

**TRANSPORTATION COMMISSION CONFERENCE CALL MEETING MINUTES
FEBRUARY 15, 2018 – 9:00 A.M.
BECKER-HANSEN BUILDING – 700 EAST BROADWAY
PIERRE, SD**

**COMMISSIONERS PRESENT
VIA CONFERENCE CALL:**

Kyle White, Chairman
Ron Rosenboom, Member
Mike Vehle, Member
Kim Vanneman, Member
Rod Fouberg, Member
Don Roby, Member

COMMISSIONERS PRESENT:

Larry A. Nelson, Member

DOT STAFF PRESENT:

Mike Behm, Joel Gengler, Greg Fuller, Karla Engle, Bonnie Olson, Ryan Johnson, Mark Leiferman, Sam Weisgram, and Patricia Saukel

**DOT STAFF PRESENT VIA
CONFERENCE CALL:**

Dustin DeBoer

**OTHERS PRESENT
VIA CONFERENCE CALL:**

Becky Hedman – AGC, Mark Clausen – FHWA, Kirk Fredrichs – FHWA

Chairman White called the meeting of the Transportation Commission (the “Commission”) to order at 9:03 a.m.

Chairman White opened the floor to Commission members to disclose potential conflicts of interest and to present requests for waivers pursuant to South Dakota Codified Law (SDCL) chapter 3-23.

Commissioner Larry A. Nelson submitted a written annual disclosure and waiver request (attached to and incorporated into these minutes as **Exhibit A**) concerning representation of a client by one of Nelson’s partners in the Frieberg, Nelson & Ask, LLP law firm. The Department of Transportation (the “Department”) is currently negotiating with the client for the purchase of real property interests relating to a highway project.

A MOTION WAS MADE by Roby and seconded by Fouberg to approve the waiver request submitted by Nelson as the Commission has determined that the matters underlying the conflict are fair, reasonable, and not contrary to the public interest. All present voted aye by roll call vote, except Nelson, who abstained from the Commission discussion and vote. The motion carried.

There were no additional disclosures or waivers to address.

Mike Behm, Director of Project Development introduced Joel Gengler of the Right of Way office.

Gengler withdrew the Right of Way item from the Commission's consideration because the matter was in the process of being resolved through negotiation.

Sam Weisgram of Project Development presented the following bid letting results, with the exception of bid item #7 which had been moved to the February 21, 2018, bid letting:

February 7, 2018 letting

Slide Repair (soil nail with slope mesh reinforcement)

1	04TA NH 014A(16)42	Lawrence County
	Access Limited Construction, Inc.	\$833,649.00
	US14A just east of the junction with US85 east of Deadwood	

Cold Milling Asphalt Concrete, Asphalt Concrete Resurfacing, & Pipe Work

2	04EN P 0037(144)133	Beadle, Spink County
	Asphalt Paving & Materials Company	\$1,845,306.60
	SD37 from SD28, south 12 miles	

Cold Milling Asphalt Concrete & Asphalt Concrete Resurfacing

3	05U0 NH 0014(225)347	Beadle County
	Asphalt Paving & Materials Company	\$1,866,248.47
	US14 EB &WB from the east city limits in Huron, to the end of the divided section	

Bridge Deck Polymer Chip Seal & Bridge Rail Painting

4	05R4 BRF 6231(00)16-7	Tripp County
	J.V. Bailey Company, Inc.	\$96,648.50
	Structure on 289th St, 2.5 miles west & 3 miles north of Clearfield, over Willow Creek	

Structure and Approach Grading (4-48" RCP)

5	00JY BRO 8027(28)	Gregory County
	Midwest Contracting, LLC	\$259,374.25
	Structure 3.1 miles west and 2 miles south of Jct. SD44/SD47 over a creek	

Bridge Deck Polymer Deck Seal

6	04V0, 05FK, 05FD, 05FL P 0106(06)334, NH 0010(120)363, NH 0012(200)399, P 0020(163)450	Grant, Roberts County
	RAM Construction Services of Michigan, Inc.	\$274,715.08
	US12, 0.6 miles east of SD109 over the Whetsone River Div Channel; SD10, 107 miles west of SD127 over the Little Minnesota River; SD20, 4.1 miles east of SD15 over a creek; & SD106, 3.2 miles west of SD127 over the Little Minnesota River	

7 Grading, Landscaping, Shared Use Path, Structures, Lighting, Trailhead

	05JD P 1358(04)	Minnehaha County
	<i>Moved to the February 21, 2018 letting</i>	

Culvert Repair

8 040U NH-P 0012(177) Deuel, Hamlin, Roberts County
 DeBoer Construction, Inc. \$243,369.10
 Various Locations in the Watertown Area

PCC Pavement Repair

9 05LE NH 0042(68) Butte County
 Reede Construction, Inc. \$541,104.55
 US212 from approximately 5 miles NW to 1 mile East of Belle Fourche

Sprayable Durable Pavement Marking

10 04HA PH 0040(219) Butte, Custer, Pennington County
 Traffic Services Company LLC \$156,551.84
 Various locations in the Rapid City Region

Structure Zone Painting

11 04DR IM 0906(70)263 Aurora, Brule, Davison County
 Pacific Painting Co., Inc. \$698,603.59
 I90 Structures over Main St/RR Exit 263 (Chamberlain); Aurora/Brule County Line, 2.6 miles west of Exit 296; Exit 296 (White Lake); Exit 310 (US281); 6.0 miles east of Exit 319; & Exit 332 (SD37S).

Signing & Delineation

12 02UH PH 8019(16) Day County
 Hamm Contracting, LLC \$2,296,390.87
 Various County, City, & Township Roads in Day County

A MOTION WAS MADE by Roby and seconded by Fouberg to approve bid #'s 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, and 12. All present voted aye by roll call vote. The motion carried.

February 13, 2018 letting**Furnish Traffic Signal Equipment**

06K9 NH 0012(00)293 Brown County
 Muth Electric Inc \$78,557.00
 US12 and Brown County Hwy 19

A MOTION WAS MADE by Vanneman and seconded by Fouberg to approve the February 13, 2018, Brown County bid. All present voted aye by roll call vote. The motion carried.

Behm presented the following State Transportation Improvement Program (STIP) revision for approval:

FOR COMMISSION APPROVAL

REV 18-029 This revision will add a 2018 concrete centerline rumble striping project on US14 from DeSmet to Lake Preston.

FY 2018 Plus \$153,000

A MOTION WAS MADE by Rosenboom and seconded by Vanneman to approve the above-listed STIP revision. All present voted aye by roll call vote. The motion carried.

With no other business to come before the Commission, the meeting was declared adjourned at 9:15 a.m.

DRAFT

EXHIBIT A

STATE OF SOUTH DAKOTA

(insert name of board/commission/authority)

REQUEST FOR STATE BOARD WAIVER
PURSUANT TO SDCL CHAPTER 3-23

THIS IS A PUBLIC DOCUMENT

Date: 2/12/2018

Name of Board Member or Former Board Member: Larry A. Nelson

Name of Board, Authority or Commission: Transportation Commission

Brief explanation of contract for which a waiver is requested:

- a) Parties to the contract
Daniel Dannen and his attorney, Thomas Frieberg. Mr. Frieberg is an attorney with Frieberg, Nelson & Ask, LLP, law firm. Daniel Dannen is selling certain real property on a contract for deed to Lewis Hilmer and Sarah Delugosh. There is eminent domain dispute between Lewis Hilmer, Sarah Delugosh as it relates to right of way acquisition by the State.
- b) Board Member's role in the contract
Larry A. Nelson is a partner in the law firm of Frieberg, Nelson & Ask, LLP.
- c) Purpose and objective of the contract
Thomas Frieberg is the attorney for Daniel Dannen. Mr. Dannen is the owner of the real property being sold to Lewis Hilmer and Sarah Delugosh on Contract for Deed. Lewis Hilmer and Sarah Delugosh are parties to an issue with the DOT for a highway right of way acquisition.
- d) Consideration or benefit conferred or agreed to be conferred upon each party
Services are provided by Thomas Frieberg to Daniel Dannen in exchange for payment.
- e) Duration of the contract
May of 2017 until the end of the Contract for Deed payments. There is a continuing business relationship between Frieberg, Nelson & Ask, LLP and Daniel Dannen as client.

Signature of Requesting Party:  Date 2-12-2018

ANNUAL DISCLOSURE FOR AUTHORITY/BOARD/COMMISSION MEMBER
PURSUANT TO SDCL CHAPTER 3-23

THIS IS A PUBLIC DOCUMENT

Name of Member: Larry A. Nelson

Name of Board, Authority or Commission: Transportation Commission

The Member shall disclose below any contract in which the Member has an interest or from which the Member derives a direct benefit if the contract is:

- 1) With the state agency to which the Member's board, authority or commission is attached for reporting or oversight purposes and which contract requires the expenditure of government funds;
- 2) With the state and which contract requires the approval of the Member's board, authority or commission and the expenditure of government funds; or
- 3) With a political subdivision of the state if the political subdivision approves the contract and:
 - a. Is under the regulatory oversight of the authority, board, or commission, or
 - b. Is under the regulatory oversight of the agency to which the Member's board, authority or commission is attached.

The Member shall disclose the contract even though no additional authorization is needed from the Member's board, authority or commission to have an interest or derive a benefit from the contract.

The Member shall also identify every entity in which the Member possesses an ownership interest of five percent or greater if:

- 1) The entity receives grant money from the State, either directly or by a pass-through grant or
- 2) The entity contracts with the State or any political subdivision for services.

1. **Contracts in which you have an interest pursuant to SDCL Chapter 3-23 and which do not violate any other provision of law** - Provide the following for each contract in which you have, or will have, an interest. For further information see SDCL 3-23-2.1 and 3-23-3.1.

Description of the contract	Parties	Description of your interest/role in the contract	Date contract was previously disclosed, if applicable

Attach additional pages, if necessary.

2. **Contracts in which you have a direct benefit pursuant to SDCL Chapter 3-23** - Provide the following for each contract from which you derive, or will derive, a direct benefit. For more information see SDCL 3-23-2, 3-23-2.2 and 3-23-3.1.

Description of the contract	Parties	Description of the direct benefit	Date contract was authorized
Thomas Frieberg is attorney for Daniel Dannen. Mr. Dannen is the owner of the real property being sold to Lewis Hilmer and Sarah Delugosh on Contract for Deed. Mr. Hilmer and Sarah Delugosh are parties to an issue with the DOT for a highway right of way acquisition.	Daniel Dannen, Thomas Frieberg, attorney with Frieberg, Nelson, and Ask, LLP, law firm, Lewis Hilmer, and State of South Dakota.	Larry A. Nelson is a partner in the law firm of Frieberg, Nelson & Ask, LLP	May of 2017. There is a continuing business relationship between Frieberg, Nelson, & Ask, LLP, and Daniel Dannen, as a client.

Attach additional pages, if necessary.

3. Entities in which you possess an ownership interest of five percent or more that receive grant money from the State, either directly or by a pass-through grant, or that contract with the State or any political subdivision for services – Provide the following for each such entity. See SDCL 3-23-3.1.

Description of the contract or grant	Party in which you possess the interest	State agency or subdivision

Attach additional pages, if necessary.

The member shall complete a separate authorization request for any contract identified above that requires authorization from the Member's board, authority or commission in order for the Member to legally derive a direct benefit.

Signature of Member:  Date: 2/12/2018