

**TRANSPORTATION COMMISSION MEETING MINUTES
June 23, 2016 – 9:30 A.M.
BECKER-HANSEN BUILDING – 700 EAST BROADWAY
PIERRE, SD**

COMMISSIONERS PRESENT:

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

DOT STAFF PRESENT:

Darin Bergquist, Karla Engle, Sam Weisgram, Mike Behm, Laurie Schultz, Greg Fuller, Bonnie Olson, Joel Jundt, Cody Honeywell, Cash Anderson, Becky Janssen, Dustin DeBoer, Ryan Johnson, John Keyes, Noel Clocksin, Maranda Olson, and Kellie Beck

OTHERS PRESENT:

Bob Mercer – Press, Becky Hedman – AGC, Dick Howard – Association of Towns and Townships, Larry Engbrecht – South Dakota American Concrete Paving Association, DJ Buthe – Minnehaha County Highway Superintendent, Sara Show – Minnehaha County States Attorney, Kris Jacobsen – South Dakota Counties Association

The meeting was called to order at 9:35 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 May 26, 2016.

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

Chairman Roby asked for a motion to approve the minutes of June 9, 2016.

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

Secretary Bergquist began his report by requesting the Commission go into Executive Session at the conclusion of the meeting today to discuss ongoing contract negotiation items. Secretary Bergquist also requested one other agenda item change which is to defer the Township Small Structures item until the next Commission meeting.

Secretary Bergquist shared with the Commission that today's meeting marks the end of Chairman Roby's chairmanship. If the Commission follows past practices the Vice Chair would take over as Chair and based upon longevity the new Vice Chair would be named. As a result, the Department recommends that Dougherty would take over as Chair and Thompson would be named as Vice Chair. Commission will vote on the recommendation at the end of today's meeting.

Secretary Bergquist shared with the Commission that on Monday the Legislative GOAC committee met and discussed the Conflict of Interest laws and HB1214. This committee issued additional guidance in the form of a letter and requested the letter be shared with all commissioners. See attachment A.

Secretary Bergquist provided an update on the current process for a Claims committee meeting and those on the committee. Bergquist gave a brief explanation of the process, the claims committee's role and the issuing of the Department's final determination on a claim. If the contractor is not happy with the outcome of the hearing, the contractor can bring legal action against the Department. Another option is mediation if both parties are agreeable to this route.

Deputy Secretary Jundt updated the Commission on US14P. This segment of US14P does not function as a state highway. This alignment was part of US14 and with the realignment of Highway 14 years ago in this location, the old alignment became more of a local connection. The Department currently maintains this section line road. The Department proposes to transfer jurisdiction and ownership of this segment, consisting of approximately 1.2 miles, to Hughes County (the "County"). The Department would provide \$300,000 in funds to the County at the time of execution of the transfer agreement. These funds would be state funds. The County would have full ownership and maintenance responsibility for the segment, except the Department would continue to do minor maintenance on the surface of the road until the end of the life of the pavement, which is projected to be approximately 10 years. The pavement life could be longer or shorter, depending on the severity of winters and the performance of existing pavement. Once the end of life of the pavement occurs, the County will provide gravel for the Department to process the existing surface and blend with the gravel. At this

point, all minor maintenance previously performed by the Department would become the County's responsibility. See Attachment B for the informational sheet.

A MOTION WAS MADE by Vanneman to approve the jurisdictional transfer of US14P to Hughes County and seconded by Marquardt. All voted aye by roll call vote and motion carried.

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

Construction change orders approved in May contain a decrease of approximately \$330,363.

Over the past 12 months, the overall contract increase is 1.18%.

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

ABERDEEN REGION

There are no CCOs amounting to a change of \$50,000 to report this period.

MITCHELL REGION

- I. Project: NH 0050(112)396, Clay County, PCN 04E2
Location: SD 50 from the Yankton Co Line east to the End of the Divided Hwy
Contractor: Duininck, Inc.
Type of Work: Asphalt Concrete Resurfacing and Culvert Work

Original Contract Amount: \$ 3,442,222.54
Change on CCO No. 2F: \$ 92,527.27
Net Change to Date: \$ 92,527.27

Explanation of Change on CCO No. 2F: This increase was the result of incentive payments earned by the Contractor for asphalt mix quality and asphalt ride quality. The incentive payments were made in accordance with the contract.

- II. Project: P 000S(00)24, Regionwide, PCN 02SR
Location: Various locations in the Mitchell Region
Contractor: Vogel Traffic Services, Inc.
Type of Work: County Pavement Marking

Original Contract Amount: \$ 694,946.44
Change on CCO No. 2F: \$ (71,043.55)
Net Change to Date: \$ (69,296.55)

Explanation of Change on CCO No. 2F: This decrease was the result of an adjustment to the contract quantity of pavement marking paint. The adjustment was made to match the as constructed quantity through normal project variations.

PIERRE REGION

- III. Project: PH 8033(205), Hughes County, PCN 01UB
Location: Various County and City Roads in Hughes County
Contractor: Sign Up LTD
Type of Work: Signing and Delineation

Original Contract Amount: \$ 592,019.04
Change on CCO No. 6: \$ (138,081.20)
Net Change to Date: \$ (134,749.00)

Explanation of Change on CCO No. 6: This decrease was the result of an adjustment to the contract quantity of perforated tube post. The adjustment was made to match the as constructed quantity. The variation of quantities was the result of a plan error and a value engineering proposed by the Contractor and accepted by the Department on a previous CCO..

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

Original Contract Amount: \$ 18,935,371.24
Change on CCO No. 3: \$ 370,000.00
Net Change to Date: \$ 370,000.00

Explanation of Change on CCO No. 3: This increase was the result of additional asphalt concrete ordered by the Department to repair weak areas in the westbound roadway and shoulder in preparation for 2-lane 2-way traffic configuration in the westbound lanes while the eastbound lanes are reconstructed.

- V. Project: IM 0903(103)152, Jackson County, PCN 03VW
Location: I-90 Cross-Overs between Kadoka to Belvidere
Contractor: Midland Contracting, Inc.

Type of Work: Ramp Detours and Median Crossovers

Original Contract Amount: \$ 1,675,156.51
Change on CCO No. 4F: \$ (209,572.67)
Net Change to Date: \$ (193,885.14)

Explanation of Change on CCO No. 4F: This decrease was the result of a decrease in the contract quantity of pit run material. Less material was needed than estimated in the plans.

RAPID CITY REGION

- VI.** Project: IM 0901(148)40, Meade County, PCN 01KK
Location: I-90 Exit 40 to Exit 44 (Tilford to Piedmont)
Contractor: Loiseau Construction, Inc.
Type of Work: Grading, Asphalt Concrete Surfacing, Structures, & Permanent Signing

Original Contract Amount: \$ 11,262,197.58
Change on CCO No. 4: \$ 58,177.67
Net Change to Date: \$ 60,532.55

Explanation of Change on CCO No. 4: This increase was the result of additional erosion control articulated concrete mattress ordered by Department to line ditch in an area where the Contractor was required to perform additional work.

- VII.** Project: P 0034(143)44, Meade County, PCN 02AB
Location: SD 34 over the Belle Fourche River and Various Creeks
Contractor: Foothills Contracting, Inc.
Type of Work: Structures, Grading and Asphalt Surfacing

Original Contract Amount: \$ 6,851,076.87
Change on CCO No. 5: \$ 53,576.55
Net Change to Date: \$ 53,505.68

Explanation of Change on CCO No. 5: This increase was the result of additional work ordered by the Department to repair and replace work damaged by excessive rainfall and stream flow.

Mike Behm, Director of Planning & Engineering, presented the Tentative 2017-2020 Statewide Transportation Improvement Program (STIP).

A MOTION WAS MADE by Rosenboom to release the Tentative 2017-2020 STIP to the public for input and seconded by Zander. All voted aye by roll call vote and motion carried.

Mike Behm, Director of Planning & Engineering requested the Commission set a conference call meeting for July 14th at 9:30 to address bid lettings.

Mike Behm, Director of Planning & Engineering provided the following items for Commission consideration:

1. Transfer – Hughes County

This resolution will transfer the States interest in US14P in Hughes County. Hughes County would accept ownership, jurisdiction and maintenance responsibilities of US14P.

The State’s real property interest in US Highway 14P is more particularly described as:

From the east radius point of the intersection with US Highway 83 and 198 Street, between Section 11 and Section 14, east to 306 Avenue, and then south to the north radius point of the intersection of 306 Avenue and US Highway 14, between Section 13 and Section 14, Township 112 North, Range 77 West, of the 5th P.M., Hughes County, South Dakota. Total segment length is 1.071 miles.

A strip of land parallel to and adjacent to the regular public road right of way along the south side of Section 11, Township 112 North, Range 77 West of the 5th PM; said strip of land being 17 feet wide and extending from the north and south one-quarter line to the west boundary line of the public road right of way on the east side of said Section 11, Hughes County, South Dakota. Said strip of land contains 1.02 acres, more or less.

The portion of Lot H-1 lying east of Lot H3 of Lot H1 in the Southwest Quarter of Section 11, Township 112 North, Range 77 West of the 5th PM, Hughes County, South Dakota, containing 0.95 acres, more or less.

A strip of land parallel to and adjacent to the regular public road right of way along the north side of Section 14, Township 112 North, Range 77 West of the 5th P.M.; said strip of land being 17 feet wide and 2619.2 feet, more or less, long and extending from the north and south one-quarter line of said Section 14 to the west boundary line of the regular public road right of way

along the east side of said Section 14, Hughes County, South Dakota. Said strip of land contains 1.02 acres, more or less.

A strip of land parallel to and adjacent to the regular public road right of way along the North side of Section 14, Township 112 North, Range 77 West of the 5th P.M.; said strip of land being 17 feet wide and 2577.3 feet, more or less, long and extending from a point, 75 feet East of the West Section line of said Section 14, to the North and South one-quarter line of said section 14, Hughes County, South Dakota. Said strip contains 1.01 acres, more or less.

Lot H3 a tract of land being a portion of highway right of way lying Southwest of Lot H1, in the Southwest Quarter (SW1/4) of Section 11, Township 112 North, range 77 West, except Lot H2 therein, of the 5th P.M., Hughes County, South Dakota, containing 0.05 acres (2,156 square feet), more or less.

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

RESOLUTION # 2016-06.01 was adopted.

2. Abandonment – in Hughes County:

Request Transportation Commission approval to abandon portions of South Dakota Highway 14P:

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

Lot H2 in the SW1/4 of Section 12, Township 112 North, Range 77 West of the 5th P.M.,
Hughes County, South Dakota.

Said Lot H2 contains 0.14 acre.

The above property Lot H2 is no longer needed for highway purposes and abandonment is recommended by DOT Pierre Region/Area.

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

RESOLUTION # 2016-06.02 was adopted.

3. Disposal of excess property in Pennington County.

The Department requested 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 A2 in the SW1/4 SW1/4 of Section 13, Township 1 North, Range 8 East of the B.H.M., Pennington County, South Dakota.

Appraised Value: \$1,800

Lot A2 contains 0.86 acre located southeast of Rapid City at the Hwy 44 and Anderson Road intersection. The property is excess from completed construction project P 0044(52)50, PCN 6437.

No access will be allowed from Hwy 44.

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

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

4. Disposal of excess property in Pennington County.

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

Lots A & B in the NW1/4 SE1/4 lying north of Highway 44 in Section 14, Township 1 North, Range 8 East of the B.H.M., Pennington County, South Dakota.

Appraised Value: \$970

Lots A & B contain 0.46 acre located southeast of Rapid City at the Hwy 44 and Apple Tree Road intersection. The property is excess from completed construction project P 0044(52)50, PCN 6437.

No access will be allowed from Hwy 44.

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

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

5. Disposal of excess property in Pennington County.

The Department requested 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 E in a portion of Lot H2 in Lot A of the SW1/4 and in a portion of Lot H3 in the SW1/4, all within Section 28, Township 2 North, Range 8 East of the B.H.M., Rapid City, Pennington County, South Dakota.

Appraised Value: \$36,600

Lot E contains 1.41 acres of mostly flat grassland located in the northeast quadrant of the Dyess Avenue and Interstate 90 intersection in Rapid City. Lot E is zoned commercial, but lacks public utilities.

No access will be allowed from I90.

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

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

6. Disposal of excess property in Pennington County

The Department requested 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 A in a portion of Lot H1 in the N1/2 SE1/4 of Section 30, Township 2 North, Range 8 East of the B.H.M., Pennington County, South Dakota.

The above property contains 1.43 acres located adjacent to the north side of Interstate 90 approximately one-half mile east of Lacrosse St. in Rapid City.

The South Dakota Department of Transportation desires to enter into a project settlement agreement and deed the above property to Hay Land, LLC of 3213 West Main Street, Rapid City, SD, formerly FMLC, Inc.

The State and FMLC, Inc. entered into a Right of Way (ROW) Agreement, approved April 14, 2005, pursuant to Federal Aid Project No. IM 90-2(134)59. The ROW Agreement included a special condition whereby the State agreed to abandon its interest in any property no longer needed for highway purposes on the north side of Interstate 90 in the North Half of the Southeast Quarter of Section 30 Township 2N Range 9 East of the B.H.M., Pennington County, South Dakota. At the time the April 14, 2005 ROW Agreement was entered into, the State believed that its interest in Lot A was in the form of a highway easement and that once the State abandoned its

interest, FMLC, Inc. would obtain title to Lot A. At the time of the 2005 ROW Agreement, FMLC, Inc. owned the property adjoining Lot A. It was subsequently learned that Lot A was owned by the United States government. The United States government had previously obtained title to Lot A through condemnation but was not interested in retaining its reversionary interest to Lot A. As a result, the United States government conveyed fee title interest in Lot A to the State pursuant to a warranty deed dated May 1, 2009. Lot A is no longer needed by the State for highway purposes. The parties wish to honor the intent of the 2005 ROW agreement which would result in title to Lot A being vested Hay Land, LLC, the company that purchased FMLC, Inc.'s assets.

A MOTION WAS MADE by Zander to approve Item #6 and seconded by Rosenboom. All voted aye by roll call vote and motion carried.

7. Condemnation – NH-PH 0018(177)104, PCN 02QC/02NH SD; Oglala Lakota County

The Department requested a resolution of necessity for condemnation of Parcel 37A – Winston R. Nelson Life Estate

A MOTION WAS MADE by Marquardt to approve Item #7 and seconded by Fouberg. All voted aye by roll call vote and motion carried.

RESOLUTION # 2016-06.03 was adopted.

8. Abandonment of temporary construction easements– Davison County

This resolution will abandon the temporary easements on Davison County Project EM-PH 2090(21)332, PCN 010Q.

A MOTION WAS MADE by Thompson to approve Item #8 and seconded by Rosenboom. All voted aye by roll call vote and motion carried.

RESOLUTION # 2016-06.04 was adopted.

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

June 15, 2016 letting

Structure (2-10'x5' Precast Box Culvert) & Approach Grading

1 03QJ P 6395(04)

Hughes County

A-G-E Corporation \$166,982.66
Structure located 4.6 miles North of SD1804 on Grey Goose Road (Co. Rd 153)

Structure (2-10'x10' CIP Box Culvert) & Approach Grading

2 6867 BRO 8014(26) Clay County
Dakota Contracting Corporation \$339,733.77
County Road 5.6 miles south & 11 miles east of Irene over a creek

Durable Pavement Marking

3 03B3 PH 0010(92) Faulk, Spink County
Traffic Solutions, Inc \$262,691.50
Various locations on the State System in the Aberdeen Region

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

June 17, 2016 letting

Sidewalk, Curb & Gutter, Permanent Signing, & Pavement Marking

04UD P TAPR(06) Jones County
Rejected by the SDDOT Commission
City of Murdo

A MOTION WAS MADE by Fouberg to reject bid #1 and seconded by Rosenboom. All voted aye by roll call vote and motion carried.

June 21, 2016 letting

Minor Grading, Concrete Sidewalk, Culvert, Signals, Marking & Signing

04UF PTAPR(08) Aurora County
Vanderpol Dragline Inc \$206,077.80
Along Campbell Street in Plankinton

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

Laurie Schultz, Program Manager for the Department's Office of Administration, presented an update on the scoring and ranking of the bridge rehabilitation/replacement BIG applications after a mathematical error was discovered. A handout was provided to the Commission. (see Attachment C).

Sara Show and DJ Buthe, representatives of Minnehaha County appeared on behalf of Minnehaha county to explain their rationale for why Minnehaha County should receive a grant.

A MOTION WAS MADE by Zander to not make any changes to the BIG grants awarded at the meeting of the Commission on April 28, 2016. This motion was seconded by Fouberg.

A SUBSTITUE MOTION WAS MADE by Dougherty to award a partial grant of \$1,226,495 to Minnehaha County, without conditions. This motion was seconded by Rosenboom. A roll call vote was taken and all present voted nay except for Dougherty, who voted aye. Motion failed.

A roll call vote was taken on the original motion to make no changes to the BIG grants awarded at the meeting on April 28, 2016. All present voted aye except for Dougherty, who voted nay. Motion passed.

Dick Howard, Association of Towns and Townships, gave a brief update on where the group is at with their inventory of the bridges and culverts. To date the association has received an inventory from 28 counties and thus far there are 2,500 structures. The association would like to present the full inventory in July.

A MOTION WAS MADE by Vanneman to go into Executive Session at 11:15 a.m. for the purpose of contract negotiations under SDCL 1-25-2(4). This motion was seconded by Zander. All voted aye by roll call vote and motion carried.

The Commission returned from Executive Session at 12:12 p.m.

A MOTION WAS MADE by Vanneman to nominate Tim Dougherty as Chairman and Larry Thompson as Vice Chair and seconded by Marquardt. All voted aye by roll call vote and motion carried.

With no other business to come before the Commission, the meeting was declared adjourned at 12:15 p.m.

Submitted by:

Approved by:

Kellie J. Beck

Darin P. Bergquist

SENATOR GARY CAMMACK, CHAIR | REPRESENTATIVE DEAN WINK, VICE CHAIR
JASON HANCOCK, DIRECTOR | SUE CICHOZ, DEPUTY DIRECTOR | DOUG DECKER, CODE COUNSEL
500 EAST CAPITOL AVENUE, PIERRE, SD 57501 | 605-773-3251 | LEGISSD.GOV



Government Operations & Audit
SENATOR LARRY TIDEMANN, CHAIR
REPRESENTATIVE DAN DRYDEN, VICE-CHAIR

June 22, 2016

Darin Bergquist, Secretary
SD Department of Transportation
Becker-Hansen Building
700 E. Broadway Ave.
Pierre, SD 57501

Letter of Intent Regarding the implementation of House Bill 1214, approved in the 2016 Session

Dear Secretary Bergquist:

This Letter of Intent sets forth a particular view held by the Government Operations and Audit Committee related to the implementation of House Bill (HB) 1214, An Act to regulate conflicts of interest for authority, board, or commission members. As such, this Letter of Intent seeks to supplement that legislation with specific policy guidance as approved on June 20, 2016. While the guidance does not have the direct force of statutory law, it rests solidly on a long-standing tradition of Legislative-Executive relationships in South Dakota and it will be used by the Government Operations and Audit Committee as one basis for the operational oversight of your agency and its compliance with HB 1214.

The legislation was intended to identify potential contractual conflicts so that the respective authorities, boards, or commissions had the opportunity to make a determination as to whether or not the contracts were fair, reasonable, and not contrary to the public interest. To accomplish this goal, the legislation sets forth two processes, each with a distinct focus, by which a board may authorize a waiver of an otherwise prohibited relationship to a contract.

Because members of the committee have received questions from board members about the application of this law, this letter is intended to explain the process for compliance envisioned by the Legislature – in particular to emphasize the availability of the second process as a way to comply.

First process

Under the first process described in the first portion of Section 3 of HB 1214, the Board engages in an examination of the particular terms of a single contract or transaction. Upon receipt of the written request by a Board member, the Board is to look at the “essential terms of the contract” and determine whether the “terms of the contract are fair, reasonable, and not contrary to the public interest.”

Second process

Alternatively, the last sentence of Section 3 establishes a more generalized conflict inquiry by the board:

A member of an authority, board, or commission may comply with this section if: the authority, board, or commission puts on its regular meeting agenda an inquiry for conflicts disclosure prior to the consideration of any substantive matters; the member publicly discloses his or her interest in a contract, direct benefits, or other conflict with any matter on the agenda; the member is excused from discussion and consideration of the matter; the board determines the matter underlying the conflict is fair, reasonable, and not contrary to the public interest; and the disclosure is included in the minutes which are publicly available.

Under this second process, the Board does not examine the “essential terms of the contract or transaction” as under the first process. Instead, the Board’s determination of whether a waiver is appropriate is based on whether “*the matter underlying the conflict* is fair, reasonable, and not contrary to the public interest[.]” (emphasis added) This inquiry into the “matter underlying the conflict” requires the board to examine the broader circumstances creating a conflict or potential conflict. Because the “essential terms of the contract” need not be examined, the board may under this process prospectively grant a broader waiver for a general category of transactions disclosed by a board member.

For example, a board member works at a retail establishment that, from time to time, may sell goods to a party to a contract with the State related to the subject matter of the board. It may be impractical for the board member to disclose each single transaction between his employer and the party to the contract. Instead of seeking a waiver for each particular transaction, the board member could disclose the underlying matter of this direct benefit or potential direct benefit to the Board. The Board may determine that the underlying matter (the board member’s employment with an entity engaging in routine retail transactions) is fair, and grant a waiver covering the underlying matter-allowing retail transactions between the board member’s employer and the entity.

It is important to note that this second process allows a board member to comply with the law by raising a new contract or transaction, a contract or transaction of which the board member is newly aware, or an anticipated contract or transaction at the beginning of the next regular meeting.

A board wishing to use the second process should follow this procedure, as is explained in Section 3:

- Include “Conflicts disclosure” as an agenda item at every regular meeting, prior to the discussion of any substantive matters.
- At that point in the meeting, any board member who has a conflict with an item on the agenda should disclose the conflict publicly and explain “the matter underlying the conflict” to the satisfaction of the board.
- Likewise, any board member who has a new, newly-discovered, or anticipated contract or transaction covered by HB 1214 should disclose it publicly and explain “the matter underlying the conflict” to the satisfaction of the board.
- The board should discuss the disclosure and determine whether “the matter underlying the conflict is fair, reasonable, and not contrary to the public interest.”
- If there is any substantive discussion of the matters disclosed, the conflicted board member should excuse himself from discussion and consideration of the matter.

- The Board's minutes should reflect the substance of the disclosure, and the Board's determination that "the matter underlying the conflict is fair, reasonable, and not contrary to the public interest." The minutes should be made available to the public and should be forwarded to the Auditor General.

It is the opinion of GOAC that following this process completely complies with HB 1214 and is consistent with the intent of the Legislature in passing this legislation.

The purpose of this act is to protect the public interest, to prohibit self-dealing, and to bring greater transparency to relationships that board members may have. We acknowledge that, in a small state, board members may have personal matters that relate to the business of the boards; in fact, many boards require that board members be active in the Board's areas of responsibility.

It is each Board's responsibility to protect the public interest. In some situations, protecting the public interest may require a detailed investigation of the particular terms of a single transaction. In other situations, such an inquiry would unnecessarily consume the precious time and resources of the board. Boards must use discretion to determine in each case which type of examination is best suited to protect the public and preserve the board's resources.

We understand that HB 1214 may create some complex questions from board members regarding what is required or not required to be disclosed and waived under the law. We recognize that it is imperative for board staff, including board counsel, to provide clear guidance and assistance with compliance to each board, commission or authority covered by HB 1214.

Thank you for your cooperation.



Senator Larry Tidemann
Chair, Government Operations and Audit Committee



Representative Dan Dryden
Vice-Chair, Government Operations and Audit Committee

Jurisdictional Transfer US14P

Location: Old segment of US14 on section lines between US 14 and US83 (connects these respective highways together). This section of road is paved and approximately 1.2 miles long.



Proposal: Transfer to Hughes County

Terms:

- State
 - Transfer ROW/ ownership of roadway
 - Provide \$300,000 of funding upon execution of agreement (based on life cycle cost prorated to present day worth)
 - Continue basic maintenance of surface (including winter maintenance) and signage until pavement reaches the end of life
 - Process in-place existing surface and blend with gravel supplied by County
- County
 - Take ownership of the section upon execution of agreement
 - Vegetation Control
 - Provide gravel surfacing for blending of the processed existing surface
 - Accept overall ownership and maintenance responsibilities once pavement reaches the end of life and the existing surface is processed in-place with gravel supplied by County

County and State will jointly determine when to process existing asphalt surface and County supplied gravel

2016 BIG Replacement/Rehabilitation Ranking Summary

Owner	Str. #	Condition Points	User Impact Points	Wheel Tax Points	Shovel Ready Points	Additional Local Match Points	Maximum Total Points	Total Score	Adjusted Total Score	Ranking Number
City of Aberdeen	07126328	38.83000	20.00000	0	0	0	90	58.83000	65.36667	1
City of Yankton	68124204	32.76000	1.64984	0	10	12	90	56.40984	62.67759	2
Roberts County	55112270	33.42700	18.97143	10	0	0	100	62.39843	62.39843	3
Marshall County	46060200	39.64000	1.80000	8	10	0	100	59.44000	59.44000	4
Minnehaha	50284170	32.72600	7.31430	8	10	0	100	58.04030	58.04030	5
Union County	64093140	26.48100	8.50000	8	10	0	100	52.98100	52.98100	6
City of Yankton	68121204	21.62200	2.01552	0	10	12	90	45.63752	50.70836	7
Moody	51100030	34.66200	5.71430	8	0	0	100	48.37630	48.37630	8
Sully County	60420204	9.44900	0.12009	10	10	0	100	29.56909	29.56909	9
Brookings	06240092	Sufficiency Rating > 60 (Actual =62.5)							NA	10
City of Custer	17234071	Not Classified as Structurally Deficient							NA	11