Attachment #1

TRANSPORTATION COMMISSION MEETING MINUTES
May 26, 2016 – 9:30 A.M.
BECKER-HANSEN BUILDING – 700 EAST BROADWAY
PIERRE, SD

COMMISSIONERS PRESENT:

Don Roby, Chairman
Tim Dougherty, Vice-Chair
Ralph Marquardt, Member
Ron Rosenboom, Member
Kim Vanneman, Member
Kathy Zander, Member

DOT STAFF PRESENT: Darin Bergquist, Karla Engle, Sam Weisgram, Christina Bennett, Mike Behm, Laurie Schultz, Doug Kinniburgh, Mark Leiferman, Jason Humphrey, Scott Rabern, Greg Fuller, Steve Johnson, Kevin Goeden, Kristi Sandal, Bonnie Olson, Randy Brown, and Kellie Beck

OTHERS PRESENT: Rick Vallery – Congresswoman Noem's Office, David Ortbahn – LRC, Bob Mercer – Press, Toby Crow – AGC

The meeting was called to order at 9:30 a.m. by Chairman Don Roby. Roll call was taken and a quorum was determined.

Chairman Roby asked for a motion to approve the minutes of April 28, 2016.

A MOTION WAS MADE by Zander to approve and seconded by Vanneman. All voted aye by roll call vote and motion carried.

Chairman Roby asked for a motion to approve the minutes of May 12, 2016.

A MOTION WAS MADE by Rosenboom to approve and seconded by Marquardt. All voted aye by roll call vote and motion carried.

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A MOTION WAS MADE by Marquardt to go into Executive Session at 9:34 a.m. for the purpose of contract negotiations and legal litigation and seconded by Zander. All voted aye by roll call vote and motion carried.

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A MOTION WAS MADE by Marquardt to return from Executive Session at 10:24 a.m. and seconded by Vanneman. All voted aye by roll call vote and motion carried.

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Secretary Bergquist recognized Kevin Goeden on his upcoming retirement. Has been the Department's Chief Bridge Engineer for past nine years and has 34+ years of service with the Department. Steve Johnson has been named as the new Chief Bridge Engineer.

Secretary Bergquist updated the Commission regarding ongoing discussions for development of a possible township structure replacement program. Dick Howard appeared before the commission several months ago requesting help on behalf of townships on the rising issue with their larger structures that don't qualify for the BIG grant program. The Commission directed Secretary Bergquist and staff to meet with stakeholders and discuss this topic to come up with a proposed plan of how to address this need. A small group including, but not limited to, Greg Vavra, Dick Howard, Duane Sutton, Laurie Schultz, Bob Wilcox, and a handful of others met. The group developed a draft plan for a county administered program. If the commission decided to allocate funds, the funds would be distributed by formula to the counties for use on these types of structures. The distribution formula would be based on the number of eligible structures in a county. Counties would be responsible for working with their townships to prioritize needs and projects. Counties would be responsible for reporting annually on how their funds were used in order to be eligible to receive future funds. (LTAP would help with the report compilation.) The counties and townships are in the process of doing an inventory of all the structures in order to develop a proposed distribution formula. We would anticipate bringing this proposal to the Commission at a later date.

Last month the Commission awarded a number of bridge improvement grant ("BIG") funds. After that award, staff identified an error in the formula used to rank the major rehabilitation/replacement projects. Staff is reviewing the ranked scores of unsuccessful applicants and next month will come back with an agenda item to reconsider all the unsuccessful applicants. The Department strongly recommends not revoking any of the awarded grants.

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Greg Fuller, Director of Operations, presented the following Construction Change Orders to the Transportation Commission:

Construction change orders approved in April contain an increase of approximately $49,053.

Over the past 12 months, the overall contract increase is 1.06%.

The following projects have a Construction Change Order (CCO) amounting to a contract change in excess of $50,000.

ABERDEEN REGION

I. Project: P 6443(01), Brookings County, PCN 042Q
Location: 471 Ave. and 217 St. in Brookings
Contractor: Bowes Construction, Inc.
Type of Work: Cold Milling Asphalt Concrete and Asphalt Concrete Resurfacing

Original Contract Amount:	$	1,137,163.87
Change on CCO No. 4:	$	(50,656.30)
Net Change to Date:	$	(40,192.96)

Explanation of Change on CCO No. 4: This decrease was the result of the Department eliminating the flush seal from the project. The determination was made based on observation of surface conditions following asphalt concrete resurfacing.

II. Project: P 3273(09), Brookings County, PCN 03CT
Location: 17th Ave in Brookings
Contractor: Bowes Construction, Inc.
Type of Work: Mill & AC Resurfacing

Original Contract Amount:	$	908,737.80
Change on CCO No. 7:	$	89,720.49
Net Change to Date:	$	126,944.14

Explanation of Change on CCO No. 7: This increase was the result of additional sodding work requested by the city.

III. Project: P 3313(13), Brookings County, PCN 03WP
Location: Main Avenue in Brookings
Contractor: Bowes Construction, Inc.
Type of Work: Mill & AC Resurfacing

Original Contract Amount: $ 965,457.35

Change on CCO No. 3: $ (63,223.75)
Net Change to Date: $ (54,876.75)

Explanation of Change on CCO No. 3: This decrease was the result of numerous minor adjustments made to various contract quantities. The adjustments were made to match the actual quantities used during construction and are considered normal variations.

MITCHELL REGION

IV. Project: P 0019(36)73, Lake County, PCN 026D
Location: SD 19 from Humboldt to Madison
Contractor: McLaughlin & Schulz, Inc.
Type of Work: Mill & AC Surfacing & Resurfacing

Original Contract Amount: $ 6,587,979.03
Change on CCO No. 4: $ 246,637.64
Net Change to Date: $ 691,847.27

Explanation of Change on CCO No. 4: This increase was the result of numerous minor adjustments made to various contract quantities and due to an incentive payment earned by the Contractor for asphalt mix quality and asphalt ride quality. The adjustments were made to match the actual quantities used during construction. Increases were made for additional asphalt concrete and asphalt binder due to plan errors and changes ordered by the Department during construction. The incentive payments were made in accordance with the contract.

V. Project: IM-NH-P 0021(155), Aurora County, PCN 047L
Location: Various Routes in the Mitchell Area
Contractor: Bituminous Paving, Inc.
Type of Work: Asphalt Surface Treatment (Chip Seal)

Original Contract Amount: $ 4,943,154.85
Change on CCO No. 1: $ (280,672.20)
Net Change to Date: $ (280,672.20)

Explanation of Change on CCO No. 1: This decrease was the result of an adjustment to the contract quantity of cover aggregate used on the project. The Department approved application rate for cover aggregate was less than estimated in the plans.

VI. Project: IM 0907(53)319, Davison County, PCN 6666
Location: I-90 from Mount Vernon to the James River

Contractor: Knife River Midwest LLC
Type of Work: Remove and Replace PCCP, Bridge Deck Overlay, Epoxy Chip Seal, Asphalt Concrete Resurfacing, and Guardrail

Original Contract Amount:	$	29,120,411.20
Change on CCO No. 24:	$	81,521.82
Net Change to Date:	$	1,363,062.29

Explanation of Change on CCO No. 24: This increase was the result of numerous minor adjustments made to various contract quantities and due to an incentive payment earned by the Contractor for PCCP ride quality. The adjustments were made to match the actual quantities used during construction and are considered normal variations. The incentive payment was made in accordance with the contract.

VII. Project: PH 8050(69), Minnehaha County, PCN 056U
Location: Various County, City, & Township Roads in Minnehaha County
Contractor: Hamm Construction LLC
Type of Work: County Signing and Delineation

Original Contract Amount:	$	1,412,966.70
Change on CCO No. 1:	$	(55,322.50)
Net Change to Date:	$	(55,322.50)

Explanation of Change on CCO No. 1: This decrease was the result of a plan error in the plans estimated quantity of type 3 barricade. The final quantity matches the quantity required on the project.

PIERRE REGION

VIII. Project: P 0073(53)252, Corson County, PCN 01RP
Location: Various sites from McLaughlin to Lemmon
Contractor: Industrial Builders, Inc.
Type of Work: Bridge Deck Overlay

Original Contract Amount:	$	2,009,694.55
Change on CCO No. 4:	$	68,981.60
Net Change to Date:	$	95,521.60

Explanation of Change on CCO No. 4: This increase was the result of additional concrete removal and overlay as ordered by the Department. The plans shown thickness of the existing overlay was less than the thickness encountered during construction.

IX. Project: P 0073(53)252, Corson County, PCN 01RP
Location: Various sites from McLaughlin to Lemmon
Contractor: Industrial Builders, Inc.
Type of Work: Bridge Deck Overlay

Original Contract Amount:	$	2,009,694.55
Change on CCO No. 5:	$	50,875.30
Net Change to Date:	$	146,396.90

Explanation of Change on CCO No. 5: This increase was the result of additional asphalt concrete required on the project to provide a stable approach to the structures.

X. Project: NH-P 0032(18), Corson County, PCN 047Q
Location: Various Routes in the Mobridge Area
Contractor: Jensen Rock & Sand, Inc.
Type of Work: Asphalt Surface Treatment (Chip Seal)

Original Contract Amount:	$	2,889,262.25
Change on CCO No. 3F:	$	(143,037.27)
Net Change to Date:	$	(86,944.07)

Explanation of Change on CCO No. 3F: This decrease was the result of an adjustment to the contract quantity of asphalt for surface treatment used on the project. The Department approved application rate for asphalt for surface treatment was less than estimated in the plans.

XI. Project: NH-P 0032(16), Corson County, PCN 0461
Location: Various Routes in the Mobridge Area
Contractor: Jensen Rock & Sand, Inc.
Type of Work: Asphalt Surface Treatment (Chip Seal)

Original Contract Amount:	$	1,974,467.83
Change on CCO No. 3F:	$	(70,414.54)
Net Change to Date:	$	(32,004.98)

Explanation of Change on CCO No. 3F: This decrease was the result of an adjustment to the contract quantity of asphalt for surface treatment used on the project. The Department approved application rate for asphalt for surface treatment was less than estimated in the plans.

XII. Project: NH 0083(81)87, Lyman County, PCN 04PQ
Location: SD 83 at Vivian
Contractor: BX Civil & Construction, Inc.
Type of Work: PCC Panel Replacement, Edge Drains, Modify Approach Slabs & Approach Guardrail

Original Contract Amount:	$	491,137.05
Change on CCO No. 2F:	$	81,455.85
Net Change to Date:	$	111,605.15

Explanation of Change on CCO No. 2F: This increase was the result of numerous minor adjustments made to various contract quantities. The adjustments were made to match the actual quantities used during construction and are considered normal variations.

RAPID CITY REGION

XIII. Project: IM 0902(157)94, Pennington County, PCN 034V
Location: I-90 from Wasta to Wall
Contractor: Border States Paving, Inc.
Type of Work: Cold Milling Asphalt Concrete & Asphalt Concrete Resurfacing

Original Contract Amount:	$	14,319,127.10
Change on CCO No. 7:	$	(65,612.28)
Net Change to Date:	$	(157,497.16)

Explanation of Change on CCO No. 7: This decrease was the result of numerous minor adjustments made to various contract quantities. The adjustments were made to match the actual quantities used during construction and are considered normal variations.

XIV. Project: P 016A(04)25, Custer County, PCN 01RM
Location: Over French Creek in Custer State Park
Contractor: Corr Construction Services, Inc.
Type of Work: Epoxy Deck Seals & Joint Modification

Original Contract Amount:	$	341,744.70
Change on CCO No. 2:	$	(50,453.80)
Net Change to Date:	$	(48,453.30)

Explanation of Change on CCO No. 2: This decrease was the result of numerous minor adjustments made to various contract quantities. The adjustments were made to match the actual quantities used during construction and are considered normal variations.

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Mark Leiferman, Project Development Program Manager, presented the following State Transportation Improvement Plan (STIP) revisions:

FOR COMMISSION APPROVAL

16-058 This revision will add a 2016 project for LED railroad crossing signal upgrades from Brandon to Ellis and a project for a signal upgrade on SD73 in Phillip.

FY 2016 Plus $305,000

16-060 This revision will add or modify railroad crossing improvements within the Sioux Falls MPO boundary at 60th Street N, at East Rice Street near Highway 100, and on Marion Road 1.5 miles NW of Sioux Falls.

FY 2016 Plus $370,000

16-061 This revision will add a project to replace railroad crossbucks along the rail line from North Sioux City to Mitchell.

FY2106 Plus $90,000

16-062 This revision will add the following railroad crossing projects to the STIP:

- Add a 2016 crossing surfacing and signal upgrade project on 21st Street in Yankton;
- Add a 2016 crossbuck sign replacement project between Mitchell and Aberdeen;
- Add a 2016 crossbuck sign replacement project between Lemmon and Big Stone City;
- Add a 2016 surface rehabilitation and overhead lighting project on SD22 in Hazel;
- Add a 2016 surface rehabilitation project on SD37 north of Groton;
- Add a 2016 crossing surface improvement project on the Main Street crossing in Parker;
- Add a 2016 surface rehabilitation project on 467th Ave NW of Lyons;
- Add a 2016 surface rehabilitation project for various crossings on the Sisseton Milbank Railroad in Roberts and Marshal Counties.

FY2016 Plus $856,000

16-063 This revision will add a 2016 crossing surface improvement and signal installation project at the Deerfield Road crossing north of Piedmont.

FY2016 Plus $255,000

16-064 This revision will add a project to repair the scale at the Jefferson Port of Entry.

FY2016 Plus $204,000

AN AMENDED MOTION WAS MADE by Marquardt to approve Revisions 16-058, 16-060, 16-063, 16-064 and seconded by Vanneman. All voted aye by roll call vote and motion carried.

A MOTION WAS MADE by Zander to approve Revisions 16-061 and 16-062 and seconded by Rosenboom. All voted aye by roll call vote with Commissioner Dougherty abstaining and motion carried.

The following informational revisions and information was provided to the Commission.

INFORMATIONAL REVISIONS FOR THE COMMISSION

16-SC-032 This revision added high friction surface treatment epoxy chip seal work and Roadway Safety Improvement Funding to a 2016 structure maintenance project (Page 118/Item 488 & Page 178/Item 919 in the 2016 STIP) at various locations on I29 in Union and Lincoln Counties.

FY2016 Plus $30,000

16-SC-033 This revision added crossing surfacing improvements to the installation of railroad crossing signals project at 34th Avenue east of I29 near Brookings.

FY 2016 No Change

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Darin Bergquist, Secretary of the Department, provided the following items for Commission consideration:

1. Abandonment – in Hughes County:

   Request Transportation Commission approval to abandon portions of United States Highway 14P:

This resolution will abandon by resolution the following properties acquired for highway right-of-way:

Lot AB1 within Lot H1 of the SW1/4 of Section 11; and within that part of the SW1/4 lying Southwest of Lot H1 in the SW1/4, except Lot H2 and Lot H3 therein, all in Section 11, Township 112 North, Range 77 West of the 5th P.M., Hughes County, South Dakota.

Said Lot AB1 contains 0.19 acre.

The above property Lot AB1 is no longer needed for highway purposes and abandonment is recommended by DOT Pierre Region/Area.

A MOTION WAS MADE by Rosenboom to approve Item #1 and seconded by Vanneman. All voted aye by roll call vote and motion carried.

RESOLUTION # 2016-05.01 was adopted.

2. Disposal of excess property in Kingsbury County.

   Request Transportation Commission approval to dispose of the following DOT property in accordance with the procedures provided by SDCL 31-2-27 and ARSD chapter 10:02:01.

   Lot B of Outlot OS in the SE1/4 of Section 1, Township 110 North, Range 53 West of the 5th P.M., Kingsbury County, South Dakota.

   Appraised Value: $1,960

   Lot B contains 0.18 acre located adjacent and on the west side of the Highways 14/81 intersection in Arlington. The property is excess from a completed construction project.

   No access will be allowed from Hwy 14.

   Huron Area DOT advises the property is not needed for future department use.

A MOTION WAS MADE by Marquardt to approve Item #2 and seconded by Zander. All voted aye by roll call vote and motion carried.

3. Abandonment – Fall River County

   This resolution will abandon the temporary easements on Fall River County Project EM 0385(15)0, PCN 00D0.

A MOTION WAS MADE by Vanneman to approve Item #3 and seconded by Rosenboom. All voted aye by roll call vote and motion carried.

RESOLUTION # 2016-05.02 was adopted.

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Sam Weisgram, Engineering Supervisor in Project Development, presented the following bid letting results:

May 18, 2016 letting

Structure (2-10'x8' CIP Box Culvert) & Approach Grading

1	5552 BRO 8042(31)	Lincoln County
	DAKOTA CONTRACTING CORPORATION	$201,737.11
	9.7 miles South & 3.0 miles East of Lennox Over a Creek	

Structure (3-10'x7' CIP Box Culvert) & Approach Grading

2	00ZB BRO 8040(15)	Lake County
	DAKOTA CONTRACTING CORPORATION	$229,100.74
	Structure 1.9 miles East & 1 mile North of Rutland over Battle Creek	

Bridge Deck Polymer Chip Seal

3	04V2 NH 0014(206)177	Stanley County
	Louis-Company, LLC	$101,689.60
	US14, 1.9 miles north of the Haakon County Line, 7.8 miles south of SD34 and 4.2 miles south of SD34	

Scour Protection (Bank Stabilization), Column Repair, & Erosion Repair

4	00LH P 0063(38)240	Corson County
	A-G-E Corporation	$2,710,188.15
	SD 63 over the Grand River	

Durable Pavement Marking

5	03B4 PH 0020(128)	Davison, Lincoln, Minnehaha County
	Dakota Traffic Services, LLC	$565,044.41
	Various locations on the State System in the Mitchell Region	

Corridor Signing

6	04H1 PH 0040(216)	Lawrence, Meade County
	BX Civil & Construction, Inc.	$703,483.95
	Interstate 90 from the Wyoming border East to Tilford	

A MOTION WAS MADE by Marquardt to approve bid #'s1, 2, 3, 4, and 6 seconded by Zander. All voted aye by roll call vote and motion carried.

A MOTION WAS MADE by Rosenboom to approve bid # 5 and seconded by Vanneman. All voted aye by roll call vote and motion carried.

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Karla Engle of the Office of Legal Counsel presented information regarding HB1214, which was passed during the 2016 Legislative Session. A power point handout was provided. See below:

HB 1214

{ BOARD CONFLICTS OF INTEREST

HB 1214

- Also applies to certain education-related entities (not covered in this presentation).

HB 1214

- HB 1214 passed during the 2016 Legislative Session.
- Sets forth new laws associated with conflicts of interest for certain State board, commission, and authority members.
- Mirrors some language from 2015's HB 1064 regarding conflicts for state employees and officers.

HB 1214

- Applies to current and certain former Board members
- Not retroactive to Board members who only served before July 1, 2016

HB 1214

- Applies to 22 named boards, commissions, & authorities, including:
  - Transportation Commission
  - South Dakota State Railroad Board
  - South Dakota Railroad Authority
  - Aeronautics Commission

(Each is referred to in this presentation as "Board")

HB 1214

- Unless a waiver is properly granted, Board member cannot:
  - Contract with or derive direct benefit from a contract with the state related to the subject matter of the Board
  - Contract with or derive direct benefit from a contract with a political subdivision of the state if the political subdivision administers or executes similar subject matter programs as the state Board

HB 1214

- "DERIVE A DIRECT BENEFIT:"
  - Five percent interest in the entity contracting with the state
  - Derives income, compensation, or commission directly from the contract or from a party to the contract
  - Acquires property under the contract
  - Serves on the board of directors of an entity that derives income or commission directly from the contract or acquires property under the contract

HB 1214

- EXAMPLES
  - Within jurisdiction or related to the subject matter of the Board
  - With a political subdivision that administers or executes similar subject matter programs

HB 1214

- NOT INCLUDED IN "DERIVE A DIRECT BENEFIT":
  - Increase in value of investment, if the board member has less than a five percent interest
  - Participating in a vote or a decision where the member's only interest is the effect of an act of general application.

HB 1214

- WAIVER REQUIREMENT:
  - Full written disclosure to the Board
  - Board reviews essential terms of the contract/transaction and the Board member's role in the contract/transaction
  - Board determines if transaction and contract are fair and reasonable and not contrary to public interest
  - Board authorization must be in writing and filed with Auditor-General. The authorization is a public record.

HB 1214

- FORMER BOARD MEMBERS
  - Conflict prohibition applies for period of one year after service
  - Effective July 1, 2016
    - Resignations

HB 1214

- BOARD WAIVER PROCESS:
  - Standing agenda item at beginning of each meeting for addressing conflicts
  - Written request for waiver by Board member
  - Questions from Board at meeting
  - Discussion
  - Determination (include in meeting minutes)
  - If granted, prepare written authorization
  - Alternative process for conflicts with substantive items for consideration on agenda

HB 1214

- Penalties
  - Removal from Board
  - Class I Misdemeanor
  - Contract is voidable
  - Loss of benefits derived from contract or transaction

HB 1214

- Forms
  - Draft forms for Board Member and Board
  - Modeled after forms used for employee conflict
  - Filed with Auditor-General

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With no other business to come before the Commission, the meeting was declared adjourned at 12:00 p.m.

Submitted by:	Approved by:
Kellie J. Beck Recording Secretary	Darin P. Bergquist Secretary of Transportation