CE Determination Form for Federal-Aid Projects (June 2, 2015)

CE Review Level:

☐ 1 ☒ 2 ☐ 3 ☐ Re-evaluation

The proposed project qualifies as the Categorical Exclusion Level indicated above in accordance with the 2015 Programmatic Agreement.

Appendix: B

Paragraph: 22

Project Name:

Elkhorn River West

Project Number:

STP-36-7(115)

Control Number:

22532

Location and Study Area:

The Project is located on Nebraska Highway 36 (N-36) in Douglas County, starting at Old US Highway 275 (US 275)/Reichmuth Road, at mile marker (MM) 0.00, and extending east to MM 6.55, immediately west of the N-36 Elkhorn River bridge. The Environmental Study Area (ESA) is confined to the length of the Project plus 200 feet on either end and includes the existing right-of-way (ROW), plus 50 feet beyond the ROW for most of the Project, and extends 150 feet beyond the ROW at bridges and culverts for wetlands and most other resources. The study area was extended 0.10 mile for regulated materials, and 0.25 mile for Section 4(f) properties. Termini are based on limits identified by Nebraska Department of Roads (NDOR) pavement management system, District 2, and previous construction projects on this segment of highway.

Begin Point(s):

MM 0.00

End Point(s):

MM 6.55

Highway Number, Street, etc.:

N-36

Project Description:

This project would repair and resurface 6.37 miles of N-36 located in Douglas County, starting at Old US 275/Reichmuth Road, at MM 0.00, and extending east to MM 6.55, immediately west of the N-36 Elkhorn River bridge. Construction may begin and/or end approximately 200 feet ahead of or beyond the actual project limits to accommodate transitioning the pavement.

The existing roadway on this segment of N-36 consists of the following:

- MM 0.00 – MM 0.27: This segment consists of two 12-foot-wide concrete lanes, one 14-foot-wide concrete left turn lane, and 10-foot-wide shoulders, of which 8 feet is paved with asphalt.
- MM 0.27 – MM 1.22: This segment consists of two 12-foot-wide concrete lanes and 10-foot-wide shoulders, of

which 8 feet is paved with asphalt.
- MM 1.22 – MM 6.55: This segment consists of two 12-foot-wide asphalt lanes and 10 foot-wide shoulders, of which 8 feet is paved with asphalt.

The improvements on this project consists of concrete pavement patching, sealing cracks and joints on the roadway, and milling, recycling and resurfacing the surfaced shoulders with asphalt from MM 0.00 to MM 1.22. The remaining portion of the project from MM 1.22 to MM 6.55, consists of milling and resurfacing the roadway and milling, recycling and resurfacing the surfaced shoulders with asphalt. There would be a 1-inch grade raise from MM 1.22 to MM 3.50 but no grade raise from MM 3.50 to MM 6.55 due to the roadway being in a floodway. Structure S036 00429 would be replaced with a triple span concrete box culvert. Structures S036 00535 and S036 00585 would be repaired. Structure S036 00657 would be used in place but the west end guardrail would be removed and replaced. All other guardrail on the project would be removed and replaced as necessary and surfacing would be placed underneath the guardrail.

Scope details include:
- Grading beyond the hinge point would be required for the following work:
  - Guardrail replacement.
  - Surfacing of drives and intersections.
  - Foreslope grading.
  - Earth shoulder construction.
  - Removal of the existing bridge (S036 00429) and construction of a new box culvert.
  - Right turn lane construction.
- Traffic signs would be adjusted as necessary to accommodate construction, then put back; soil would be disturbed.
- Project surveying and staking would be required.
- Areas disturbed during construction would be stabilized utilizing methods of erosion control as shown in the Storm Water Pollution Prevention Plan (SWPPP).
- Floodplains and floodways are crossed by this project. A floodplain permit would be required.
- Permanent pavement markings would be applied to all new surfacing.
- There are 9 culverts along this roadway segment.
- Existing guardrail along the project would be removed and replaced, with grading beyond the hinge point.
- S036 00429 crossing a tributary of Rawhide Creek would be replaced with a triple 10-foot by 8 foot concrete box culvert with the floor buried 1 foot.
- S036 00535 crossing Rawhide Creek would undergo repairs including deck repair, as well as sealing of the concrete.
- S036 00585 crossing an unnamed stream would undergo repairs including deck repair, as well as sealing of the concrete.
- Concrete pavement repairs and asphalt patching would be made prior to resurfacing.
- The existing right turn lane at the N-36/Valley Road (276th St) would be removed and updated to current standards.
- Existing surfaced driveways and intersections would be resurfaced.
- Gravel would be placed behind driveways and intersections to match the new surfacing as necessary.
- The existing earth shoulders would be brought up to match the new surfacing.
- Centerline and shoulder rumble strips would be replaced on this project.
- Additional property rights would not be required to build this project.
- Access to adjacent properties would be maintained during construction but may be limited at times due to phasing requirements.
- This project would be constructed under traffic with lane closures controlled with approved temporary traffic control. Phased construction and the use of temporary traffic signals and alternating traffic flow would be used for the replacement of the existing bridge and for the repairs to the two bridge structures.
- Pavement removal would be required for the following work:
  - Replacement of the bridge (S036 00429) with a concrete box culvert.
  - Removal of the existing turn lane at the N-36/Valley Road (276th St).

Purpose and Need *(include for Level 3, NWP 23, and Section 4(f) Programmatic Evaluation)*:

N/A

Action is identified in the Current STIP Date:	Subsequent Phase:	Estimated Cost *($)*:
9/9/2016	Construction	$5,234,000

The numbers in the parentheses (x) indicate the level of CE review that will be required.

All technical assessment approvals shall be made by NDOR Professional Qualified Staff (PQS) responsible for the resource category and are indicated by "NDOR PQS Determination Date."

Right of Way and Property Impacts

1.1 Easements/ROW – Will the action require the acquisition of new temporary or permanent right-of-way *including easements)*?

☐ Yes (2) ☒ No (1) ☐ N/A

2.1 Section 4(f) – Will the action result in a Section 4(f) use or qualify for Section 4(f) Exception?

☐ Yes (2) ☒ No (1) ☐ N/A

2.3 Describe resources, impacts, and the coordination conducted with officials/agencies *(including FHWA approval date(s))*:

Elkhorn River Canoe Trail is located on the Elkhorn River, approximately 200 feet east of the Project's eastern terminus. Access to the Elkhorn River Canoe Trail is provided at Elkhorn Crossing Recreation Area, south of the study area. Elkhorn Crossing Recreation Area is located one mile south of N-36 and can be accessed from N-36 at MM 6.11 (252nd Street). Elkhorn Crossing Recreation Area can also be accessed from several other roads to the west of 252nd Street and from the south.

Platte River Canoe Trail is located approximately 1,350 feet southwest of the Project's western terminus. Public access points to the Platte River Canoe Trail are located several miles to the northwest and south of the Project and can be accessed from several roads. Due to the scope of the project, no use of the Elkhorn River Canoe Trail, Elkhorn Crossing Recreation Area, or Platte River Canoe Trail would occur and no substantial adverse impacts to ecosystem values are anticipated. The project would not acquire any additional ROW and would be constructed under traffic with lane closures controlled with approved temporary traffic control. Access to adjacent properties would be maintained during construction but may be limited at times due to phasing requirements.

3.1 Section 6(f) – Are there any Section 6(f) Land and Water Conservation Fund Act properties 36 CFR 59) within the study area?

☐ Yes (1) ☐ No (1) ☒ N/A

Other Non-Threshold Property Impacts

4.1 Will the action take place on or adjacent to Tribal lands or other Federal lands?

☐ Yes ☒ No

4.2 Will federal funds be used to relocate utilities, or will the project contractor be responsible for the relocation of the utilities?

☐ Yes ☒ No ☐ Unknown

The following questions should only be answered when the action is processed for CE Level 2 or CE Level 3 determinations. These questions are not required for a CE Level 1 analysis.

4.3 Trails – Will the action involve construction of new trails on ROW not previously designated for trails?

☐ Yes ☒ No

4.4 Farmland – Will the action result in impacts to prime or unique farmland?

☐ Yes ☒ No

4.5 If Yes, does the affected property accumulate 60 points or more in Part VI of the NRCS-CPA-106 Form?

☐ Yes ☐ No ☒ N/A

4.6 Describe resources, impacts, and the coordination conducted with officials/agencies (including FHWA):

4.7 Describe Mitigation for Above Non-Threshold Resources:

Utility relocation or replacement is not anticipated for the Project. If utility relocation or replacement is required in a later phase of the Project, a reevaluation shall be required if: (1) federal funds are used for the utility work; or (2) the project construction contractor is responsible for the work. If this utility work is identified during final design, the Project sponsor shall initiate the reevaluation prior to project letting. If the work is identified during construction, the Project sponsor shall initiate the reevaluation prior to commencing utility work. (NDOR Environmental, NDOR District)

If any one of the above two conditions do not apply, later relocation or replacement of utilities shall be coordinated through NDOR and the Contractor per NDOR's Standard Specifications for Highway Construction, Subsection 105.06. Any environmental permits required for these utility relocations or replacements shall be the responsibility of the Utility. (NDOR District, Utility Provider(s))

Water and Ecological Resources:

5.1 Wild and Scenic/National Recreational Rivers – Will the action cross or occur adjacent to a Wild and Scenic River, National Recreational River Segment, or a river listed on the nationwide rivers inventory, including its buffer area?

☐ Yes* ☒ No ☐ N/A

Note: If Yes, the proposed action can be processed as a Level 1 [all Appendix A categories] or a Level 2 Action [Appendix B categories other than (26), (27), and (28)] if the Agency with Jurisdiction has determined the action will not result in an impact.

6.1 Floodplain/Floodway – Will the action occur within the boundaries of a mapped Zone A floodplain or a mapped floodway?

☒ Yes (1) ☐ No (1) ☐ N/A

If Yes, attach permits to the CE document. If a floodplain permit has not been obtained, add commitment that one will be obtained prior to the start of construction.

6.2 Will the action cause a greater than 1-foot rise in the Base Flood Elevation (BFE), any rise in a floodplain that potentially impacts an adjacent structure, or any rise in a floodway?

☐ Yes (3) ☒ No (1) ☐ N/A

6.3 Will the actions reviewed under Appendix B, Paragraphs (26), (27), and (28) result in a floodplain encroachment other than functionally dependent uses or actions that facilitiate open space use?

☐ Yes (3) ☐ No ☒ N/A

6.4 Describe resources, impacts, and the coordination conducted with officials/agencies:

The proposed project encounters three Zone A floodplains. The western portion of the project is located within the Platte River floodplain from approximately MM 0.00 to MM 1.72. The Elkhorn River/Rawhide Creek floodplain is located from approximately MM 3.90 to MM 5.01 (the Rawhide Creek floodplain lies within the Elkhorn River floodplain). The eastern portion of the project is within the Elkhorn River floodway from MM 5.01 to MM 6.55 (project end).

Nebraska floodplain regulations require any project that crosses a mapped, regulated Floodplain (100 year base floodplain) to obtain a floodplain permit. NDOR would acquire the proper floodplain permits from Douglas County, and would certify that the construction activities would be in compliance with the State of Nebraska floodplain regulations.

6.5 Floodplain/Floodway Mitigation:

Nebraska floodplain regulations require any project that crosses a mapped, regulated floodplain (100-year base floodplain) to obtain a floodplain permit. NDOR will acquire the proper floodplain permit from Douglas County, and would certify that the construction activities would be in compliance with the State of Nebraska floodplain regulations. (NDOR Environmental)

7.1 Wetlands/Waters of the U.S. – Are there wetlands, stream channels, or other waters within the study area?

[X] Yes (1) [ ] No (1)

7.2 Will the action result in wetland impacts in accordance with Section 404 of the Clean Water Act and/or Nebraska State Title 117?

[X] Yes (1) [ ] No (1)

7.3 Will the action result in greater than 0.5 acres (total permanent) of wetland impacts?

[X] Yes (2) [ ] No (1) [ ] N/A

7.4 Estimated Permanent Wetlands Impacts:

0.69

7.5 If the project is processed with a Nationwide Permit, is a Pre-construction Notification required?

[ ] Yes (2) [X] No (1) [ ] N/A

7.6 Will the action require an Individual Permit (IP) or Section 10 Permit from the U.S. Army Corps of Engineers or a Section 9 Permit from the U.S. Coast Guard?

[ ] Yes (3) [X] No (2) [ ] N/A

7.7 Describe resources, potential impacts, and any coordination conducted to date with officials/agencies:

A wetland/water resource delineation was completed in May 2014. Wetlands and other water resources were identified within the Environmental Study Area. Based on the current Project design and scope of work, permanent wetland impacts associated with this project are anticipated to be 0.6826 acre of palustrine emergent wetlands and 0.0001 acre of palustrine forested wetlands for a total of approximately 0.69 acre. Channel impacts from filled stream channel are anticipated to be 0.0255 acre (115 feet). Temporary wetland impacts are anticipated to be approximately 0.0293 acre of palustrine emergent wetlands. Channel impacts resulting from channel cleanout/shaping are anticipated to be approximately 0.0148 acre (30 feet). This project would qualify for a Nationwide Permit (NWP) 3 (a)(c) – Maintenance, and wound not require pre-construction notification nor mitigation.

7.8 Wetlands/Waters of the U.S. Mitigation:

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

All wetlands/waters within the project area that are not permitted for impacts shall be marked on the 2W aerial sheets for the contractor as avoidance areas. (NDOR Design, District Construction)

The Project qualifies under Nationwide Permit # 3(a)(c) - Maintenance. The contractor shall adhere to the permit conditions, including regional and general conditions, during construction. (Contractor)

8.1 Impaired Waters, Section 402, and MS4 – Are there any impaired waters within or adjacent to *(0.5 mile)* the project study area?

[ ] Yes [X] No

8.2 Does the project occur within a MS4 community?

☐ Yes ☒ No

8.3 Does the project require a NPDES storm water permit (*ground disturbance of greater than 1 acre*)?

☒ Yes ☐ No

If Yes, add standard Erosion Control plans and Storm Water Pollution Prevention Plan (SWPPP) commitment to the mitigation commitments.

8.5 Impaired Waters, Section 402, and MS4 Mitigation:

Erosion control plans and storm water pollution prevention plans (SWPPP) are required on all projects that have one acre or more of disturbed soil. NDOR inspects all erosion and sediment control best management practices (BMPs) including devices every 14 days minimum and after every precipitation event of 0.5 inch or greater as per the requirements in the General Construction Storm Water Permit. Any BMP adjustments and repairs are to occur within 7 days of the inspections to ensure that water quality is being protected to the maximum extent practicable. The SWPPP shall be maintained and discharge points shall be monitored by the NDOR District Staff until the site is 70 percent revegetated. At that time, the Notice of Termination with NDEQ for the General Construction Storm Water Permit and completion of the SWPPP responsibilities shall be filed. (NDOR Environmental)

9.1 **Threatened and Endangered Species** – Will the action result in a "May Affect" determination per the Nebraska Biological Evaluation Process *Matrix** that requires further consultation with the resource agencies?

☒ Yes (2) ☐ No (1)

9.2 Will the action result in a "may affect, likely to adversely affect" determination for threatened or endangered species or designated critical habitat?

☐ Yes (3) ☒ No (2)

9.3 Will the action require the use of unique conservation conditions that are not included within the *Matrix* PA, requiring resource agency concurrence?

☐ Yes (3) ☒ No (2)

NDOR PQS Determination Date:	USFWS Concurrence Date:	NGPC Concurrence Date:
12/2/2015		11/30/2015

9.4 Suitable habitat for eagle nesting is reviewed as part of the *Matrix* Biological Evaluation process and projects are evaluated for compliance with the Bald and Golden Eagle Protection Act (BGEPA). This project was reviewed for potential impacts to bald and golden eagles resulting in the following determination:

☐ NDOR has determined the project site does not have appropriate habitat for eagles. Due to the lack of suitable habitat and the information that there are no known bald or golden eagle nests within the project area, NDOR has determined that there will be no impact to these species.

☒ It has been determined that suitable habitat does exist within 0.5 mile of the Environmental Study Area. NDOR will utilize the Bald and Golden Eagle Survey Protocols to determine when a survey for nests and/or roosts should be conducted. If nest(s) are present within 0.5 mile of the project area, NDOR will notify the Nebraska Game and Parks Commission and the United States Fish and Wildlife Service, and construction will not commence prior to their approval.

9.5 This project will comply with the Migratory Bird Treaty Act *(MBTA)* in accordance with NDOR's Avian protection Plan *(APP)* and Biological Evaluation *Matrix* Appendix A.

☒

9.6 If a Section 404 Individual Permit is required, coordination under the Fish and Wildlife Coordination Act will occur during the permitting process.

☐ Coordination Required ☒ N/A

9.7 Describe resources, potential impacts, and any coordination conducted to date with officials/agencies:

The Project as proposed has been determined to "may affect, but is not likely to adversely affect" the following listed species with the implementation of conservation conditions: Northern Long-eared Bat and River Otter. The Project would have "no effect" to all other state or federally listed species or their designated habitat. FHWA reviewed and approved the Biological Assessment, concurring on 11/10/2015. River Otter are currently listed on Nebraska's threatened and endangered species list, therefore coordination and concurrence with the NGPC was required. Concurrence with USFWS was not needed for the proposed project.

9.8 Species Mitigation:

S-2 Platte River Depletions. All efforts will be made to design the project and select borrow sites to prevent depletions to the Platte River. If there is any potential to create a depletion, NDOR (during design) and the contractor (for borrow sites) shall follow the current Platte River depletion protocols for coordination, minimization, and mitigation. In general the following are considered de minimis depletions, but may still require agency coordination; a project which: a) creates an annual depletion less than 0.1 acre feet, b) creates a detention basin that detains water for less than 72 hours, c) any diverted water will be returned to its natural basin within 30 days, or d) creates a one-time depletion of less than 10 acre feet.

S-3 Revegetation. All permanent seeding and plantings (excluding managed landscaped areas) shall use species and composition native to the project vicinity as shown in the Plan for the Roadside Environment. However, within the first 16 feet of the road shoulder, and within high erosion prone locations, tall fescue or perennial ryegrass may be used at minimal rates to provide quick groundcover to prevent erosion, unless state or federally listed threatened or endangered plants were identified in the project area during surveys. If listed plants were identified during survey, any seed mix requirements identified during resource agency consultations shall be used for the project. (NDOR Environmental)

S-4 Sensitive Areas. Environmentally Sensitive Areas will be marked on the plans, in the field, or in the contract by NDOR Environmental for avoidance. (NDOR Environmental, District Construction)

S-5 Species Surveys. If species surveys are required for this project, results will be sent by NDOR to the USFWS, NGPC, and if applicable COE. FHWA will be copied on submittals. (NDOR Environmental, District Construction)

Northern Long-Eared Bat

NLEB-1 Tree clearing, bridge deck joint replacements over the bridge deck, bridge/>5-ft box-culvert removal activities will be scheduled to occur between October 1st – March 31st to avoid impacts to the northern long-eared bat roosting period. (NDOR Environmental, Construction, Contractor)

OR

NLEB-2 If tree clearing, bridge deck joint replacement over the bridge deck, or removal of bridge or >5-ft box-culvert structures occurs during the northern long-eared bat roosting period (April 1st – September 30th), NDOR personnel will perform surveys prior to the start of these activities at the following locations: MM 4.29, MM 5.35, MM 5.85, and Elkhorn River bridge. If the species is absent, work may proceed. If the species is found, NDOR Environmental Section will consult with the USFWS, NGPC, and FHWA prior to the start of construction. (NDOR Environmental, Construction, Contractor)

River Otter

RO-1 A qualified biologist will survey according to protocol no more than 10 days prior to construction. If no active den sites are found, then the project can proceed. If active den sites are found, NDOR Environmental Section will notify the District and will consult with the USFWS, NGPC, and FHWA. If species are present the District will notify the Contractor to stop work within 1/2 mile of the active den until NDOR Environmental completes consultation. (NDOR Environmental, District Construction, Contractor)

RO-3 Bridge deck debris will be captured and/or contained to prevent material from falling below the structure. (District, Contractor)

Bald and Golden Eagle Protection Act

- Suitable bald eagle nesting and/or roosting habitat exists within 0.5 miles of the Environmental Study Area. If construction will begin between February 1 and April 15, a nest survey must be completed at least 1 but not more than 14 days prior to construction. If construction will begin between April 15 and October 1, a nest survey completed in March is sufficient, as nests will likely already be constructed if nesting will occur that year. However, a nest survey may be completed anytime during this timeframe, as long as it is completed prior to construction. If bald eagles are nesting in the area, consultation with NGPC and USFWS will be required prior to beginning construction activities.

* The Nebraska Biological Evaluation Process Programmatic Agreement *Matrix* complies with the Federal Endangered species Act *(ESA)* and Nebraska Nongame and Endangered Species Conservation Act *(NESCA)*.

Human and Social Resources

10.1 Historic Properties – Are there any properties listed or eligible for the National Register of Historic Properties in the study area?

☐ Yes (1) ☒ No (1)

10.4 Historic Property Determination

No Historic Properties Affected

NDOR PQS Determination Date:

1/26/2016

Has coordination occurred with SHPO?

☐ Yes ☒ No

Has coordination occurred with THPO?

☒ Yes ☐ No

THPO Concurrence Date:

1/26/2016

Has coordination occurred with CLG?

☐ Yes ☒ No

11.1 Hazardous Materials – Will the project actions exceed the scope of the listed exemption identified in NDOR's Hazardous Materials Assessment Guidance?

☒ Yes (1) ☐ No (1)

11.2 Will the action result in <u>more</u> than a Low Potential for encountering hazardous materials during construction (excluding Lead Based Paint or Asbestos Containing Material)?

☐ Yes (2) ☒ No (1)

11.2A There is potential for the project to encounter Lead Based Paint (LBP). LBP standard specifications shall apply to the proposed project.

☒ Yes ☐ N/A

11.2B Asbestos Containing Materials (ACM) has been identified on bridge structures. ACM specifications will be included in the contract by special provisions.

☒ Yes ☐ N/A

11.4 Will any soil disturbance occur below or beyond preexisting roadway fill within an active Superfund Site?

☐ Yes (3) ☒ No (1)

NDOR PQS Determination Date:

5/23/2016

11.5 Describe potential conflicts and the coordination with officials/agencies:

A hazardous materials review (HMR) was completed by HDR for the Elkhorn River West project and approved by NDOR on May 23, 2016. The HMR did not identify any facilities where past releases have occurred within the hazardous materials study area. In addition, no Superfund sites were identified near the project. Based on this information, there is a low potential of encountering contamination (excluding lead-based paint or asbestos-containing material) during construction. An Asbestos survey was completed on April 28, 2016 for bridge structure S036 00429. The white caulking at the corners of the abutments was found to contain 2.5% non-friable asbestos.

11.6 Hazardous Materials Mitigation:

Bridge structure S036 00429 tested positive for asbestos containing material (ACM) in the white caulking at the corners of the abutments. Because the material is non-friable, the removal will not qualify as an asbestos removal project according to the Department of Health and Human Services (DHHS) Asbestos Control Program Regulations, Title 178. Removal by a licensed asbestos removal contractor is NOT required. The ACM on bridge structure [S036 00429] must be removed in a way that allows the ACM to remain in a non-friable condition. The contractor shall contact DHHS prior to removal of the ACM for guidelines on disposal. The ACM shall be disposed of at a landfill approved for handling asbestos. The contractor's efforts shall be recorded in ECOD (NDOR District, Contractor).

Demolition work on the bridge structure S036 00429 will require the contractor to submit a written NESHAP (National Emission Standards for Hazardous Air Pollutants) notification to the Nebraska Department of Environmental Quality (NDEQ). In addition, the Department of Health and Human Services shall also be notified by the contractor, using DHHS Form 5, at least 10 working days prior to commencement of bridge demolition or renovation activities where ACM was found. The 10-day clock starts with the day the Notification is postmarked, hand delivered, or picked up by a commercial delivery service, such as UPS, FedEx, etc. Faxing documents is prohibited. The NDOR Project Manager shall be provided copies of said notifications and their submittal date, which shall be recorded with the ECOD. (NDOR District, Contractor)

There is potential for lead based paint to be found on the bridges painted components. If the method of removal of the components generates paint debris, the waste shall be handled in accordance with NDOR's Standard Specification for Highway Construction Section 732 (Leadbased Paint Removal) and Title 128, Nebraska Hazardous Waste Regulations. Extreme caution shall be taken to minimize the amount of potential lead based painted material or debris from causing or threatening to cause pollution of the air, land and waters of the State. The Contractors implementation plan efforts shall be documented in ECOD (NDOR District, Contractor).

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

12.1 Traffic Noise – Does the project qualify as a Type I Project under NDOR's Noise Policy?

☐ Yes (3) ☒ No (1) ☐ N/A

13.1 Air Quality – Will the action increase capacity in exceedance of 100,000 vehicles per day in the 20th year following construction; will it result in a high potential for Mobile Source Air Toxics *(MSAT Level III)* effects; or is it considered *Regionally Significant* within a designated non-attainment area?

☐ Yes (3) ☒ No ☐ N/A

14.1 Roadway – Will the action result in the addition of through-lane capacity?

☐ Yes (3) ☒ No (1) ☐ N/A

15.1 Traffic Disruption – Will the action result in minor traffic disruptions requiring detours, temporary roads, or ramp closures that are greater than 30 working days?

☐ Yes (2) ☒ No (1)

15.3 Will temporary roads, detours, or ramp closures substantially change the environmental consequences of the action?

☐ Yes (3) ☒ No (1)

15.4 Will the action result in adverse travel *(out-of-direction)* greater than 5 miles in urban areas or 25 miles in rural areas?

☐ Yes (3) ☒ No (1)

15.5 Will the action result in temporary or permanent interference with local special events or festivals?

☐ Yes (3) ☒ No (1)

15.6 Will the action result in temporary or permanent adverse effects to through-traffic dependent business?

☐ Yes (3) ☒ No (1)

15.7 Will the action result in permanent traffic pattern changes or disruptions?

☐ Yes (3) ☒ No (1)

If a detour is required for the project, attach a map to the CE document.

15.8 Traffic Disruption Comments:

This project would be constructed under traffic with lane closures controlled with approved temporary traffic control. Phased construction and the use of temporary traffic signals and alternating traffic flow would be used for the replacement of the existing bridge and for the repairs to the two bridge structures.

15.9 Traffic Disruption Mitigation:

This project shall be constructed under traffic with lane closures controlled by approved temporary traffic control. The project shall not result in traffic disruptions requiring detours, temporary roads, or ramp closures that are greater than 30 working days. (Contractor)

16.1 Access Disruptions – Will the action require any access closures to businesses or residences?

☐ Yes (1) ☒ No (1)

16.5 Will the action result in access restrictions to emergency service facilities or providers?

☐ Yes (3) ☒ No (1)

16.6 Will the action change the functionality of adjacent properties?

☐ Yes (3) ☒ No (1)

16.8 Substantial Access Disruption Mitigation:

Access to adjacent properties shall be maintained at all time during construction but may be disrupted temporarily at times due to construction activities, but shall not be closed. (Contractor)

17.1 Environmental Justice – Are protected populations within the study area?

☐ Yes (1) ☒ No (1)

NDOR Highway Civil Rights Specialist Determination Date:

4/21/2016

18.1 Public Involvement – Provide a summary of any completed and planned Public Involvement Activities**:**

Letters were sent to owners and managers at Sibbersen Airport and Werner Airport describing the Project; no responses were received from either airport. Coordination also occurred with the Nebraska Department of Aeronautics, however the closest public airport (Fremont Municipal Airport) located approx. 7.1 miles to the NW of the project.

No Limited English Proficiency (LEP) outreach is required for this project because, in the areas surveyed, none of the data indicates the presence of an LEP population that reaches the NDOR LEP outreach triggers of 5% or 1,000 persons.

This project has been disclosed in the District-wide Program Hearings as well as through the public involvement efforts in conjunction with the development of the State Transportation Improvement Program (STIP) and the Metropolitan Area Planning Agency (MAPA) Transportation Improvement Program (TIP).

18.2 Public Involvement Mitigation:

A minimum of one news release shall go to all local and area media, and be posted on the NDOR website prior to the start of construction work. (NDOR District, NDOR Communication)

19.1 Unresolved Controversy – Based on public involvement carried out per NDOR's procedures, is there any known public or agency controversy on human, natural, or economic grounds associated with the action?

☐ Yes ☒ No

If Yes, coordinate with FHWA to determine the proper level of environmental review.

Contract Provisions Required

20.1 Wellhead Protection Special Provisions

☐ Yes ☒ No

20.2 General Conditions for Nationwide Permit

Nationwide Permit: 3

☒ Yes ☐ No

20.3 Federal Aviation Administration *(FAA)* Form 7460-1

☐ Yes ☒ No

20.4 General Conservation Conditions from the Matrix PA

☒ Yes ☐ No

T&E General Conditions:

A-1 Changes in Project Scope. If there is a change in the project scope, the project limits, or environmental commitments, the NDOR Environmental Section must be contacted to evaluate potential impacts prior to implementation. Environmental commitments are not subject to change without prior written approval from the Federal Highway Administration. (District Construction, Contractor)

A-2 Conservation Conditions. Conservation conditions are to be fully implemented within the project boundaries as shown on the plans. (District Construction, Contractor)

A-3 Early Construction Starts. Request for early construction starts must be coordinated by the Project Construction Engineer with NDOR Environmental for approval of early start to ensure avoidance of listed species sensitive lifecycle timeframes. Work in these timeframes will require approval from the Federal Highway Administration and could require consultation with the USFWS and NGPC. (District Construction, Contractor)

A-4 E&T Species. If federal or state listed species are observed during construction, contact NDOR Environmental. Contact NDOR Environmental for a reference of federal and state listed species. (NDOR Environmental, District Construction, Contractor)

A-5 Refueling. Refueling will be conducted outside of those sensitive areas identified on the plans, in the contract, and/or marked in the field. (Contractor)

A-6 Restricted Activities. The following project activities shall, to the extent possible, be restricted to between the beginning and ending points (stationing, reference posts, mile markers, and/or section-township-range references) of the project, within the right-of-way designated on the project plans: borrow sites, burn sites, construction debris waste disposal areas, concrete and asphalt plants, haul roads, stockpiling areas, staging areas, and material storage sites.

For activities outside the project limits, the contractor should refer to the Nebraska Game and Park Commission website to determine which species ranges occur within the off-site area. The contractor should plan accordingly for any species surveys that may be required to approve the use of a borrow site, or other off-site activities. The contractor should review Chapter 11 of the Matrix (on NDOR's website), where species survey protocol can be found, to estimate the level of effort and timing requirements for surveys.

Any project related activities that occur outside of the project limits must be environmentally cleared/permitted with the Nebraska Game and Parks Commission as well as any other appropriate agencies by the contractor and those clearances/permits submitted to the District Construction Project Manager prior to the start of the above listed project activities. The contractor shall submit information such as an aerial photo showing the proposed activity site, a soil survey map with the location of the site, a plan-sheet or drawing showing the location and dimensions of the activity site, a minimum of 4 different ground photos showing the existing conditions at the proposed activity site, depth to ground water and depth of pit, and the "Platte River depletion status" of the site. The District Construction Project Manager will notify NDOR Environmental which will coordinate with FHWA for acceptance if needed. The contractor must receive notice of acceptance from NDOR, prior to starting the above listed project activities. These project activities cannot adversely affect state and/or federally listed species or designated critical habitat. (NDOR Environmental, District Construction, Contractor).

A-7 Waste/Debris. Construction waste/debris will be disposed of in areas or a manner which will not adversely affect state and/or federally listed species and/or designated critical habitat. (Contractor)

A-8 Post Construction Erosion Control. Erosion control activities that may take place by NDOR Maintenance or Contractors after construction is complete, but prior to project close-out, shall adhere to any standard

conservation conditions for species designated for the project area during construction. (NDOR Maintenance, District Construction, Contractor)

The proposed action will be carried out in compliance with Executive Order 13112 *(Invasive Species)*. The project contractor shall comply with Special Provision A-43-2010 amending NDOR Specification 107.01 to include the following: The Contractor shall prevent the transfer of invasive plant and animal species. The Contractor shall wash equipment at the Contractor's storage facility prior to entering the construction site. The Contractor shall inspect all construction equipment and remove all attached vegetation and animals prior to leaving the construction site.

21.1 No Indirect or Cumulative Impacts

[X]

This box can be checked if after careful consideration of the Indirect and Cumulative Impact analysis guidance in the CE instructions and the facts of the project, the following statement is determined to be true: *"Indirect effects from this project are not anticipated. This project will not induce growth, change land uses, substantially change travel patterns within a community, or substantially impact water quality, drainage patterns or other resources of concern. Since no substantial human, environmental or economic impacts have been identified for this project; no cumulative impacts are expected."*

21.3 Cumulative Impacts:

There are two other projects in the area of District 2 which are outlined in the NDOR Surface Transportation Program Book for fiscal years 2017-2021. Junction N-31/N-36 (CN 22530, Project number HSIP-31-2(111)), approximately 3 miles east of the Project, is scheduled to be let 11/8/2018 (FY 2019). Junction N-31/N-36 would include intersection improvements by removing the existing pavement and foundation course and rebuilding approaches and a single lane roundabout with reinforced concrete pavement. Elkhorn River East (CN 22597, Project number NH-64-7(124)) is a 3R resurfacing project scheduled to let 8/25/2022 (FY 2023). Both projects would be constructed under traffic. Other projects are on local roads and would only affect a local area. Project impacts to traffic, floodplains, threatened and endangered species, and wetlands would be minor. Consequently, cumulative impacts are not anticipated.

23.1 **Project Mitigation**:

Mitigation for Above Non-Threshold Resources:
Utility relocation or replacement is not anticipated for the Project. If utility relocation or replacement is required in a later phase of the Project, a reevaluation shall be required if: (1) federal funds are used for the utility work; or (2) the project construction contractor is responsible for the work. If this utility work is identified during final design, the Project sponsor shall initiate the reevaluation prior to project letting. If the work is identified during construction, the Project sponsor shall initiate the reevaluation prior to commencing utility work. (NDOR Environmental, NDOR District)

If any one of the above two conditions do not apply, later relocation or replacement of utilities shall be coordinated through NDOR and the Contractor per NDOR's Standard Specifications for Highway Construction, Subsection 105.06. Any environmental permits required for these utility relocations or replacements shall be the responsibility of the Utility. (NDOR District, Utility Provider(s))

Floodplain/Floodway Mitigation:
Nebraska floodplain regulations require any project that crosses a mapped, regulated floodplain (100-

year base floodplain) to obtain a floodplain permit. NDOR will acquire the proper floodplain permit from Douglas County, and would certify that the construction activities would be in compliance with the State of Nebraska floodplain regulations. (NDOR Environmental)

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

All wetlands/waters within the project area that are not permitted for impacts shall be marked on the 2W aerial sheets for the contractor as avoidance areas. (NDOR Design, District Construction)

The Project qualifies under Nationwide Permit # 3(a)(c) - Maintenance. The contractor shall adhere to the permit conditions, including regional and general conditions, during construction. (Contractor)

Impaired Waters, Section 402, and MS4 Mitigation:
Erosion control plans and storm water pollution prevention plans (SWPPP) are required on all projects that have one acre or more of disturbed soil. NDOR inspects all erosion and sediment control best management practices (BMPs) including devices every 14 days minimum and after every precipitation event of 0.5 inch or greater as per the requirements in the General Construction Storm Water Permit. Any BMP adjustments and repairs are to occur within 7 days of the inspections to ensure that water quality is being protected to the maximum extent practicable. The SWPPP shall be maintained and discharge points shall be monitored by the NDOR District Staff until the site is 70 percent revegetated. At that time, the Notice of Termination with NDEQ for the General Construction Storm Water Permit and completion of the SWPPP responsibilities shall be filed. (NDOR Environmental)

General Conservation Conditions from the Matrix PA:

A-1 Changes in Project Scope. If there is a change in the project scope, the project limits, or environmental commitments, the NDOR Environmental Section must be contacted to evaluate potential impacts prior to implementation. Environmental commitments are not subject to change without prior written approval from the Federal Highway Administration. (District Construction, Contractor)

A-2 Conservation Conditions. Conservation conditions are to be fully implemented within the project boundaries as shown on the plans. (District Construction, Contractor)

A-3 Early Construction Starts. Request for early construction starts must be coordinated by the Project Construction Engineer with NDOR Environmental for approval of early start to ensure avoidance of listed species sensitive lifecycle timeframes. Work in these timeframes will require approval from the Federal Highway Administration and could require consultation with the USFWS and NGPC. (District Construction, Contractor)

A-4 E&T Species. If federal or state listed species are observed during construction, contact NDOR Environmental. Contact NDOR Environmental for a reference of federal and state listed species. (NDOR Environmental, District Construction, Contractor)

A-5 Refueling. Refueling will be conducted outside of those sensitive areas identified on the plans, in the contract, and/or marked in the field. (Contractor)

A-6 Restricted Activities. The following project activities shall, to the extent possible, be restricted to between the beginning and ending points (stationing, reference posts, mile markers, and/or section-township-range references) of the project, within the right-of-way designated on the project plans: borrow sites, burn sites, construction debris waste disposal areas, concrete and asphalt plants, haul roads, stockpiling areas, staging areas, and material storage sites.

For activities outside the project limits, the contractor should refer to the Nebraska Game and Park Commission website to determine which species ranges occur within the off-site area. The contractor should plan accordingly for any species surveys that may be required to approve the use of a borrow site, or other off-site activities. The contractor should review Chapter 11 of the Matrix (on NDOR’s website), where species survey protocol can be found, to estimate the level of effort and timing

requirements for surveys.

Any project related activities that occur outside of the project limits must be environmentally cleared/permitted with the Nebraska Game and Parks Commission as well as any other appropriate agencies by the contractor and those clearances/permits submitted to the District Construction Project Manager prior to the start of the above listed project activities. The contractor shall submit information such as an aerial photo showing the proposed activity site, a soil survey map with the location of the site, a plan-sheet or drawing showing the location and dimensions of the activity site, a minimum of 4 different ground photos showing the existing conditions at the proposed activity site, depth to ground water and depth of pit, and the "Platte River depletion status" of the site. The District Construction Project Manager will notify NDOR Environmental which will coordinate with FHWA for acceptance if needed. The contractor must receive notice of acceptance from NDOR, prior to starting the above listed project activities. These project activities cannot adversely affect state and/or federally listed species or designated critical habitat. (NDOR Environmental, District Construction, Contractor).

A-7 Waste/Debris. Construction waste/debris will be disposed of in areas or a manner which will not adversely affect state and/or federally listed species and/or designated critical habitat. (Contractor)

A-8 Post Construction Erosion Control. Erosion control activities that may take place by NDOR Maintenance or Contractors after construction is complete, but prior to project close-out, shall adhere to any standard conservation conditions for species designated for the project area during construction. (NDOR Maintenance, District Construction, Contractor)

Species Mitigation:
S-2 Platte River Depletions. All efforts will be made to design the project and select borrow sites to prevent depletions to the Platte River. If there is any potential to create a depletion, NDOR (during design) and the contractor (for borrow sites) shall follow the current Platte River depletion protocols for coordination, minimization, and mitigation. In general the following are considered de minimis depletions, but may still require agency coordination; a project which: a) creates an annual depletion less than 0.1 acre feet, b) creates a detention basin that detains water for less than 72 hours, c) any diverted water will be returned to its natural basin within 30 days, or d) creates a one-time depletion of less than 10 acre feet.

S-3 Revegetation. All permanent seeding and plantings (excluding managed landscaped areas) shall use species and composition native to the project vicinity as shown in the Plan for the Roadside Environment. However, within the first 16 feet of the road shoulder, and within high erosion prone locations, tall fescue or perennial ryegrass may be used at minimal rates to provide quick groundcover to prevent erosion, unless state or federally listed threatened or endangered plants were identified in the project area during surveys. If listed plants were identified during survey, any seed mix requirements identified during resource agency consultations shall be used for the project. (NDOR Environmental)

S-4 Sensitive Areas. Environmentally Sensitive Areas will be marked on the plans, in the field, or in the contract by NDOR Environmental for avoidance. (NDOR Environmental, District Construction)

S-5 Species Surveys. If species surveys are required for this project, results will be sent by NDOR to the USFWS, NGPC, and if applicable COE. FHWA will be copied on submittals. (NDOR Environmental, District Construction)

Northern Long-Eared Bat

NLEB-1 Tree clearing, bridge deck joint replacements over the bridge deck, bridge/>5-ft box-culvert removal activities will be scheduled to occur between October 1st – March 31st to avoid impacts to the northern long-eared bat roosting period. (NDOR Environmental, Construction, Contractor)

OR

NLEB-2 If tree clearing, bridge deck joint replacement over the bridge deck, or removal of bridge or >5-ft box-culvert structures occurs during the northern long-eared bat roosting period (April 1st – September 30th), NDOR personnel will perform surveys prior to the start of these activities at the following locations: MM 4.29, MM 5.35, MM 5.85, and Elkhorn River bridge. If the species is absent, work may proceed. If the species is found, NDOR Environmental Section will consult with the USFWS, NGPC, and FHWA

prior to the start of construction. (NDOR Environmental, Construction, Contractor)

River Otter

RO-1 A qualified biologist will survey according to protocol no more than 10 days prior to construction. If no active den sites are found, then the project can proceed. If active den sites are found, NDOR Environmental Section will notify the District and will consult with the USFWS, NGPC, and FHWA. If species are present the District will notify the Contractor to stop work within 1/2 mile of the active den until NDOR Environmental completes consultation. (NDOR Environmental, District Construction, Contractor)

RO-3 Bridge deck debris will be captured and/or contained to prevent material from falling below the structure. (District, Contractor)

Bald and Golden Eagle Protection Act

- Suitable bald eagle nesting and/or roosting habitat exists within 0.5 miles of the Environmental Study Area. If construction will begin between February 1 and April 15, a nest survey must be completed at least 1 but not more than 14 days prior to construction. If construction will begin between April 15 and October 1, a nest survey completed in March is sufficient, as nests will likely already be constructed if nesting will occur that year. However, a nest survey may be completed anytime during this timeframe, as long as it is completed prior to construction. If bald eagles are nesting in the area, consultation with NGPC and USFWS will be required prior to beginning construction activities.

Hazardous Materials Mitigation:
Bridge structure S036 00429 tested positive for asbestos containing material (ACM) in the white caulking at the corners of the abutments. Because the material is non-friable, the removal will not qualify as an asbestos removal project according to the Department of Health and Human Services (DHHS) Asbestos Control Program Regulations, Title 178. Removal by a licensed asbestos removal contractor is NOT required. The ACM on bridge structure [S036 00429] must be removed in a way that allows the ACM to remain in a non-friable condition. The contractor shall contact DHHS prior to removal of the ACM for guidelines on disposal. The ACM shall be disposed of at a landfill approved for handling asbestos. The contractor’s efforts shall be recorded in ECOD (NDOR District, Contractor).

Demolition work on the bridge structure S036 00429 will require the contractor to submit a written NESHAP (National Emission Standards for Hazardous Air Pollutants) notification to the Nebraska Department of Environmental Quality (NDEQ). In addition, the Department of Health and Human Services shall also be notified by the contractor, using DHHS Form 5, at least 10 working days prior to commencement of bridge demolition or renovation activities where ACM was found. The 10-day clock starts with the day the Notification is postmarked, hand delivered, or picked up by a commercial delivery service, such as UPS, FedEx, etc. Faxing documents is prohibited. The NDOR Project Manager shall be provided copies of said notifications and their submittal date, which shall be recorded with the ECOD. (NDOR District, Contractor)

There is potential for lead based paint to be found on the bridges painted components. If the method of removal of the components generates paint debris, the waste shall be handled in accordance with NDOR ’s Standard Specification for Highway Construction Section 732 (Leadbased Paint Removal) and Title 128, Nebraska Hazardous Waste Regulations. Extreme caution shall be taken to minimize the amount of potential lead based painted material or debris from causing or threatening to cause pollution of the air, land and waters of the State. The Contractors implementation plan efforts shall be documented in ECOD (NDOR District, Contractor).

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

Traffic Disruption Mitigation:
This project shall be constructed under traffic with lane closures controlled by approved temporary traffic control. The project shall not result in traffic disruptions requiring detours, temporary roads, or ramp closures that are greater than 30 working days. (Contractor)

Substantial Access Disruption Mitigation:
Access to adjacent properties shall be maintained at all time during construction but may be disrupted temporarily at times due to construction activities, but shall not be closed. (Contractor)

Public Involvement Mitigation:
A minimum of one news release shall go to all local and area media, and be posted on the NDOR website prior to the start of construction work. (NDOR District, NDOR Communication)

Additional Mitigation:
Borrow Site: Any material needed shall be provided by the Contractor. The Contractor shall try to obtain borrow from an upland site to prevent depletion issues. If the borrow site is within a depletion area of concern, the Contractor shall coordinate with the appropriate agencies and NDOR to offset or minimize impacts. The Contractor shall obtain all environmental clearances and permits required for the borrow site prior to obtaining borrow material for the project. (Contractor)

The Contractor shall have a staging area for the project where material and equipment for the project is stored (e.g. re-steel, forms, etc.). The Contractor shall be required to dispose of material removed as part of the project described above and miscellaneous obstructions encountered and removed along the project. The disposal shall be the responsibility of the Contractor. A waste site may be needed. The Contractor shall be responsible to obtain all permits and clearances and all conditions of those permits shall be followed. (Contractor)

The proposed project qualifies as a Categorical Exclusion under the following activity found in 23 CFR 771.117:

Paragraph: (c)

Activity: 22

Prepared by: Randy McCart

Organization: HDR

Phone: (402) 926-7193

Email: randall.mccart@hdrinc.com

Signature:

Date: 9/21/2016

Reviewed by Project Sponsor:

Name: Kyle Keller

Organization: NDOR

Title: Engineer III

Signature:

Date: 9/22/2016

NDOR has determined the information in this form is accurate and the project is in compliance with the *OPERATIONAL DRAFT* 2015 Categorical Exclusion Programmatic Agreement between FHWA and NDOR, and satisfies the criteria of 23 CFR 771.117(a) no significant impact and (b) no unusual circumstances. The mitigation identified above shall be implemented for the project.

NDOR Environmental NEPA Specialist Signature:

Digitally signed by Carrie Wencel
DN: cn=Carrie Wencel, o=NDOR - EDU, ou=NEPA Specialist, email=carrie.wencel@nebraska.gov, c=US
Date: 2016.09.22 15:33:20 -05'00'

Date:

NDOR Environmental Documents Manager Signature *(Level 2 and 3 Requirement)*:

Digitally signed by Jon Barber
Date: 2016.09.23 11:32:10 -05'00'

Date:

FHWA Environmental Specialist *(Level 3 Requirement)*:

Date:

If the scope of work changes, existing conditions change, or applicable regulations change, NDOR shall reevaluate this determination in accordance with the *NDOR reevaluation procedures*.

Reevaluation Approval *(if necessary)*:

Date: