

**Memorandum #08-95**

**To:** *Al Viereck, Interim City Manager*  
**From:** *Kevin Kuhl, Director of Public Works*  
**Subject:** *Fencing Agreement with NDOR*  
**Date:** *May 7, 2008*

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There are a number of detailed coordination issues that pertain to the Discovery Bridge project being sorted out between the Nebraska Department of Roads, the City and other governmental entities. One such issue is the fencing for property owned by the City of Yankton on the Nebraska side of the river. It is a project requirement that access to a conservation easement be restricted with the installation of a fence. Based on previous experience, the City property will need to be fenced as well to prevent unwanted vehicular traffic. It is considered appropriate that the entire City parcel proposed to be used for recreational purposes be fenced. Fencing the City parcel would also accomplish the project requirement to restrict access to the conservation easement.

The Nebraska Department of Roads is prepared to have the fence installed for the City parcel as a project expense making use of cedar post materials provided by the National Park Service if the City is willing to agree to maintain the fence. The attached drawing depicts the fencing issues described above. It is recommended that execution of the agreement to accomplish the adjustments to the fencing plan be approved.

**Recommendation: It is recommended that fencing agreement between Nebraska Department of Roads and City as outlined by Memorandum #08-95 be authorized.**

Respectfully submitted,

Kevin Kuhl, PE  
Department of Public Works

\_\_\_\_\_ I concur with this recommendation.

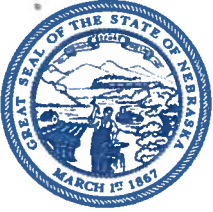
\_\_\_\_\_ I do not concur with this recommendation.

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Al Viereck  
Interim City Manager

Attachment

Cc: Todd Larson



Dave Heineman  
Governor

STATE OF NEBRASKA  
DEPARTMENT OF ROADS  
John L. Craig, Director

16 April 2008

Al Viereck  
City Manager  
City of Yankton  
P. O. Box 176  
Yankton SD 57078

RE: Yankton Bridge  
Project No. DPS-NH-81-4 (113)  
C.N. 31315

Al:

Attached are two duplicate original agreements and one copy (the copy is for your files) for the above referenced project. Please sign the two original agreements and return them to me and I will see that the state executes them. A fully executed original will be returned to you.

The following handouts are available on the FHWA web site.

Federal-Aid Policy Guide 23 CFR645A and 645B

<http://www.fhwa.dot.gov/legsregs/directives/fapg/cfr-645a.htm>

<http://www.fhwa.dot.gov/legsregs/directives/fapg/cfr-645b.htm>

The following publications are available on the Department of Roads web site.

The Policy of Accommodating Utilities

<http://www.nebraskatransportation.org/projdev/utilities.htm>

A printed publication may be obtained from NDOR Project development Division, Utilities Section, (402) 479-4684

Disadvantaged Business Enterprise Program

<http://www.nebraskatransportation.org/letting/dbeinfo.htm>

A printed publication may be obtained from the Construction Division, Disadvantaged Business Section, (402) 479-4531.

Sincerely,

Kristine I. Winter, P.E.  
District Engineer

## AGREEMENT

PROJECT NO. DPS-NH-81-4(113)  
CONTROL NO. 31315  
CITY OF YANKTON, SOUTH DAKOTA  
STATE OF NEBRASKA  
YANKTON BRIDGE

THIS AGREEMENT, made and entered into by and between the City of Yankton, South Dakota, hereinafter referred to as the "City," and the State of Nebraska, hereinafter referred to as the "State."

WITNESSETH:

WHEREAS, the State has included in the project plans the building of fence as part of the project mitigation including fence on the City's property, as shown in Exhibit "A" attached, which is hereby made a part of this agreement, and

WHEREAS, the National Park Service (NPS) and the City are in agreement to fence the entire City tract as shown in Exhibit "A" rather than place a fence on the conservation easement boundary as shown in the project plans, and

WHEREAS, NPS will donate cedar line and brace posts for the fence as shown in the project plans, and

WHEREAS, NPS will donate cedar line and brace posts, steel line posts and smooth twist wire for the additional new fence needed to fence the entire City tract beyond the fence as shown in the project plans.

NOW THEREFORE, in consideration of these facts the parties agree as follows:

SECTION 1: The State agrees to:

- A. Build the additional new fence around the entire City tract as part of the project at no cost to the City.
- B. Use the materials supplied by NPS to build the planned and additional new fence.
- C. Build the fence around the City tract on State right-of-way where possible.
- D. Clear the fence line of trees and brush for the additional new fence at no cost to the City.

SECTION 2: The City agrees to:

- A. Allow the State to build the new fence on City property at the new locations without additional easement costs.
- B. Maintain the additional new fence on City property after completion of the project.

C. Maintain the new fence built on State right-of-way and abutting the City property after completion of the project. This includes fence along the new US-81 right-of-way, the US-81 connector and the existing (Old) US-81 right-of-way.

SECTION 3: The City and State each grant the other a right of entry to build and maintain the new fence.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their proper officials thereunto duly authorized as of the dates below indicated.

EXECUTED by the City this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

ATTEST:

CITY OF YANKTON, SOUTH DAKOTA

\_\_\_\_\_  
Clerk

\_\_\_\_\_  
Mayor

EXECUTED by the State this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

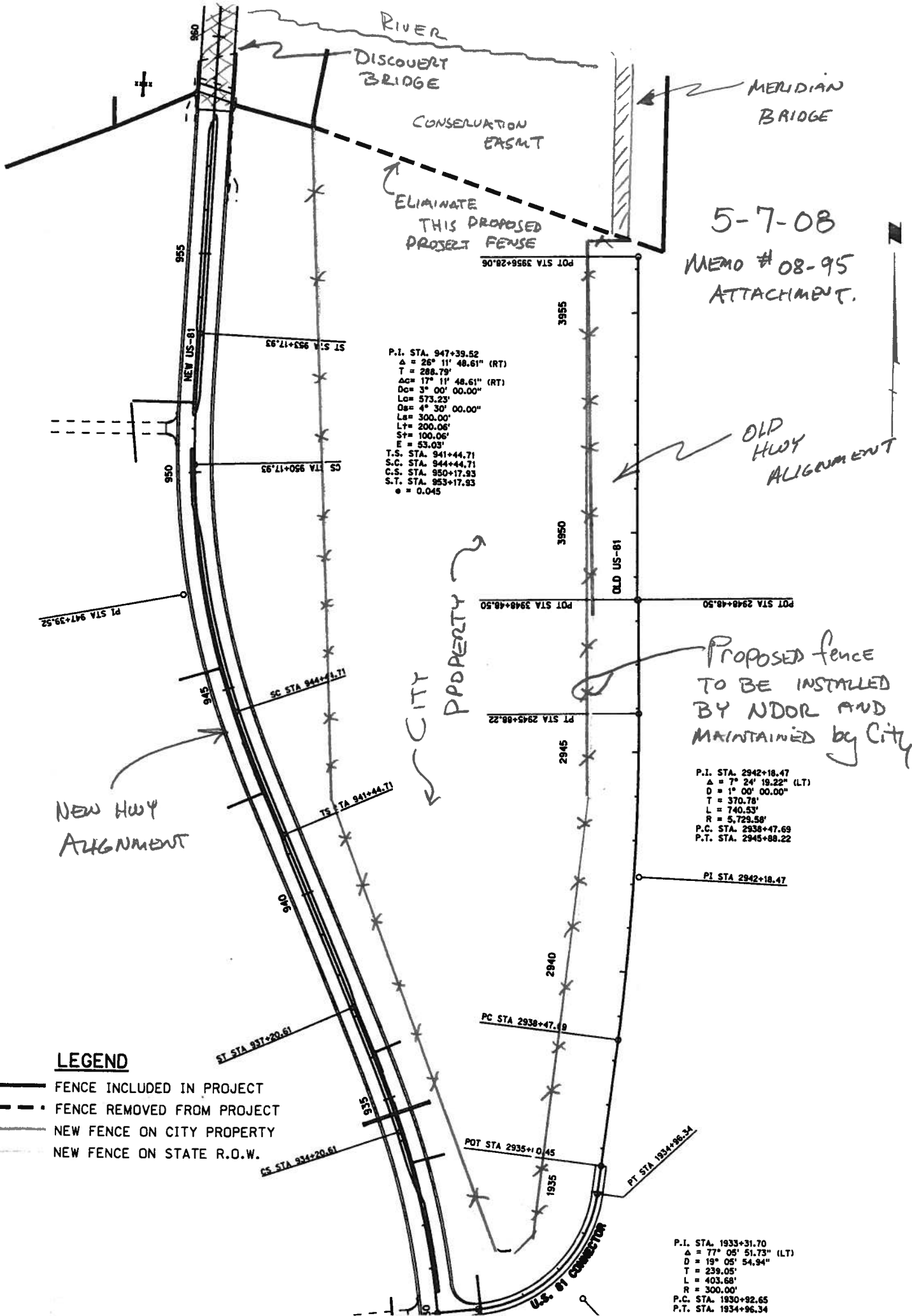
STATE OF NEBRASKA  
James J. Knott, P.E.

\_\_\_\_\_  
Roadway Design Engineer

RECOMMENDED:  
Kristine Winter

\_\_\_\_\_  
District 3 Engineer

AGRC4-SD



5-7-08  
MEMO # 08-95  
ATTACHMENT.

P.I. STA. 947+39.52  
 $\Delta = 26^\circ 11' 48.61''$  (RT)  
 $T = 288.79'$   
 $\Delta C = 17^\circ 11' 48.61''$  (RT)  
 $D C = 3^\circ 00' 00.00''$   
 $L C = 573.23'$   
 $O S = 4^\circ 30' 00.00''$   
 $L S = 300.00'$   
 $L T = 200.06'$   
 $S T = 100.06'$   
 $E = 53.03'$   
 T.S. STA. 941+44.71  
 S.C. STA. 944+44.71  
 C.S. STA. 950+17.93  
 S.T. STA. 953+17.93  
 $e = 0.045$

Proposed fence  
TO BE INSTALLED  
BY NDOR AND  
MAINTAINED by City

NEW HWY  
ALIGNMENT

CITY  
PROPERTY

**LEGEND**

- FENCE INCLUDED IN PROJECT
- - - FENCE REMOVED FROM PROJECT
- ⋯ NEW FENCE ON CITY PROPERTY
- ⋯ NEW FENCE ON STATE R.O.W.

P.I. STA. 1933+31.70  
 $\Delta = 77^\circ 05' 51.73''$  (LT)  
 $D = 19^\circ 05' 54.94''$   
 $T = 239.05'$   
 $L = 403.68'$   
 $R = 300.00'$   
 P.C. STA. 1930+92.65  
 P.T. STA. 1934+96.34