

Nebraska Board of Public Roads Classifications and Standards

Memorandum of Understanding

Neb. Rev. Stat. § 39-2113(7)

**Program 2022-1; Nebraska Department of Transportation
Bridge or Culvert Replacement Projects**

THIS MEMORANDUM OF UNDERSTANDING, made and entered into by and between the Nebraska Board of Public Roads Classifications and Standards (the “Board”) and the State of Nebraska, Department of Transportation (the “State”), and collectively, the “Parties.”

Recitals

- A. Pursuant to Neb. Rev. Stat. § 39-2113(7), the Board has authority to develop, support, approve, and implement programs and project strategies that provide additional flexibility in the design standards established by the Board.
- B. Section 39-2113(7) allows the Board to set out such programs or strategies in Memorandums of Understanding (the “MOU”) between the Board and the State, the Counties, or the Cities.
- C. The State has the authority to submit a program or project strategy to the Board under Section 39-2113(7).
- D. The Board and the State have reviewed a program submitted by the State which is described in detail in Exhibit A, and which is known as: Bridge or Culvert Replacement Projects (the “Program”).
- E. The Board and the State believe that the Program qualifies as an eligible program under the provisions of Section 39-2113(7).
- F. The purpose of this MOU is to set out the terms and conditions applicable to this Program.
- G. Once this MOU has been properly executed by the Parties, this MOU will constitute State’s “pre-approval” for the design and construction of any project that includes use of the Program consistent with the terms and conditions of this MOU.

NOW, THEREFORE, in consideration of these facts, and other good and valuable consideration, the Board and the State agree as follows:

Section 1. Purpose of the MOU. The purpose of this MOU, as provided in Neb. Rev. Stat. § 39-2113(7), is for the Board to formally approve a program or project strategy intended to provide additional flexibility for State with Nebraska's highway design standards. The details of the applicable Program are set out below, as are any program conditions or limitations.

Section 2. Duration of the MOU. The MOU will become effective beginning on the date of execution of the MOU by the Chair of the Board. The MOU will continue in effect until rescinded by formal action of the Board.

Section 3. Description of the Program. The Program is described in the attached Exhibit A; the Exhibit is hereby made a part of the MOU by this reference. This Program applies to all Functional Classifications within the jurisdiction of the Department, i.e., the State Highway System, including State highways located within the corporate limits of any municipality; refer to attached Exhibit A, paragraph III.

Section 4. Conditions and Limitations of the Program. The conditions and limitations applicable to the approval of the Program, if any, are set out in Exhibit A.

Section 5. Program Approval. This Program is approved upon the full execution of this MOU; State will hereinafter be "pre-approved" and authorized to design and construct Highway projects using the approved Program, so long as the conditions and limitations of the Program have been met and continue to be met by State.

Section 6. Program Approval Reconsideration. Board, by majority vote, may reconsider the Board Approval given to this Program as follows:

- (a) When the Board's reason for reconsidering the Program Approval is an alleged breach of this MOU by State, Board shall provide State written notice of the alleged breach and allow State 90-days thereafter to cure the alleged breach or provide an acceptable plan to cure the alleged breach.
- (b) When the Board's reason for reconsidering the Program Approval is related to the merits of the Program, Board shall provide State a written and complete statement of the Board's concern for continuation of the Program. State shall have 90-days to consider and respond to Board's concern prior to the Board formally considering Board's concern at a duly scheduled Board meeting.
- (c) For an Approval Reconsideration under either (a) or (b) above, State will be given a full opportunity to present its response to Board's concerns at the Board meeting. The Board may rescind the MOU and the Approved Program by formal action taken at a meeting of the Board.

- (d) Also, this MOU and the Program may be rescinded when the Board and the State jointly agree to do so.
- (e) This MOU and the Program may also be terminated if the Board's standards are changed to no longer make the Program necessary.

Section 7. Contact Information. Questions for the Board about this Program should be directed to the Board Secretary or to the Board Chair at the Board of Public Roads Classifications and Standards, Nebraska Department of Transportation Building, 1500 Highway 2, P.O. Box 94579, Lincoln, NE 68509. Questions for NDOT about this Program should be directed to the Roadway Design Engineer, at the NDOT mailing address set out in the previous sentence.

Section 8. Change of Law. If the Board's standards change, or Nebraska law changes, and either Party has a good faith question about whether this change affects the validity of the MOU, it may notify the other Party of the concern. The Board will meet within 180 days of the notice being given to discuss the continued validity of the MOU. The MOU will remain in effect as written unless revised or rescinded by action of the Board.

IN WITNESS WHEREOF, the Parties hereby execute this Memorandum of Understanding pursuant to lawful authority.

EXECUTED by the State this 26th day of October, 2022



Khalil Jaber P.E.
Deputy Director -Engineering
STATE OF NEBRASKA
DEPARTMENT OF TRANSPORTATION

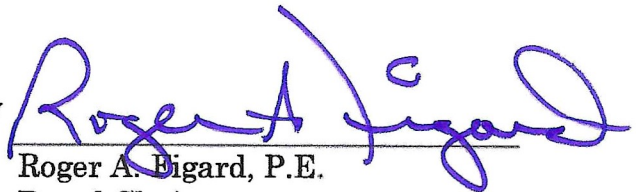
EXECUTED by the Board of Public Roads Classification and Standards this 26TH day of OCTOBER, 2022

WITNESS:

BOARD OF PUBLIC ROADS
CLASSIFICATION AND
STANDARDS

LeMoynes D. Schulz
Board Secretary

By



Roger A. Bigard, P.E.
Board Chairperson

Program 2022-1, Bridge or Culvert Replacement Projects

MOU Exhibit A

Nebraska Board of Public Roads Classifications and Standards (Board)

Program. This Nebraska Department of Transportation (State) program provides for (a) complete replacement of a single structure or multiple structures (bridges, non-buried structures, and/or culverts), or (b) for structure replacement(s) (bridges, non-buried structures, and/or culverts) done as part of a Resurfacing, Restoration and Rehabilitation (3R) work or project when the conditions of this exhibit are satisfied.

Standards and Intent. In this MOU, unless stated otherwise, reference to the Board's standards or current standards refers to the regulation, 428 NAC 2, in effect during the design phase of a project or work. The intent of projects and works done under this MOU is to design and build as close to the Board's New & Reconstructed geometric design standards as practicable - in the judgment of State - but not to build below the Board's 3R geometric design standards. Under this program, the design of the replacement culvert(s), bridge(s), or non-buried structure(s) shall be as follows ("existing" refers to design features as per the most recent construction plans).

General Conditions:

- (1) There has been a 3R or New & Reconstructed project completed that conformed to Board standards, since 1985, at the location of each culvert(s), bridge(s), or non-buried structure(s) to be replaced, i.e., the highway has been previously improved, and
- (2) State has completed a recent crash history review using a standard crash analysis model at and near each bridge or culvert location, and that study does not reveal a crash history related to a Board non-complying geometric feature.

Replacement Bridges or Non-Buried Structures:

- (A) Shall meet the Board's New & Reconstructed standard for structural capacity.
- (B) Will meet current State hydrologic and hydraulic conditions (not a Board standard).
- (C) Roadways approaching and adjacent to the bridge or non-buried structure within project or work termini will
 - match existing lane width, shoulder width, and paved shoulder width (see I. below) and
 - transition horizontal and vertical alignment from the replacement bridge or non-buried structure into (1) existing alignment, or (2) meeting or exceeding Board's 3R standards, whichever is the greater (either 1 or 2).

Replacement Culvert (Buried Structures, even if greater than 20-foot span width):

- (a) Shall meet the Board's New & Reconstructed standard for structural capacity.
- (b) Will meet current State hydrologic and hydraulic conditions (not a Board standard).
- (c) Roadway within project termini will
 - (1) match existing lane width, shoulder width, paved shoulder width, and fixed obstacle clearance or (2) meet or exceed 3R standards, whichever is the greater (either 1 or 2), and
 - transition horizontal and vertical alignment from culvert replacement into (1) existing alignment or (2) meeting Board 3R standards, whichever is the greater, (either 1 or 2).

Other Conditions and Clarifications:

- I. For a bridge or non-buried structure replacing a bridge or non-buried structure, the clear bridge width shall at least match the approach geometry. For example, if lane widths are 12 ft wide, and shoulders are 6 ft wide, the design clear bridge width will be 36 ft. (see the first bullet in (C) above).
- II. There shall be no significant changes expected in the foreseeable future for (a) land use along the highway or change in highway functional classification, or (b) traffic volume, i.e., volumes are expected to stay within the highway segment's current ADT category within Board's New & Reconstructed minimum standards.
- III. If State decides to replace a bridge or a culvert under this program on a state highway within the corporate limits of a Municipality, State will coordinate with the Municipality through normal processes.
- IV. The Board will not require specifically and separately tracked documentation concerning the cost savings for use of this program, in part because State's planning and design process has several built-in processes, reports and documentation that will confirm that a project or work is eligible for this program, including the Plan-in-Hand decision making process of the District Engineer, Roadway Design Engineer, and other key staff. The State will include or add the savings from this program with or into the current practical design savings reports that are reported annually to the Director of the Nebraska Department of Transportation. The Board may ask for a report on these savings periodically from the State.

If the above conditions are not met, then State would not move forward with a Bridge or Culvert replacement project or work under this program; in that case, the State may request a relaxation of standards from the Board.