Moving the Earth Today for a Better Tomorrow

April 6, 2015

Scott Sommers, P.E.

Iowa DOT

U.S. 34 West

PO Box 733

Chariton, IA 50049

RE: NHSX-092-5(51)--3H-91

 Warren County

Mr. Sommers:

Please see below update in regards to utilities on the above referenced project:

Century Link (communications): Point 25 Utility Data indicates that they would be relocated by 10-31-14. They are currently in conflict with new construction from the BOP to EOP. It appears that they will be in the way for weeks after 4-6-15 and will prevent us from working on almost all areas of the project until they are fully relocated.

MidAmerican (gas): They are currently in conflict with new construction at various locations throughout the project. It appears that they will be in the way for weeks after 4-6-15 and will prevent us from working on detour construction.

Warren Water District (water): Point 25 Utility Data indicates that they would be relocated by 12-31-14. They are currently in conflict with new construction at various areas throughout the project. It appears that they will be in the way for weeks after 4-6-15.

 There are various other utilities that claim to have completed relocation work but we have not been able to confirm that yet.

 Based on addendum #2 (Point 25 Utility Bid Attachment) that was issued on 10-10-14, all required utility relocation work would be completed by the late start date of 4-6-15. We used that information pre-bid to develop a competitive bid for this project taking into account the working day and calendar day provisions in the contract. This is a large project with an accelerated construction schedule as well as a substantial incentive/disincentive clause that greatly affected our bid and our on-going project management decisions. The nature of this project also greatly affected bidding and resource allocation decisions subsequent to us being awarded the contract.

It is now clear that the contract documents associated with the utility bid attachment are erroneous and project construction will be greatly affected. This misrepresentation of site conditions will force us to reallocate resources that were scheduled for this project and in-turn affect other projects that we are scheduled to complete during the 2015 construction season. As of today, we still have no reliable data as to when utilities will be relocated and when this project will be available to start construction.

In referencing the Iowa Administrative Code 761, Chapter 115, it is very specific in regards to the required communication between the department and utilities to develop relocation plans. We are requesting copies of the notifications from the department to the utilities, the utilities' work plans, the department's approval of work plans, and the schedules submitted by the utility companies.

Please consider this letter as notice of differing site conditions per standard specification 1109.16.A.1. We have discovered conditions at the site "differing materially from those indicated in the contract" as well as conditions "differing materially from those ordinarily encountered and generally recognized as inherent in the work provided for in the contract". Also, consider this notice per standard specification 1109.11 B & C. Please let us know how the department would like us to document the damages that will be incurred as a result of this unfortunate situation.

If you have any questions please email me or call my cell phone: (563) 880-7688.

Sincerely,

Ryan Kipp, P.E.

Project Manager

C.J. Moyna & Sons, Inc.