MnDOT Contract Number: 1028184 W16

STATE OF MINNESOTA
WORK ORDER UNDER
MASTER PARTNERSHIP CONTRACT

State Project (SP) Number: N/A
Trunk Highway (TH) Number: 65
Project Description: DNR – Mussel taking permit, TH 65 Mississippi River Bridge project

This Work Order Contract is issued under the authority of State of Minnesota, Department of Transportation (MnDOT) Master Partnership Contract No. 1028184 between the state of Minnesota acting through its Commissioner of Transportation ("State") and Minnesota Department of Natural Resources (DNR) "DNR" and is subject to all applicable provisions and covenants of that Contract which are incorporated herein by reference.

Work Order Contract

1. Term of Work Order Contract; Incorporation of Exhibits

1.1. **Effective date**: This Work Order Contract will be effective on the date that all required signatures are obtained by State, pursuant to Minnesota Statutes Section 16C.05, subdivision 2. DNR must not begin work under this Contract until ALL required signatures have been obtained and DNR has been notified in writing to begin such work by MnDOT's Authorized Representative.

1.2. **Expiration date**: This Work Order Contract will expire on June 30, 2022, or when all obligations have been satisfactorily fulfilled, whichever occurs first.

1.3. **Exhibits**: Exhibits A through C are attached and incorporated into this Work Order Contract.

2. Nature of Work

2.1. X the blanks below to indicate the nature of the work to be performed. See Article 3. Services Requiring a Work Order Contract, of the Master Partnership Contract for applicable definitions.

[x] Contract Administration

[ ] Emergency Services

[ ] Professional/Technical Services

[ ] Roadway Maintenance

3. Scope of Work

3.1. DNR will perform services under this Work Order summarized generally as follows:

In lieu of relocating the Minnesota mussels, MnDOT will provide DNR with compensatory mitigation costs for taking of the mussels from the Mississippi River, in the proposed 3rd Avenue Bridge work area described as follows:

- Estimated compensable impact area of 13.73 acres,
- 1.88 acres of the estimated impact area is exempt from compensation as it is part of the official Mississippi River navigational channel as designated by the Unites States Army Corps of Engineers and the United States Coast Guard. The official navigation channel is subject to river bottom impacts such as dredging at any time to maintain navigational traffic. The 4.2 acre measurement is based on an approximate 300' wide maintained channel width.
- Net 11.85 acres of impact (outside the maintained navigational channel)

3.2 DNR agrees to use the compensatory mitigation funds provided under this contract to support research, propagation, restoration, education or other management activities contributing to the recover and eventual delisting of endangered and threatened mussel species with the Mississippi River in Minnesota.

3.3 DNR will issue a permit, as set forth in Exhibit B, to MnDOT authorizing MnDOT to take an unlimited number of endangered and threated, and non-listed mussels at the site of the proposed project in accordance with the terms of such permit. If MnDOT complies with the terms of such permit, and the terms of this contract, DNR releases and waives any claim, fine, or other fee or sanctions against MnDOT with respect to the taking of such mussels.

4. Items provided or completed by the Parties

4.1. The following will be provided or completed by MnDOT as set forth in Exhibit B:

- A permit application for endangered and/or threatened species takings as required by DNR.
- A map depicting the proposed Trunk Highway (TH) 65 Mississippi River Bridge project

5. Consideration of Payment

5.1. MnDOT will pay DNR a lump sum, prior to commencing any bridge work that will result in the taking of endangered or threatened species at the site of the proposed project, after execution of the contract and issuance of the Threatened and Endangered Species Takings Permit. DNR's mitigation cost is being compensated as follows:

Estimated mussel mitigation cost of $21,577.00/acre, for 13.73 acres of compensable impact

5.2. DNR will submit invoices for payment in accordance with the following schedule: one-time payment.

5.3. MnDOT's total obligation for all compensation and reimbursements to DNR is $296,250.00.

6. Terms of Payment

6.1. MnDOT will promptly pay all valid obligations under this work order contract as required by Minnesota Statutes §16A.124.

6.2 DNR must submit invoice electronically for payment, using the format set forth in Exhibit C. DNR will submit an invoice, for a one-time payment, prior to commencing any bridge work.

6.3 DNR must submit the signed invoice for review and payment to MnDOT's Metro District's Finance section at MetroWEAccountsPayable.DOT@state.mn.us. If DNR cannot support electronic submission of the invoice package, DNR must contact MnDOT's Authorized Representative for possible alternatives.

7 Authorized Representatives

7.2 The State's Project Manager, for this Work Order is:

Name/Title:	Christian Hoberg, P.E., or his successor
MnDOT:	Operations/Metro District/Area Manager
Street Address:	1500 West County Road B2
City State Zip:	Roseville, Minnesota 55113
Telephone:	651 234-7720
Email:	Christian.Hoberg@state.mn.us

The State's Project Manager is responsible for overseeing the State's fulfillment of its obligations under this Work Order, reviewing, providing and approving invoices, resolving disputes related to this Work Order, and for giving or receiving any notices required or permitted by this Work Order.

7.3 The State's Authorized Representative for this Work Order is:

Name/Title: Julie Fiereck, Consultant Coordinator, or her successor

MnDOT:	Operations/Metro District/Consultant Administration
Street Address:	1500 West County Road B2
City State Zip:	Roseville, Minnesota 55113
Telephone:	651 234-7685
Email:	Julie.Fiereck@state.mn.us

MnDOT's Authorized Representative, or her successor, will monitor Contractor's performance and has the authority to accept or reject the services provided under this contract.

7.4 The DNR's Project Manager for this Work Order is:

Name/Title:	Kim Montgomery, or her successor
Name of Agency:	Minnesota Department of Natural Resources (DNR)
Street Address:	500 Lafayette Road, Box 25
City State Zip:	St. Paul, Minnesota 55155
Telephone:	651 259-5567
Email:	Kim.Montgomery@state.mn.us

The DNR 's Project Manager for this Work Order is responsible for overseeing the DNR's fulfillment of its obligations under this Work Order, reviewing and approving invoices, resolving disputes related to this Work Order, and for giving or receiving any notices required or permitted by this Work Order.

8 Termination

8.2 **Termination by the State or DNR**. The DNR, the State or the Commissioner of Administration may cancel this Work Order at any time, with or without cause, upon 30 days' written notice to the other Party. Upon termination, the State will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed.

8.3 **Termination for Insufficient Funding**. If the State is the DNR, The State may immediately terminate this Work Order if it does not obtain funding from the Minnesota Legislature, or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the services covered here. Termination must be by written or fax notice to the DNR. The State is not obligated to pay for any services that are provided after notice and effective date of termination. However, the DNR will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. The State will not be assessed any penalty if the Work Order is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds. The State must provide the DNR notice of the lack of funding within a reasonable time of the State's receiving that notice.

9 Additional Provisions

9.2 None.

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OTHER AGENCY

The Other Agency certifies that the appropriate person(s) have executed the contract on behalf of the Other Agency as required by applicable articles, bylaws, resolutions or ordinances.

By: Steven Colvin, Director

Title:

Date: 04/17-2020

By:

Title:

Date:

STATE ENCUMBRANCE VERIFICATION

The individual certifies funds have been encumbered as required by Minn. Stat. 16A.15 and 16C.05

By: Michael Brainard Digitally signed by Michael Brainard Date: 2020.04.13 13:03:19 -05'00'

Date:

Swift Contract #: 175229

SWIFT PO #: 3000 531 225

COMMISSIONER OF TRANSPORTATION

Lynn Clarkowski Digitally signed by Lynn Clarkowski Date: 2020.04.18 07:44:56 -05'00'

By:

Title: District Engineer or Assistant District Engineer

Date:

COMMISSIONER OF ADMINISTRATION

James Cownie Digitally signed by James Cownie Date: 2020.04.23 08:53:15 -05'00'

By:

Date:

EXHIBIT A – STANDARD TERMS

STANDARD TERMS FOR CONSTRUCTION ADMINISTRATION

1. [If not provided by State,] the DNR will prepare plans and special provisions in conformance with geometric design standards for trunk highway plans as described in the current versions of MnDOT Manuals, available from the District Office or the MnDOT web site.
2. The DNR will prepare the proposal for highway construction for the construction contract, which will include any provisions supplied by the State, and any provisions required by Minnesota law and applicable Federal laws and regulations.
3. The DNR will prepare and publish the bid solicitation for the project(s) as required by state laws. The solicitation will state where the proposals, plans, and specifications are available for the inspection of prospective bidders, and where the DNR will receive the sealed bids.
4. The DNR will solicit for bids after obtaining written notification from the State that the plans and special provisions have been approved.
5. The DNR will prepare and sell the plan and proposal packages and prepare and distribute any addenda, if needed.
6. The DNR may include other work in the construction contract.
7. The DNR will receive and open bids.
8. After the bids are opened, the DNR will consider the bids and will award the bid to the lowest responsible bidder or best value proposer, as required or permitted by Minnesota law and subject to the concurrence of the State, or the DNR may reject all bids.
9. The DNR will, within 7 days of opening bids for the construction contract, submit to MnDOT's District Engineer a copy of the low bid and an abstract of all bids together with the DNR's request for concurrence by the State in the award of the construction contract. The DNR will not award the construction contract until the State advises the DNR in writing of its concurrence therein.
10. The DNR may reject, and the State may require the DNR to reject, any or all bids for the construction contract. The party rejecting or requiring the rejection of bids must provide the other party written notice of that rejection or requirement for rejection no later than 30 days after opening bids. Upon the rejection of all bids pursuant to this section, a party may request, in writing, that the bidding process be repeated. Upon the other party's written approval of such request, the DNR will repeat the bidding process in a reasonable period of time, without additional cost or expense to the State. The DNR may also elect to eliminate the State's work from the contract, and proceed to award the contract for just the DNR's own work.
11. The DNR will prepare and execute a construction contract with the lowest responsible bidder (or the best value proposer if allowed by law) in accordance with the special provisions and the latest edition of MnDOT's Standard Specifications for Construction and all amendments thereto.
12. The DNR will give the State five days' notice of its intention to start the contract construction.
13. The Project(s) will be constructed in accordance with plans, special provisions, and standard specifications of each Project. The standard specifications will be the latest edition of MnDOT Standard Specifications for Highway Construction, and all amendments thereto. The plans, special provisions, and standard specifications will be on file at the DNR's Office. The plans, special provisions, and specifications are incorporated into this Contract by reference as though fully set forth herein.
14. The DNR will furnish the personnel, services, supplies, and equipment necessary to properly supervise, inspect, and document the work for the Project(s). The services of the DNR to be performed hereunder may not be assigned, sublet, or transferred unless approved in writing by the State. This written consent will in no way relieve the DNR from its primary responsibility for performance of the work.
15. The DNR will document quantities in accordance with the guidelines set forth in the MnDOT Contract Administration Manual Sections 410 and 420 (including amendments and successors of those sections) in effect at the time the work is performed.
16. The DNR will test materials in accordance with the MnDOT Schedule of Materials Control in effect at the time each Project was let. The DNR will notify the State when work is in progress on the Project(s) that requires observation by the Independent Assurance Inspector as required by the Independent Assurance Schedule.

17. The DNR will cause the contract construction to be started and completed in accordance with the time schedule in the construction contract special provisions. The completion date for the contract construction may be extended, by an exchange of letters between the Project Engineer and the State's Engineer (or the Engineer's authorized representative), for unavoidable delays encountered in the performance thereof.
18. The DNR may make changes in the plans or the character of the work, as may be necessary to complete the Project(s), and may enter into supplemental Contract(s). All changes in the plans, specifications, or special provisions for the State's cost participation for construction covered under this Work order and all addenda, change orders and supplemental agreements entered into by the DNR for the State's cost participation construction covered under this Work Order must be approved by the State's Engineer (or the Engineer's authorized representative) prior to performance of the work. Failure to obtain such approval may result in such costs being disallowed for reimbursement.
19. The DNR will prepare partial estimates in accordance with the terms of the construction contract for the Project(s). The Project Engineer will certify each partial estimate. Following certification of the partial estimate, the DNR will make partial payments in accordance with the terms of the construction contract for the Project(s).
20. If the DNR is the DNR for any trunk highway projects affecting utilities, the DNR will coordinate with the State's Utilities Office. The DNR will provide a signed "Utility Certification Checklist" in accordance with the current MnDOT Technical Memorandum.
21. The DNR will prepare all required reports and keep records as required by this Work Order.
22. Upon completion of the Project(s), the Project Engineer will determine whether the work will be accepted, and request final inspection by the State's project manager.
23. Upon completion of the Project(s), the DNR will prepare a final estimate in accordance with the terms of the construction contract for the Project(s). The Project Engineer will certify the final estimate. Following certification of the final costs, the DNR will make the final payment in accordance with the terms of the construction contract for the Project(s).

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STATE OF MINNESOTA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF ECOLOGICAL AND WATER RESOURCES
500 LAFAYETTE ROAD, BOX 25
ST. PAUL, MN 55155

SPECIAL PERMIT NO. 28531
(Taking of mussels, including endangered and/or threatened species)
March 23, 2020

TO WHOM IT MAY CONCERN:

Under the authority of Minn. Statutes, Section 84.0895 and Minn. Rules, Parts 6212.1800-2100, and informed by the accompanying Findings of Fact and Decision Rationale, permission is hereby granted to:

Christian Hoberg
Metro West Area Engineer
Minnesota Department of Transportation
1500 West County Road B2
Roseville, MN 55113

and his agents, employees, and contractors, to take an unlimited number of state-endangered and state-threatened mussels, incidental to the renovation of the Trunk Highway 65 Mississippi River Bridge, Hennepin County, MN, subject to the following conditions:

1. Permitted take of endangered and threatened mussels is limited to the 11.85 acre area of disturbance as depicted in the attached graphics. Any additional taking of endangered or threatened species is beyond the authority of this permit and may only be conducted under the authority of a separate permit.
2. Compensatory mitigation for this taking totals two hundred ninety six thousand two hundred fifty dollars ($296,250), which will be provided to the Minnesota Department of Natural Resources, pursuant to Minn. Statutes, 84.085 subd. 1., for the purpose of funding research, education, propagation, restoration, and/or management activities contributing to the recovery and eventual delisting of endangered and threatened mussel species in Minnesota.
3. This permit is effective indefinitely upon receipt of a countersigned copy of this permit and the mitigation payment by the DNR. Receipt by the DNR will be confirmed by email.

Jess Richards, Assistant Commissioner — Date: 3/27/2020

I hereby certify that I have read, understand, and accept the provision of this permit and understand that this permit is not valid unless it is signed by me.

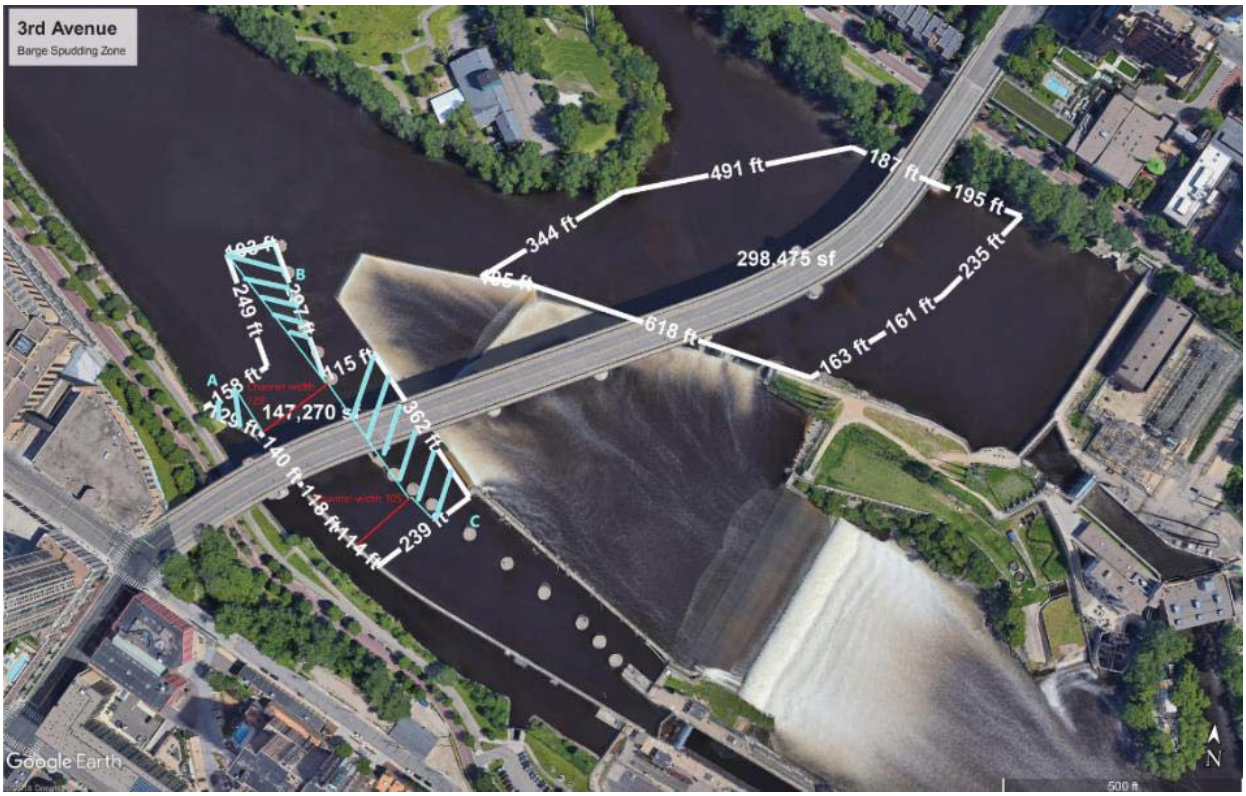
Christian Hoberg — Digitally signed by Christian Hoberg Date: 2020.03.30 09:48:05 -05'00'

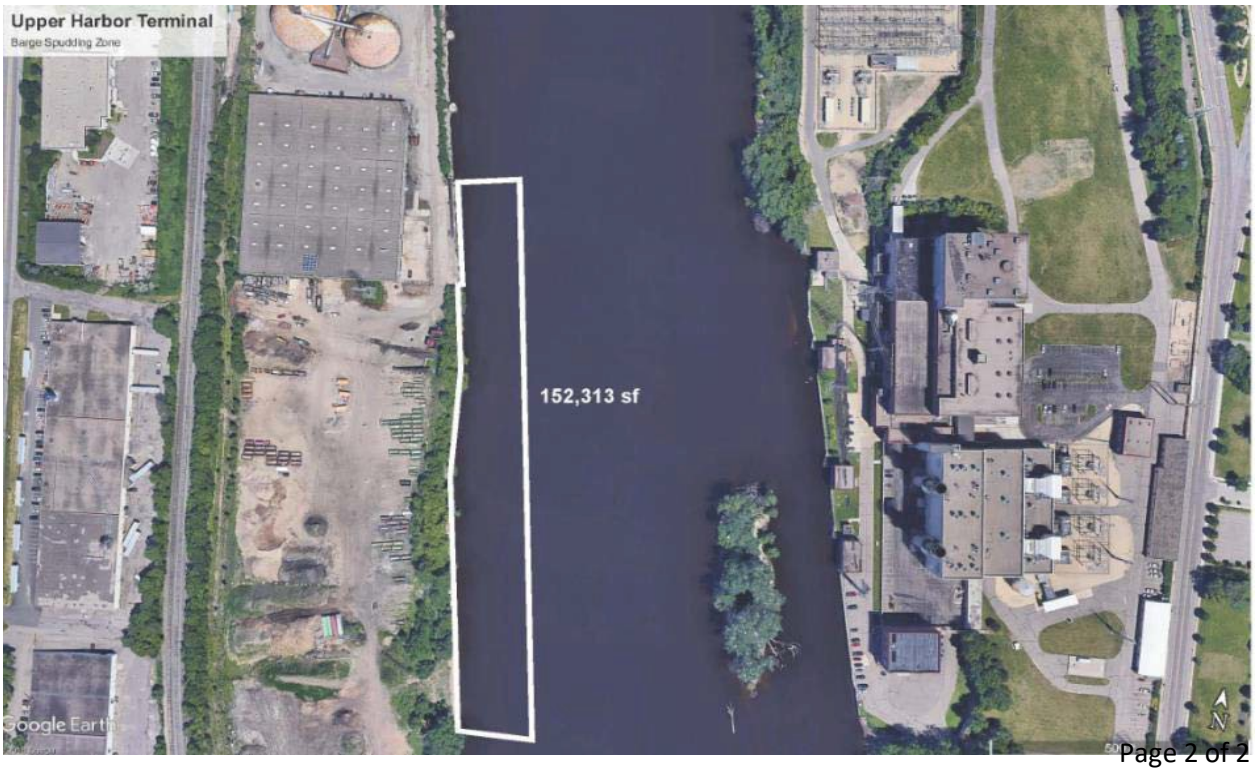
Christian Hoberg, Permittee — Date

C: Richard J. Baker, Endangered Species Coordinator, Div. Ecological and Water Resources
Dan Lais, Regional Manager, Div. Ecological and Water Resources
Peter Leete, Transportation Hydrologist, Div. Ecological and Water Resources
Lisa Joyal, Endangered Species Review Coordinator, Div. Ecological and Water Resources
Jason Peterson, Regional Manager, Div. Enforcement
Mike Davis, Malacologist, Div. Ecological and Water Resources
Erica Hoaglund, Nongame Specialist, Div. Ecological and Water Resources
Chris Smith, Department of Transportation
Elizabeth Brown, Department of Transportation
Permit Clerk, Div. Fish and Wildlife

MNDNR Special Permit No. 28531
Permittee: Hoberg

Area in which taking is permitted indicated by white outlines





Invoice No._____
Estimated completion:_____%
Final Invoice? ☐ Yes ☐ No

Invoice Instructions:
Contractor must:

1. Complete the invoice and, if applicable, the progress report, in their entirety
2. Sign the invoice and progress report
3. Attach supporting documentation
4. Scan the entire invoice package*, **in the following order**:
   a. Completed, Signed Invoice Form
   b. Completed, Signed Progress Report Form (if applicable)
   c. Supporting Documentation
   Note: Whenever possible, convert landscape pages to portrait pages and optimize the document to decrease the size.
5. E-mail the invoice package, in .pdf, to MetroWEAccountsPayable.DOT@state.mn.us

MnDOT Contract No. 1028184 W16
Contract Expiration Date: June 30, 2022
SP Number: N/A TH Number: 65

Billing Period: From_____to _____
Invoice Date: _____

	Total Contract Amount	Total Billing to Date	Amount Previously Billed	Billed This Invoice
1. Lump sum amount:	$296,250.00			
Net earnings totals:	**$296,250.00**			
			Total Amount Due This Invoice:	

Contractor: Complete this table when submitting an invoice for payment			
Source Type	Total Billing to Date	Amount Previously Billed	Billed This Invoice
1072			
Total**			

***must match net earnings totals above*

I certify that the statements contained on this invoice, and its supporting documents, are true and accurate and that I have not knowingly made a false or fraudulent claim, or used a false or fraudulent record in connection with this Invoice. I understand that this invoice is subject to audit.

Contractor: Department of Natural Resources

Signature:_____

Print Name: _____

Title: _____

*If you are unable to support electronic submission of Invoices, you must contact the Authorized Representative for possible alternatives.