

NEBRASKA

Good Life. Great Journey.

DEPARTMENT OF TRANSPORTATION

Agenda Item # 16a
Date 11/16/22



Pete Ricketts, Governor

October 31, 2022

County Clerk
Dodge County
435 N Park Rm 102
Fremont NE 68025

RE: Master Agreement – Land Survey Corner Preservation

Enclosed is a Master Agreement regarding Land Survey Corner Preservation, along with a signing resolution. Also enclosed is an explanation document.

Please obtain signatures on the agreement and the resolution, and return both to NDOT at the following address:

Jodi Gibson, Local Assistance Division Manager
Nebraska Department of Transportation
P O Box 94759
1400 Highway 2
Lincoln NE 68509-4759

If you have any questions, please contact Jodi at jodi.gibson@nebraska.gov or phone 402-479-4337.

Thank you.

Judy Borer, Project Coordinator
NDOT Local Assistance Division
Email judy.borer@nebraska.gov
Phone 402-479-4435

Enclosures

John R. Selmer, P.E., Director
Department of Transportation

MAILING ADDRESS PHYSICAL ADDRESS
PO Box 94759 1500 Highway 2
Lincoln, NE 68509-4759 Lincoln, NE 68502

PHONE 402-471-4567
EMAIL NDOT.ContactUs@nebraska.gov

dot.nebraska.gov

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JUDY BORER
LOCAL ASSISTANCE DIVISION



Reasons for the Minor Change in Practice

In most ways the process and long-standing practice will remain the same with a couple of changes intended to improve efficiency.

Having a Master Agreement that is good for 5-years will be a much more efficient way to engage the County and complete the work in a timely manner.

Using a Lump Sum Payment process based on statewide cost information will be efficient by not requiring a labor-intensive process of obtaining and reviewing cost estimates and final costs.

The new process will continue the effective partnership between NDOT and the Counties and assist the County in meeting its statutory obligation.

Current Practice

County has the statutory duty to perpetuate existing survey corner monuments affected by road or highway maintenance, construction, or public travel.

A contract is prepared only when NDOT knows there will be a project in the County during the upcoming year.

NDOT is not always as efficient in getting the contract drafted when needed.

NDOT is often pushing County to expedite the contract review and Board Approval process.

This usually means the County Surveyor gets the assignment later than preferred with a short work completion deadline.

Prior to the start of Construction, County Surveyor finds all Survey Corner monuments identified as potentially at risk, confirms the location, and installs reference monuments if none currently exists.

Surveyor confirms the location of reference monuments and completes appropriate documentation.

After construction, County Surveyor checks for survey corner monuments.

If any survey corner monuments are missing or appear to have been moved, Surveyor re-establishes the monument at the proper location using the reference points and documents all work.

The long-standing practice of NDOT and the Counties has been that State pays for only the work necessary to install reference points or to re-establish monuments based on a maximum not to exceed of \$100.

The parties have always recognized that this payment did not cover all potential costs but that it reimbursed the County in whole or in part for the County to meet its statutory obligations.

Proposed New Practice

NDOT and all Counties will enter into a "Master Agreement" effective for 5-years (effective January 1, 2023) that will establish the process to be followed when Highway construction or maintenance projects require the County Surveyor to complete work.

The use of a Master Agreement will eliminate the rush and inefficiency of starting the Survey work that is present in the current practice.

The work to be done by the County Surveyor will not change, this new process will simply update current practice.

Payment will be handled consistently with current practice with a couple minor tweaks.

Payment will be based on a lump sum of \$300 each time reference points are set or survey monuments are re-established.

The lump sum will be based on statewide cost information for the actual work of setting reference points or re-establishing corners.

**MASTER AGREEMENT - 5-YEAR DURATION
COUNTY SURVEYOR - STATE HIGHWAY PROJECTS
PERPETUATION OF CORNERS OF LAND SURVEYS**

DODGE COUNTY
STATE OF NEBRASKA, DEPARTMENT OF TRANSPORTATION
COUNTY SURVEYOR - LAND SURVEY CORNER PRESERVATION

THIS MASTER AGREEMENT, made and entered into by and between Dodge County, Nebraska, hereinafter referred to as the "County," and the State of Nebraska, Department of Transportation, hereinafter referred to as the "State," and collectively, the "Parties."

Recitals

- A. Government land survey section corners, quarter section corners and other corners of land surveys (hereinafter "Survey Corners") are often located within existing or new State highway property.
- B. The markers or monuments buried or set by surveyors to evidence the location of these Survey Corners are sometimes located in the highway surfacing, in the highway shoulder, or set elsewhere in or on the public road property.
- C. Sometimes the completion of a project to construct, reconstruct, resurface, or maintain the highway (hereinafter "Highway Projects") may impact or require the re-establishment of a Survey Corner monument.
- D. Nebraska statutes place the obligation on the County to perpetuate "the existing corners of land surveys along the public roads and highways where such corners are liable to destruction, either by public travel or construction or maintenance." (See Neb. Rev. Stat. §§ 23-1907, 23-1908, and 39-1708.)
- E. The work to be completed under these provisions must meet all requirements of Instruction 86-1, Issued by the Nebraska State Surveyor on April 11, 1986 concerning the "Monumentation of Corners," or any other applicable official instructions subsequently issued by the State Surveyor.
- F. The Parties believe the County Surveyor, whether a County employee or a consultant surveyor, when notified of an upcoming Highway Project, should use the following two-step process to perpetuate Survey Corners that might be impacted: (1) Identify the location of the potentially impacted Survey Corner monuments prior to the Highway Project and install or confirm the location of reference monuments and ties for each potentially impacted Survey Corner, (2) after the project is completed, check for each Survey Corner, and re-establish any Survey Corner that was lost, removed or impacted by the Highway Project using the reference monument and ties survey information. ("County Survey Services")
- G. Prior to the use of this 5-year Master Agreement, the State-County practice was that State would notify the County of an upcoming project, State would then draft a project specific agreement for County review and County Board approval, which happened close in time to the start of State's project.
- H. The Parties are interested in developing a process more efficient for both Parties to obtain the necessary County Survey Services.

- I. The Parties wish to enter into this Master Agreement that will be in effect for five (5) years and will be the process used by the Parties any time County Survey Services are needed for a Highway Project.
- J. Prior to the use of this 5-year Master Agreement, State paid a maximum not to exceed of \$100 for all new reference monuments and ties set for a recovered Survey Corner as well as found and for any Survey Corners actually re-established – the standard State/County agreement did not include making a payment to County in cases where monuments were not affected by construction, rendering reestablishment of the monument unnecessary.
- K. For this Master Agreement, State agrees to pay a lump sum of \$300.00 for all new reference monuments and ties set for a Survey Corner and for any Survey Corners actually re-established after completion of the highway project.
- L. State's lump sum payment will be based on a review of costs estimated by surveyors statewide for completing each of the two steps of the County Survey Services.
- M. The Parties believe these payments will assist County in meeting its statutory obligation to perpetuate Survey Corners for needed State Highway Projects.
- N. For each Highway Project within the County boundaries, State will provide County reasonable advance notice of the upcoming Highway Project, and County intends to promptly complete the work required under this Master Agreement so that State's Highway Project can be started on time.
- O. County and State have the authority to enter into this agreement pursuant to Neb. Rev. Stat. § 39-1307.
- P. County Board has authorized the Chairperson to sign this Agreement, as evidenced on the Resolution of County Board, attached hereto as Exhibit "B".

NOW THEREFORE, in consideration of these facts, good and valuable consideration, and the mutual promises of the Parties, the Parties hereto agree as follows:

SECTION 1. PURPOSE OF THE MASTER AGREEMENT AND DEFINITIONS.

Purpose. The purpose of this Master Agreement is to establish a State-County standard process for County to fulfill its Statutory duty to perpetuate Survey Corners as described above when necessary for Highway Projects. The work will meet the requirements of Instruction 86-1, Issued by the State Surveyor on April 11, 1986, concerning the "Monumentation of Corners," or any other applicable official instructions subsequently issued by the State Surveyor. Prior to the start of a Highway Project for the construction, reconstruction, resurfacing or maintenance of a State Highway, County will confirm the location of certain Survey Corners and confirm the location of existing reference points, or if necessary, set reference points for the Survey Corners. Then, after construction, County will re-establish any Survey Corner monuments disturbed by the Highway Project

Definitions. To "set reference monuments" or to "tie-out" a survey corner both mean the process whereby the surveyor identifies and perpetuates the location of a survey monument for the purpose of re-establishing the monument in the event the monument is disturbed during construction. Re-establishing a survey corner means the process whereby the surveyor re-sets the monument using the reference monuments or tie-outs, when necessitated by disturbance of the monument during a Highway Project.

SECTION 2. DURATION OF THE MASTER AGREEMENT. This Master Agreement will be effective for five years, beginning January 1, 2023, and ending December 31, 2027.

SECTION 3. DUTIES OF THE PARTIES. The Parties agree to use the process set out in this Master Agreement whenever State determines that a Highway Project within or on County's boundaries may impact Survey Corners along an existing or new State highway.

SECTION 4. DUTIES OF THE STATE. State's obligations will be as follows:

- A. Promptly notify County when State has sufficient information to know that a Highway Project within County's boundaries may impact Survey Corners.
- B. Provide County with all needed information about the project including:
 - i. the location and boundaries of the project,
 - ii. which Survey Corners may potentially be impacted by the Highway Project,
 - iii. the limits of the new right of way acquired for the project in the area of each Survey Corner,
 - iv. the type and nature of the construction work to be completed,
 - v. the requested timetable for completing the initial survey fieldwork,
 - vi. any other project information requested by County
- C. Cooperate with County as needed for County to complete the work.
- D. Promptly pay County when sufficient information has been provided by County, consistent with the terms of this Master Agreement

SECTION 5. DUTIES OF THE COUNTY. When County is notified by State of a Highway project, County agrees to:

- A. Promptly request the County Surveyor, or the Consultant County Surveyor, to complete the necessary work within the requested or State approved work completion deadline.
- B. Complete all work under this Master Agreement with or under the direction of a Registered Land Surveyor.
- C. Request the Surveyor to gather and review all applicable County and/or State generated and available known data about the potentially impacted Survey Corners.
- D. Request that the Surveyor, prior to construction:
 - i. Confirm or identify in the field the location of each Survey Corner Monument.
 - ii. Confirm or identify whether reference monuments or ties have previously been set for each identified Survey Corner, and if there are no existing reference monuments or ties for the Survey Corner, establish or tie-out the Survey Corner monument using properly placed reference points that are not likely to be impacted by the Highway Project.
 - iii. Keep a written record of each Survey Corner for which reference monuments or ties were placed and communicate the number to State, with the applicable survey records, for review and payment.
- E. Request that the County Surveyor, after construction is completed:
 - i. Confirm or identify whether the monument for each Survey Corner still exists, or has been moved or destroyed by the Highway Project.
 - ii. If a Survey Corner has been moved or destroyed by the Highway Project, re-

establish the Survey Corner by setting an appropriate monument or marker, and documenting all necessary facts about the re-established Survey Corner.

- iii. Keep a written record of each Survey Corner actually re-established and communicate the number to State along with the applicable survey records, for review and payment.
- F. File the records of all survey work completed for the Highway Project with the County Surveyor and/or County Clerk, with the Survey Record Repository in the State Surveyor's Office in Lincoln and with the Deputy State Surveyor in the Right of Way Division at the Department of Transportation's Lincoln Headquarters.

Said surveying work shall be completed with 30 days of receipt of written notice of the State's Project Manager.

SECTION 6. LUMP SUM PAYMENT. State will promptly pay a lump sum payment of \$300.00 for each Survey Corner for which reference monuments were actually set by County prior to construction, and \$300.00 for each Survey Corner actually re-established by County after the completion of the Highway Project. The State will not reimburse post-construction costs when no actual re-establishment of monuments has occurred, such as in those cases where corners have remained static, or where monuments have been unaffected by construction. All requests for payment shall be made on State's standard form 162LPA entitled "Cost Breakdown Form." County may make separate requests for payment for work completed prior to the Highway Project and for work completed after the project. Or County may make one request for all work completed after Survey Monuments have been re-established. Payment will not be made unless the work has been properly completed, all necessary documentation has been created, and the survey information has been submitted in accordance with Section 5(F) above. The amounts of the Lump Sum Payments will be based on a review of costs estimated by surveyors statewide for completing each of the two steps of the County Survey Services.

SECTION 7. FAIR EMPLOYMENT PRACTICES ACT

County agrees to abide by the Nebraska Fair Employment Practices Act, as provided by Neb. Rev. Stat. § 48-1101 through § 48-1126.

SECTION 5. AUTHORIZATION

The Chair of the County Board is authorized to sign this Agreement, as evidenced by the Resolution of the County Board, attached as Exhibit "A", and hereby made a part of this agreement.

SECTION 6. ENTIRE AGREEMENT

This Master Agreement, including all exhibits and documents incorporated or included herein, constitutes the entire agreement of the Parties. This Master Agreement supersedes all communications, representations, understandings, either oral or written hereto, leading up to this Master Agreement, except for any existing project specific Agreements between the Parties

IN WITNESS WHEREOF, the parties hereby execute this Master Agreement pursuant to lawful authority.

EXECUTED by the County this ____ day of _____, 20____.

WITNESS:

DODGE COUNTY

County Clerk

By

Chairperson, County Board

EXECUTED by the State this ____ day of _____, 20____.

STATE OF NEBRASKA
DEPARTMENT OF TRANSPORTATION
Jodi Gibson

Local Assistance Division Manager