# Department of Transportation

**Division of Planning and Engineering**
**Local Government Assistance**
**700 East Broadway Avenue**
**Pierre, South Dakota 57501-2586**
**PHONE: 605/773-8148 FAX: 605/773-4870**


**MEMORANDUM**

DATE: July 19, 2016

TO: Vicki Buseth
Brookings County Auditor

FROM: Noël J. Clocksin
Local Government Assistance

SUBJECT: Bridge Improvement Grant - Funding Agreement for Signatures
BRF 6319(00)16-3, Brookings County, PCN 05NW

Enclosed are two copies of the funding agreement for the noted project. Please sign both copies, on page 3, and return to me. I have attached a mailing label for your convenience and to ensure the agreements get back to me.

Please note that a copy of the county's commission minutes or a resolution authorizing the execution of this Agreement by the Chairperson as the county's authorized representative must be sent back with each agreement copy and will be attached to the Agreement as EXHIBIT D. The DOT cannot sign the agreement without this attachment.

Once DOT signatures have been affixed, one original will be returned to you for your files.

If you have any questions please contact me at 773-4256 or by e-mail at Noel.Clocksin@state.sd.us.

Enclosures
cc: E-mail to Highway Superintendent (cover letter only)
File

DOT-989
(07/2016)

STATE OF SOUTH DAKOTA
DEPARTMENT OF TRANSPORTATION
BRIDGE IMPROVEMENT GRANT AGREEMENT
FOR PRELIMINARY ENGINEERING – STATE ADMINISTRATION

This Agreement is made and entered into by and between the State of South Dakota, acting by and through its Department of Transportation, referred to in this Agreement as the "STATE," and Brookings County, South Dakota, referred to in this Agreement as the "COUNTY."

BACKGROUND:

1. The STATE has funding available for preservation, rehabilitation, or replacement of eligible local public agency bridges. The funding is only available for bridges located on local public roads.

2. The COUNTY has applied for and the STATE has awarded to the COUNTY a Bridge Improvement Grant ("BIG") for preliminary engineering for structure number 06-169-239, project number BRF 6319(00)16-3 PCN 05NW, referred to in this Agreement as the "PROJECT."

THE STATE AND THE COUNTY MUTUALLY AGREE AS FOLLOWS:

1. The COUNTY applied for and was awarded a BIG for preliminary engineering for the PROJECT.

2. The STATE issued a letter on March 10, 2016 notifying the COUNTY of the award of the BIG. The letter of award is attached to and incorporated in this Agreement as **Exhibit A**.

3. This Agreement is effective on the date of the letter of award attached as **Exhibit A**. The preliminary engineering work contemplated by this Agreement will be completed no later than three years from the date of the letter of award. No reimbursements will be processed by the STATE for work performed after the date of March 10, 2019.

4. The COUNTY will select a professional engineering firm from the STATE'S current consultant retainer list for the bride design category of work.

5. The STATE will hire the professional engineering firm selected by the COUNTY to perform the preliminary engineering for the PROJECT. The scope of the preliminary engineering services to be performed is identified in the attached **Exhibit B**.

6. The STATE will invite the COUNTY, and the COUNTY will participate in, all planning, scoping, and inspection meetings held in connection with the PROJECT.

7. The STATE will submit to the COUNTY a draft type, size, and location (TS&L) report for the PROJECT for the COUNTY'S review and comment. The COUNTY will review the TS&L and provide the COUNTY'S comments to the STATE. The STATE will address, in writing, all comments made by the COUNTY to the COUNTY'S satisfaction.

8. The STATE will directly pay the professional engineering firm for all PROJECT costs.

9. The STATE will be responsible for eighty percent (80%) of eligible PROJECT costs not to exceed the maximum BIG amount of twenty-three thousand, six hundred and eighty dollars ($23,680). The COUNTY will reimburse the STATE for the COUNTY'S twenty percent (20%) match on eligible PROJECT costs. Once the total BIG amount has been paid, the COUNTY will be responsible for one hundred percent (100%) of all remaining PROJECT costs. The COUNTY will also be one hundred percent (100%) responsible for any PROJECT costs incurred prior to the date of the letter of award. The COUNTY will reimburse the STATE within thirty (30) days of receipt of a billing from the STATE.

10. The COUNTY certifies the COUNTY has a conflict of interest policy and enforces said policy.

11. The COUNTY certifies the COUNTY has filed an Internal Revenue Services (IRS) Form 990 in compliance with federal law, if applicable. The COUNTY will display the filed IRS Form 990 on the COUNTY'S website immediately upon filing.

12. The COUNTY certifies the COUNTY employs an effective internal control system.

13. The COUNTY certifies the COUNTY is in compliance with the federal Single Audit Act and the requirements of SDCL § 4-11-2.1, if applicable. The COUNTY further certifies audits are displayed on the COUNTY'S website.

14. The COUNTY will include provisions in the COUNTY'S contracts and subcontracts requiring the COUNTY'S contractors and subcontractors to comply with the applicable provisions of this Agreement, to indemnify the STATE, and to provide insurance coverage for the benefit of the STATE, all in a manner consistent with this Agreement. The COUNTY will cause the COUNTY'S contractors, subcontractors, agents, and employees to comply with applicable federal, state, and local laws, regulations, ordinances, guidelines, permits, and requirements and will adopt such review and inspection procedures as are necessary to assure such compliance.

15. The COUNTY will indemnify the STATE, its officers, agents, and employees against any and all actions, suits, damages, liability, or other proceedings that may arise as the result of the COUNTY'S performance under this Agreement. This section does not require the COUNTY to be responsible for or defend against claims or damages arising from errors or omissions of the STATE, its officers, agents, or employees.

16. All PROJECT charges will be subject to audit by the STATE. The COUNTY and the COUNTY'S contractors and subcontractors will keep accounting records clearly identified with this Agreement, and will support all PROJECT charges by documents which evidence, in detail, the nature and propriety of those charges.

17. Upon reasonable notice, the COUNTY and the COUNTY'S contractors and subcontractors will allow the STATE, through any authorized representative, to have access to and the right to examine and copy all records, books, papers, or documents related to services rendered under this Agreement. The COUNTY will keep these records clearly identified and readily accessible for a period of three (3) years after the date of final payment under this Agreement.

18. The COUNTY will abide by the requirements of Title VI of the Civil Rights Act of 1964, incorporated in and attached to this Agreement as **Exhibit C**.

19. The COUNTY will perform under this Agreement in compliance with the Americans with Disabilities Act of 1990 and any amendments.

20. This Agreement may not be amended, except in writing, which writing will be expressly identified as a part of this Agreement, and be signed by an authorized representative of each of the parties.

21. This Agreement depends upon the continued availability of appropriated funds and expenditure authority from the Legislature for this purpose. If for any reason the Legislature fails to appropriate funds or grant expenditure authority, or funds become unavailable by operation of law or federal funds reductions, the STATE may terminate this Agreement. Termination for any of these reasons is not a default by the STATE nor does it give rise to a claim against the STATE.

22. The parties may terminate this Agreement by mutual written agreement. The STATE may also terminate this Agreement if the COUNTY breaches any terms of this Agreement. If the STATE terminates this Agreement due to the COUNTY'S breach, then any payments owed to the COUNTY at the time of termination may be adjusted to cover any additional costs to the STATE because of the COUNTY'S breach. The adjustment of payments will be in addition to any other remedies the

STATE may pursue as a result of COUNTY'S breach, and the STATE does not waive these other remedies by making a payment adjustment. If termination is not due to a breach by the COUNTY, then the COUNTY will be paid for eligible PROJECT costs incurred up to the date of termination, subject to the maximum limiting amount of the BIG.

23. The COUNTY must comply with all federal, state, and local laws, together with all ordinances and regulations applicable to the work and will be solely responsible for obtaining current information on such requirements. The COUNTY must procure all licenses, permits, or other rights necessary for the fulfillment of its obligations under this Agreement.

24. This Agreement will be governed by and construed in accordance with the laws of the State of South Dakota. Any lawsuit pertaining to or affecting this Agreement will be venued in Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.

25. If any court of competent jurisdiction holds any provision of this Agreement unenforceable or invalid, such holding will not invalidate or render unenforceable any other provision of this Agreement.

26. All other prior discussions, communications, and representations concerning the subject matter of this Agreement are superseded by the terms of this Agreement, and, except as specifically provided in this Agreement, this Agreement constitutes the entire agreement with respect to its subject matter.

27. The COUNTY has designated its County Commission Chairperson as the COUNTY'S authorized representative and has empowered the Chairperson with the authority to sign this Agreement on behalf of the COUNTY. A copy of the COUNTY'S Commission minutes or resolution authorizing the execution of this Agreement by the Chairperson as the COUNTY'S authorized representative is attached to this Agreement as **Exhibit D**.

This Agreement is binding upon the signatories not as individuals but solely in their capacities as officials of their respective organizations and acknowledges proper action of the STATE and the COUNTY to enter into the same.

Brookings County, South Dakota

By: _____

Its: County Commission Chairperson

Date: _____

Attest:

_____
County Auditor/Clerk

(COUNTY SEAL)

State of South Dakota
Department of Transportation

By: _____

Its: Program Manager,
Administration Program

Date: _____

# Department of Transportation

**Office of the Secretary**
**700 E Broadway Avenue**
**Pierre, South Dakota 57501-2586**
**PHONE: 605/773-3265 FAX: 605/773-3921**


EXHIBIT A

March 10, 2016

County Commissioners
Brookings County

**NOTICE OF AWARD**

2016 Preliminary Engineering Bridge Improvement Grant
Structure Number 06-169-239
Project Number BRF 6319(00)16-3, PCN 05NW
Grant Amount = $23,680 (80%)

I am pleased to inform you that the South Dakota Transportation Commission approved a Local Bridge Improvement Grant (BIG) in the amount shown above for the noted structure during their February 25, 2016 commission meeting. A funding agreement will be sent to you at a later date. A completed copy of your application is attached as well as information specific to this grant explaining the next step.

If you have questions please feel free to contact Laurie Schultz at 605-773-8149 or any of her staff.

Sincerely,

Darin P. Bergquist
Secretary

Attachments
cc: County Highway Superintendent
File

**MEMORANDUM** EXHIBIT B

**DATE:** March 16, 2016

**TO:** Doug Wessel
Banner & Associates

**FROM:** Cody Axlund, Bridge Replacement Engineer
Local Government Assistance

**SUBJECT:** ***2016 BRIDGE IMPROVEMENT GRANT / Grant Cap = $23,680 (80% of Total = $29,600)***
BRF 6319(00)16-3, Brookings County, PCN 05NW
Structure 06-169-239, 7.9S of Brookings on 471 Ave. over a creek

Brookings County has requested that your firm be employed to complete the work as defined in the following scope of services. Please prepare a breakdown of estimated costs required to accomplish this work and submit it to **Local Government Assistance in care of Jennie Weingart, Consultant Services Specialist**, for preparation of the work order under the State's retainer contract.

**SCOPE OF SERVICES – Survey & Hydraulics**

1. **Field survey for completion of the Drainage Data Sheet and Contour Map.** The information required for placement on these sheets is listed below. An example is attached containing the required information.
   - ☐ Stationing from south to north or west to east.
   - ☐ Beginning and ending stations of the current structure.
   - ☐ Proposed and inplace gradelines.
   - ☐ Stream profile. (Including a table of stations and elevations for each shot taken.)
   - ☐ Sea level datum is required. Stations, elevations, and offsets from and descriptions of permanent objects will be required for project benchmarks. (The High Accuracy Reference Network (HARN) map and the County Bench Mark map for the State of South Dakota can be found at the following web site – www.state.sd.us/dot/pe/roaddesign/survey.htm)
   - ☐ Include an electronic file containing the plan/profile of the inplace gradeline at the structure. (This will be submitted with the final hydraulics and only when the replacement structure will be a bridge. To submit this file, please contact this office for an e-mail address.)
   - ☐ Landowners with their addresses, phone numbers, and location of property.
   - ☐ Utilities with their addresses, phone numbers, and locations along the project.

2. **Field survey as necessary for preparation of construction plans.** Required information is listed below.
   - ☐ Establishment of transit points, land ties and benchmarks as well as cross sections and topography. (Stations, elevations, and offsets from permanent objects will be required for project benchmarks.)
   - ☐ Project limits as established by consultation with the County Highway Superintendent.
   - ☐ Additional legal survey as required for preparation of right-of-way plats.
   - ☐ The geometrics of horizontal and vertical alignment in accordance with the Local Roads Plan design standards.
   - ☐ Survey notes are to be retained on file with the Consultant for subsequent use in the preparation of construction plans and are to be available to the County upon request.

   It is anticipated that this item will permit the issuance of a separate work order (after the Type, Size and Location (TS&L) Inspection) for the development of construction plans with no further survey needed.

3. **Photo Documentation and Record Search of the Structure as defined in Attachment #2.**

4. **Preliminary Hydraulic Data Sheet, Plan/Profile Sketches (Preliminary Hydraulic Layouts) and gradelines, Electronic Copy of HEC-RAS File, and Final Drainage Memo/Letter in accordance with the newest version of the South Dakota Drainage Manual, for existing and all proposed structure alternatives. (More than one feasible alternative is required. This includes options on different alignments if applicable.)** The newest version of the South Dakota Drainage Manual is available at the following location:

http://www.sddot.com/business/design/forms/drainage/. Guidance and an example Final Drainage Memo/Letter can be found in Chapter 6 of the manual. The current preliminary hydraulic data sheet to be used can be found at the following internet location: ftp://ftp.state.sd.us Folder Path – DOT/LGA/Forms/Hydraulic Data Sheet – Current.doc. Directions for filling out the form can be found at the same location. All items will be submitted to the Local Government Assistance Office for distribution to SDDOT personnel for review for compliance with minimum required State and Federal standards. Necessary revisions shall be provided in writing by the SDDOT and shall be forwarded to the Consultant by the Local Government Assistance Office. The Consultant is wholly responsible for the accuracy of the design calculations and the independent check design calculations. The Local Government Assistance Office will prepare cost estimates.

Items 1. through 4. shall be accomplished by **August 29, 2016**. Please refer to the checklist in **Attachment #1** for the packet of items that shall be submitted to the Local Government Assistance Office.

5. **Attendance at the TS&L inspection, assistance in the selection of the type, size and location of the replacement structure.**

6. **Draft Hydraulic Design Report, and Final Hydraulic Data Sheet (use the current data sheet found at the following internet location: ftp://ftp.state.sd.us Folder Path – DOT/LGA/Forms/Hydraulic Data Sheet – Current.doc.)**

All information and data shall be submitted, and all questions and requests shall be directed to the Local Government Assistance Office.

7. The **Overall Completion Date** of this work order shall be January 31, 2017.

Attachments
cc: Jennie Weingart
File

## Attachment #1
## Local Government Assistance
## Checklist for Hydraulic Survey & Design Work Order

**If any of these items are missing, your packet will be returned for completion and resubmission to this office.**

**Project Number** _____ **County** _____ **PCN** _____

☐ **Survey Sheets and Contour Map including the following information:**

- ☐ Stationing from south to north or west to east
- ☐ Beginning and ending stations of the existing structure
- ☐ Beginning and ending stations of proposed structures
- ☐ Proposed and existing gradelines
- ☐ Stream profile and cross sections (Downstream to upstream direction including a table showing stations and elevations for each shot taken)
- ☐ Elevation and location of buildings and other structures
- ☐ Survey information using sea level datum and showing station, elevation, offset, and physical description of each project benchmark
- ☐ Landowner names, addresses, phone numbers, and legal descriptions of their property
- ☐ Utility names, addresses, phone numbers, and locations along the project

☐ **Photo Documentation and Historical Record Search of the Structure (including list of files or repositories searched) as defined in Attachment #2. (In the event that nothing is found, a letter indicating lack of findings, along with files or repositories searched, shall be submitted to the SDDOT/Local Government Assistance Office.)**

☐ **Preliminary Hydraulic Data Sheet (use current data sheet found at: ftp://ftp.state.sd.us Folder Path – DOT/LGA/Forms/Hydraulic Data Sheet – Current.doc) including the following information:**

- ☐ Calculated flows
- ☐ Inplace conditions (Ordinary High Water Elevation, $HW_{100}$, Vmax, OTfr)
- ☐ Proposed conditions for each option ($HW_2$, $HW_{23}$, $HW_{100}$, Vmax Qot, OTfr, ELovertop)
- ☐ Ordinary High Water Elevation Shown on Cross-Sections (vegetation elevation on stream banks – approx. 2–year flow)
- ☐ Observed High Water Elevation (identifiable high water mark)

☐ **Electronic copy of HEC-RAS model of existing and proposed conditions**

☐ **Final Drainage Memo/Letter (example and directions can be found in Chapter 6 of the SD Drainage Manual located at:** http://www.sddot.com/business/design/forms/drainage/

☐ **Plan and profile sketches (preliminary hydraulic layout sheets) for the existing structure and proposed gradelines for each option (More than one feasible alternative is required. This includes options on different alignments if applicable.)**

-------- Items to be Submitted after Receipt of Foundations undercut recommendations or subsurface investigation report --------

☐ Final Hydraulic Data Sheet with Scour Recommendations (use current data sheet found at: ftp://ftp.state.sd.us Folder Path – DOT/LGA/Forms/Hydraulic Data Sheet – Current.doc)

☐ Final Hydraulic Design Report

**Attachment #2**
**Local Government Assistance**
**Photo Documentation and Record Search of the Structure**

The information defined below will satisfy one of the requirements of the State Historic Preservation Society in clearing the structure for removal.

**Photo Documentation of the Structure**

- ☐ **Site map and photo log of all photos**
- ☐ **Photos will be taken of:** ***(at minimum)***
  - Full views of the structure's primary elevations
  - Close-ups of any decorative, character-defining or structural features
  - General views of the bridge and its environment
- ☐ **Photos will be labeled as follows:**
  - Photo Number - from photo log and site map
  - Name and Address of property – if property does not have legal address then please note either the Universal Transverse Mercator (UTM) or the legal location down to the quarter section.
  - Month and Year of photograph
  - Description of view, including camera direction (cardinal direction – N, S, E, W)
- ☐ **Photos will be submitted in one of the following formats:**
  - Digital Photographs
    - At least 2000 X 3000 pixels at 300 dpi
    - Saved as TIFFs submitted on CDs
  - 35mm Black and White Photographs
    - 35mm black/white film printed on black/white photographic paper
    - Both prints and negatives submitted

**Historical Record Search of the Structure**

- ☐ **Any or all of the following are needed:**
  - Reports – maintenance or otherwise indicating modifications to the original structure – what was done and why
  - Any Photographs of the original structure (not inspection photos; not photos referenced in this work order)
  - Original Drawings
  - Original Plans
  - Any other documentation

- ☐ **Names of Files or Repositories (courthouse, county historical society, etc.) Searched**

If possible, provide the original copy of this information. If not, submit the information in the following format. High quality clear Xerox copies of any reports, drawings, or plans; and photographs scanned at 600 dpi, saved as TIFFs, and submitted on a CD.

If these documents are not otherwise restricted through state or federal law; submit them to the SDDOT/Local Government Office for submission to the South Dakota State Historical Society for public use and reproduction. In the event that nothing is found, a letter indicating lack of findings, along with files or repositories searched, shall be submitted to the SDDOT/Local Government Assistance Office.

**EXHIBIT C**

**STATE OF SOUTH DAKOTA**
**DEPARTMENT OF TRANSPORTATION**
**STANDARD TITLE VI / NONDISCRIMINATION ASSURANCES**
**APPENDIX A & E**
**MARCH 1, 2016**

During the performance of this Agreement, the COUNTY, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations**: The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

2. **Non-discrimination**: The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment**: In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.

4. **Information and Reports**: The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Federal Highway Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the Federal Highway Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance**: In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

    a. withholding payments to the contractor under the contract until the contractor complies; and/or
    b. cancelling, terminating, or suspending a contract, in whole or in part.

6. **Incorporation of Provisions**: The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.