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

CE Review Level:

[X] 1 [ ] 2 [ ] 3 [ ] Re-evaluation

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

Appendix: A

Paragraph: 22

Project Name:

Taylor - Burwell

Project Number:

STP-91-3(113)

Control Number:

80980

Location and Study Area:

This project is located along Nebraska Highway 91 (N-91) located in Loup and Garfield Counties, starting at the south Junction of N-91 with United States Highway 183 (US-183), mile marker (MM) 45.87, and extending east to MM 59.27, the south Junction N-91 with Nebraska Highway 11 (N-11). Construction may begin and/or end approximately 200 feet ahead of or beyond the actual project limits to accommodate transitioning the pavement.

The Environmental Study Area (ESA) is confined to the length of this project (13.40 miles) plus half a mile on either end along N-91 including the existing right-of-way (ROW), plus 50 feet beyond ROW for most of the project length, and extending to 150 feet beyond the ROW at the bridges and culverts for wetlands and most other resources. For regulated materials the study area is extended 0.10 miles, and for Section 4(f) resources 0.25 miles beyond ROW.

Termini are based on limits identified by NDOR pavement management system, District 8 and previous construction projects on this segment of highway.

Begin Point(s): 45.87

End Point(s): 59.27

Highway Number, Street, etc.: N-91

Project Description:

This project would microsurface 13.40 miles of N-91 located in Loup and Garfield Counties, starting at the south Junction N-91 with US-183, mile marker (MM) 45.87, and extending east to MM 59.27, the south Junction N-91 with N-11. 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-91 consists of two 12 foot wide asphalt lanes and 5 foot wide shoulders, of which 2 feet is paved with asphalt.

The improvements on this project consist of microsurfacing the existing roadway and surfaced shoulders.

Scope details include:
• Project surveying and staking would not be required.
• Permanent pavement markings would be applied to all new surfacing.
• No additional property rights would 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 by appropriate traffic control devices and practices.

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 *($)*:
5/25/2016	Construction	$988,000

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))*:

Two Section 4(f) resources are located within the project ESA: Kent Diversion Dam State Wildlife Management Area located on N-91 at approximately MM 51.62 and Mirdan Canal State Wildlife Management Area located on N-91 at approximately MM 56.32. No additional property rights would be required to build this project. Access to adjacent properties would be maintained during construction and the project would be constructed under traffic. Based on the scope of work, there are no anticipated uses of the Section 4(f) resources.

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

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

N/A

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 will be required if: (1) federal funds will be used for the utility work; or (2) the project construction contractor will be responsible for the work. If this utility work is identified during final design, the project sponsor will initiate the reevaluation prior to project letting. If the work is identified during construction, the project sponsor will initiate the reevaluation prior to the 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 project as proposed would encounter 9 floodplains. This project does not meet the criteria for development of the floodplain and would have no potential for impacts to the Zone A floodplains it would encounter. No Floodplain Development Permit would be required for this project. Letters were sent by NDOR on March 17, 2016 informing city and county floodplain administrators of the determination.

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

☒ 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?

☐ Yes (1) ☒ No (1)

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

☐ Yes (2) ☐ No (1) ☒ N/A

7.4 Estimated Permanent Wetlands Impacts:

N/A

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

☐ Yes (2) ☐ 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) ☐ No (2) ☒ N/A

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

On 11/18/2014 a desktop review for potential wetlands was completed.

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)

No wetland impacts are anticipated for this project; however, if impacts are found during design, the required permits shall be obtained prior to letting. NDOR Environmental shall reevaluate the project for the change in impacts. All wetlands within the project area shall be marked on the project plans and on the Green Sheet for the Contractor as avoidance areas. (NDOR Design, NDOR Environmental)

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 ☒ 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

8.5 Impaired Waters, Section 402, and MS4 Mitigation:

Areas disturbed during construction will be stabilized utilizing NDOR approved erosion control methods. A Temporary Erosion Control Plan will be required by NDOR Standard Specifications for Highway Construction. (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)

NDOR PQS Determination Date:

7/24/2015

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:

A "May Affect, Not Likely to Adversely Affect" determination is made for the following species/critical habitat with the conservation conditions listed below: Whooping Crane.

9.8 Species Mitigation:

Whooping Crane:
WC-1 Construction activities will not occur during Whooping Crane migration periods. (Spring migration: March 10 – May 10; and fall migration: September 16 – November 16). (NDOR Environmental, Construction, Contractor)

OR

WC-2 If construction activities occur during Whooping Crane migration periods (Spring migration: March 10 – May 10; and fall migration: September 16 – November 16), NDOR trained personnel, or a qualified biologist, will conduct surveys according to protocol at the following locations: _length of the project__ (location of suitable habitat). (prior to the start of daily construction activities). If species are present the District will notify the Contractor to stop work within 1/2 mile of the whooping crane and follow the protocol to determine when work can resume (also not initiate work if species is found in the morning survey). Options for resuming work may include but are not limited to (NDOR Environmental, Construction, Contractor):

- Construction activities are limited to the hours from 10:00 a.m. to 4:00 p.m. (CST) during the migration period, unless morning survey indicates Whooping Cranes are not present.
- If a whooping crane is observed during the survey within ½ mile of the project, but departs the area (further than ½ mile from the project) then work can resume. Document this departure according to protocol.

AND

R-11 For the whooping crane, nighttime work with lights from March 10 - May 10 and September 16 - November 16 is not authorized. If nighttime work is required, the Contractor will notify the District and the District will request approval from NDOR Environmental Section at least 10 working days prior to construction so consultation with the USFWS, NGPC, and FHWA can be initiated. Approval from these agencies is required (NDOR Environmental, District Construction, Contractor).

* 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 Potential to Cause Effects

NDOR PQS Determination Date:

8/9/2015

Has coordination occurred with SHPO?

☐ Yes ☒ No

Has coordination occurred with THPO?

☐ Yes ☒ No

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)

NDOR PQS Determination Date:

2/2/2016

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

The scope of work consists of micro-surfacing the mainline of N-91. Because there would be no soil disturbance beyond the pre-existing roadway fill material, this qualifies as an exempt project under the NDOR Hazardous Materials Review Guidance Manual approved by FHWA on August 31, 2015. No hazardous materials review is required.

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 shall be constructed under traffic with lane closures controlled by approved temporary traffic control.

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) [X] No (1)

16.6 Will the action change the functionality of adjacent properties?

[ ] Yes (3) [X] No (1)

16.7 Access Disruption Comments:

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.

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?

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

17.2 Will the project have an adverse impact to minority or low income populations per NDOR's Environmental Justice Policy?

[ ] Yes (2) [X] No (1)

NDOR Highway Civil Rights Specialist Determination Date:

4/26/2016

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

Minority and low-income populations were identified in the Village of Taylor, near which this project is located. The project does not include a detour, ROW acquisition, no access restrictions, no isolation, exclusion or separation of minority or low-income individuals within a given community or from the broader community and no relocation's, displacements, or building removal. As a result, there would be no disproportionately high and adverse human health or environmental effects visited upon minority and low-income populations, as defined in FHWA Order 6640.23A.

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

Due to the nature of the work, additional public outreach during the NEPA phase is not needed. 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 STIP. (NDOR District, NDOR Communications)

The areas through which this project travels is mostly English-speaking. In the area 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. No LEP outreach is required for this project.

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 Communications)

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: N/A

☐ 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 an number of projects planned for this area of District 8 which are outlined in the NDOR Surface Transportation Program Book for fiscal years 2017-2021:

STP-183-3(120), CN: 80992, Taylor North and South, is a microsurfacing project on N-183, MM: 121.91 to MM:135.84.
STP-91-3(111), CN: 80857, Taylor West, is a mill and fill project N-91, MM: 38.77 to MM: 44.91.
RD-96-4(1001), CN: 80709, Burwell West, is a Resurfacing, Restoration and Rehabilitation (3R) and New & Reconstruction project on N-96 from MM: 13.58 to MM: 20.05.
RD-91-4(1011), CN: 80798, Burwell East, is a microsurfacing project on N-91 from MM: 61.28 to MM: 72.32.
RD-91-4(1011), CN: 80981, Burwell North, is a microsurfacing project on N-11 from MM: 93.7 to MM: 104.3.

The listed projects, including this project, are not anticipated to cause any cumulative impacts as all the projects would be constructed under traffic with lane closures controlled by approved temporary traffic control.

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 will be required if: (1) federal funds will be used for the utility work; or (2) the project construction contractor will be responsible for the work. If this utility work is identified during final design, the project sponsor will initiate the reevaluation prior to project letting. If the work is identified during construction, the project sponsor will initiate the reevaluation prior to the 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))

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)

No wetland impacts are anticipated for this project; however, if impacts are found during design, the required permits shall be obtained prior to letting. NDOR Environmental shall reevaluate the project for the change in impacts. All wetlands within the project area shall be marked on the project plans and on the Green Sheet for the Contractor as avoidance areas. (NDOR Design, NDOR Environmental)

Impaired Waters, Section 402, and MS4 Mitigation:
Areas disturbed during construction will be stabilized utilizing NDOR approved erosion control methods. A Temporary Erosion Control Plan will be required by NDOR Standard Specifications for Highway Construction. (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:
Whooping Crane:
WC-1 Construction activities will not occur during Whooping Crane migration periods. (Spring migration: March 10 – May 10; and fall migration: September 16 – November 16). (NDOR Environmental, Construction, Contractor)

OR

WC-2 If construction activities occur during Whooping Crane migration periods (Spring migration: March 10 – May 10; and fall migration: September 16 – November 16), NDOR trained personnel, or a qualified biologist, will conduct surveys according to protocol at the following locations: _length of the project__ (location of suitable habitat). (prior to the start of daily construction activities). If species are present the District will notify the Contractor to stop work within 1/2 mile of the whooping crane and follow the protocol to determine when work can resume (also not initiate work if species is found in the morning survey). Options for resuming work may include but are not limited to (NDOR Environmental, Construction, Contractor):

- Construction activities are limited to the hours from 10:00 a.m. to 4:00 p.m. (CST) during the migration period, unless morning survey indicates Whooping Cranes are not present.
- If a whooping crane is observed during the survey within ½ mile of the project, but departs the area (further than ½ mile from the project) then work can resume. Document this departure according to protocol.

AND

R-11 For the whooping crane, nighttime work with lights from March 10 - May 10 and September 16 - November 16 is not authorized. If nighttime work is required, the Contractor will notify the District and the District will request approval from NDOR Environmental Section at least 10 working days prior to construction so consultation with the USFWS, NGPC, and FHWA can be initiated. Approval from these agencies is required (NDOR Environmental, District Construction, 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 Communications)

Additional Mitigation:

Borrow:
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)

Wellhead Protection Areas:
A portion of the project has been identified as being located within the City of Burwell Wellhead Protection Area. NDOR's Standard Specifications 107.01, 107.09 and 107.16 address the Contractor's responsibility to keep fully informed of, observe and comply with all federal, state and local laws and ordinances that affect the conduct of the work. (Contractor)

FEDERAL AVIATION ADMINISTRATION FORM7460-1

Because of the proximity to the Cram Field in Burwell, the height of any equipment used in the construction of the project (or any antennae installed on the equipment) shall not exceed the local airport's Height Restriction Zoning. Any Contractor involved in the project shall use the Notice Criteria Tool available at https://oeaaa.faa.gov/oeaaa/external/portal.jsp . (Contractor)

If required, the Contractor shall file a 7460-1 Form with the Federal Aviation Administration (FAA). The form shall be required if the Contractor uses any equipment over 200' tall, or the equipment breaks a 100:1 slope from a public-use airport. This includes any trucks or equipment used during the construction of the project. NDOR's Roadway Design Division shall verify clearance for permanent construction in the controlled zone from the Nebraska Department of Aeronautics (NDOA) and FAA. NDOR's Roadway Design Division shall identify those contracts that shall require the special provision concerning the Contractor's responsibility to gain FAA and NDOA clearance for temporary encroachments due to construction operations. NDOR's Plans, Specification & Estimates (PS&E) / Contracts shall include the special provision in the appropriate project contracts. (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: Carrie Wencel

Organization: NDOR

Phone: (402) 479-4836

Email: carrie.wencel@nebraska.gov

Signature: Digitally signed by Carrie Wencel
DN: cn=Carrie Wencel, o=NDOR - EDU, ou=NEPA Specialist, email=carrie.wencel@nebraska.gov, c=US
Date: 2016.06.23 13:43:44 -05'00'

Date:

Reviewed by Project Sponsor:

Name: Chris Dowding

Organization: NDOR

Title: Materials & Test Manager

Signature:

Date: 6-23-16

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:

Luke Pitts Digitally signed by Luke Pitts Date: 2016.06.24 07:54:34 -05'00'

Date:

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

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: