

SOUTH DAKOTA TRANSPORTATION COMMISSION MEETING MINUTES
Thursday, August 26, 2021, at 9:00 a.m. CDT
Becker-Hansen Building/Commission Room - 700 East Broadway Avenue, Pierre, SD

COMMISSIONERS PRESENT: Larry Nelson, Chairman
Ron Rosenboom
Mike Vehle
Jaf Karim
Rod Fouberg
Kathy Zander

**COMMISSIONERS PRESENT
VIA CONFERENCE CALL:** Bruce Cull, Vice Chairman
Benjamin Stoick
Don Roby

DOT STAFF PRESENT: Joel Jundt, Karla Engle, Mike Behm, Kellie Beck, Joel Gengler,
Tammy Williams, Joanne Hight, Scott Rabern, Mark Leiferman,
Doug Kinniburgh, Sam Weisgram, Ryan Johnson, Becky Hoffman,
Christine Bennett, Kyle Weinman, and Kari Kroll

**DOT STAFF PRESENT
VIA CONFERENCE CALL:** Craig Smith and Julie Stevenson

OTHERS PRESENT: Toby Morris – Colliers Securities; Frank Kloucek; Gerrit Juffer;
and Brad Stangoehr – Union County/Ulteig;

**OTHERS PRESENT
VIA CONFERENCE CALL:** Mark Clausen – Federal Highway Administration (FHWA); Toby
Crow – Association of General Contractors (AGC); and Jason
Reaves – South Dakota Concrete Pavement Association

Chairman Larry Nelson called the meeting of the South Dakota Transportation Commission (the “Commission”) to order at 9:00 a.m. CDT.

A roll call was taken, and a quorum was determined.

Nelson opened the floor to the Commission members to disclose potential conflicts of interest pursuant to South Dakota Codified Law (SDCL) chapters 3-23. Nelson then turned the meeting over to Cull to preside over the discussion of a conflict of interest waiver that Nelson had submitted for Commission consideration. Nelson recused himself from the Commission’s discussion and vote.

Karla Engle, Office of Legal Counsel, presented a request for waiver received by Chairman Nelson concerning potential conflicts of interest. A copy of the request for waiver is attached to and incorporated into these minutes as **Attachment A**. Nelson's law firm was hired by the City of Baltic, South Dakota and USD Foundation as well as hired for lobbying services by the Economic Development Professionals Association.

A MOTION WAS MADE by Vehle and seconded by Karim that the matters disclosed in the waiver request are fair, reasonable, and not contrary to public interest. All present voted aye by roll call vote, except Nelson who abstained. The motion carried.

Cull asked for any additional conflicts of interest or requests for waiver. No other conflicts of interest were disclosed, and no other waivers were requested.

Cull turned the meeting back over to Chairman Nelson at 9:02 a.m.

Nelson asked for a motion to approve the amended May 27, 2021 Commission meeting minutes. The amendment to the originally approved minutes notes a resolution number for a right-of-way item that the Commission approved at that meeting.

Commissioner Mike Vehle asked that the minutes also be amended to reflect Commissioner Ron Rosenboom had also volunteered to be on the Advisory Committee to discuss the Winter Maintenance Plan..

A MOTION WAS MADE by Zander and seconded by Rosenboom to approve the May 27, 2021 Commission meeting minutes as originally amended and to amend the bullet in the Secretary's Report to also note that Commissioner Rosenboom also volunteered to be on the Advisory Committee for the Winter Maintenance Plan. All present voted aye by roll call vote. The motion carried.

Nelson asked for a motion to approve the July 29, 2021 Commission meeting minutes.

A MOTION WAS MADE by Rosenboom and seconded by Cull to approve the July 29, 2021 Commission meeting minutes. All present voted aye by roll call vote. The motion carried.

Engle presented for Commission consideration amendments to Administrative Rules of South Dakota (ARSD) 70:01:02:27 – Fall River County speed zone rules.

Engle explained the rule adoption process that had been followed to date for the amendments to the rule. She discussed the purpose and effect of the rule changes. Engle reported that no written comments on the rule changes had been received.

The chairman asked for public testimony on the proposed rule amendments. No members of the public offered testimony in support of or in opposition to the rule change.

A MOTION WAS MADE by Fouberg and seconded by Zander to approve the proposed changes to ARSD 70:01:02:27 – Fall River speed zone rule. All present voted aye by roll call vote. The motion carried.

RESOLUTION #2021 – 8.1 was adopted.

Engle requested the Commission to set a hearing date of September 21, 2021 to consider amendments to ARSD 70:01:02:07 – Yankton County speed zone rule and ARSD 70:01:02:52 – Moody County speed zone rule.

A MOTION WAS MADE by Karim and seconded by Rosenboom to set the administrative hearing date for September 21, 2021. All present voted aye by roll call vote. The motion carried.

RESOLUTION #2021 – 8.2 was adopted.

Secretary Jundt presented the following items as the Secretary's Report

1. He acknowledged that Commissioner Rodney Fouberg had asked not to be reappointed as Area 1 Commissioner but had continued to serve until a replacement was named. Lynn Jensen has recently been appointed by the Governor to fill the Area 1 Commissioner position and will start at the September 2021 meeting. Jundt observed that after 24 years of dedicated public service, Commissioner Fouberg was attending his last meeting. Commissioner Fouberg was commended for his outstanding service to the Commission and the State of South Dakota. Jundt also shared that Commissioner Donald Roby was reappointed for another 4 year term by Governor Noem.
2. Jundt explained the status of the upcoming federal funding reauthorization.

Jundt and Craig Smith, Director of Operations, discussed a road transfer agreement between the South Dakota Department of Transportation and the city of North Sioux City.

A MOTION WAS MADE by Stoick and seconded by Vehle to authorize the Secretary of the Department or his designee to execute all documents necessary to transfer the service road on the west side of I29 to the city of North Sioux City. All present voted aye by roll call vote. The motion carried.

Jundt shared additional information requested by the Commission at the July meeting about past State Loans. The information about the status of the two loans the Commission had already granted to Lyman and Yankton Counties was discussed. Toby Morris of Collier Securities, who has been involved in securing both the Yankton and Lyman loans, answered questions from the Commission. The Commission asked for recommendations by the Department of Transportation (the "Department") at the September meeting for formulize guidelines for a program.

Craig Smith, Division of Operations Director, presented the following Construction Change Orders (CCOs) for the month of June to the Commission:

CCOs completed in July contain an increase of approximately \$286,078.04.

Over the past 12 months, the overall contract increase is 3.05%.

The following projects have a CCO amounting to a contract change more than \$50,000.

ABERDEEN REGION

- I. Project: P 0034(169)269, Buffalo County, PCN 04EC
 Location: SD 34 from Fort Thompson to SD 50
 Contractor: Spencer Quarries, Inc.
 Type of Work: Cold Milling Asphalt Concrete and Asphalt Concrete Resurfacing

Original Contract Amount:	\$	3,242,162.07
Change on CCO No. 3:	\$	88,228.40
Net Change to Date:	\$	150,257.15

Explanation of Change on CCO No. 3: This increase is the result of the Department compensating the Contractor for extra work performed to remove and replace a collapsed culvert discovered during construction. Originally, the plans required the Contractor to clean out the culvert.

- II. Project: PH 0212(167)245, Faulk County, PCN 03RQ
 Location: US 212 from the Potter/Faulk county line to Faulkton
 Contractor: Loiseau Construction, Inc.
 Type of Work: Shoulder Widening, Asphalt Concrete Shoulder Surfacing, Culvert Repair, and Structures

Original Contract Amount:	\$	12,342,633.39
Change on CCO No. 9:	\$	64,837.00
Net Change to Date:	\$	221,345.06

Explanation of Change on CCO No. 9: This increase is the result of the Department compensating the Contractor for extra work performed to place concrete rock as select fill material while installing pipe in wet areas. This change is due to the abnormally wet conditions encountered during construction and will provide a more stable bedding for compaction of fill material around and over the pipe.

- III. Project: P PH 0015(77)155, Deuel and Grant County, PCN 04K8
Location: SD 15 from US 212 to SD 20
Contractor: R and G Construction Co.
Type of Work: Grading, Interim Surfacing, and Replace Structures

Original Contract Amount:	\$	13,420,018.47
Change on CCO No. 2:	\$	57,755.53
Net Change to Date:	\$	48,436.07

Explanation of Change on CCO No. 2: This increase is the result of the Department compensating the Contractor for extra work performed to place casing around the drain tile. In-place utility agreements require the casing which wasn't included in the original plans.

MITCHELL REGION

- IV. Project: IM FP 0908(95)362, McCook County, PCN 05HP
Location: I-90 EBL from west of Salem to west of Humboldt
Contractor: Reede Construction, Inc.
Type of Work: Remove & Replace PCC Pavement, Pipe Work, Structure & Approach Grading, Deck Overlay, Approach Slabs, Polymer Chip Seal

Original Contract Amount:	\$	37,412,446.36
Change on CCO No. 3:	\$	162,163.20
Net Change to Date:	\$	172,200.43

Explanation of Change on CCO No. 3: This increase is the result of the Department compensating the Contractor for extra work performed to construct a temporary ramp at the Canistota Exit. The original plans did not include this work. The Contractor requested to add this temporary ramp for the Contractor's convenience and use during construction. The Department agreed to pay for a portion of the cost provided the temporary ramp was open for public use.

- V. Project: NH PH 0018(180)420, Lincoln and Turner County, PCN 036A
Location: US 18 From SD 19 to I-29
Contractor: Runge Enterprises, Inc.
Type of Work: Shoulder Widening, Grading, Structure Replacement, Erosion Repair & Asphalt Concrete Surfacing

Original Contract Amount:	\$	13,022,756.77
Change on CCO No. 6:	\$	85,623.32
Net Change to Date:	\$	699,485.07

Explanation of Change on CCO No. 6: This increase is the result of the Department compensating the Contractor for extra work performed due to a flood event on March 15, 2019. Flood water overtopped the cofferdam in one of the structures, filling it with water. While excavating the flooded cofferdam, damaged sheets were discovered needing to be replaced. Additionally, the Department provided a revised design requiring additional aggregate be added to the cofferdam to raise the footing above the water level.

VI. Project: PH 0020(190), Davison, Lake, Lincoln, and Minnehaha County, PCN 06JE
Location: Various Locations in Mitchell Region
Contractor: Soukup Construction, Inc.
Type of Work: Grading for Turn Lanes, Culvert Extensions, and Asphalt Concrete Surfacing

Original Contract Amount:	\$	1,745,249.99
Change on CCO No. 4:	\$	(66,890.09)
Net Change to Date:	\$	(61,352.58)

Explanation of Change on CCO No. 4: This decrease is the result of the Department adjusting the contract quantities of base course material used as temporary gravel. The additional temporary gravel material was not used during construction.

VII. Project: P PH 0046(47)356, Clay and Lincoln County, PCN 025D
Location: SD 46 From West of SD 19/19A to West of I-29 Junction
Contractor: Runge Enterprises, Inc.
Type of Work: Grading, Shoulder Widening, Structures, and Interim Surfacing

Original Contract Amount:	\$	14,012,206.89
Change on CCO No. 5:	\$	(249,524.58)
Net Change to Date:	\$	(102,107.18)

Explanation of Change on CCO No. 5: This decrease is the result of the Department adjusting the contract quantities of water for embankment, base course, and asphalt concrete. The adjustments are the result of normal project variations based on field conditions encountered during construction.

VIII. Project: P PH 0046(47)356, Clay and Lincoln County, PCN 025D
Location: SD 46 From West of SD 19/19A to West of I-29 Junction
Contractor: Runge Enterprises, Inc.
Type of Work: Grading, Shoulder Widening, Structures, and Interim Surfacing

Original Contract Amount:	\$	14,012,206.89
Change on CCO No. 6:	\$	(151,071.25)
Net Change to Date:	\$	(253,178.43)

Explanation of Change on CCO No. 6: This decrease is the result of the Department adjusting the contract quantities of box culvert undercut, mulching, and riprap. The Department adjusted the quantities to match the quantities used during construction. The adjustments are the result of normal project variations based on field conditions encountered and actual quantities used during construction.

PIERRE REGION

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

RAPID CITY REGION

IX. Project: NH 014A(14)38, Lawrence County, PCN 04FX
Location: US 14A- 2 miles North of US 85 over Deadwood Creek
Contractor: Heavy Constructors, Inc.
Type of Work: Replace Structure, Approach Grading

Original Contract Amount: \$ 1,847,364.00
Change on CCO No. 5: \$ (70,161.45)
Net Change to Date: \$ 30,182.03

Explanation of Change on CCO No. 5: This decrease is the result of the Department adjusting the contract quantity of flagging. The quantity for flagging hours necessary to safely move traffic through the work zone was less than anticipated in the plans.

Sam Weisgram, Office of Project Development, presented the following bid letting results:

August 18, 2021

Grading, Asphalt Concrete Surfacing

1 044G ER 0081(104)112 Kingsbury County
Prairie States Trucking \$8,470,304.66
US81 - Fm 4.8 S of the US14 S Jct, N 3

A MOTION WAS MADE by Zanders and seconded by Karim to approve bid #1. All present voted aye by roll call vote. The motion carried.

Emergency Roadway Realignment, Erosion Repair

2 07N2 ER 6385(07) Mellette County
Morris Inc. \$1,085,591.30
Approximately 0.8 mi west and 1 mile south of White River on 268th Ave (Ring Thunder Road)

A MOTION WAS MADE by Vehle and seconded by Rosenboom to approve bid #2. All present voted aye by roll call vote. The motion carried.

Culvert Replacement and Repair

3 06F7 P 0031(44) Jackson, Stanley County
BX Civil & Construction, Inc. \$364,500.00
Various Locations Throughout the Pierre Area

A MOTION WAS MADE by Karim and seconded by Fouberg to approve bid #3. All present voted aye by roll call vote. The motion carried.

Replace Fence

4 01ME IM 0901(154)0 Lawrence, Meade, Pennington County
Garrett Fencing Inc \$584,834.00
I90 - Rapid City Area

A MOTION WAS MADE by Vehle and seconded by Zander to approve bid #4. All present voted aye by roll call vote. The motion carried.

Asphalt Concrete Shared Use Path, 38' Pedestrian Structure

5	07RG P TAPU(28) Mainline Contracting Inc Spearfish - along College Ln Fm the NW corner of Mortensen Ln to Hillsview Rd, along Hillsview Rd to McGuigan Rd, fm McGuigan Rd to Clear Springs Rd, along Clear Springs Rd to Tumble Weed Trl, along Tumble Weed Tr fm Clear Springs Rd to McGuigan Rd	Lawrence County \$1,249,669.67
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A MOTION WAS MADE by Rosenboom and seconded by Karim to approve bid #5. All present voted aye by roll call vote. The motion carried.

Joel Gengler, Program Manager for the Office of Right of Way, presented the following items for the Commission’s consideration:

1. Transfer – Minnehaha County

Request Transportation Commission approval to transfer by resolution to city of Sioux Falls the following property acquired for highway right-of-way:

A portion of West 60th Street North, from its intersection with North Marion Road east to Interstate 29, in the city of Sioux Falls, Minnehaha County, South Dakota.

This resolution will transfer a portion of West 60th Street North towards completing Exchange Agreement #910586. The highway right of way would be transferred to the city of Sioux Falls and the city of Sioux Falls would accept ownership, jurisdiction, operational and maintenance responsibilities of the above-described right-of-way.

Sioux Falls Area DOT recommends the transfer.

A MOTION WAS MADE by Fouberg and seconded by Rosenboom to authorize the Secretary of the Department or his designee to execute all documents necessary to transfer a portion of West 60th Street North to the city of Sioux Falls. All present voted aye by roll call vote. The motion carried.

RESOLUTION #2021 – 8.3 was adopted.

2. Transfer – Minnehaha County

Request Transportation Commission approval to transfer by resolution to city of Sioux Falls the following property acquired for highway right-of-way:

A portion of Old North Drive, from its intersection with Minnesota Avenue north and east to its intersection near 39th Street, in the city of Sioux Falls, Minnehaha County, South Dakota.

This resolution will transfer a portion of Old North Drive towards completing Exchange Agreement #710142. The highway right of way described above would be transferred to the city of Sioux Falls and the city of Sioux Falls would accept ownership, jurisdiction, operational and maintenance responsibilities of the above-described right-of-way.

Sioux Falls Area DOT recommends the transfer.

A MOTION WAS MADE by Vehle and seconded by Fouberg to authorize the Secretary of the Department or his designee to execute all documents necessary to transfer a portion of Old North Drive, to the city of Sioux Falls. All present voted aye by roll call vote. The motion carried.

RESOLUTION #2021 – 8.4 was adopted.

3. Request Transportation Commission approval to abandon by resolution the following property acquired for highway right-of-way:

Lot H3, of County Auditors Tract 7, in the SE1/4 of Section 4, Township 101 North, Range 49 West of the 5th P.M., Minnehaha County, South Dakota, containing 2.12 acres, more or less.

The above property is no longer needed for highway purposes and abandonment is recommended by DOT Sioux Falls Area.

A MOTION WAS MADE by Fouberg and seconded by Vehle to authorize the Secretary of the Department or his designee to execute all documents necessary for abandonment of the property in Minnehaha County. All present voted aye by roll call vote. The motion carried.

RESOLUTION #2021 – 8.5 was adopted.

4. Abandonment – Charles Mix County

This resolution will abandon the temporary easements on Charles Mix County Project NH-PH 0050(114)324, PCN 04HN.

5. Abandonment – Charles Mix County

This resolution will abandon the temporary easements on Charles Mix County Project PH 0018(190)348, PCN 04JX.

6. Abandonment – Charles Mix and Douglas County

This resolution will abandon the temporary easements on Charles Mix County and Douglas County Project PH 0281(108)35, PCN 04JE.

7. Abandonment – Davison County

This resolution will abandon the temporary easements on Davison County Project PH 0037(130)72, PCN 03B1.

8. Abandonment – Davison County

This resolution will abandon the temporary easements on Davison County Project PH 090L(08)332, PCN 03KE.

9. Abandonment – Lake County

This resolution will abandon the temporary easements on Lake County Project IM-NH-P 0022(44), PCN 041K.

10. Abandonment – Lake County

This resolution will abandon the temporary easements on Lake County Project PH 0034(188)368, PCN 05W8.

11. Abandonment – Minnehaha County

This resolution will abandon the temporary easements on Minnehaha County Project IM-NH-P 0022(44), PCN 041K.

12. Abandonment – Moody County

This resolution will abandon the temporary easements on Moody County Project IM-NH-P 0022(44), PCN 041K.

A MOTION WAS MADE by Stoick and seconded by Zander to authorize the Secretary of the Department or his designee to execute all documents necessary for the abandonment of temporary easements in Charles Mix, Douglas, Davison, Lake, Minnehaha, and Moody Counties as specified in attachment #9. All present voted aye by roll call vote. The motion carried.

RESOLUTIONS #2021 – 8.6, 2021 – 8.7, 2021 – 8.8, 2021 – 8.9, 2021 – 8.10, 2021 – 8.11, 2021 – 8.12, 2021 – 8.13, 2021 – 8.14, and 2021 – 8.15 were adopted.

Mark Leiferman, Program Manager for the Office of Project Development, presented the following Statewide Transportation Improvement Plan (STIP) revisions for the Commission’s information:

INFORMATIONAL REVISIONS FOR THE COMMISSION

(Work Type change, Cost update, Move FY’s within the 4-year construction STIP)

REV 21-SC-029 This revision increased the cost of a Modify Crossroads project on I90 at 25 various locations in the Mitchell Area in the Mitchell Region. (Sequence #'s 26, 97, 210, 340, 491 & 522, Page’s 44, 56, 78, 102, 130 & 136 in the 2021-2024 STIP Book).

FY 2021 Plus \$1,690,000

REV 21-SC-030 This revision will add bicycle racks which are “Non-infrastructure bicycle safety and encouragement items” to the Work Description to a Transportation Alternative in Hermosa, SD in the Rapid City Region (Sequence #204, Page 76 in the 2021-2024 STIP Book).

FY 2022 No Change

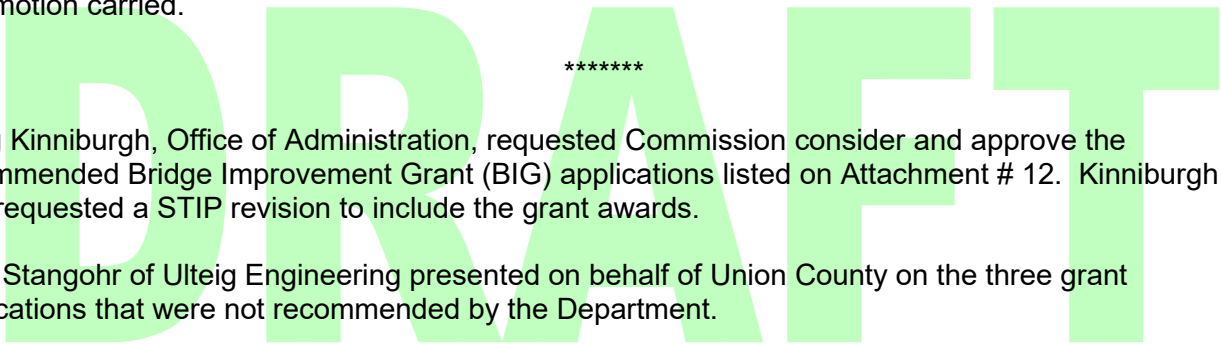
REV 21-SC-031 This revision increased the cost of a Signing & Delineation project in 15 Counties on Various Paved County, Tribal and City Roads in the Pierre & Rapid City Regions. (Sequence #'s 188, 251, 319, 357, 397, 414, 448, 575, 664, 718, 964, 971, 982, 1024 & 1046, Page's 74, 85, 97, 105, 114, 116, 123, 144, 156, 165, 193, 195, 198, 206 & 210 in the 2021-2024 STIP Book).

FY 2021 Plus \$2,797,000

Leiferman presented the request and supporting documents for the 2022 – 2025 STIP, Transit Improvement Program (TIP), and Metropolitan Planning Organization's Transportation Improvement Programs (MPO TIPs.)

Toby Crow of AGC addressed the Commission with his appreciate of the steps the Department took to include the contractors in the STIP discussion.

A MOTION WAS MADE by Fouberg and seconded by Zander to approve the STIP as presented in items #6a and #6b as well as items #7 – 10 on Attachment #11. All present voted aye by roll call vote. The motion carried.



Doug Kinniburgh, Office of Administration, requested Commission consider and approve the recommended Bridge Improvement Grant (BIG) applications listed on Attachment # 12. Kinniburgh also requested a STIP revision to include the grant awards.

Brad Stangoehr of Ulteig Engineering presented on behalf of Union County on the three grant applications that were not recommended by the Department.

A MOTION WAS MADE by Fouberg and seconded by Zander to all grants shown in Attachment #12 for the amounts recommended by the Department and that they be added to the STIP by Revision except #24, #28, #29, as those three applicants were not shown as priorities in their 5-Year Plans and #33, #37, and #39, as those three applicants were previously awarded grant amounts for those structures. All present voted aye by roll call vote. The motion carried.

The Commission took a break from 11:20 – 11:30 a.m.

Ryan Johnson, Specification Engineer for the Department, presented a PowerPoint presentation to the Commission titled "Incentives/ Disincentives" regarding the process used by the Department on construction projects.

Commissioner Stoick expressed his sincere appreciation of the Department about getting the Singing Bridge near Mobridge open and safe again quickly.

With no further business to come before the Commission, Nelson adjourned the meeting at 12:05 p.m. CDT.

ATTACHMENT A

STATE OF SOUTH DAKOTA

TRANSPORTATION COMMISSION

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

THIS IS A PUBLIC DOCUMENT

Date: _____

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:

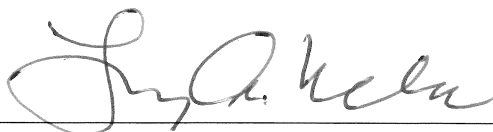
- a) Parties to the contract
Please see attached document

- b) Board Member's role in the contract
Please see attached document

- c) Purpose and objective of the contract
Please see attached document

- d) Consideration or benefit conferred or agreed to be conferred upon each party
Please see attached document

- e) Duration of the contract
Please see attached document

Signature of Requesting Party:  Date 7/23/2021

ATTACHMENT A

Brief explanation of contract for which a waiver is requested:

1.
 - a) Thomas H. Frieberg, Frieberg, Nelson & Ask, LLP, law firm and City of Baltic, South Dakota.
 - b) Larry A. Nelson is an employee in the law firm of Frieberg, Nelson & Ask, LLP.
 - c) Thomas Frieberg is retained as City Attorney for the City of Baltic, South Dakota.
 - d) Lobbying services are provided in exchange for payment.
 - e) March 2021 with automatic yearly renewal.

2.
 - a) Samuel J. Nelson and Larry A. Nelson, Frieberg, Nelson & Ask, LLP, law firm and the Economic Development Professionals Association of South Dakota.
 - b) Larry A. Nelson is an employee in the law firm of Frieberg, Nelson & Ask, LLP.
 - c) The Economic Development Professionals Association of South Dakota is represented and lobbied on behalf of during each South Dakota Legislative Session.
 - d) Lobbying services are provided in exchange for payment.
 - e) 2020, until no longer serving as Lobbyist by The Economic Development Professionals Association.

3.
 - a) Thomas H. Frieberg, Frieberg, Nelson & Ask, LLP, law firm and USD Foundation.
 - b) Larry A. Nelson is an employee in the law firm of Frieberg, Nelson & Ask, LLP.
 - c) Thomas Frieberg is retained as Attorney for USD Foundation.
 - d) Lobbying services are provided in exchange for payment.
 - e) 2020 with automatic yearly renewal.