Attachment #1

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

COMMISSIONERS PRESENT:

Tim Dougherty, Chairman
Rod Fouberg, Member
Ralph Marquardt, Member
Don Roby, Member
Ron Rosenboom, Member
Kim Vanneman, Member
Kyle White, Member
Kathy Zander, Member

DOT STAFF PRESENT: Darin Bergquist, Karla Engle, Mike Behm, Laurie Schultz, Doug Kinniburgh, Joel Gengler, Kelly VanDeWiele, Kristi Sandal, Terri Boyle, Julie Bolding, Ryan Johnson, Jason Humphrey, Christina Bennett, Rick Gordon, Noel Clocksin, Becky Janssen, Greg Fuller, Bonnie Olson, Mark Leiferman, Bill Nevin, Joel Jundt, and Kellie Beck

OTHERS PRESENT: Representative Mary Duvall, Rick Vallery – Congresswoman Noem, Mark Clausen – FHWA, Dick Howard – South Dakota Association of Towns & Townships, Bob Mercer - Press, Becky Hedman – AGC, Virginia Tsu - FHWA

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

Chairman Dougherty asked for a motion to approve the minutes of August 24, 2016.

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

Chairman Dougherty asked for a motion to approve the minutes of September 9, 2016.

A MOTION WAS MADE by Vanneman to approve and seconded by Roby. All voted aye by voice vote and motion carried.

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Chairman Dougherty 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.

Rosenboom submitted a letter (Attached as Letter 1), dated September 22, 2016, disclosing a potential conflict of interest to the Commission. Chairman Dougherty read the written disclosure into the record. Rosenboom is the Executive Director of West River Foundation for Economic and Community Development (WRFECD). To the best of Rosenboom's knowledge, there are no contracts or other matters involving transportation-related activities. If Rosenboom becomes aware of a specific contract or matter that creates a conflict of interest, Rosenboom will submit a letter of disclosure to the Commission and request a waiver.

A MOTION WAS MADE by Fouberg that the matters underlying the potential conflict are fair, reasonable, and not contrary to the public interest, but that Rosenboom should disclose the details of any specific conflicts of which he becomes aware for the Commission's particular consideration. This motion was seconded by Roby. All voted aye by voice vote, except for Rosenboom, who abstained from the Commission discussion and vote. The motion carried.

Fouberg disclosed a potential conflict in the award of a contract for project numbers 1 and 2 of the bid letting items identified on the agenda in Attachment #10. Fouberg requested project numbers 1 and 2 be voted on separately from the remainder of the bid letting items once the Commission reaches that portion of the meeting. Fouberg previously provided a written letter of disclosure, dated August 8, 2016, to the Commission requesting a waiver. At the Commission's regular meeting held on August 24, 2016, the Commission determined the matter underlying the conflict was fair, reasonable, and not contrary to the public interest, but required that Fouberg disclose the details of any specific contracts or other conflicts of which he becomes aware for the Commission's particular consideration. Fouberg explained that his previously disclosed business interests involve extending credit to contractors that have submitted bids for project numbers 1 and 2 on the bid-letting agenda. Fouberg will abstain from the discussion and vote on project numbers 1 and 2.

A MOTION WAS MADE by Marquardt and seconded by Rosenboom that the essential terms of these contracts or transactions are fair, reasonable, and not contrary to the

public interest. All voted aye by voice vote, except Fouberg, who abstained from the Commission discussion and vote. The motion carried.

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Karla Engle of the Office of Legal Counsel asked the Commission to set a public hearing for October 27, 2016, to consider proposed changes to the following rules: 70:04:05:01; 70:04:05:02.01; 70:04:05.01:01; and 70:04:05.01:02.

A MOTION WAS MADE by Roby to set the public hearing date of October 27, 2016, and seconded by Vanneman. All voted aye by voice vote and motion carried.

A public hearing was held to consider adoption of amendments to 70:01:02:05, concerning speed zone rules in Codington County. Copies of written comments submitted to the department, concerning the proposed rule changes, were made available to the Commission. Darin Bergquist addressed the Commission and asked the Commission to refrain from adopting the rule amendments, because the department had arrived at an alternate plan for addressing the safety concerns brought forward in the written comments. Bergquist indicated Mayor Thorson of the city of Watertown endorsed the department's alternate plan. No members of the public offered testimony in support of or in opposition to the proposed rule changes.

A MOTION WAS MADE by Marquardt to reject the proposed administrative rule revisions to 70:01:02:05 concerning Codington County speed zones. This motion was seconded by Rosenboom. All voted aye by voice vote and motion carried.

A public hearing was conducted to consider adopting amendments to rule 70:01:02:21 - Custer County Speed Zone Rules. No written comments were received. A handout was provided to the Commission showing maps of the proposed speed zone changes. The handout is attached as **Exhibit A**. No members of the public offered testimony in support of or in opposition to the proposed rule changes.

A MOTION WAS MADE by Roby to approve the administrative rule revisions to 70:01:02:21 concerning speed zone limits in Custer County. This motion was seconded by White. All voted aye by voice vote and motion carried.

A public hearing was conducted to consider adopting amendments to rule 70:11:02:03 concerning the identification of responsible persons for the operation and maintenance of newspaper vending devices at interstate rest areas. No written comments were received.

Karla Engle, Legal Office, suggested an additional revision to the rule, to delete the phrase "identified in the application as the person" from the first sentence of the rule. After discussion, Commission members reached a consensus that Engle's suggested

revision should be adopted and that rule 70:11:02:03 should be further changed to replace the references to “person” with “individual or entity.”

A MOTION WAS MADE by Roby to approve the proposed administrative rule 70:11:02:03, except that the revisions reached by consensus of the Commission members should also be adopted. The motion was seconded by Fouberg. All voted aye by voice vote and motion carried.

RESOLUTION #2016-09.01 was adopted.

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Secretary Bergquist reintroduced Bill Nevin to the Commission. Bill will be once again assisting the Department of Transportation (the “Department”) with the Legislative activities.

Secretary Berquist informed the Commission of the Hall of Honor banquet for the Induction of Ron Peterson into the Hall of Honor. The banquet is being held in Yankton.

Virginia Tsu, Administrator of the Federal Highway Administration (“FHWA”), has been promoted and will be returning to Washington DC. Tsu has played a critical role in building relationships between the Department and FHWA.

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Secretary Bergquist requested to take agenda items out of order to accommodate Department staff that needed to leave to present information to the Legislative Research Council.

Secretary Bergquist presented the following Transportation Commission bid letting and meeting schedule for approval:

2017 Commission Meeting Calendar

	Commission Meeting	Commission Conference Call
January	Thursday, January 26, 2017	
February	Thursday, February 23, 2017	Thursday, February 09, 2017
March	Thursday, March 23, 2017	Thursday, March 09, 2017
April	Thursday, April 27, 2017	Thursday, April 13, 2017

May	Thursday, May 25, 2017	Thursday, May 11, 2017
June	Thursday, June 29, 2017 note - 5th Thursday of month	Thursday, June 15th, 2017
July	Thursday, July 27, 2017	
August	Thursday, August 24, 2017	
September	Thursday, September 28, 2017	
October	Thursday, October 26, 2017	
November	Tuesday, November 21st note - Thanksgiving Thursday, Nov 23rd	
December	Thursday, December 21st note - Christmas Monday, Dec 25th	

A MOTION WAS MADE by Zander to approve the 2017 Commission Meeting Calendar as noted above and seconded by White. All voted aye by voice vote and motion carried.

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Doug Kinniburgh, Engineering Supervisor of Local Government Assistance Office presented the Bridge Improvement Grant (BIG) Procedures document for 2017.

After discussion, Commission members reached a consensus that the third sentence in Section V. Selection Process of the BIG procedures for 2017, be separated into two sentences and revised to read as follows: "Preservation BIG and PE-BIG may be awarded on a more frequent basis. Final award of all projects will be determined by the South Dakota Transportation Commission." Commission members also reached a consensus that the second sentence under Section VIII. Reimbursement Process of the BIG Procedures for 2017, be revised to read as follows: "The SDDOT will reimburse the LPA for up to 80% of the pay estimates for eligible items, up to a capped amount, if applicable."

A MOTION WAS MADE by Vanneman to adopt the BIG procedures for 2017 as proposed by the Department, except that the revisions reached by consensus of the Commission members should be adopted. The motion was seconded by Rosenboom. All voted aye by voice vote and motion carried.

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Laurie Schultz, Program Manager for the Department's Administration Program, presented the Five-Year County Highway and Bridge Improvement Plan Guide.

A MOTION WAS MADE by Rosenboom to adopt the 2017-2021 Five-Year County Highway and Bridge Improvement Plan Guide and seconded by Marquardt. All voted aye by voice vote and motion carried.

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Deputy Secretary Jundt presented a jurisdictional transfer to the city of Box Elder for the I-90 Service Road in Pennington County. Deputy Secretary Jundt provided a handout to the Commission members during the meeting. The handout is attached to and incorporated in these minutes as **Exhibit B**.

A MOTION WAS MADE by White to authorize the Department to enter into a jurisdictional transfer agreement with the city of Box Elder and Pennington County and authorize the Secretary of the Department of Transportation to sign the agreement. The motion was seconded by Roby. All voted aye and motion carried.

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

Construction change orders approved in August contain a decrease of approximately $132,030.

Over the past 12 months, the overall contract increase is 1.38%.

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

ABERDEEN REGION

I. Project: P 0081(93)157, Codington County, PCN 026X
Location: US 81 in Watertown
Contractor: Reede Construction, Inc.
Type of Work: Urban Grading, Roadway Lighting, Storm Sewer, Curb & Gutter, Sidewalk, Traffic Signals, PCC Surfacing

Original Contract Amount:	$	6,479,412.15
Change on CCO No. 5:	$	69,693.37
Net Change to Date:	$	87,826.81

Explanation of Change on CCO No. 5: This increase was the result of a block rental payment made for the Contractor completing work in less time than bid.

MITCHELL REGION

II. Project: P 0044(191)274, Gregory County, PCN 04X2
Location: SD 44 from SD 47 to the Platte/Winner Bridge
Contractor: Spencer Quarries, Inc.
Type of Work: Cold Milling Asphalt Concrete & Asphalt Concrete Resurfacing

Original Contract Amount:	$	3,419,384.28
Change on CCO No. 1:	$	(299,749.07)
Net Change to Date:	$	(299,749.07)

Explanation of Change on CCO No. 1: This decrease was the result of an adjustment to the contract quantity of asphalt concrete used for leveling. The estimated quantity of asphalt concrete was higher than what was required for construction. Additionally, the Department approved mix design contained a target binder content lower than estimated in the plans.

PIERRE REGION

III. Project: IM 0903(101)153, Jackson County, PCN 03W4
Location: I-90 from Kadoka to Belvidere
Contractor: Knife River Midwest Inc.
Type of Work: Remove & Replace PCC Surfacing, Edge Drains, Inslope Flattening, Pipe Repair, and Extend Culvert

Original Contract Amount:	$	18,935,371.24
Change on CCO No. 4:	$	58,002.01
Net Change to Date:	$	428,002.01

Explanation of Change on CCO No. 4: This increase was the result of extra work ordered by the Department to place high tension cable guardrail at 2 locations on the project.

RAPID CITY REGION

IV. Project: P-PH 0240(12)128, Pennington County, PCN 038D
Location: SD 240 south of Wall
Contractor: Loiseau Construction, Inc.
Type of Work: Shoulder Widening, Cold Milling Asphalt Concrete, & Asphalt Concrete Resurfacing

Original Contract Amount:	$	5,837,463.77
Change on CCO No. 4:	$	(114,705.10)
Net Change to Date:	$	71,567.22

Explanation of Change on CCO No. 10: This decrease was the result of numerous minor adjustments made to various contract quantities. Decreases were made for asphalt concrete, asphalt binder, asphalt for prime, hydrated lime, and water for dust control. The adjustments were made to match the actual quantities used during construction and are considered normal variations.

V. Project: EM 0385(15)0, Fall River County, PCN 00D
Location: US 385 from Oelrichs to the Nebraska State Line
Contractor: Loiseau Construction, Inc.
Type of Work: Grading, Structure, PCC Surfacing, and Asphalt Concrete Resurfacing

Original Contract Amount:	$	25,172,061.84
Change on CCO No. 4:	$	(257,589.00)
Net Change to Date:	$	(207,824.03)

Explanation of Change on CCO No. 10: This decrease was the result of numerous adjustments made to various contract quantities. Decreases were made for excavation, base course, pit run, and gravel cushion. The adjustments were made to match the actual quantities used during construction and are considered normal variations.

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Joel Gengler, Office of Right of Way, provided the following items for Commission consideration:

1. Disposal of excess property in Pennington 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.

   Tract Dennis Reinke in the SW1/4 NE1/4 of Section 22, Township 2 South, Range 4 East of the B.H.M., Pennington County, South Dakota, less Lot H3.

   Appraised Value: $18,225

   The property contains 4.86 acres of steep topography with mostly dense tree growth. Location is on the west side of Hwy 16/385 and adjacent to Spring Creek Road near the Custer County line.

The property has no developed utilities and no access will be allowed from Hwy 16/385.

Custer Area DOT advises the property is not needed for future Department use.

A MOTION WAS MADE by White to approve Item #1 and seconded by Marquardt. All voted aye by voice vote and motion carried.

2. Disposal of excess property in Meade County.

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

   Lots 1, 2 and 3 in the Eastlawn Subdivision of Tract 1 in the NE1/4 SW1/4 of Section 8, Township 2 North, Range 7 East of the B.H.M., Meade County, South Dakota, less Lot H1.

   Appraised Value: $200

   The above property contains 0.21 acre located in Black Hawk on the west side of Hwy 231 near the intersection of Black Hawk Rd and North St.

   No additional access will be allowed from Hwy 231.

   Rapid City Area DOT advises the property is not needed for future Department use.

A MOTION WAS MADE by Vanneman to approve Item #2 and seconded by Fouberg. All voted aye by voice vote and motion carried.

3. Condemnation - P 0016(84)67, Pennington County, PCN 049F – US16 - From Flormann St to St. James St in Rapid City Urban Grading, Storm Sewer, C&G, Sidewalk, Lighting, Signals & PCC Surfacing

   7 - Waltrust Properties, Inc.
   A8 - Douglas L. & Julie A. Jensen
   10 - JB Properties, LLC

A MOTION WAS MADE by Marquardt to approve Item #3 and seconded by Zander. All voted aye by voice vote and motion carried.

RESOLUTION #'s 2016-09.02 (Parcel 7), 2016-09.03 (Parcel A8), and 2016-09.04 (Parcel 10) were adopted.

4. Abandonment – Sanborn County

This resolution will abandon the temporary easements on Sanborn County Project P 0034(00)327, PCN 02BH.

A MOTION WAS MADE by Fouberg to approve Item #4 and seconded by Roby. All voted aye by voice vote and motion carried.

RESOLUTION # 2016-09.05 was adopted.

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Kelly VanDeWeile, Bid Letting Engineer in Project Development, presented the following bid letting results:

September 21, 2016 letting

Grading, Storm Sewer, Curb & Gutter, Sidewalk, Roadway Lighting, Signal, AC Surfacing, & PCC Surfacing

1 039K, 05AV P 0037(129)207, NH 0012(198)308 Brown County
WEBSTER SCALE INC $5,106,124.40
SD37 from Aspen Ave to US12, and US12 east & west of SD37 in Groton

Concrete Sidewalk

2 03X0 P SRTS(27) Brown County
WEBSTER SCALE INC $193,852.10
Various Locations in Groton

Deck Overlay, Approach Slabs, and Approach Guardrail, Epoxy Chip Seal, Abutment & Column Repr & Joint Modification

3 02PT IM-PH 0291(122)0 Lincoln, Union County
PCIROADS, LLC $3,602,597.29
I29 Structures at the N Sioux City Interchange Over River Street; Over the Big Sioux River @ the Iowa Border; I29P over I29, 1.9 N of N Sioux City Intch; SD50 over I29; 0.4 S of the SD48 Intch Over a Creek; 6.0 N of the SD46 Intch Over I29

Grading, PCC Surfacing, Structure, Curb & Gutter, Roadway Lighting, Traffic Signal, Storm Sewer

4 01V5 NH 0100(105)419 Minnehaha County
T & R CONTRACTING INC $13,969,297.96
Veterans Parkway from Maple Street to Rice Street in Sioux Falls

Micro-Milling Asphalt Concrete, Asphalt Concrete Resurfacing, Pipe & Erosion Repair, & Rumble Strips/Stripes

5 04WP, 04XR, 05X4 NH 0083(84)96, NH 014B(171)232, PH 0014(228)233
Hughes, Lyman, Stanley County
DUININCK, INC $11,965,195.70
US83, US83N, & US83S from south of the Lyman/Stanley Co line to Ft Pierre, US14B from 4th St to US14, & US14 from the divided section in Pierre, east 5.8 miles

Sign & Delineation
6 04R7 PH 8007(211) Brown County
Hamm Contracting, LLC $1,269,113.10
Various County, City, and Township Roads in Brown County

Replace Interstate Fence
7 040F IM 0299(67)232 Roberts County
Dan Scott DBA Prairie Fencing $226,706.55
I29 - Watertown Area

VanDeWiele requested to group bids #4, #5, #6, and #7 as one recommendation.

A MOTION WAS MADE by Rosenboom to approve bids #4, #5, #6, and #7 and seconded by Vanneman. All voted aye by voice vote and motion carried.

Fouberg recused himself from the discussion and vote of bids #1 and #2.

A MOTION WAS MADE by Vanneman to approve bids #1 and #2 and seconded by Roby. All voted aye by voice vote, except Fouberg who abstained from the discussion and vote. The motion carried.

Fouberg returned to the meeting.

A MOTION WAS MADE by Rosenboom to approve bid #3 and seconded by Zander. All voted aye by voice vote and motion carried.

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Mike Behm, Division Director of Planning and Engineering requested a conference call be set for October 13, 2016, at 9:30 a.m. for consideration of a bid letting.

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With no other business to come before the Commission, the meeting was declared adjourned at 11:30 a.m.

Submitted by: Approved by:

Kellie J. Beck
Recording Secretary

Darin P. Bergquist
Secretary of Transportation

Letter 1

Ronald Rosenboom
20708 Lincoln Court
Sturgis, SD 57785

September 22, 2016

South Dakota Transportation Commission
South Dakota Department of Transportation
700 East Broadway
Pierre, SD 57501

Re: Public Disclosure

Dear Commissioners:

The purpose of this letter is to provide written disclosure under SDCL 3-23-3

I am the Executive Director of West River Foundation for Economic and Community Development (WRFECD). WRFECD is a non-profit 501 (c) (6) that facilitates and provides economic development assistance to individuals and communities in South Dakota. I receive a salary from WRFECD for my services as their Executive Director.

A primary activity of WRFECD is the administration of revolving loan fund programs (RLF). Loans made available through these RLF's are made directly to for-profit businesses in South Dakota. WRFECD's loan portfolio consists of over 100 loans to businesses across a wide region of South Dakota. Because of this, the potential exists for a conflict of interest to arise based on a borrower of funds from one of WRFECD's loan funds entering into a contract with the State Department of Transportation. If this situation were to arise, it could be considered a conflict because WRFECD derives interest income from the loans and I receive a salary from WRFECD.

I am not aware of any current conflicts but believed it to be in my best interest that I provide this written disclosure. Should I become aware of a conflict before or during a meeting of the Commission I will publically disclose it at that time and dismiss myself from any discussion regarding that item.

In addition to my paid position with WRFECD I serve, on a volunteer basis, on the Sturgis Economic Development Corporation (SEDC). The potential exists that SEDC could request funding through a DOT Program in the future. Should SEDC request any assistance from the DOT in the future I will publically disclose the nature of my relationship with that board at that time.

Please let me know if I can answer any further questions.

Respectfully,

Ronald Rosenboom

Cc; Darin Bergquist, Secretary
South Dakota Department of Transportation

Exhibit A

(1) State Trunk Highway 36 beginning at the junction of U.S. Highway 16A near the east gate of Custer State Park, then northeasterly for ~~0.5~~ 0.7mile, 35 miles per hour; then northeasterly for 8.71 8.51 miles to the State Trunk Highway 79 junction, 50 miles per hour; **Extend the 35 mph zone by 0.2 miles and decrease the 50 mph zone by 0.2 miles**

(10) U.S. Highway 385 and State Trunk Highway 89 beginning at the junction with U.S. Highway 16 in Custer, then south for 0.2 mile, 35 miles per hour, then south for ~~43~~ 23 mile, 45 mph; **Add a 35 mph zone for 0.2 miles and decrease the 45 mph zone by 0.2 miles**

Exhibit A

(13) U.S. Highway 16 and U.S. Highway 385 beginning at the junction of U.S. Highway 16 and 385 in the west part of the city of Custer, then easterly ~~to the intersection of Third Street 35 miles per hour; then easterly~~ to the intersection of Fifth Street, 25 miles per hour; then northerly for 0.5 mile, 25 miles per hour; then northerly for 0.5 mile, 35 miles per hour; then north for 0.2 mile, 45 miles per hour; then northerly for 5.91 miles to the Pennington County line, 60 miles per hour. – **Change the 35 mph zone from Third Street to Fifth Street to 25 mph.**

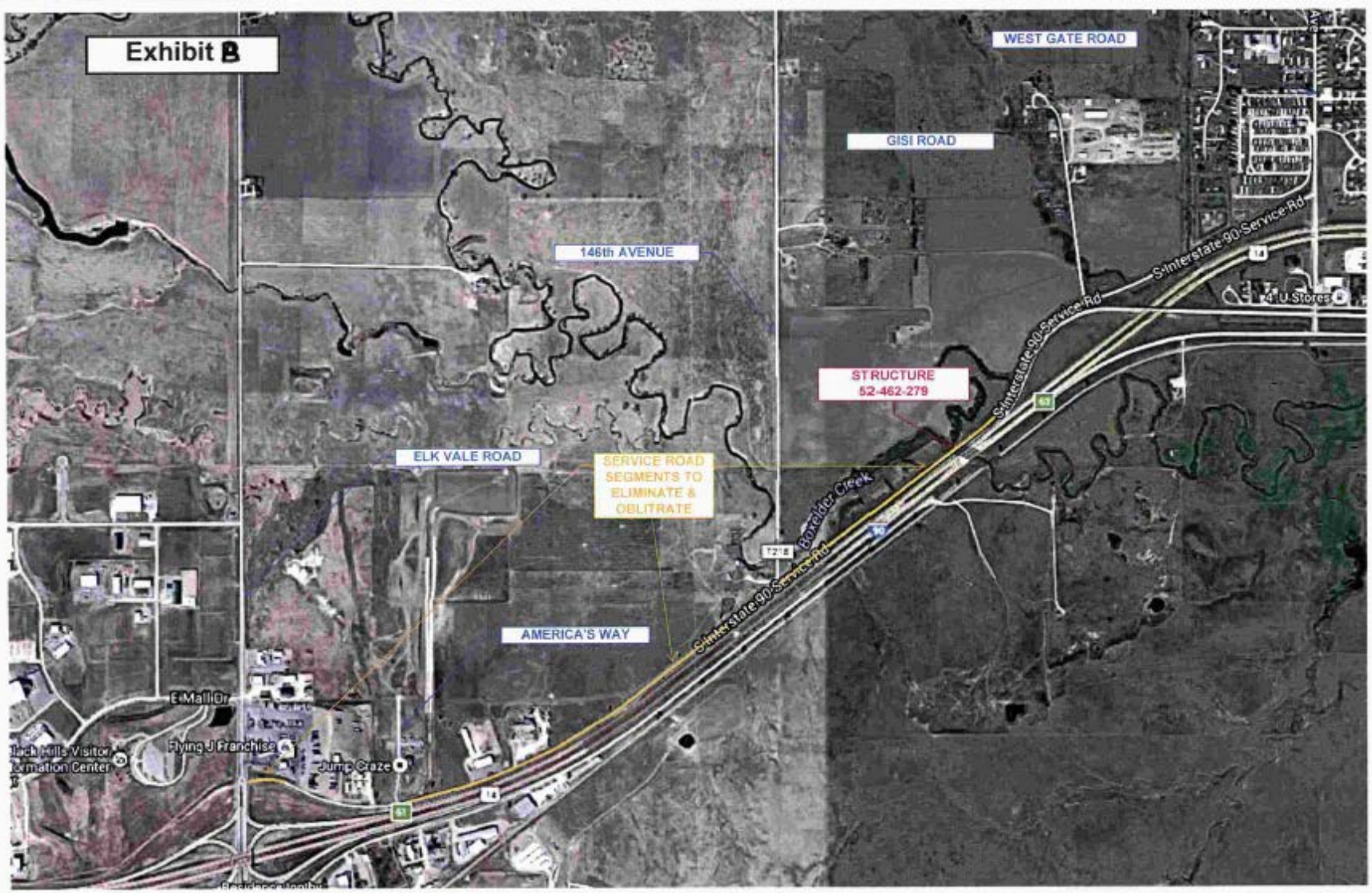
Exhibit B
WEST GATE ROAD
GISI ROAD
146th AVENUE
ELK VALE ROAD
SERVICE ROAD SEGMENTS TO ELIMINATE & OBLITRATE
ST RUCTURE 52-462-279
AMERICA'S WAY
Boxelder Creek
Interstate 90 Service Rd
Interstate 90 Service Rd
Interstate 90 Service Rd
4 U Stores
E Mall Dr
Flying J Franchise
Jump Craze
Black Hills Visitor Information Center

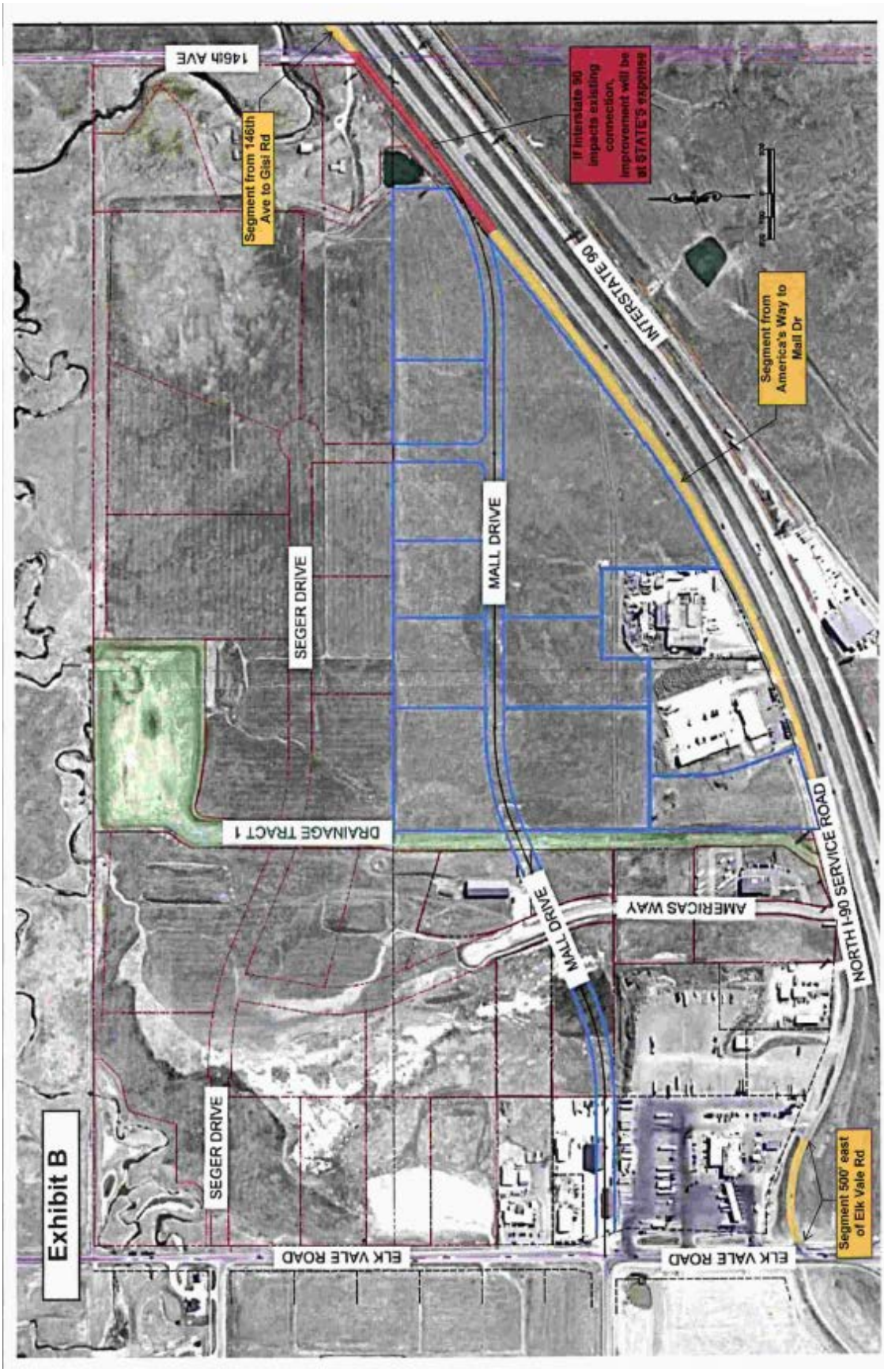
Exhibit B
146th AVE
Segment from 146th Ave to Glisi Rd
If Interstate 90 impacts existing connection, improvement will be at STATE'S expense
INTERSTATE 90
Segment from America's Way to Mall Dr
MALL DRIVE
SEGER DRIVE
DRAINAGE TRACT 1
MALL DRIVE
AMERICAS WAY
NORTH I-90 SERVICE ROAD
SEGER DRIVE
ELK VALE ROAD
ELK VALE ROAD
Segment 500' east of Elk Vale Rd