

ADDENDUM

**TO PLANS, SPECIFICATIONS AND SPECIAL PROVISIONS FOR
HCRRRA MTKA 28, 29, 31, 32 & 33 CULVERT REPLACEMENT
HENNEPIN COUNTY TRANSPORTATION DEPARTMENT**

(To be opened Tuesday, July 21, 2020 at 2:00 P.M.)

ADDENDUM NO. 1

**HCRRRA MTKA 28, 29, 31, 32 & 33
C.P. 1007568**

NOTICE TO ALL BIDDERS:

This Addendum shall be attached to the Contract Documents and shall be included as part of said Contract Documents. Items herein shall take precedence over any clauses which they modify in the Contract Documents or portions of plans which they modify or supplement.

- **THE BID OPENING IS HEREBY EXTENDED TO TUESDAY, JULY 21, 2020.**

PROPOSAL

Add Appendix D: Unanticipated Discoveries Plan found in Attachment A.

Add Regulatory File MVP 2020-008781-RMH found in Attachment B to Appendix B.

EMD
July 9, 2020
Attachment(s)

Receipt of this addendum must be acknowledged in accordance with the provisions of 1210 of the specifications.

ATTACHMENT A

APPENDIX D: Unanticipated Discoveries Plan

Hennepin County Regional Railroad Authority

Unanticipated Discoveries Plan

Prepared by:



July 2020

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1.0 INTRODUCTION

The Hennepin County Regional Railroad Authority (HCRRA) was established in 1980 as a political subdivision and local government unit of Minnesota. It was established as a separate political entity to plan, design, and implement light rail transit in Hennepin County. HCRRA currently owns 46 miles of corridors in Carver, Hennepin, and Ramsey counties. Managed corridors include the 15-mile Lake Minnetonka LRT Regional Trail, the 11-mile Minnesota River Bluffs LRT Regional Trail, the 5-mile Midtown Greenway, the 2-mile Northeast Diagonal Trail, and the 13-mile Dakota Rail Trail. Although acquired for future transportation needs, recreational trails have been constructed on these corridors as an interim use.

This Unanticipated Discoveries Plan (UDP) sets forth the guidelines to be used in the event previously unknown archaeological materials, human skeletal remains, and possible burial sites are discovered during any construction or maintenance activities on HCRRA-managed property. These measures were developed for HCRRA in accordance with applicable state and federal guidelines.

2.0 UNANTICIPATED DISCOVERY CONDITIONS

Construction and maintenance activities on HCRRA-managed corridors have the potential to uncover previously unknown archaeological materials, human skeletal remains, and possible burial sites, as well as many other cultural and natural elements such as modern refuse and faunal remains. The intent of this plan is to explain provisions applicable to any instances where previously unknown archaeological materials, human skeletal remains, and possible burial sites are directly impacted in an unexpected/unanticipated manner during construction.

The unanticipated discovery of archaeological materials, human skeletal remains, and possible burial sites would require ceasing construction activities at the find location followed by a coordinated consultation effort among HCRRA, permitting agencies, landowners, and other interested parties, which may include Native American tribes. In the event that a suspected discovery is determined not to involve archaeological materials, human skeletal remains, or a burial site, construction would resume and there would be no need of the consultation process as outlined below; however, documentation of the event must be made and can include notes, photographs, and drawings as appropriate. Note that all actions surrounding unanticipated discoveries would be the subject of written documentation appropriate to the discovery.

If archaeological materials or suspected human skeletal remains are identified during ground disturbing activities within the construction corridor, the HCRRA project manager will be notified immediately of the discovery by the project construction lead before the following actions ensue:

1. Immediately following notification of the discovery, the project construction lead shall establish and delineate a 25-foot buffer around the edge of the discovery (using flagging, stakes, and/or fencing), advise the on-site construction manager to halt all ground-disturbing activities within the buffered area until otherwise notified by HCRRA and implement measures to protect the discovery from looting and vandalism, including a 24-hour watch, if necessary.

The HCRRA manager will then contact a qualified Professional Archaeologist (for possible archaeological materials) meeting the Professional Qualification Standards of the Secretary of Interior as stated in 48 Federal Register 44716 and/or Physical

- Anthropologist (for suspected human skeletal remains) with a graduate degree in said discipline and a recognized body of work in the professional community, to conduct an assessment of the discovery. The Professional Archaeologist should meet the qualification standards outlined in Title 36 Code of Federal Regulations (CFR) Part 61 in order to conduct the assessment. The Physical Anthropologist must be acknowledged as competent to positively identify human skeletal remains during the initial event of their discovery. As indicated below, this individual (Physical Anthropologist) will work closely with the Office of the State Archaeologist (OSA), who has the statutory responsibility to authenticate human burials in Minnesota.
2. When contacted by the HCRRA manager, the Professional Archaeologist shall gather additional information from the discovery area and assess the potential significance and condition and integrity of the discovery according to the guidelines established by the National Park Service (NPS) in Bulletins 15 and 36 and their amendments:
 - (a) The Professional Archaeologist will conduct an initial assessment and document the find. If the find does not include archaeological materials or cultural resources greater than 45 years of age, or deemed otherwise significant, the Professional Archaeologist will document the discovery for the record and advise the HCRRA manager that ground disturbing activities may proceed.
 - (b) If the find includes archaeological material or cultural resources over 45 years of age, the Professional Archaeologist will notify the HCRRA manager to continue the suspension of work within the identified area. The Professional Archaeologist will record as much information as possible to secure a Smithsonian Trinomial Number from the appropriate state agency. The initial site determination will be completed within 24 hours. However, depending on the nature of the find, the process of full recordation, additional survey, and testing may extend beyond 24 hours. The Professional Archaeologist will advise HCRRA during the recordation process and notify the HCRRA manager when work can proceed.
 3. When contacted by the HCRRA manager, the Physical Anthropologist shall investigate the site to assess the likely nature of the remains:
 - (a) If the remains are likely human, then the HCRRA manager will initiate the process outlined in Section 4.0 below.
 - (b) If the discovery does not represent human skeletal remains, the Physical Anthropologist will document the discovery for the record and the HCRRA manager will advise the on-site construction manager to restart ground-disturbing activities.

3.0 DISCOVERY OF ARCHAEOLOGICAL MATERIALS OR CULTURAL RESOURCES

Upon the discovery of archaeological materials or cultural resources greater than 45 years of age, the Professional Archaeologist will advise the HCRRA manager of the proper agency notification procedure and recommend a plan of action for the discovery area. This plan dictates a simultaneous initial notification of both the State Historic Preservation Office (SHPO) and OSA along with the Federal Agency notification.

- (a) If the discovery falls within federal property or a property subject to a federal undertaking (and therefore within an Area of Potential Effects, or APE) and is thus bound by federally mandated conditions, the HCRRA manager will advise the Federal Agency, SHPO, and OSA, of the resource and provide information regarding its significance and condition and integrity (see Section 3.1 below). The Federal Agency may include, but is not limited to, agencies such as the U.S. Army Corps of Engineers (USACE), the U.S. Fish and Wildlife Service (USFWS), etc.
- (b) If the discovery is on state land, the HCRRA manager will first advise the land-managing agency of the resource, along with SHPO and OSA, and provide information regarding its significance, condition, and integrity (see Section 3.2 below). In those instances, in which APEs under Section 106 review also occur on state land, provisions of Section 3.1 apply. For incidents which occur on state lands that are not within APEs, then Section 3.2 applies.
- (c) If the discovery is on private land, the HCRRA manager will advise the landowner of the discovery and then advise the SHPO and OSA, and provide information regarding its significance, condition, and integrity (see Section 3.3 below). In those instances, in which APEs under Section 106 review occur on private land, provisions of Section 3.1 apply.

3.1 FEDERAL AGENCY JURISDICTION

- (a) The HCRRA manager will notify the Federal Agency of the resource, along with SHPO and OSA and provide information regarding its significance and condition and integrity.
- (b) Within 24 hours of notification, the Federal Agency shall provide notice of the discovery to other parties who may wish to participate in consultation, including but not limited to the SHPO, OSA, Minnesota Indian Affairs Council, Native American tribal officials, Tribal Historic Preservation Office, and Consulting Tribes, state agencies, land-managing agencies, or private landowner(s), as applicable. After 24 hours, consultation for eligibility and effect will continue in order for avoidance and mitigation options to be developed.
- (c) The Federal Agency shall have 5 calendar days following notification to determine the discovery's eligibility for listing on the National Register of Historic Places (NRHP) in consultation with the appropriate SHPO and other consulting parties. The Federal Agency may extend the review period by an additional 7 calendar days by providing written notice to consulting parties prior to the expiration of the 5-calendar-day period. The Federal Agency should strive to provide the HCRRA manager with avoidance or mitigation treatment options by the end of the 5-calendar-day period.
- (d) If the discovery is determined eligible for listing on the NRHP (considered a "Historic Property") pursuant to (c) above, the HCRRA manager shall notify the Federal Agency and other consulting parties of HCRRA's proposed treatment measures to resolve adverse effects to the discovered resource. Historic Property is defined in the National Historic Preservation Act (NHPA) (54 United States Code § 300308) as any "prehistoric or historic district, site, building, structure, or object included on, or eligible for inclusion on, the National Register, including artifacts, records, and material remains relating to the district, site, building, structure, or object." HCRRA will confer with their consulting archaeologist in developing avoidance or mitigation options. The consulting parties should strive to comment on the proposed treatment measures within 48 hours. The Federal Agency shall ensure that the recommendations of the consulting parties are considered prior to granting approval of HCRRA-proposed treatment measures. Once approval has been granted by

the Federal Agency, HCRRA shall carry out the approved treatment measures and, after doing so, HCRRA may resume construction.

- (e) In the event of any disagreements between the consulting parties regarding the NRHP eligibility of the newly-discovered Historic Property or the treatment measures proposed to mitigate adverse effects to the Historic Property, the Federal Agency shall seek and take into account the recommendations of the Advisory Council on Historic Preservation (ACHP). Within 48 hours of receipt of a request, ACHP shall provide the Federal Agency with recommendations on how to resolve the dispute.
- (f) If, after consultation, the Federal Agency determines that the discovery does not represent an NRHP-eligible resource, the Federal Agency will direct HCRRA to resume ground-disturbing activities at the discovery location at its discretion.

3.2 NON-FEDERAL PUBLIC LANDS

- (a) HCRRA will notify the land-managing agency of the resource along with SHPO and OSA and provide information regarding its significance and integrity. As HCRRA property is considered non-federal public land, HCRRA may be the land-managing agency. However, other non-federal public land entities may also be involved. The notification process will depend on the location of the Project and the appropriate land-managing agency. The OSA has the discretion to notify Native American tribal officials and other state agencies as appropriate.
- (b) The land-managing agency will have 5 calendar days following notification to consult with the appropriate OSA, the SHPO (per Minnesota Statute (Minn. Stat.) 138.40 in Minnesota), and other consulting parties including Tribes, as necessary, about the assessment of the discovery to determine its eligibility, avoidance, and/or mitigation measures. NPS criteria of eligibility for listing on the NRHP will be considered as a guideline to determine the significance of the find and OSA and SHPO will be consulted during the assessment, but the land-managing agency is not obliged to apply NPS standards solely in making its decision. The land-managing agency may assume the resource is eligible for listing on the NRHP while consultation occurs and may require avoidance, impact minimization, or mitigation. The land-managing agency may extend the review period by an additional 7 calendar days by providing written notice to consulting parties prior to the expiration of the 5-calendar-day period. The land-managing agency shall provide HCRRA with avoidance or mitigation treatment options by the end of the 5-calendar-day period.
- (c) For discoveries determined to be Historic Properties, HCRRA shall simultaneously notify the land-managing agency, SHPO, OSA, and other consulting parties with information regarding the discovery and any treatment and measures it proposes for resolving adverse effects to the resource. The consulting parties shall provide their views on the proposed treatment measures to HCRRA, the land-managing agency and other consulting parties within 48 hours. The land-managing agency shall ensure that the recommendations of the consulting parties are considered prior to granting approval of HCRRA's proposed treatment measures. Once approval has been granted by the land-managing agency, HCRRA shall carry out the approved treatment measures and, after doing so, HCRRA may resume construction.

- (d) If, after consultation, the land-managing agency determines that the discovery does not represent an NRHP-eligible or otherwise important resource, the land-managing agency will direct HCRRA to resume ground-disturbing activities, at its discretion, at the discovery location.

3.3 Private Lands

- (a) HCRRA will notify the landowner along with SHPO and OSA and provide information regarding its significance and integrity.
- (b) HCRRA will have 5 calendar days following notification to consult with the SHPO, OSA, and other consulting parties as appropriate, about assessing the discovery. Criteria of eligibility for listing on the NRHP will be considered as a guideline to determine the significance of the find and SHPO and OSA may be consulted during the assessment. Construction may not resume until the appropriate SHPO, OSA, or other consulting parties have developed avoidance or mitigation strategies and notified HCRRA. Consulting parties will provide their response and recommendations within 48 hours.
- (c) For properties eligible for listing on the NRHP, HCRRA shall notify the consulting parties of the treatment measures it proposes to resolve impacts to the resource. The consulting parties shall provide their views on the proposed treatment measures within 48 hours. HCRRA shall ensure that the recommendations of the consulting parties are considered. HCRRA shall carry out the approved treatment measures and, after doing so, may resume construction.
- (d) If, after consultation, the parties agree that the discovery does not represent an NRHP-eligible or otherwise important resource, HCRRA may resume ground-disturbing activities at the discovery location.

4.0 DISCOVERY OF HUMAN SKELETAL REMAINS OR POSSIBLE BURIAL SITES

1. When human skeletal remains or possible burial sites are encountered during construction activities, HCRRA will comply with all applicable laws, specifically Minnesota's "Private Cemeteries Act" (Minn. Stat. §307.08).

In the event human skeletal remains or possible burial sites are encountered during ground-disturbing construction activity, all construction shall immediately cease in the vicinity, and HCRRA will notify the local law enforcement agency (county sheriff). As required by Minn. Stat. §307.08, HCRRA will also notify the OSA of the find.

Jason Kamerud, Carver County Sheriff
608 East Fourth Street
Chaska, MN 55318-2102
952-361-1231
jkamerud@co.carver.mn.us

David Hutchinson, Hennepin County Sheriff
350 South Fifth Street, Room 6
Minneapolis, MN 55415
612-348-3744 (non-emergency)

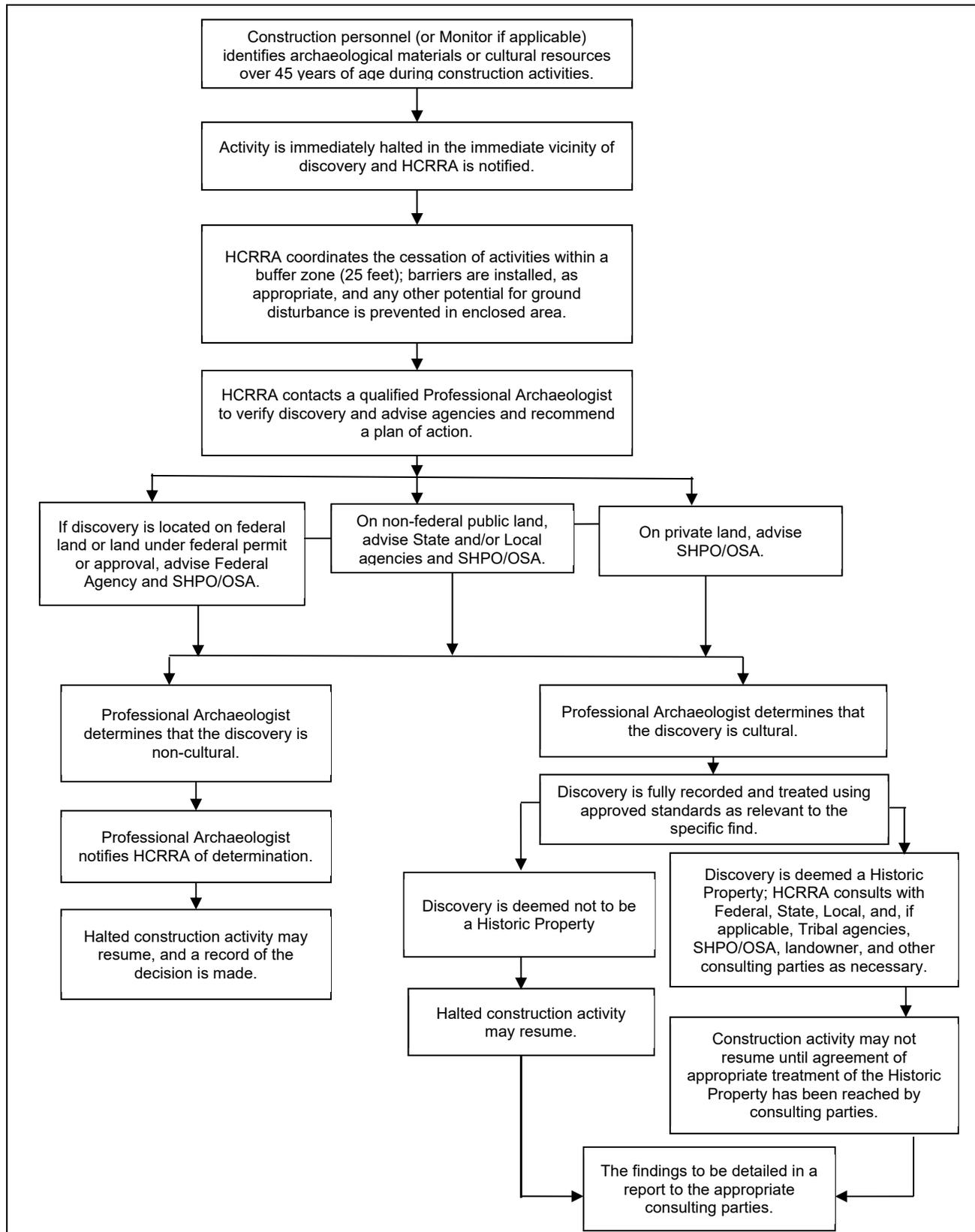
Bob Fletcher, Ramsey County Sheriff
651-266-9333

Amanda Gronhovd, State Archaeologist
Office of the State Archaeologist
328 W. Kellogg Blvd.
St. Paul, Minnesota 55102
651-201-2263
Amanda.Gronhovd@state.mn.us

2. HCRRA also shall promptly notify the Federal Agency, land-managing agency, or private landowner of the find and consult regarding the appropriate measures to handle the discovery.

After permission to resume construction has been issued by the Federal Agency, land-managing agency, or OSA, HCRRA may restart ground-disturbing activities.

Unanticipated Discovery of Historic Properties Flow Chart



ATTACHMENT B

APPENDIX B: Army Corps of Engineers Permit



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, ST. PAUL DISTRICT
180 FIFTH STREET EAST, SUITE 700
ST. PAUL, MN 55101-1678

July 9, 2020

Regulatory File MVP 2020-008781-RMH

Bridget Osborn
c/o: HR Green, Inc.
2550 University Avenue W, Suite 400N
St. Paul, MN 55114

Dear Ms. Osborn:

We are responding to your request, submitted on behalf of the Hennepin County Public Works Department, for authorization to complete the Lake Minnetonka LRT Regional Trail Culvert Replacement project. The proposed work is located in Section 28, Township 117 North, Range 24 West, Hennepin County, Minnesota.

The regulated activity associated with the project described above includes the temporary discharge of dredged material into 0.043 ac (1,906 sq. ft.) and the permanent discharge of fill material into 0.008 ac (371 sq. ft.) of wetland for installation of stormwater culverts. The work appears to be authorized by a Nationwide Permit (NWP) and/or a Regional General Permit (RGP), specifically, the Transportation RGP, category 1. No application or notification to the St. Paul District Corps of Engineers is required for your project.

This letter does not verify permit eligibility, but indicates that your project may meet the requirements of this permit. It is your responsibility to ensure that the work is performed in accordance with the terms and general conditions of this permit before starting work. **It is also incumbent upon you to verify that your activity has received any necessary Water Quality Certification or waiver prior starting work in waters of the U.S.** If a Water Quality Certification has not been issued for your activity, you are responsible for contacting the certifying agency. A full list of applicable terms, conditions, issued Water Quality Certifications, and certifying agencies may be found by visiting our website at <http://www.mvp.usace.army.mil/Missions/Regulatory/>.

A change in location or project plans may require re-evaluation of your project. Proposed changes should be coordinated with this office prior to construction. Failure to comply with all terms and conditions of this permit invalidates this authorization and could result in a violation of Section 301 of the Clean Water Act or Section 10 of the Rivers and Harbors Act. You must also obtain all local, State, and other Federal permits that apply to this project.

If you have any questions, please contact me in our St. Paul office at (651) 290-5355 or by email at raelene.hegge@usace.army.mil.

Sincerely,

A handwritten signature in cursive script that reads "Raelene Hegge".

Raelene Hegge
Regulatory Specialist

CC:
Kristine Stehly (Hennepin County Public Works)
Amy Waters (BWSR)