acceptance of final OPCC.

Meetings will focus on development of and refinements to the Work Breakdown Structure (WBS), quantity reconciliation, quantity development methodology, and review of pricing and risk-related assumptions. Upon acceptance of the final OPCC, the Contractor shall work with the Department to convert the Final OPCC to a GMP.

4. Construction Schedule Development

The Contractor shall prepare and maintain a Construction Schedule for the Work outlined in each Construction Services Amendment discussions with Department regarding the contents and terms of the and provide it as part of each Pricing Milestone Amendment. The Contractor shall incorporate and respond to Department comments on the Construction Schedule at each Pricing Milestone and whenever scope changes necessitate schedule adjustments.

The Contractor shall provide a finalized Construction Schedule with every GMP Workbook for inclusion in each Construction Services Amendment.

~~Assumptions~~**Deliverable:** The Contractor shall ~~plan to attend 4 meetings and have three (3) staff in attendance~~ provide a detailed Construction Schedule using Primavera P6. The ~~meetings will be held at~~ schedule shall be updated at a minimum at each Pricing Milestone and submitted electronically to the Department in both PDF format and ~~each will last up to two hours during the course of one Business Day~~ the native Primavera P6 file format.

Section G. COST ESTIMATING

~~The Contractor shall develop an OPCC and provide Open-Book, production-based construction cost estimates for examination so that assumptions, contingency, risk, and approach to the estimate are fully identified, delineated, and understood by the Department. The Contractor shall be responsible for verifying the quantities and methods of measurement and payment for the Project Work items from Department standard bid items.~~

The schedule shall be accompanied by a schedule narrative that documents the critical path, key assumptions, changes from the prior schedule, and decisions affecting schedule adherence, including construction phasing, sequencing, and long-lead items. The report shall also identify potential acceleration opportunities, associated costs or savings, prerequisites for acceleration, the extent of possible schedule compression, updates to the Risk Register, and predicted cash flow.

5. Price Reconciliation

The Contractor shall participate in ~~additional~~ price resolution and reconciliation meetings to resolve components of the price that deviate from that of the ICE by more than a percentage established by the Department, or at such other time where the deviation requires, in Department's sole judgment, resolution and reconciliation (e.g., large price item). In order to have a productive price reconciliation meeting, the Contractor shall provide detailed reports of its cost model and share its cost model in an "over-the-shoulder" environment to help reconcile differences during each price reconciliation meeting.

The Contractor is responsible for preparing, updating, and sharing the cost model.

The Contractor shall submit and include backup documentation with each iteration of ~~its~~the costing model used to prepare the OPCC, and upon request, the GMP, which documentation shall include but is not limited to the following:

1. Material costs, equipment costs, labor costs, general conditions costs, and total cost. Labor costs in the cost model shall include employee benefits, payroll taxes and other payroll burdens. The total cost for any portion of the Work under the Construction Services Amendment to be performed by contractors shall include Construction Markup ~~as described below~~;
2. Production rates, transportation, and other facilities and services necessary for the proper execution of the Work, whether temporary or permanent, and whether or not incorporated or to be incorporated into the Work;
3. All fixed equipment, site improvements, Utility and equipment installations;
4. Copies of quotations from Subcontractors (~~including and~~ suppliers);
5. Mobilization costs in accordance with the Specifications, Section 112 (Mobilization);
6. Project overhead;
7. Allocated general and administrative expenses;
8. Contract Bonds, taxes, and insurance;
9. Risk allocation cost from Risk Register;
10. Quantity take-off (as agreed during quantity reconciliation);
11. The Construction Markup; and
12. Memoranda, narratives, consultant's reports, and all other information included by the Contractor to arrive at the price shown in the cost model or GMP. Include a list of all assumptions and description and breakdown of all allowances.

The Construction Markup is intended to compensate the Contractor for all indirect costs and profit at a fixed rate set by the Department. The table below identifies what items are considered to be part of the Construction Markup.

	Items included in the Construction Markup	
	Part of Construction Markup	NOT part of Construction Markup
Item	Certain indirect and non-reimbursable general and administrative (G&A)	Costs negotiated and included in the GMP
1	Contractor Executives/Leadership	Mobilization
2	Employee relocation, housing, and subsistence costs.	Construction Management (Project and Construction Manager)
3	Home, branch and regional office administrative support staff and all related costs	On-site administrative staff, including clerical and secretarial staff
4	Home, branch and regional office safety and quality control policy makers and all related costs	All Project direct costs related to Project safety and Project Quality Control
5	Profit	Project office costs for cleaning, set-up/demo, maintenance, security, utilities, rent/lease, equipment, and furniture
6		Materials and equipment handling, including shipping/transport to Site and storage costs
7		Job Site temporary toilet facilities and maintenance
8		Construction rental equipment
9		Actual cost of Government Approvals
10		All Project direct costs related to implementation of Department-approved sustainable practices and DBE programs
11		Construction equipment and vehicles at Contractor's internal cost rate, including costs of maintenance and fuel
12		All costs related to cell phones, radios, fax machines, pagers, computers and software, drinking water, printing, reproduction, postage, delivery, and supplies

6. Construction Services Amendment Guaranteed Maximum Price (GMP)

The Construction Services Amendment GMP is the sum of the total costs for the Contractor to perform the Work under the Construction Services Amendment and to deliver the Project., GMP is calculated as the sum of (a) the total amount of all Contractor Risks, (b) the Construction Markup, (c) Work items calculated with reference to the OPCC, and (d) the actual reimbursable cost of the Contract Bond and insurance. The Contractor acknowledges and agrees that, under the Construction Services Amendment, the Contractor will assume all risks associated with performance of the Work under the Construction Services Amendment, including management of its Subcontractors, Suppliers, and any associated cost impacts over and above the GMP not identified as Relief Events as identified in the CM/GC Master Agreement.

The Contractor shall negotiate in good faith to finalize the GMP. Upon consensus with the Department, the Contractor shall repackage and submit the Final OPCC as the GMP no later than fourteen (14) Business Days after Approval of the Final OPCC. The Department will evaluate the proposed GMP and proceed to the Construction Services Amendment at its sole discretion. It will provide notice to the Contractor no later than thirty (30) Business Days of its intention to proceed or take other actions as outlined in the Contract.

Section H. ~~SCHEDULE DEVELOPMENT~~

~~The Department will create and update the Preconstruction Services Schedule. The Preconstruction Services Schedule may include milestones, deliverables, all meetings, and dependencies, along with durations for design support.~~

~~The Contractor shall create and update the Construction Schedule for the Work under the Construction Services Amendment as part of the Submittals. The Contractor shall address Department comments as related to the iterative Construction Schedule, which will be updated by the Contractor, at a minimum, at each Pricing Milestone and for scope changes that necessitate changes in schedule and the other requirements set forth in this Section H.~~

7. The Contractor shall provide a finalized Construction Schedule with its GMP Workbook, which will be part of the Construction Services Amendment and adhered to by the

~~The Contractor shall participate in discussions with the Department regarding the duration contents and terms of the Construction Services Work Amendment.~~

~~Assumptions: The Contractor shall plan to attend Construction schedule development up to four (4) meetings. These meetings associated with each Pricing Milestone and will be held virtually and are expected to last approximately one (1) hour. The Contractor shall have up to three (3) staff in attendance.~~

8. Subcontracting Plan

~~The Subcontracting Plan shall identify the Contractor's subcontracting process for the Construction Services Amendment. The Subcontracting Plan shall be in a form as directed by the Department which shall generally include:~~

- ~~1. Items of Work to be subcontracted;~~
- ~~2. Contractor's competitive selection process;~~
- ~~3. Approach to advertising Subcontracting opportunities;~~
- ~~4. Procurement process;~~
- ~~5. Information regarding Subcontractor availability and local economic conditions; and~~

~~**Deliverable:** The Contractor shall provide a detailed schedule in either (1) Microsoft Project for Preconstruction and (2) Primavera P6 for construction, which will be updated, at a minimum, at each Pricing Milestone. The schedule shall include a narrative report documenting critical path elements of the schedule and the critical assumptions and decisions that may impact schedule adherence, including construction phasing or sequencing and long lead time items. The Contractor shall also include in the report any acceleration opportunities and the cost (or savings), through updates to the Risk Register, prerequisites for and the extent of the potential acceleration, and predicted cash flow. The Construction Schedule shall be submitted to the Department electronically as a pdf and native file acceptable to the Department.~~

Section I. ~~CONSTRUCTABILITY REVIEWS~~

~~The Contractor shall participate in Project constructability review sessions throughout the term of the Preconstruction Services Amendment. The purposes of the Project constructability review sessions are intended to ensure:~~

~~Complete, coordinated, constructible and cost-effective designs;~~

~~Sufficient detail for cost and pricing for Risk Register items to complete the OPCCs and ultimately the GMP;~~

~~Phased construction to provide for MOT needs as determined by the Department; and~~
~~Identification of errors and omissions.~~

6. The form of Subcontractor Agreement.

The Department shall approve all Subcontracts prior to subcontract award. The Contractor shall provide have an Approved Subcontracting Plan prior to soliciting offers for Subcontractors and Suppliers.

SECTION E. DESIGN SUPPORT AND INNOVATION

1. Working Group Meetings

Working Group Meetings will focus on resolving project-specific design and construction challenges. These meetings will serve as a forum for collaborative problem-solving, conflict resolution, and technical discussion on topics such as roadway design, geotechnical considerations, grading, structural elements, and MOT.

The Contractor will provide technical assistance to the Department as alternatives are evaluated, and the environmental process is completed. The technical assistance will include risk assessments, constructability input, cost estimates, and identification of schedule impacts for items such as structure type/configuration, construction access, laydown and staging areas, and MOT.

The Contractor shall review all permit applications prepared by the Department to ensure compliance with environmental commitments will be implemented.

Assumptions: The Contractor shall participate in weekly Working Group Meetings which will occur from Contract execution through the Baseline Pricing Milestone, bi-weekly from the Baseline Pricing Milestone to the Intermediate Pricing Milestone, and monthly from the Intermediate Pricing Milestone to the Final Pricing Milestone. These meetings will be held virtually and are expected to last approximately one (1) hour. The Contractor shall have up to three (3) staff in attendance.

2. Field Work

The Contractor shall conduct field work during the Preconstruction Phase to identify and confirm items for the Risk Register. The scope of this portion of the Preconstruction Phase shall include but is not limited to the following:

1. General site review and field inspection of existing conditions and elements to be removed/relocated to accomplish the proposed Work;
2. Review of highway and local traffic needs to support recommendations to meet MOT requirements;

~~electronic and hard copies of written reviews and redlined drawings, plans, and specifications.~~

~~The Contractor shall provide information and propose adjustments on the Designer's design effort as relates, at a minimum, to the following:~~

~~1. Maintenance of Traffic (MOT)~~

~~Availability of labor and materials~~

~~1. Time for construction~~

~~1.a. Work hours (night/day)~~

~~2.a. Winter work~~

~~3.a. Begin/completion dates~~

~~4. Calendar days~~

~~Access during construction~~

~~1. Businesses/ Local traffic~~

~~2.a. Emergency vehicles~~

~~3.a. Postal delivery~~

~~4. Bridge design~~

~~1.a. Grades~~

~~2.a. Drainage~~

~~3.a. Phasing~~

~~4. Vertical Clearance~~

~~1. Structures~~

~~1.a. Type~~

~~2.a. Configuration~~

~~3.a. Materials~~

~~Temporary lighting~~

~~1. MSE wall details (materials, drainage, etc.)~~

3. Provide recommendations of additional utility investigation needs for identification and resolution of potential conflicts;

Provide recommendations for Earthwork

~~Quantities~~

~~Utility conflicts~~

~~Right of Way—Early tracts (as needed) / access easements~~

~~Geotechnical~~

~~1.a. Settlement time~~

~~2.a. Unsuitable material~~

~~3.a. Available borrow material~~

Exploration, Archeological Surveys, Environmental

~~1.a. Hazardous waste materials~~

~~2.a. Stormwater~~

~~3.a. Aquatic resources~~

~~4. Special Events—coordination with the local community as necessary~~

~~5.a. Dust control~~

~~1. Permitting~~

~~Temporary site (e.g., plant and borrow)~~

~~17.1 Equipment storage; materials staging~~

Surveys, Hazardous Waste Investigation, Tribal Salvaging opportunities;

~~19.4. Coordination with others, including specifically Project stakeholders, and any other investigations needed to obtain approval of proposed borrow site locations; and~~

~~5. Right-of-Way investigation and determination of potential temporary work areas (e.g. plant and borrow site) to construct the proposed improvements.~~

4.3. Innovation Identification

~~In addition to constructability obligations hereunder, the~~ The Contractor shall actively develop and propose ~~Project~~ Innovations ~~to the Design Plans~~. This includes recommendations where an Innovation would ensure equal or better Project performance as relates to the Work under the Construction Services Amendment. Project performance is defined as providing the needed functions of, optimizing the value and quality of, and reducing the time to develop and deliver the Project.

The Contractor shall track challenges and quantify benefits of proposed changes throughout the Preconstruction Phase, including proposing criteria to evaluate suggestions and select improvements that will offer the most value in terms of cost, schedule, or quality (or any combination thereof). The Contractor shall prepare, ~~modify~~, and maintain an Innovation log of proposed changes, ~~which identifies listing~~ the entity that proposed the idea, the value of the idea including but not limited to, cost, savings, risk reduction and mitigation, and schedule impact, and which ideas were incorporated by the Department into the final design and construction documents.

It is the Parties' intent to explore, propose, address and incorporate Innovation in formulating the OPCC, GMP, Risk Register, and the final Construction Schedule. The Department will not accept any Innovations during the Construction Phase, after the GMP has been negotiated.

Deliverable: The Contractor shall submit written documentation for the Innovation and log all suggested Innovations leading up to and during each Pricing Milestone, and at each Coordination Meeting at a minimum.

The Contractor shall also submit, at the time of the GMP, a report that summarizes all Innovations considered and implemented.

SECTION F. SCHEDULE DEVELOPMENT

The Department will create and update the Preconstruction Services Schedule. The Preconstruction Services Schedule may include milestones, deliverables. The Contractor shall also submit, at the time of the GMP, a report that summarizes all Innovations considered and implemented.

Section J. FIELD WORK

~~The Contractor shall conduct field work during the Preconstruction Phase to identify and confirm items for the Risk Register. The scope of this portion of the Preconstruction Phase shall include but is not limited to the following:~~

~~1. General site review and field inspection of existing conditions and elements to be removed/relocated to accomplish the proposed Work;~~

~~1. Review of highway and local traffic needs to support recommendations to meet MOT requirements;~~

~~Utility investigation for identification and resolution of potential conflicts. Contractor shall conduct potholing;~~

~~Geotechnical exploration, Archeological Surveys, Environmental Surveys, Hazardous Waste Investigation, Tribal Coordination, and any other investigations needed to obtain approval of proposed borrow site locations;~~

~~Right-of-Way investigation and determination of potential temporary work areas (e.g. plant and borrow site) to construct the proposed improvements;~~ meetings and

~~Other site reviews needed to support or evaluate will be based on the Services described hereunder dates in the table below.~~

~~Section K. PRICING MILESTONES~~

~~The Preconstruction Phase term has been divided into three (3) milestones that coincide with the development of the Design Plans. The three (3) milestones are Baseline, Intermediate, and Final (Pricing Milestone). The tasks regarding, constructability, risk, schedule, and cost will be continuous and kept up-to-date throughout the design of the Project. The Pricing Milestone tasks will be assigned to the Contractor and the Department. As each Pricing Milestone is met, more information will be available to the Contractor to perform the Preconstruction Services. Accordingly, the Pricing Milestone-related Submittals are intended to capture the progression of the development and design of the Project.~~

~~The Contractor shall submit written reviews with redlined drawings, plans, and specifications after each Pricing Milestone that include but are not limited to the following:~~

- ~~Constructability reviews of the design;~~
- ~~Construction phasing plan;~~
- ~~Innovations;~~
- ~~Project Construction Schedule; and~~
- ~~OPCGs, all as more specifically set forth in this Scope of Services.~~

~~The Contractor shall conduct such formal constructability, material, equipment, and labor availability reviews as necessary to substantiate the OPCGs and ultimately, the GMP. These Pricing Milestone 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. The Contractor shall document decisions related to items 1 through 5 identified above.~~

~~The cost model used to prepare the OPCGs/GMP shall be prepared in a format agreed upon in advance by the Department and the Contractor. The Work Breakdown Structure (WBS) will have activities tied to the Department's list of standard pay items.~~

~~The Department anticipates formal review and pricing exercises at the three Pricing Milestones identified above. The content and completeness of each Pricing Milestone will be determined by agreement between the Contractor, the Department, the ICE, and the Designer. It shall be the responsibility of the Contractor to verify that the information contained in the Design Plans and specifications contain sufficient information to:~~

- ~~1. Build a WBS;~~
- ~~1. Prepare quantity take-offs;~~
- ~~1. Develop a Construction Schedule;~~
- ~~1. Identify potential Innovations;~~
- ~~1. Verify construction means and methods;~~
- ~~1. Verify limits of construction;~~
- ~~1. Verify Right of Way needs, both temporary and permanent; and~~
- ~~1. Verify preliminary environmental impacts at the Baseline Pricing Milestone and final environmental impacts at the Intermediate Pricing Milestone.~~

~~These formal reviews will be in addition to any weekly and monthly coordination activities. The Contractor shall provide contemporaneous feedback on items one (1) through eight (8) above during the weekly and monthly coordination meetings as well.~~

~~Working with the Department and the ICE, the Contractor shall cooperate in the development of a pricing schedule that will including activities such as:~~

- ~~1. Provide formal comments on the items listed above;~~
- ~~1. Development of WBS;~~
- ~~1. Design and constructability review, including an approach to quantity development;~~
- ~~1. Weekly estimate coordination meetings;~~
- ~~1. Quantity reconciliation meeting;~~
- ~~1. Price reconciliation meeting;~~
- ~~1. Submittal of cost model and items such as detailed HCSS reports or equivalent; and~~
- ~~1. Submittal of basis of estimate and pricing notes.~~

~~At each Pricing Milestone, and upon no later than twenty review of the concept design, the Contractor shall provide the Department, within a time frame agreed to by the parties but one (1) Calendar Days, the following:~~

- ~~1. Constructability review report, in form and substance acceptable to Department;~~
- ~~1. Potential Innovations;~~
- ~~1. Preliminary staging and temporary site (e.g., plant and borrow sites) locations;~~
- ~~1. Preliminary MOT concept;~~
- ~~1. Preliminary material selections including but not limited to, culverts, bridges, other structures, earthwork, pavement base, and retaining walls;~~
- ~~1. Preliminary plan for compliance with environmental commitments;~~
- ~~1. Preliminary Construction Schedule; and~~
- ~~1. Items for inclusion in the Risk Register~~

~~Section L. CONSTRUCTION SERVICES AMENDMENT GUARANTEED MAXIMUM PRICE (GMP)~~

~~The Construction Services Amendment GMP is the sum of the total costs for the Contractor to perform the Work under the Construction Services Amendment and to deliver the Project, as determined at the agreed upon Pricing Milestone, which is calculated as the sum of (a) the total amount of all Contractor Risks, (b) the Construction Markup, (c) Work items calculated with reference to the OPGC, and (d) the actual reimbursable cost of the Contract Bond and insurance available to pay the Contractor to construct the Project in accordance with the Design Plans. The Contractor acknowledges and agrees that, under the Construction Services Amendment, the Contractor will assume all risks associated with performance of the Work under the Construction Services Amendment, including management of its Subcontractors, Suppliers, and any associated cost impacts over and above the GMP not identified as Relief Events as identified in the CM/GC Master Agreement.~~

~~Upon consensus with the Department, the Contractor shall repackage and submit the most recent OPGC as the GMP and submit it to the Department no later than fourteen (14) Business Days after Approval. The Department will evaluate the proposed GMP and proceed to the Construction Services Amendment at its sole discretion. It will provide notice to the Contractor no later than thirty (30) Business Days of its intention to proceed or take other actions as outlined in the Contract.~~

Section M. SUBCONTRACTING PLAN

~~The Subcontracting Plan shall identify the Contractor's subcontracting process for the Construction Services Amendment. The Subcontracting Plan shall include:~~

- ~~1. Contractor's competitive selection process;~~
- ~~2.1. Approach to advertising Subcontracting opportunities;~~
- ~~3.1. Procurement process;~~
- ~~4.1. Information regarding Subcontractor availability and local economic conditions; and~~
- ~~A Subcontractor and Supplier quotation list.~~

~~Any Subcontracts the Contractor wishes to select for best value shall be approved by the Department prior to competitive selection. The Department shall approve all Subcontracts, regardless of selection type, prior to subcontract award. The Contractor shall have an Approved Subcontracting Plan from the Department prior to soliciting offers for Subcontractors for Construction Services.~~

Section N. SCHEDULE

Preconstruction Services

Pre-Amendment Meeting (Scope and Fee)	XXX
Project Scoping Workshop	XXX
Initial Risk Workshop	XXX
Initial Cost Workshop	XXX
Baseline Design Milestone Deliverables	XXX
Intermediate Design Milestone Deliverables	XXX
Final Design Milestone Deliverables	XXX
A list of Applicable Standards	XXX
Final GMP	XXX

<u>Project Kickoff</u>	<u>April 2026</u>
<u>Initial Risk Workshop</u>	<u>April 2026</u>
<u>Pricing Kick off Meeting</u>	<u>April 2026</u>
<u>Baseline Pricing Milestone Deliverables</u>	<u>July 2026</u>
<u>Intermediate Pricing Milestone Deliverables</u>	<u>January 2027</u>
<u>Final Design Milestone Deliverables</u>	<u>April 2027</u>
<u>Final GMP</u>	<u>June 2027</u>

This schedule is tentative and subject to change.

ATTACHMENT 3 – ~~FEES AND~~ PAYMENT

SECTION A. PAYMENT METHOD

Payments under this Amendment will be made based on a Specific Rates of Compensation (SRC) payment method up to a maximum not-to-exceed amount (Preconstruction Compensation Cap). The Contractor will be paid for acceptable actual Services performed in accordance with Section 3 (*Allowable Costs*).

SECTION B. MAXIMUM PRECONSTRUCTION SERVICES AMENDMENT AMOUNTS

The following are the maximum payment amounts established under this Amendment for each category of cost. The Contractor shall not be paid for any cost that exceeds these amounts without prior written approval from the Department.

	AMOUNT	CATEGORY
A.	\$ XXXX	for actual direct labor costs
B.	\$ XXXX	for direct expenses (direct non-labor costs)
C.	\$ <u>XXXX</u>	Preconstruction Compensation Cap

SECTION C. ALLOWABLE COSTS

Allowable costs are direct labor costs, and direct non-labor costs as defined below which the Contractor has incurred within one-hundred and eighty (180) days before the Department has received the Contractor's invoice. Allowable costs do not include those costs that the Contractor incurred to correct mistakes or errors attributable to the Contractor's or Subconsultant's own actions, even if those costs would not exceed the amounts listed in Section 2 (*Maximum Preconstruction Services Amendment Amounts*).

1. Direct Labor Costs

Direct Labor Costs are based on the specific rate of compensation (SRC or billing rate) the Contractor will charge the Department for the Contractor's employees' time working directly on this project. The direct labor costs are calculated by multiplying the appropriate SRC rate, as indicated ~~on the Staffing Plan~~ in Attachment 2 (*Fee Proposal*), by the hours worked (in increments not less than one quarter hour).

The Staffing Plan identifies the name and SRC rate~~(s)~~ of all employees of the Contractor who are reasonably expected to provide Services under this Amendment. SRC rates will not be modified for the duration of this Amendment unless modified in a subsequent Preconstruction Services Amendment.

1.1 Time Reports

Time Reports: All hours charged to the project must be documented on time distribution records. The records must clearly indicate the daily number of hours each employee worked on any project or activities for the entire pay period. Time reports must provide the employee's name and position, dates of service, and a clear, identifying link to the projects, such as project description, project number, control number, and pertinent Work phase. The Contractor must establish an adequate system of internal controls to ensure that time charged to projects are accurate and have appropriate supervisory approval.

~~1.2 Reserved~~

~~1.3~~ 1.2 Direct Expenses (Direct Non-Labor Costs)

Direct Expenses (Direct Non-Labor Costs) are all necessary, properly documented, and allowable costs related to the Contractor completing the Services. All costs must be supported by detailed

receipts or invoices, unless otherwise specified below. Direct non-labor costs include, but are not limited to, the following:

1. Transportation, mileage, lodging, and meals, subject to limitations specified below;
2. Communication costs; Reproduction and printing costs;
3. Special equipment and materials required for the project and approved by the Department;
4. Special insurance premiums if required solely for this Amendment;
5. Subconsultant costs; or other allowable items as approved by the Department.

a-a) ~~AAI~~ non-labor cost charged as a direct cost will not have the Preconstruction Multiplier added.

b-b) Costs for Subcontractors may not exceed the amounts shown in Attachment 2 for each Subcontractor unless agreed upon by the Parties. The Contractor shall require Subcontractor costs to have the same level of documentation as required of the Contractor. The Contractor must review Subcontractors' invoices and progress reports to ensure they are accurate, include only allowable costs, and have proper documentation before sending to the Department.

c-c) The following direct expenses will be reimbursed at actual costs, not to exceed the rates as shown:

- i. TRANSPORTATION – Automobile rentals, air fares, and taxi/shuttle transportation will be reimbursed at the actual, reasonable cost and, if discounts are applicable, the Contractor shall give the Department the benefit of all discounts. Transportation arrangements should be made by the most economical method available. Itemized receipts must be submitted with invoices. A bank card receipt that displays only the total cost of the transportation expense is not sufficient documentation. Tips must be included in the total fare amount claimed on the travel log form. Tips for complimentary transportation are considered an incidental expense and cannot be claimed as a transportation-related expense.
- ii. MILEAGE – The reimbursement for mileage associated with the use of company owned vehicles will be the prevailing standard rate as established by the Internal Revenue Service (IRS) through its Revenue Procedures. Reimbursement for mileage associated with the use of a privately-owned vehicle (POV), is limited to the lesser of:
 - (1) The mileage rate that the Contractor reimbursed to the person who submitted the claim for POV use; or
 - (2) The prevailing standard rate is established by the IRS.
 - (3) NOTE: When the Contractor is seeking only reimbursement for mileage, the Contractor must itemize travel on the Department's Travel Log, itemize on invoice, or include a separate mileage log which includes the following information: employee name, date of travel and miles driven, reimbursement rate and total expenses. The total expenses are to be shown on the invoice as a direct expense. The Department's Travel log form is available on the Department's website at <https://dot.nebraska.gov/business-center/consultant/manuals-forms/>.
- iii. LODGING – The reimbursement for lodging rates will be limited to the prevailing standard rate as indicated on the U.S. General Services Administration's (GSA) website at <http://www.gsa.gov/portal/category/100120>. The Contractor shall give the Department the benefit of all lodging discounts. Lodging receipts must be submitted with invoices.

and eighty (180) days of the date incurred. Travel costs are deemed to have been incurred on the day the travel occurs. Subconsultant costs are deemed to have been incurred on the day the Subconsultant actually incurs the cost, not the day the subcontractor invoices the cost to the Contractor.

SECTION E. INVOICES AND PROGRESS REPORTS

The Contractor shall promptly submit invoices to the Department based on the Contractor's billing period but shall not submit more than one invoice per month. Invoices must include all allowable costs for services provided during the billing period. Invoices may also include a request for services provided or costs incurred during a prior billing period, including Subcontractor costs, with an explanation for why those costs were not previously included in an invoice, so long as those costs were incurred no more than one-hundred and eighty (180) days prior to the Department's receipt of the invoice. Accordingly, the Department retains the sole discretion to not pay for costs incurred that have not been invoiced as provided above.

In the event the Contractor has incurred allowable costs, and such costs would exceed the maximum direct labor costs or the total Amendment amount, the Contractor shall list such otherwise allowable costs on the invoice, but they must be subtracted from the total invoice amount submitted to the Department for payment.

1. Content of Invoice Package (Presented in this order)

1. The Contractor's Invoice:

~~a~~-a) The first page of an invoice must identify the Contractor's name and address, invoice number, invoice date, invoicing period (beginning and ending dates of services), and Amendment number.

~~b~~-b) The invoice and supporting documentation must identify each employee by name and classification, the hours worked, and the specific rate of compensation (SRC billing rate) for each employee.

~~c~~-c) Direct non-labor expenses:

- vii. Direct non-labor expenses, other than travel-related expenses, must be itemized and provide a complete description of each item billed along with supporting receipts or invoices.
- viii. Travel-related expenses must be summarized and submitted on Department Form 163. Supporting receipts (excluding meal receipts) must be submitted with Department Form 163 when invoicing for these expenses.
- ix. All supporting receipts must be kept.

~~d~~-d) Time Records, as outlined in Section 3.1.1 (Time Reports).

~~e~~-e) Subconsultant Services: the Contractor shall require Subcontractors to provide the same supporting documentation, invoices, and receipts as the Contractor is required to submit and retain.

2. Progress Report: A progress report (which, for the avoidance of doubt, is not the same as the progress reports associated with performance of the Services themselves) must accompany the invoice package documenting the Contractor's Work during the service period. If an invoice is not submitted monthly, then a progress report must be submitted at least quarterly via email to the Department's Project Coordinator. All progress reports must include, but are not limited to, the following:

~~a~~-a) A description of the Services completed for the service period to substantiate the invoiced amount.

~~b-b)~~ A description of the Services anticipated for the next service period

~~c-c)~~ A list of information the Contractor needs from the Department

~~d-d)~~ Percent of Services completed to date

~~e-e)~~ NOTE: the Department's Project Coordinator may request more specific information or detail be included in Progress Reports.

3. Cost Breakdown Form: Each invoice package must include a current and completed "Cost Breakdown Form" (Department Form 162a). This form is available on the Department's website at <http://dot.nebraska.gov/business-center/consultant/>. Utilizing the Cost Breakdown Form helps reduce errors in calculating previously billed amounts and limitations on eligible costs billed.

4. Travel Log: If an invoice contains any travel-related expenses, then a current and completed "Invoice Travel Log" (Department Form 163) must be included with the invoice package. This form is available on the Department's website at <http://dot.nebraska.gov/business-center/consultant/>. Upon pre-approval by the Department, the Contractor may use a substitute Invoice Travel Log provided it documents substantially the same information as the current Department Form 163. The Travel Log must document the employee's name, date/time of departure to the project, date/time of return to the headquarters town, locations traveled, and expenses for transportation, meals, and lodging.

5. Mileage Log (when applicable): When the Contractor is seeking reimbursement for mileage only, the Contractor must itemize travel on the Department's Travel Log, itemize on invoice, or include a separate mileage log which includes the following: employee name, date of travel and miles driven, reimbursement rate, and total expenses. The total expenses are to be shown on the invoice as a direct expense.

All invoice packages (invoice, progress report, required Department Forms, supporting material) must be submitted electronically through the Department's OnBase Invoice Workflow System for review, approval, and payment. The user guide for the OnBase Invoice Workflow system, along with training videos can be found at <http://dot.nebraska.gov/business-center/consultant/onbase-help/>.

Notice of Public Record: Documents submitted to the Department, including invoices, supporting documentation, and other information are subject to disclosure by the Department pursuant to the Nebraska Public Records Act found at Neb. Rev. Stat. § 84-712 et seq. ACCORDINGLY, CONSULTANT SHALL REDACT OR NOT SUBMIT TO STATE INFORMATION THAT IS CONFIDENTIAL, INCLUDING, BUT NOT LIMITED TO, FINANCIAL INFORMATION SUCH AS SOCIAL SECURITY NUMBERS, TAX ID NUMBERS, OR BANK ACCOUNT NUMBERS. the Contractor understands that the Department does not have sufficient resources to review and redact confidential information submitted by the Contractor. If such confidential information is submitted, the Contractor shall have no right of action of any kind against the Department for the disclosure of such information.

SECTION F. PAYMENTS

The Department will pay the Contractor after receipt of the Contractor's invoice and determination by the Department that the invoice and progress report adequately substantiate the Services provided, and the Services were completed in accordance with this Amendment. Payments will not be made if the progress report does not provide adequate substantiation for the Services, or the Department determines that the Services have not been properly completed. The Department will make a reasonable effort to pay the Contractor within thirty (30) days of receipt of the Contractor's invoices.

that these Out-of-Scope Services may require an adjustment in costs, the Contractor shall provide in writing:

1. A description of the Out-of-Scope Services,
2. An explanation of why the Contractor believes that the Out-of-Scope Services are not within the original Scope of Services and additional work effort is required,
3. An estimate of the cost to complete the Out-of-Scope Services. The Contractor must receive written approval from the Department before proceeding with the Out-of-Scope Services. Before written approval will be given by the Department, the Department must determine that the situation meets the following criteria:
 - a-a) The Out-of-Scope Services are not within the original Scope of Services and additional work effort is required; and
 - b-b) It is in the best interest of the Department that the Out-of-Scope Services be performed under this Amendment.

Once the need for a modification to the Amendment has been established, the Department will prepare a subsequent Preconstruction Services Amendment. If the additional Work requires the Contractor to incur costs prior to execution of a Preconstruction Services Amendment, the Department may issue a written notice to proceed prior to completing the Preconstruction Services Amendment (for non-Federal aid projects) or shall use the process set out below (for Federal aid PE projects):

The Contractor Work Order (CWO) – Department Form 251 shall be used to describe and provide necessary justification for the additional scope of services, effort, the deliverables, modification of schedule, and to document the cost of additional services. The CWO form is available on the Department's website at <http://dot.nebraska.gov/business-center/consultant/>. The CWO must be executed to provide authorization for the additional work and to specify when that work may begin. The agreement will be supplemented after one or more CWOs have been authorized and approved for funding.

SECTION M. TERMINATION COST ADJUSTMENT

If the Amendment is terminated prior to project completion, the Department will compare the percentage of Work actually completed by the Contractor, to the total amount of Work contemplated by this Amendment. This comparison will result in a payment by the Department for any underpayment, no adjustment, or a billing to the Contractor for overpayment. The Department's final audit may result in an additional cost adjustment.

SECTION N. AUDIT AND FINAL COST ADJUSTMENT

Upon the Department's determination that the Contractor has completed Services under this Amendment, the Department, or its authorized representative, may complete an audit review of the payments made under this Amendment. The Parties understand that the audit may require an adjustment of the payments made under this Amendment. The Contractor agrees to reimburse the Department for any overpayments identified in the audit review, and the Department agrees to pay the Contractor for any identified underpayments.

SECTION O. NO WAIVER

No payments made shall be construed as an acceptance by or on behalf of the Department of any nonconforming or defective Services nor shall any such payments be conclusive evidence of the performance of this Amendment.

EXHIBIT C

NEBRASKA DEPARTMENT OF TRANSPORTATION

**CONSTRUCTION MANAGER / GENERAL CONTRACTOR
(CM/GC)**

Division 100 General Requirements and Covenants

FOR THE

Red Cloud South Bridge Project

Project Number: STP-281-1(116)

Control Number: 42717

ISSUED:

October 17, 2025 – DRAFT

[November 21, 2025 - FINAL](#)

- e. No extension of time will be granted due to any delays in securing approval of a borrow, waste, debris, stockpile, or plant site unless a review of the time frames concludes that there were conditions beyond the Contractor's control.
- 5. The Contractor shall understand the terms and conditions of the general National Pollutant Discharge Elimination System (NPDES) permit that authorizes the storm water discharges associated with industrial activity from the construction site. For reference, the general permit is posted on the Department's website. Additionally, the Contractor, agrees and understands that he/she:
 - a. becomes a co-permittee, along with the owner(s), to the Nebraska Department of Environmental Quality NPDES General Permit for Storm Water Discharges from Sites on this Project;
 - b. is legally bound to comply with the Clean Water Act to ensure compliance with the terms and conditions of the Storm Water Pollution Prevention Plan developed under the NPDES permit and the terms of the NPDES permit; and
 - c. will hold the owners harmless for damages or fines arising as a result of noncompliance with the terms of the storm water permits and authorizations associated with the Work on this Project.
- 6. In compliance with the Federal Water Pollution Control Act, authorization to discharge storm water from this project has been granted under General NPDES Permit for Storm Water Discharges from Construction Sites. Contractors are advised that, under the Construction Storm Water General Permit, plant sites, camp sites, storage sites, and borrow or waste sites not shown on the Design Plans may be subject to separate NPDES permit authorization requirements for stormwater discharges from those locations. Contractors shall be responsible for verifying the need for NPDES permit coverage with the applicable permitting authority (Nebraska Department of Environment and Energy (NDEE) for most locations, or the United State Environmental Protection Agency (USEPA) within Indian reservation boundaries).
- 7. When required for these locations, the filing of a "Notice of Intent" shall be made by the Contractor directly to the applicable permitting authority.
- 8. Additionally, asphalt (SIC Code 2951) or concrete (SIC Code 3273) batch plants that are owned by a private contractor and are operated on a contract-for-service basis to perform Work for the Contractor completing the project may be subject to NPDES General Permit for Storm Water Discharges from Industrial Activity. While the plant may be required for completion of the Project, it is not under the control of the Department; and the filing of a "Notice of Intent" shall be made by the Contractor directly to the permitting authority. The NDEE may be contacted at 402-471-4220 for additional information. The USEPA may be contacted at 913-551-7003 for additional information.

107.03 -- Patented Devices, Materials, and Processes

- 9.1. Without exception, the GMP Workbook will include all royalties and costs arising from patents, trademarks, and copyrights in any way involved in the Work. Whenever the Contractor is required or desires to use any design, device, material, or process covered by letters, patent, or copyright, the Contractor shall obtain the right for this use by legal agreement with the patentee or owner. A copy of this agreement shall be provided to the Department.
- 10.2. However, whether or not such an agreement is made or provided, the Contractor and the surety in all cases shall indemnify and save harmless the Department from any and all claims for infringement by reason of the use of any such patented design, device,

material, process, trademark, or copyright in connection with the Work agreed to be performed under the Contract.

~~11.3.~~ The Contractor and the Surety shall also indemnify the Department for any costs, expenses, and damages which it may be obligated to pay by reason of any such infringement at any time during the prosecution of or after the completion of the Work.

107.04 -- Pavement Opening Permits

1. The Department may authorize the Contractor to allow Third Parties bearing valid permits to make openings in the highway. Permits will provide that all repair Work will be paid for by the permit holder.
2. The Department may order the Contractor to make repairs to openings made by Third Parties. Any repairs ordered by the Department will be considered a Department-Ordered Change and be subject to Specification Sections 108.03 and 108.04.

107.05 -- Federal Participation

1. All Federally funded Work will be administered by the Department, subject to the inspection and approval of officials of the Federal government. These inspections do not make the Federal government a party to this Contract and will in no way interfere with the rights of either party hereunder.
2. Federal Projects of Division Interest (PoDI) are designated in the Contract. These projects are subject to routine inspections by the Federal Government. The Federal Government may be involved in the approval of changes to the Contract.

107.06 -- Sanitary Provisions

1. The Contractor shall provide and maintain in a neat, sanitary condition accommodations for the use of the employees as may be necessary to comply with the requirements of Federal, State, and local Boards of Health regulations.

107.07 -- Public Convenience and Safety

~~2.1.~~ The Contractor shall always ~~insure~~ensure the orderly movement of traffic through or around the Work. The Contractor may not close any roads unless required by the Design Plans. Temporary traffic control devices and layouts shall conform to the Contract, and the MUTCD.

~~3.2.~~

- a. No materials of any kind shall be stored in the median or within thirty feet of the edge of the traveled way, except that they may be placed in the median or on the foreslopes if they are used or removed the same day. In no case shall material be allowed to remain overnight within the 30 feet zone specified above.
- b. Equipment not actively engaged in Construction Services shall not be parked within twenty feet of the edge of the traveled way, or in the median, except during unavoidable temporary suspensions of the Work. No equipment shall be parked within thirty feet of the edge of the traveled way, or in the median, overnight, on holidays, or on weekends.
- c. In those cases where the road is closed to public traffic, no material or equipment may be stored within the limits set forth above unless the storage site is physically inaccessible to vehicles.

~~4.3.~~

a.

- (1) All slow moving construction vehicles and equipment which operate on the highway at speeds 15 mph lower than the posted legal minimum speed or lower than 35 mph if a minimum speed is not posted then all construction equipment working within the traffic lanes or shoulders of a highway under "traffic maintained" conditions shall be equipped with rotating or flashing yellow beacons or strobe type beacons which comply with the *Nebraska Rules of the Road*.
 - (2) Rotating or flashing type beacons shall be operated on all such equipment which is parked on or within the traffic lanes or shoulders of the highway under "traffic maintained" conditions.
 - (3) Trucks and pickups traveling in the normal flow of traffic shall operate the beacons only when close to the Work.
- b. Rotating or flashing yellow beacons shall be provided with a minimum 50 candlepower bulb and shall be sealed so as to be dust and water tight. Strobe type beacons shall have yellow colored domes. All beacons shall be maintained in good operating condition and shall be mounted level on the equipment to provide for 360-degree visibility, day or night, for a minimum distance of 800 feet. The use of magnetically mounted beacons will be permissible if they meet requirements for visibility and level mounting as set forth above.

5-4. Slow moving vehicles as defined by the *Nebraska Rules of the Road* shall have a "slow moving emblem." This is in addition to other lighting devices required by Law.

6-5.

- a. The Contractor shall furnish flaggers to direct traffic whenever construction equipment or vehicles operate on, across, or directly adjacent to the roadway being used by the traveling public. Additionally, the Department may require flagging at any time to enhance the public's safety and insureensure the orderly movement of traffic through or around the Work.
- b. Except in the cases of incidental flagging, flagging shall be performed by flaggers trained and certified according to the Department's flagger certification program described in Specification Section 422. Incidental flagging shall be defined as flagging required in emergency situations or in situations not expected to last for more than 15 minutes. In those cases where traffic is repeatedly stopped or otherwise controlled for time totaling more than fifteen (15) minutes, even though the individual activity is of less than fifteen (15) minutes duration, the requirement for a certified flagger is not waived.
- c. When certified flagging is necessary, the Department will pay for flagging at a negotiated price if there is no price established in the GMP Workbook.

7-6.

- a. When the road under construction is being used by the traveling public, special attention shall be paid to keep both the subgrade and newly laid surfacing in such condition that the public can travel over the same in relative comfort and safety.
- b. The Department may direct that surfacing be opened to traffic if shoulders are not completed within the time limits for the completion of shoulders as provided in Specification Section 304.03. When surfacing is opened to traffic under such conditions, the Contractor will not be relieved of any responsibility on any portion of the Work so opened to traffic until Notice of Substantial Completion has been given, except as provided in Subsection 107.14.

8-7.

a. The Contractor shall conduct all operations to minimize any drop-offs (abrupt changes in roadway elevation) exposed to traffic.

b.

~~(4)~~(1) Unless otherwise specified in the Contract, drop-offs greater than 2 inches tall at the shoulder edge that are adjacent to the traveled way shall be protected by a wedge of compacted stable material capable of carrying traffic (the wedge being one (1) vertical to three (3) horizontal or flatter). An edge line warning stripe shall also be placed on the traffic side of the drop-off.

~~(5)~~(2) The Department shall authorize other methods, such as concrete barriers or Type II Barricades, to protect drop-offs when conditions do not allow a wedge of compacted, stable material.

~~(6)~~(3) Unless otherwise ordered by the Department, drop-offs up to two (2) inches may remain exposed with appropriate warning signs alerting motorist to the condition.

c. Open trenches which span all or part of the traveled way and/or auxiliary lanes shall be no wider than eighteen (18) inches and must have a steel-plate cover placed and anchored over them. The plate shall have sufficient strength so as to only allow a maximum vertical deflection of 1/2 inch. A wedge of suitable material shall create a smooth transition between the pavement and the steel plate. Warning signs shall be used to alert motorists to the presence of the steel plates.

~~9-8.~~ When so provided in the Contract, surfacing and base courses shall be constructed with one or more lanes of the roadway open and maintained for traffic. The Contractor shall regulate traffic flow in accordance with the Department's direction.

~~10-9.~~ When the road is accessible to vehicles, even if closed to the traveling public, the Contractor shall use traffic control devices such as Type II barricades, or object markers to locate and mark hazards within the project limits.

~~11-10.~~ When the Project is open to public vehicular traffic and the plans call for a culvert extension with excavation less than fifteen (15) feet from the edge of the traveled lane, two double-sided Type III barricades shall be installed on the shoulder, one on each side of the excavation. Also, one double-sided Type III barricade with a Type A light shall be installed on the shoulder one hundred (100) feet in advance of the excavation.

~~12-11.~~ If a hazard exists and barricades, warning signs, or other devices are in place, then even when the Contract is complete, these warning devices may not be removed until the Department has replaced the devices.

107.08 -- Use of Explosives

1. When the use of explosives is necessary for the prosecution of the Work, the Contractor shall use the utmost care not to endanger life or property. All explosives shall be stored and used in compliance with Federal, State, and local Laws and ordinances; and all storage places shall be clearly marked "DANGER-EXPLOSIVES". All permits shall be obtained by the Contractor. The Contractor shall be liable for property damage, injury, or death resulting from the use of explosives.
2. The Contractor shall notify each property owner and Utility Owner having structures or facilities within 1,600 feet areas where explosives may be needed. The notice shall be given sufficiently in advance to enable the owners to protect their property.

107.09 -- Preservation and Restoration of Property, Trees, Monuments, etc.

1. The Contractor shall preserve, protect, and prevent damage to all public and private property. This includes any underground or overhead Utilities, structures, and facilities, whether shown in the Contract or not.
2. The Contractor shall protect from disturbance or damage all land monuments and property markers until the Department has witnessed or otherwise referenced their location and shall not remove them until directed.
3. The Contractor shall not cut, injure, remove, or destroy any trees or shrubs unless directed by the Department.
4. When or where any direct or indirect damage or injury is done to public or private property because of any act, omission, neglect, or misconduct related to the execution or nonexecution of the Work, the Contractor shall restore or replace the property to a condition similar or equal to that existing before such damage or injury was done. The restoration or replacement shall be done at no additional cost to the Department.

107.10 -- Archaeological and Paleontological Discoveries

1. Should the Contractor encounter any fossils, meteorites, Native American relics, or other articles of historical or geological interest, such articles shall become the property of the State. The Department shall be immediately notified when any such articles are uncovered, and the Contractor shall immediately suspend operations in the area involved until such time that arrangements are made for their removal and preservation. Discovery of such articles shall be considered a Relief Event pursuant to Specification Section 108.03.

107.11 -- Hazardous Materials Discoveries

1. Should the Contractor encounter any previously unidentified suspected hazardous materials, the Department shall be immediately notified. The Contractor shall immediately suspend operations in the area involved until such time that arrangements are made for their proper treatment or removal. Discovery of Hazardous Materials shall be considered a Relief Event pursuant to Specification Section 108.03.

107.12 -- Invasive Species Control

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

107.13 -- Right-of-Way

1. The Department will provide all land and easements for the Right-of-Way shown in the Contract.

107.14 -- Responsibility for Damage, Injury, or Other Claims

- ~~1. The Contractor shall indemnify and save harmless the Department and all of its representatives from any and all actions, fines or claims brought because of injuries or damages to persons or property caused by the actions or omissions of the Contractor or the Contractor's employees or agents.~~
- ~~2. The Contractor shall be responsible for all damage or injury to any property during the prosecution of the Work, resulting from any act, omission, neglect, or misconduct, in the manner or method of executing said Work satisfactorily, or due to the nonexecution of~~

~~said Work or at any time due to defective Work or materials and said responsibility shall continue until Final Acceptance.~~

1. [RESERVED]

2. [RESERVED]

3. Prior to beginning any Work, the Contractor is required to meet with all involved local Governmental Entities and advise them of any intentions to use their local roads. The Contractor shall be responsible for resolving claims concerning damage to local roads caused by his/her operation.

107.15 – Suspension and Debarment Policy and Procedures

1. Suspension: When circumstances warrant, the Department may “suspend” or exclude persons and/or companies considered for debarment. Causes for suspension include adequate evidence that:
 - a. A cause for debarment exists, and
 - b. Immediate action is necessary to protect the public interest. An indictment for a debarment offense will constitute adequate evidence for a suspension action.
2. Debarment
 - a. The Department may, in its sole discretion, debar an individual, proposer, or its affiliates from bidding, subcontracting, or supplying materials on Department contracts for any illegal activity involving bidding evidenced by any of the following:
 - (1) An indictment or conviction of a bidding crime; any plea of guilty or nolo contendere to a charge of a bidding crime; any public admission of a bidding crime; any presentation of an unindicted co-conspirator; or any testimony protected by a grant of immunity of any proposer in any jurisdiction indicating involvement in a bidding crime.
 - (2) Conviction of any offense indicating a lack of moral or ethical integrity may reasonably be perceived to relate to or reflect upon the business practices of the bidders.
 - (3) Debarment by any other State or Federal agency for substantially any of the reasons listed above.
 - (4) Any other activities of an individual, proposer, or its affiliates of a serious or compelling nature that are reasonably perceived to relate to their work as a Contractor.
 - (5) Making materially false statements on a proposal.
 - b. An individual or a proposer shall be given a debarment hearing if either so requests before or after debarment. The determination as to whether the debarment hearing will be held before or after debarment shall be at the sole discretion of the Department.
 - ~~(6)~~(1) The written request for a debarment hearing must be received by the Department no later than ten (10) days after the receipt of the written notice from the Department. Unless otherwise mutually agreed in writing, the debarment hearing shall be held no later than fourteen (14) days after receipt of the individual's or proposer's request for a debarment hearing.
 - ~~(7)~~(2) Debarment after hearing. In those situations where the Department decides to hold a debarment hearing prior to deciding whether debarment is proper, it shall send written notice to the affected individual, proposer, or their agents by certified or registered mail stating:

- (i) That debarment is being considered.
- (ii) The general reasons that suggest the debarment
- (iii) That the proposer will be afforded an opportunity for a debarment hearing if requested.

~~(8)~~(3) Debarment before hearing. In those situations where the Department determines that debarment is appropriate prior to a debarment hearing, it shall send written notice to the affected individual, proposer, or their agents by certified or registered mail stating:

- (i) That the proposer or individual has been debarred.
- (ii) The general reasons for debarment.
- (iii) That the proposer or individual shall be accorded the opportunity for a debarment hearing if they so request in writing within ten (10) days of the receipt of the written notice of debarment.

~~(9)~~(4) If the proposer or individual notifies the Department that he/she desires a hearing, the debarment hearing will be held no later than fourteen (14) days after receipt of the individual's or proposer's request unless mutually agreed otherwise in writing. The Department shall determine in writing whether the individual or proposer will be reinstated.

- c. The Department shall appoint a Hearing Examiner to conduct all debarment hearings. The Hearing Examiner shall make a recommendation to the Department, and such recommendation shall include findings of fact and conclusions of law.
- d. Except as modified by the Rules and Regulations of the Department, debarment hearings before the Hearing Examiner shall conform to the Code of Civil Procedure applicable to the District Courts of the State. Practice before the Hearing Examiner shall be governed by the Department's Rules and Regulations, Title 407.
- e. Debarment shall be for a period of thirty-six months or, in the case of a reciprocal debarment as provided for under Paragraph 2.a.(3) of Subsection 107.15, the term of the debarment shall be for the same period as the debarment imposed by the other State or the Federal government.
- f. The Department may suspend a debarment at any time it determines it is in the public interest to do so. Mitigating circumstances may be considered in the decision to lift or suspend a debarment and may include, but shall not be limited to:
 - (1) The degree of culpability of the debarred individual or proposer.
 - (2) Restitution by the debarred individual or proposer to the State for any perceived overcharges or damages resulting from the actions of the debarred individual or proposer.
 - (3) Cooperation by the debarred individual or proposer with the State, the United States, and/or any other political governmental subdivision in the investigation of bidding crimes, including a full and complete account of the individual's or proposer's particular involvement therein.
 - (4) Disassociation with individuals and firms that have been involved in a bidding crime.
- g. The Department, at its discretion, may hold a hearing, no later than fifteen (15) days prior to the last day of the debarment, and require the debarred individual or proposer to show cause why the debarment should not continue. If the Department, in its sole discretion, determines that a debarred individual or proposer has failed to

107.16 -- Opening of Sections of the Project to Traffic

1. The Department may direct that all or part of the Project, in which the road is closed, shall be opened to traffic during construction or at any time prior to completion of Construction Services and before Final Acceptance of the Work. Opening such sections will not constitute Final Acceptance of the Work or a waiver of any Contract provisions.
2.
 - a. In the event that the opening of a closed road occurs during the orderly progression of the Work, the section will be inspected, and the section turned over to the Department for maintenance.
 - b.
 - (1) Whenever the Department permits the public use of a highway undergoing construction, repair, or maintenance in lieu of using a detour route, the Contractor shall not be held responsible for damages directly caused by the traveling public to those portions of the Project upon which the Department permitted public use, if such damages are the result of no proximate act or failure to act on the part of the Contractor.
 - (2) If the traveling public should cause damage to the roadway, the Contractor shall assist the Department in identifying the responsible party. The Contractor shall, at a minimum, especially if present at the time of the damage, record and furnish to the Department all pertinent information regarding the accident (who caused the damage; when the damage occurred; how the damage occurred; etc.).
 - c. The Contractor shall remain responsible for any damages which are due to or caused by defective Work or because of noncompliance with the Contract.
3.
 - a. The Department may direct that all or part of the Project be opened to traffic when:
~~(3)~~(1) The Work is not progressing satisfactorily, or the Work has been delayed for reasons attributable to the Contractor.
~~(4)~~(2) The Department finds it in the public interest to open the Project to traffic (such as during the winter months).
 - b. In such cases and except for damages due to the ordinary action of traffic, the Contractor shall not be relieved of any responsibility or liability for maintaining the Work. Furthermore, the Contractor shall conduct the remaining Construction Services with minimum interference to traffic and without additional compensation for any added cost of the Work due to the opening of the project to traffic.
4.
 - a. Only upon receipt of specific written authorization covering traffic control devices from the Department may the Contractor cease to maintain warning signs, barricades, warning lights, and all other traffic control devices regardless of whether the Contractor erected the device or it was erected by a Third Party.
 - b. Warning signs, barricades, warning lights, and all other traffic control devices shall not be removed if the hazard has not been eliminated.
5. The Department may issue a written order relieving the Contractor of public liability in areas where the Contractor has, with the Department's approval, removed his/her equipment from the Right-of-Way and completed all Work.

107.18 -- Contractor's Responsibility for Utility Property and Services

1. The accuracy of information furnished with respect to utility owner and railroad facilities (facilities) is not guaranteed, and the Contractor must verify all such information.
2. The Contractor shall notify all utility and railroad companies who may have facilities in the Work area and secure their assistance in locating and identifying all facilities.
3. The Contractor shall determine the actual locations of all underground and above ground facilities before starting any Work that may cause damage to such utilities. The Contractor must protect and keep operational all encountered utility facilities. The Contractor shall promptly notify the facility owner of any damage to the facilities. The restoration of damaged facilities shall be done at no additional cost to the Department.
4. Where operations are adjacent to properties of railway, telegraph, telephone, power, or other utility facilities, Work shall not begin until all arrangements necessary for their protection have been made by the Contractor and the Contractor has explained the arrangements to the Department.
5.
 - a. The Contractor shall cooperate with any affected utility owner to ~~insure~~ensure that:
 - (1) Removal and relocation of facilities progresses in a reasonable manner.
 - (2) Relocation Work is not unnecessarily duplicated.
 - (3) Interruption of service is kept to an absolute minimum.
 - b. In the event of a project-related interruption to utility services, the Contractor shall promptly notify the utility owner and the Department. The Contractor shall cooperate fully in the prompt restoration of service.
6. Fire hydrants shall be kept visible and accessible to the Fire Department at all times. No materials shall be stored within fifteen (15) feet of any fire hydrant.
7. The Contractor shall schedule Work in such a manner as to protect existing utility facilities until they are relocated, abandoned, or replaced. When partial grading is necessary before a utility owner can perform such work, the Contractor shall coordinate efforts with the utility owner to provide the utility owner adequate time to plan and complete its work.
8. The Contractor shall perform all Work required beyond the pole lines after the poles have been moved. If the poles rest within an area outside the right-of-way limits from which borrow is to be taken, the Contractor shall use such equipment as may be required and/or employ hand labor methods to avoid causing damage to the poles or wires.
9. Unless otherwise provided in the Contract, utility facilities shall be moved by their owners when necessary to preclude damage during construction.

107.19 – State Owner Utilities

1. This Specification Section applies to the operating procedures of marking the State owned utilities on State Highway Right-of-Way.
2. The Contractor shall notify the Department of an intent to excavate a minimum of three (3) Business Days prior to the day the Work is to begin. The Contractor shall submit a completed "Locate Request Form" as part of the notification. A copy of the "Locate Request Form" will be provided by the Department upon request.

108.02 -- Construction Schedule

1.
 - a. The Contractor agrees to perform the Construction Services as described in the Construction Services Amendment so as to construct the entire Project while meeting Completion Deadlines set forth in the Contract.
 - b. Time is of the essence with respect to:
 - (1) the time periods pertaining to notices and Submittals;
 - (2) the time periods and milestones in each Construction Schedule; and
 - (3) all other time periods identified in the Contract.
2.
 - ~~e.a.~~ The Contractor shall achieve Substantial Completion by the Substantial Completion Deadline and shall achieve Tentative Final Acceptance within ninety (90) Calendar Days of receiving the Notice of Substantial Completion from the Department.
 - ~~d.b.~~ Except as identified in Specification Section 108.04, the Department shall have no obligation to extend any Completion Deadline.
 - ~~e.c.~~ All Float contained in each Construction Schedule shall be considered a jointly owned and shared resource by the Contractor and the Department, available to the Project, and shall not be considered as time for the exclusive use or benefit of either Party. All Float shall be shown as such in each Construction Schedule on each affected schedule path. The Contractor shall monitor and account for Float in accordance with the Critical Path Method.
 - ~~f.d.~~ The Contractor shall submit a monthly update for each Construction Schedule for Approval with each Request for Monthly Progress Payment Request.
 - ~~g.e.~~ The Department's Approval of any Construction Schedule shall not be construed to bind the Department to any intentional or unintentional manipulation of a Construction Schedule or improper logic, improper activity durations, or errors in the expression of the Critical Path or otherwise be used as a defense by or on behalf of the Contractor in any dispute hereunder. Without limiting the Contractor's other obligations under the Contract, the Contractor shall correct any improper logic, improper activity durations, or errors in a Construction Schedule.
 - ~~h.f.~~ The most recently Approved Construction Schedule shall be used as the unimpacted schedule to measure the duration of any delay as part of a time impact analysis, weather analysis, or other analysis described in the Contract.

108.03 – Relief and Compensation

1. The occurrence of any of the following events during the Construction Phase shall constitute a Relief Event for which the Contractor shall be entitled to seek adjustments to an applicable Completion Deadline or the applicable Construction Services Amendment GMP, as may be allowed under the Risk Register or otherwise pursuant to this Specification Section 108.03 and Specification Section 108.04:
 - a. the occurrence of a Risk Register Event that is identified as a Department Risk;
 - b. a Change in Law;
 - c. a Department-Directed Change
 - d. a Department-Caused Delay;
 - e. unavoidable delays arising from a suspension order pursuant to Specification Section 108.08;

- c. costs for any rejected Work which failed to meet the requirements of the Contract and any necessary remedial Work.
- 7. Any extension of a Completion Deadline pursuant to Specification Section 108.03 and this Specification Section 108.04 shall exclude:
 - a. impacts that don't affect the Critical Path affecting a Completion Deadline;
 - b. was due to the fault or negligence, or act or failure to act of any Contractor-Related Entity;
 - c. could reasonably have been avoided by the Contractor.
- 8. The Department and the Contractor (on its own behalf and on behalf of its Subcontractors) shall endeavor to negotiate, in good faith, a reasonable cost for each Change Order. If compensation amounts or methodologies for compensation for a particular Relief Event is provided for in the Risk Register, then such compensation shall be determined in such amount or by such methodology. If the Risk Register does not address compensation or compensation methodologies for a particular Relief Event, and the Department and the Contractor cannot agree on the terms of pricing of a Change Order, then compensation, if any, for such Relief Event shall be determined pursuant to the pricing methodologies used to develop the Construction Services Amendment GMP.
- 9. No extension of time granted hereunder shall release the Contractor's Surety from its obligations. The Department shall not be deemed to have waived any rights under this Contract as the result of any grant of an extension of any Completion Deadline, any acceptance of performance of any part of the Work after a Completion Deadline, or the making of any payments to the Contractor after such date.
- 10. No course of conduct or dealings between the Parties, nor express or implied acceptance of alterations or additions to the Work, and no claim that the Department has been unjustly enriched shall be the basis for any claim, request for additional compensation, or extension of a Completion Deadline.

108.05 -- Prosecution of Construction Work

- 1. The Contractor shall start Construction Work and the determination and count of Calendar Days will begin on the date specified in the written "Notice to Proceed".
 - d.a. If, after the Notice to Proceed has been issued, circumstances prevent the Contractor from beginning Construction Work on the date specified in the written Notice to Proceed, the Contractor may request from the Department a new starting date, in writing, three (3) Business Days before the original date specified in the written Notice to Proceed.
 - (1) This request must include the reason for the change.
 - (2) The start date may be postponed if in the discretion of the Department, the postponement is not detrimental to the Department, or if the Contract is amended to address the issue of the delay.

108.06 -- Limitation of Operations

- 1. The Contractor shall work to minimize interference with traffic. The Contractor shall have due regard to the location of detours and to the provisions for handling traffic. The Contractor shall not open up Work to the prejudice of Work already started.
- 2. The Department may require the Contractor to finish a section on which Work is in progress before Work is started on any additional section.
- 3. Placing right-of-way markers shall be one of the first orders of Work.

SECTION 109 -- MEASUREMENT AND PAYMENT

109.01 -- Measurement of Quantities

1. Field Measured Quantities

a.

~~(3)~~(1) After the Work is completed and before Final Acceptance of a Construction Services Amendment, the Department will make final measurements, if required, to determine the quantities of various items of Work performed.

b. Unless otherwise specified, all longitudinal measurements will not consider the slope of the measured item but will measure the horizontal distance between end points. Deductions will be made for individual fixtures in the roadway having an area greater than 1 square yard (1 m²).

c. On all transverse measurements for area of base courses and flexible or rigid surface courses, the dimensions to be used in calculating the pay area shall be the neat dimensions shown in the Contract or ordered in writing by the Department.

d. When requested by the Contractor and approved by the Department, in writing, material specified to be measured by the cubic yard (meter) may be measured by determining the weight on approved scales, the weight then being converted to cubic yards (meters) for material quantity tracking purposes. Factors for conversion from dry weight measurement to volume measurement will be determined by the Department and shall be agreed to by the Contractor before such measurement is used. The weight of any water in the aggregate shall be deducted before using the conversion factor.

e. When requested by the Contractor and approved by the Department, material specified to be measured by the pound or ton may be measured on scales equipped with an automatic device which signals or stops the flow of material when a predetermined net weight, set on the scales, is reached. This procedure must produce a total net weight for each load at least equal to the predetermined net weight. The quantity to be measured for payment will be the predetermined net weight.

f. Portable Scales:

(1) Scales shall be installed on adequate foundations and in accordance with the manufacturer's recommendations. They shall have sufficient capacity to determine the weight of a fully loaded truck.

(2) The Contractor shall calibrate the scales accurate to 0.5% of a fully loaded truck in the Department's presence, or the scale shall have a current Nebraska Department of Agriculture inspection certificate. Documentation showing that scales were calibrated by a scale company service crew during the current season is also acceptable.

(3) The scale shall be cross-checked daily for accuracy by comparing its results with a load's gross weight on an approved commercial scale.

(4) If the scales are not able to weigh all axles at once, the approaches shall be extended so that the entire hauling unit will be level as each axle is measured.

(5) Suitable protection shall be provided against wind currents that may affect the accuracy of the scales. The platform of the scale shall be kept clean and free from accumulations of materials.

- until notified in writing by the Department that the violation or non-compliance has been satisfactorily resolved.
- b. The Contractor shall notify the Department immediately if the Contractor becomes aware that a construction activity may violate any federal, state, or local environmental quality regulations or laws.
6. The item, 'Environmental Commitments – Contractor Compliance', shall also include, but is not limited to the following activities:
 - a. Providing all documents and submittals, as described in Subsection 115.04.
 - b. Contractor attendance when requested during Environmental Inspections, as described in Subsection 115.05.
 - c. The installation of environmental commitment BMPs required by the Contract for which no direct payment is made.
 7. Delays incurred as a result of the Contractor's failure to comply with environmental regulations or commitments will not be considered a Relief Event. Any cost resulting from the delay shall be borne by the Contractor.

115.05 -- Environmental Inspections

1. NDOT Scheduled Environmental Inspections
 - ~~d.a.~~ Scheduled Inspections on projects regulated under a construction stormwater general permit will occur as required by the construction stormwater general permit (generally every fourteen (14) Calendar Days), or as determined by the Department. Scheduled Inspections will begin on the first Calendar Day of construction activities that cause land disturbance and will end on the date of Project completion.
 - ~~e.b.~~ Contractor compliance with the Project's environmental commitments shall be evaluated during Scheduled Inspections.
2. NDOT Storm Event Inspection
 - ~~f.a.~~ Storm Event Inspections on projects regulated by a construction stormwater general permit will occur as required by the permit (generally within twenty-four (24) hours or the next Business Day following a rain event of 0.25 inches of precipitation or greater). Storm Event Inspections may begin on the first Calendar Day construction activities cause land disturbance and end on the date of Project completion.
 - ~~g.b.~~ Compliance with the construction stormwater general permit commitments will be evaluated during Storm Event Inspections.
3. NDOT Environmental Oversight Inspections will occur routinely during active construction periods and in response to any Notice of Violations or Noncompliance Notices from regulatory agencies.
4. At the discretion of the Department, the Contractor's Environmental Representative, or a designee approved by the Department, may be required to participate during an Environmental Inspection or meeting. The Contractor will be notified at least twenty-four (24) hours in advance when participation is required. Failure to participate during an Environmental Inspection or meeting as requested by the Department will result in the Contractor's forfeiture of the ability to negotiate or recommend Corrective Action Resolutions and may result in the assessment of an "Environmental Disincentive."
5. The Department will maintain a Temporary Erosion Control Plan. This plan documents the locations of Best Management Practices as they are installed or removed from the project.

6. The Department will generate an Environmental Inspection Report detailing the findings and any Corrective Actions associated with an Environmental Inspection. The Department will provide the Contractor's Environmental Representative, and others as identified, a copy of the completed inspection report.

115.06 -- Environmental Commitment Enforcement

1. Environmental Corrective Actions

~~h.a.~~ A Corrective Action is defined as an item of work that must be completed to maintain compliance with the environmental commitments associated with the project. The Contractor shall resolve Corrective Actions within seven (7) Calendar Days of a written notification or within the timeframe of a Time Extension authorized by the Department. Corrective Actions may be, but are not limited to:

- (1) The installation and maintenance erosion and sediment control measures.
- (2) The inclusion or maintenance of other pollution prevention control BMPs.
- (3) The removal of sediment from off-site locations.
- (4) The management of litter, construction debris, or construction chemicals in a manner that prevents them from becoming a pollutant source.
- (5) The need to initiate stabilization practices when construction activities on all or portions of the project have temporarily or permanently ceased for more than fourteen (14) Calendar Days.
- (6) The removal of sediment from sediment basins, traps, silt fences or other sediment control BMPs when their capacity has been reduced by approximately half.

~~i.b.~~ An Immediate Corrective Action is an item of work that must be completed resulting from a violating activity that the Department determines to be an imminent threat to the environment. Upon written notification of an Immediate Corrective Action, the Contractor shall begin work to resolve the Immediate Corrective Action. Immediate Corrective Actions must be resolved within forty-eight (48) hours of written notification or within the timeframe of a Time Extension authorized by the Department. Examples of Immediate Corrective Actions include, but are not limited to:

- (1) Operations causing unauthorized impacts to Threatened and Endangered Species or designated critical habitat.
- (2) Operations causing unauthorized impacts to other sensitive areas, such as:
 - (i) Protected 4(f) recreational facilities, such as publicly owned parks, recreation areas, wildlife and waterfowl refuges, and publicly and privately owned historic sites.
 - (ii) Wetlands and Waters of the US.
 - (iii) Operations causing sediment discharges to wetlands waterbodies or other sensitive areas.
 - (iv) Unauthorized channel crossings and/or wetland fill.
 - (v) A spill or release of hazardous materials as described in Section 116 Hazardous Materials Management.
 - (vi) Failure to comply with the requirements of Subsection 107.01, Paragraph 4h. Migratory Birds.
 - (vii) The discovery of cultural or archeological artifacts.

- (viii) Operations that do not meet the commitments for access accommodations in the contract.

j-c. In the event that soil, weather, or other site conditions are such that BMPs cannot be installed or repaired within the required timeframe, the Department may approve a Corrective Action Time Extension to complete some or all of the Corrective Actions detailed on the Inspection Report. Approval of a Corrective Action Time Extension shall be at the sole discretion of the Department.

k-d. Corrective Action Resolution is defined as when the contractor has completed the item(s) of work to the satisfaction of the Department. The Contractor shall provide appropriate equipment and personnel to resolve all Corrective Actions within the approved time.

2. Environmental Deficiency is defined as when Corrective Action Resolution has not been achieved within the approved time. The Department shall notify the contractor in writing when an Environmental Deficiency occurs. Failure to resolve corrective actions by the assigned due date may result in Environmental Disincentives. The Department has the right but not the duty to apply an Environmental Disincentive, withhold progress payments, and/or temporarily suspend Work in accordance with Subsection 105.01 Paragraph 3 of the Standard Specifications for Highway Construction, 2017 Edition.
3. The Environmental Disincentive shall be \$1,000 per Calendar Day per Environmental Inspection Report containing unresolved Corrective Actions.
4. Erosion Control Mobilization applies to contracts with a Construction Stormwater General Permit. Erosion Control Mobilization will be paid when the contractor resolves all Corrective Actions originating from a Storm Event Inspection Report within the approved timeframe. Failure to reach Corrective Action Resolution within the approved time will result in forfeiture of the Erosion Control Mobilization.
5. Rights Reserved
 - a. The Department has the right, but not the duty, to initiate and perform the Work necessary to resolve any deficiencies that are a result of the Contractor's failure to comply with any environmental commitment, whether through the Contractor's action or inaction.
 - b. The Contractor shall be liable to the Department for all costs incurred by the Department for the resolution of project deficiencies performed by the Department.
 - c. It is expressly understood that the provisions of this specification shall not relieve the Contractor of their responsibilities under this contract, nor shall it relieve the Surety of its obligation for and concerning any just claim.
 - d. The Contractor shall indemnify and save harmless the Department and all of its representatives from any and all actions or claims brought because of the Contractor's failure to comply with any environmental commitment, whether through the Contractor's action or inaction.

SECTION 116 - HAZARDOUS MATERIALS MANAGEMENT

116.01 -- Description

1. This Work shall consist of minimizing the exposure of the environment, including Waters of the State as defined by Title 126, Chapter 1 from the Nebraska Department of Environment and Energy (NDEE), to hazardous materials. This specification also includes the requirements for clean-up of releases (spills) of hazardous materials.

- (iii) to report such spills to the appropriate response personnel.
- (2) The response personnel will be trained:
 - ~~(iv)~~(i) to perform all of the above listed in Subsection 116.02 i.e. and,
 - ~~(v)~~(ii) to control/contain spills.
 - ~~(vi)~~(iii) to clean up of spills.
 - ~~(vii)~~(iv) to notify NDEE or Nebraska State Patrol when appropriate (reportable quantities).
 - ~~(viii)~~(v) to properly dispose of contaminated materials.
- f. The plan shall include the notification contacts, as well as the processes and timeframes to address the situation in the event that a spill occurs.
- 2. Safety Data Sheets (SDS) shall be maintained on site for all hazardous materials being used or stored for the project, including those used and documented separately by subcontractors.
- 3. The Contractor shall provide and maintain a spill kit with appropriate materials to clean up minor spills on site as described in the SPCP. A minor spill is a release that is less than twenty-five (25) gallons, or a lesser amount as defined by NDEE Title 126 and will not be considered as a reportable quantity and not entering the Waters of the State.

116.03 -- Construction Methods

1. The Contractor shall store petroleum products with containers of 55 gallons or larger in areas with secondary containment. Paints, solvents, pesticides, and other hazardous materials shall be stored in a dry, weather protected area off the ground. In no case shall paints, solvents, pesticides, petroleum products, and other hazardous materials be stored in restricted areas
2. The Contractor shall perform washout of concrete mixers, delivery trucks, and other delivery systems in conformance with Section 824.
3. Hazardous materials storage, including portable toilets, shall be restricted to specific areas away from:
 - a. vehicular traffic, no less than a distance equal to the lateral/fixed clear distance, as shown in the plans.
 - b. sensitive areas or restricted use areas as shown on the plans.
 - c. waters of the state, including wetlands (50 feet minimum distance).
 - d. Wellhead Protection Areas, unless designated in a Wellhead Protection Plan that has been approved by the local authority.
4. The Contractor shall inspect hazardous material containers bi-weekly to ensure that all containers are clearly identified and that no leaks are present. The inspections must document any leaks observed and corrective actions taken.
5. The Contractor shall inspect all equipment for leaks bi-weekly. The contractor shall fix any leaks and clean up any spilled fluids as soon as possible prior to the next use. In the event that the leaking equipment repair is delayed, the contractor shall install secondary containment until the repair and subsequent clean-up operations have been made.
6. The Contractor shall ensure that cleanup procedures are posted in a location that is accessible.
7. The Contractor shall verify and update the SPCP site maps as necessary during inspections to accommodate changes in the site.