

SOUTH DAKOTA TRANSPORTATION COMMISSION MEETING MINUTES

Thursday, August 27, 2020, at 9:00 a.m. CDT

Becker-Hansen Building/Commission Room
700 East Broadway Avenue, Pierre, South Dakota

COMMISSIONERS PRESENT: Mike Vehle, Chairman
Rod Fouberg
Kathy Zander

**COMMISSIONERS PRESENT
VIA CONFERENCE CALL:** Larry Nelson, Vice Chairman
Bruce Cull
Jaf Karim
Don Roby
Benj Stoick

DOT STAFF PRESENT: Darin Bergquist, Karla Engle, Mike Behm, Brooke White, Sam Weisgram, Christina Bennett, Ryan Johnson, Tammy Williams, Doug Kinniburgh, Joel Gengler, Bridget Carnahan, and Kari Kroll

**DOT STAFF PRESENT
VIA CONFERENCE CALL:** Craig Smith, Bonnie Olson, and Mark Leiferman

OTHER PRESENT: Hilary Morey – SD Games Fish & Park

**OTHERS PRESENT
VIA CONFERENCE CALL:** Mark Clausen – Federal Highway Administration (FHWA); Kirk Fredrichs – FHWA; Toby Crow - Association of General Contractors (AGC); and Casey Crabtree

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

Roll call was taken, and a quorum was determined.

Vehle opened the floor to the Commission members to disclose potential conflicts of interest and to present requests for waiver pursuant to South Dakota Codified Law (SDCL) chapter 3 – 23.

Vehle presented an annual conflict of interest disclosure and a request for waiver received from Vice-chairman Nelson concerning potential conflicts of interest. Nelson’s prior disclosure was dated July 16, 2019. A copy of the annual conflict of interest disclosure and request for waiver are attached to and incorporated into these minutes as **Attachment A**. Nelson’s law firm was hired to represent the Sioux Falls School District 49-5 and provide lobbying services. Nelson’s law firm was also retained as Legal Counsel for the Disciplinary Board of South Dakota and provide lobbying services.

A MOTION WAS MADE by Zander and seconded by Fouberg that the matters disclosed in the annual disclosure and 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

Vehle presented the annual conflict of interest disclosures received from Commissioners Karim and Fouberg, which were previously submitted to the Commission. Karim's prior disclosure was dated November 25, 2019. Fouberg's prior disclosure was dated June 28, 2019. The Commission acknowledged receipt of Karim and Fouberg's annual disclosures of potential conflict of interest, which will be filed with the required state agencies. Copies of the written annual disclosures are attached to and incorporated in these minutes as **Attachments B and C**.

Vehle asked for a motion to approve the July 23, 2020, Commission meeting minutes.

A MOTION WAS MADE by Fouberg and seconded by Roby to approve the June 23, 2020, Commission meeting minutes. All present voted aye by roll call vote. The motion carried.

Karla Engle, Office of Legal Counsel, presented for Commission consideration the proposed amendments to Administrative Rules of South Dakota (ARSD) 70:07 – Highway construction contracts. Engle explained the rule adoption process that had been followed and the purpose and effect of the rule changes.

Engle reported that no written comments were received on the proposed rule changes.

Engle requested that ARSD 70:07:02:08 be amended to incorporate throughout the rule those style and form changes to parenthetical material that had been recommended by Legislative Research Council (LRC). Through inadvertence, the recommended change by LRC had not been incorporated throughout the rule that was included in the Commission's packet. Engle also drew the Commission's attention to ARSD 70:07:04:12 – Duration of Debarment. Engle explained that the Department had proposed changes to this rule and that LRC had made recommended style and form edits. Engle discussed the edits with Interim Code Counsel for LRC and is proposing adoption of language that is slightly different than LRC's written style and form edits. Engle believes the language is an improvement over the current rule and achieves the clarity LRC desires. As a procedural matter, if the Commission adopts the newly proposed language, then the Department will need to appeal to the Rules Review Committee for approval of the language, since the new language does not exactly mirror the written style and form edits from LRC.

A MOTION WAS MADE by Fouberg and seconded by Karim to submit 70:07:04:12 to the Rules Review Committee as written by the Department of Transportation (the "Department") in Attachment #5. All present voted aye by roll call vote. The motion carried.

A MOTION WAS MADE by Roby and seconded by Fouberg to approve changes to the wording in ARSD 70:07:02:08 to incorporate throughout the rule the style and form changes to parenthetical material that had been recommended by LRC. All present voted aye by roll call vote. The motion carried.

Chair Vehle called for public testimony in support of the rule changes. Toby Crow of Associated General Contractors testified that his organization had no objection to the proposed rule changes. Concerning ARSD 70:07:02:03, which sets the dollar limit for the prequalification requirement, Crow had no objections to the current change to \$250,000, but he asked that the Commission refrain from further changes any time soon.

Chair Vehle called for public testimony in opposition to the rule changes. No members of the public testified in opposition to the proposed rule changes.

A MOTION WAS MADE by Stoick and seconded by Zander to approve the Department's proposed amendments to ARSD Article 70:07, including the previously approved changes to ARSD 70:07:02:08 and the language recommended by the Department for ARSD 70:07:04:12. All present voted aye by roll call vote. The motion carried.

RESOLUTION #2020 – 8.1 was adopted.

Secretary Bergquist presented the Secretary's Report. Bergquist presented the following items to the Commission:

1. The final plans are in place for the annual *On the Road* Meeting for September 22 – 23. The Department will hold the meeting at the SDDOT Sioux Falls Area Office, and the Commission will tour 3 – 4 spots in Sioux Falls including Veteran's Parkway and the Valley Springs rest stop.
2. The 2020 Transportation Hall of Honor inductees have been selected. They are Myron Rau, Barb Cline, and Ben Orsbon.
3. Bergquist requested Christina Bennett, Traffic Engineer for the Department, present additional information to the Commission regarding the fatal accident markers that are sometimes installed along the interstate and highway. Bennett made a brief presentation to the Commission.
4. Bergquist provided follow-up information regarding the Fallen Hero Bridge Naming program. Bergquist shared what he learned after a conversation with the Department of Veteran's Affairs (DVA), which facilitates the program. DVA wishes to continue approving a maximum of six (6) bridges per year. DVA solicits applications through its webpage and social media pages as well as by a press release. DVA plans to name bridges from each of the war eras and across the state. Bergquist shared the confirmed upcoming events for the bridges named at the June 25, 2020, Commission meeting:
 - a. Lance Corporal Conrad Flyinghorse – October 10, 2020, at 10:00 a.m. MDT at the McIntosh School Football Field
 - b. Sergeant Allen Kokesh, Jr. – October 3, 2020, at 1:00 p.m. CDT at the Yankton County Court House
 - c. Sergeant 1st Class Richard Schild – September 12, 2020, at 10:00 a.m. CDT at the Yankton County Court House
 - d. Staff Sergeant Jason Montefering and Sergeant Jeremiah Boehmer – November 11, 2020, at 9:00 a.m. CDT at the Parkston High School Auditorium
5. Bergquist provided background on wetland mitigation achievements through shared efforts by the Department and the South Dakota Department of Game, Fish & Parks. He noted that there would be a presentation later in the meeting.
6. Bergquist asked Craig Smith, Director of Operations for the Department, to provide an update on the ditch closure situation in the Black Hills. Smith shared that the Department is working with U.S. Forest Services to come up with a plan and that the Department is waiting on information from the Wyoming Department of Transportation, an agency that has been working with a similar

situation. In 2023, there is a shoulder widening project so a more permanent solution will be possible at that time.

7. Kirk Fredrichs from the Federal Highway Administration was planning to address the Commission and present information on the Federal Highway Trust Fund, but due to COVID19 restrictions, this presentation will be postponed until the October meeting.

Bruce Cull left the meeting at 9:56 a.m.

8. Bergquist shared that traffic numbers in the state are back to normal. The State Highway Fund, however, is lower. The Fuel Tax revenue is down 14.5% and the Excise Tax revenue is down 26.8% compared to this time last year. Overall, the deposits into the Highway Trust Fund are down 18.04% for the month of July.
9. The Federal highway and transit funding program will expire September 30, 2020. Congress is working on reauthorizing the program with both the House and the Senate working on potential new legislation. With little movement on this expected until after the election, it is hoped that a continuing resolution can be passed to allow continued federal funding to be distributed pending final passage of new legislation.

Vehle asked for a motion for the Board to enter into Executive Session.

A MOTION WAS MADE by Zander and seconded by Fouberg to enter into executive session pursuant to SDCL 1-25-2(3) for the purpose of consulting with legal counsel or reviewing communications from legal counsel about proposed or pending litigation or contractual matters. All present voted aye by roll call vote. The motion carried.

Executive session began at 10:10 a.m. CDT.

Vehle called the meeting back into session at 11:29 a.m. CDT. A roll call was taken, and a quorum verified.

Craig Smith presented the following Construction Change Orders (CCOs) to the Commission. Before starting, he noted the total on the letter in the attachment was incorrect and should be closer to \$3.7 million.

Construction change orders completed in July contain an increase of approximately \$1,699,246.

Over the past 12 months, the overall contract increase is 1.22%.

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

ABERDEEN REGION

- I. Project: ER 0081(116)112, Kingsbury County, PCN 07FJ
 Location: US 81 Through Twin Lakes north of Madison
 Contractor: Prairie States Trucking, Inc.
 Type of Work: Temporary Grade Raise

Original Contract Amount:	\$	4,133,991.50
Change on CCO No. 2:	\$	2,695,390.35
Net Change to Date:	\$	2,703,390.35

Explanation of Change on CCO No. 2: This increase is the result extra worked performed by the Contractor to raise the roadway an additional 9 inches and to install fabric, riprap, and guardrail along the shoulder of the roadway. The Department determined the additional grade raise was necessary following a significant rain event during construction. In addition, the Department added the installation of guardrail along the shoulder of the grade raise for the safety of the traveling public and installation fabric and riprap to protect the shoulders from erosion.

- II. Project: P 0010(123)273, Brown County, PCN 03AM
 Location: SD 10 west of US 281 over Dry Run Creek & over the Elm River
 Contractor: Industrial Builders, Inc.
 Type of Work: Structures and Approach Grading

Original Contract Amount:	\$	4,356,948.20
Change on CCO No. 6:	\$	59,241.60
Net Change to Date:	\$	103,114.85

Explanation of Change on CCO No. 6: This increase is the result extra work performed by the Contractor to repair the detour route with asphalt concrete.

MITCHELL REGION

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

PIERRE REGION

- III. Project: NH 0012(213)159, Corson County, PCN 05U6
 Location: US 12 from McLaughlin east 12 miles
 Contractor: Bituminous Paving, Inc
 Type of Work: Cold Mill Asphalt Concrete, Asphalt Concrete Resurfacing, Pipe Work, and ADA Improvements

Original Contract Amount:	\$	5,658,129.70
Change on CCO No. 1:	\$	85,938.08
Net Change to Date:	\$	85,938.08

Explanation of Change on CCO No. 1: This increase is the result of extra work performed by the Contractor to repair and replace a portion of the degraded existing pavement at bridge

approaches. The Department ordered a modification to the designed paving notch resulting in the extra work.

- IV.** Project: NH 0083(82)25, Mellette County, PCN 03RR
 Location: US 83 from the West junction of US 18 to the North junction of SD 44
 Contractor: Bituminous Paving, Inc
 Type of Work: Cold Milling Asphalt Concrete, Asphalt Concrete Resurfacing, Asphalt Concrete Surfacing of Shoulders, and Bridge Approach Reconstruction

Original Contract Amount:	\$	9,319,298.67
Change on CCO No. 11:	\$	115,337.00
Net Change to Date:	\$	1,111,672.85

Explanation of Change on CCO No. 11: This increase is the result of additional salvage base course material necessary to bring the shoulders up to the typical section elevation prior to paving asphalt concrete on the shoulders. Additionally, the Department adjusted the hours for flagging and pilot car to match the quantity used during construction to safely accommodate traffic during construction.

- V.** Project: NH 0083(86)0, Todd County, PCN 068G
 Location: US 83 from the Nebraska state line to Mission
 Contractor: Bituminous Paving Inc
 Type of Work: Cold Milling Asphalt Concrete, Asphalt Concrete Resurfacing, and Rumble Strips

Original Contract Amount:	\$	6,950,879.72
Change on CCO No. 4:	\$	340,627.60
Net Change to Date:	\$	578,898.60

Explanation of Change on CCO No. 4: This increase is the result of the Department adjusting the contract requirement for recycled asphalt pavement (RAP) content in the new asphalt concrete. The RAP material generated from milling the roadway is not of sufficient quality for use in the new asphalt concrete. This reduction of RAP content resulted in an increase to the amount of virgin mineral aggregate needed and a higher asphalt binder content than estimated.

- VI.** Project: NH 0083(86)0, Todd County, PCN 068G
 Location: US 83 from the Nebraska state line to Mission
 Contractor: Bituminous Paving Inc
 Type of Work: Cold Milling Asphalt Concrete, Asphalt Concrete Resurfacing, and Rumble Strips

Original Contract Amount:	\$	6,950,879.72
Change on CCO No. 5:	\$	74,758.10
Net Change to Date:	\$	653,656.70

Explanation of Change on CCO No. 5: This increase is the result of the Department adjusting the contract quantities of flagging, pilot car, and temporary pavement marking. The additional hours for flagging and pilot car represent the quantity used during construction to accommodate traffic. The temporary pavement marking was increased to address a plan error.

- VII.** Project: NH-P 0031(29), Haakon County, PCN 042G
 Location: Various Locations in the Pierre Area
 Contractor: Steve Lehrkamp Enterprises, Inc
 Type of Work: Culvert Replacement and Repair

Original Contract Amount:	\$	798,803.72
Change on CCO No. 1:	\$	118,041.57
Net Change to Date:	\$	118,041.57

Explanation of Change on CCO No. 1: This increase is the result of extra work performed by the Contractor to excavate and replace additional base course and asphalt concrete pavement material. Due to heavy rains and saturated conditions, the existing base and surfacing deteriorated and settled.

- VIII.** Project: NH-P 0031(29), Haakon County, PCN 042G
 Location: Various Locations in the Pierre Area
 Contractor: Steve Lehrkamp Enterprises, Inc
 Type of Work: Culvert Replacement and Repair

Original Contract Amount:	\$	798,803.72
Change on CCO No. 2:	\$	52,791.07
Net Change to Date:	\$	170,832.64

Explanation of Change on CCO No. 2: This increase is the result of extra work performed by the Contractor to excavate and replace an additional 48-inch pipe culvert identified by the Department as in need of replacement.

- IX.** Project: NH-PH 0018(198)173, Bennett County, PCN 04XH
 Location: US 18 from east of Vetal to the Bennett/Todd County line
 Contractor: Schweigert Construction, Inc
 Type of Work: Grading and Interim Surfacing

Original Contract Amount:	\$	3,598,043.87
Change on CCO No. 3:	\$	67,238.40
Net Change to Date:	\$	112,747.88

Explanation of Change on CCO No. 3: This decrease is the result of the Department adjusting the contract quantities of water for granular material. Additional water was used to provide for proper compaction of the granular material.

RAPID CITY REGION

- X.** Project: NH 0212(192)87, Meade County, PCN 04WR
 Location: US212 from the Junction of Maurine Rd/Bixby Rd to the City Limits of Faith
 Contractor: Border States Paving, Inc
 Type of Work: Cold Milling Asphalt Concrete, Asphalt Concrete Resurfacing, Culvert Work, & Structure Repair

Original Contract Amount:	\$	10,055,799.27
Change on CCO No. 3:	\$	186,540.95
Net Change to Date:	\$	291,625.80

Explanation of Change on CCO No. 3: This increase is the result of the Department adjusting the contract quantities of base course, asphalt concrete, asphalt binder, and flagging. The additional base course and asphalt concrete was used to correct plan errors and variations in depth encountered during construction. The asphalt binder increase was the result of a small increase in the binder content in the asphalt concrete mix. The Department adjusted the hours of flagging to represent the hours used during construction to accommodate traffic.

- XI.** Project: NH-P 0042(53), Butte County, PCN 042F
 Location: Various Locations in the Belle Fourche Area
 Contractor: Mainline Holdings, Inc. DBA Mainline Contracting
 Type of Work: Culvert Repair, Culvert Replacement, and Reinforced Concrete Box Culvert

Original Contract Amount:	\$	1,486,411.77
Change on CCO No. 2:	\$	126,514.00
Net Change to Date:	\$	141,094.00

Explanation of Change on CCO No. 2: This increase is the result of the Department changing the planned repair of pipe culverts to full replacement with cured in place pipe at 4 locations on the project.

- XII.** Project: IM 0040(337), Lawrence County, PCN 072E
 Location: I-90 Corridor in Rapid City Region
 Contractor: Western Construction, Inc
 Type of Work: Asphalt Concrete Resurfacing & Asphalt Concrete Surface Treatment

Original Contract Amount:	\$	2,128,637.35
Change on CCO No. 3:	\$	(53,611.50)
Net Change to Date:	\$	224,959.37

Explanation of Change on CCO No. 3: This decrease is the result of the Department eliminating the requirement for a Contractor provided material checker at 2 locations of the project and adjusting the guardrail requirements at 2 crossroads.

- XIII.** Project: IM 0901(38)40, Meade County, PCN 5580
 Location: I-90 EBL & WBL between Exits 40(Tilford) and 44 (Piedmont) & Reconstruct Exit 44 (piedmont) interchange
 Contractor: Heavy Constructors, Inc
 Type of Work: PCC Surfacing, Structures (7 RCBC Extensions & 6 Continuous Concrete Bridges), Lighting, Signing, and Pavement Marking

Original Contract Amount: \$ 28,751,784.00
 Change on CCO No. 16: \$ (120,975.65)
 Net Change to Date: \$ 836,166.79

Explanation of Change on CCO No.16: This decrease is the result of the Department adjusting the contract quantities of various erosion control items throughout the project.

Brooke White, Access Management Engineer for the Department, presented for Commission consideration a request for control of access relinquishment on South Dakota Highway 34 for the Southridge Professional Building, LLC.

A MOTION WAS MADE by Zander and a seconded by Fouberg to approve the request for relinquishment of control of access on South Dakota Highway 34 in Madison as presented. All present voted aye by roll call vote. The motion carried.

RESOLUTION #2020 – 8.2 was adopted.

Ryan Johnson, Specification Engineer for the Department, presented for Commission consideration the following revisions to the special provision for price schedule for miscellaneous items:

1. Engineer Directed Surveying/Staking - change from "Three Man Survey Crew" at the current rate of \$160.00 / hour to new item at \$150.00 / hour. This item was last modified in 2009 and has been discussed with DOT staff and AGC regarding changes to current staking methods, equipment, and crew size.
2. Water for Dust Control - change from the current rate of \$15.00 / MGal. to \$25.00 / MGal. This item was last modified in 2009. Average unit bid prices for the item of Water for Granular Material and information provided from AGC was used to establish this rate.
3. Extra Haul (Various Granular Materials) - change from the current rate of \$0.15 / ton-mile to \$0.20 / ton-mile for truck haul and added a rate for yd³-station at \$0.08 / yd³-station for scraper haul. This item was last modified in 2009. Information provided from AGC was used to establish this rate.
4. Unclassified Excavation Digouts - change from the current rate of \$8.00 / yd³ to \$11.00 / yd³. This item was last modified in 2009. Information provided from AGC was used to establish this rate.
5. Extra Haul (Excavation & Embankment) - change from the current rate of \$0.05 / yd³-station to \$0.08 / yd³-station for scraper haul and added a rate for ton-mile at \$0.20 / ton-mile for truck haul.

This item was last modified in 2009. Information provided from AGC was used to establish this rate.

6. Water for Embankment - change from the current rate of \$15.00 / MGal. to \$25.00 / MGal. This item was last modified in 2009. Average unit bid prices for the item of Water for Granular Material and information provided from AGC was used to establish this rate.
7. Undercutting Culverts - change from the current rate of \$12.00 / yd³ to \$15.00 / yd³. This item was last modified in 2004. Information provided from AGC was used to establish this rate.
8. Timber Pile Splice - change from the current rate of \$550.00 / each to \$750.00 / each. This item has last modified in 2009. Information provided from AGC and Department staff (change to weld detail, labor rates, inflation, and weld time) was used to establish this rate.

Items 9-12 are for splices made before either of the pieces has been driven.

9. Steel Pile Splice (8 HP) - change from the current rate of \$105.00 / each to \$150.00 / each. This item was last modified 2009. Information provided from AGC and Department staff (change to weld detail, labor rates, inflation, and weld time) was used to establish this rate.
10. Steel Pile Splice (10 HP) - change from the current rate of \$125.00 / each to \$175.00 / each. This item was last modified 2009. Information provided from AGC and Department staff (change to weld detail, labor rates, inflation, and weld time) was used to establish this rate.
11. Steel Pile Splice (12 HP) - change from the current rate of \$140.00 / each to \$200.00 / each. This item was last modified 2009. Information provided from AGC and Department staff (change to weld detail, labor rates, inflation, and weld time) was used to establish this rate.
12. Steel Pile Splice (14 HP) - change from the current rate of \$160.00 / each to \$225.00 / each. This item was last modified 2009. Information provided from AGC and Department staff (change to weld detail, labor rates, inflation, and weld time) was used to establish this rate.

Items 13-16 are for splices made after one of the pieces had been driven.

13. Steel Pile Splice (8 HP) - change from the current rate of \$220.00 / each to \$325.00 / each. This item was last modified 2009. Information provided from AGC and Department staff (change to weld detail, labor rates, inflation, and weld time) was used to establish this rate.
14. Steel Pile Splice (10 HP) - change from the current rate of \$300.00 / each to \$425.00 / each. This item was last modified 2009. Information provided from AGC and Department staff (change to weld detail, labor rates, inflation, and weld time) was used to establish this rate.
15. Steel Pile Splice (12 HP) - change from the current rate of \$360.00 / each to \$525.00 / each. This item was last modified 2011. Information provided from AGC and Department staff (change to weld detail, labor rates, inflation, and weld time) was used to establish this rate.
16. Steel Pile Splice (14 HP) - change from the current rate of \$420.00 / each to \$600.00 / each. This item was last modified 2011. Information provided from AGC and Department staff (change to weld detail, labor rates, inflation, and weld time) was used to establish this rate.

Items 17-20 are for timber pile shoes and steel pile tip reinforcement.

17. Pile Shoes (Timber Pile) - change from the current rate of \$110.00 / each to \$150.00 / each. This item was last modified 2009. Information provided from AGC and Department staff (change to weld detail, labor rates, inflation, and weld time) was used to establish this rate.
18. 10" HP Tip Reinforced - change from the current rate of \$120.00 / each to \$160.00 / each. This item was last modified 2009. Information provided from AGC and Department staff (change to weld detail, labor rates, inflation, and weld time) was used to establish this rate.
19. 12" HP Tip Reinforced - change from the current rate of \$140.00 / each to \$185.00 / each. This item was last modified 2009. Information provided from AGC and Department staff (change to weld detail, labor rates, inflation, and weld time) was used to establish this rate.
20. 14" HP Tip Reinforced - change from the current rate of \$170.00 / each to \$225.00 / each. This item was last modified 2009. Information provided from AGC and Department staff (change to weld detail, labor rates, inflation, and weld time) was used to establish this rate.
21. Granular Material - change from the current rate of \$12.00 / ton to \$20.00 / ton. This item was last modified 2009. Average unit bid prices from the last two years and information provided from AGC was used to establish this rate.
22. Asphalt Concrete - change from the current rate of \$80.00 / ton to \$120.00 / ton. This item was last modified in 2009. Average unit bid prices from the last two years and information provided from AGC was used to establish this rate.
23. Cover Aggregate - change from the current rate of \$25.00 / ton to \$45.00 / ton. This item was last modified in 2009. Average unit bid prices from the last two years and information provided from AGC was used to establish this rate.
24. Asphalt for Prime - change from the current rate of \$700.00 / ton to \$925.00 / ton. This item was last modified in 2009. Average unit bid prices from the last two years and information provided from AGC was used to establish this rate.
25. Asphalt (Tack, Flush, & Surface Treatment) - Change from the current rate of \$450.00 / ton to \$600.00 / ton. This item was last modified in 2009. Average unit bid prices from the last two years and information provided from AGC was used to establish this rate.
26. Water (Haul Roads) - change from the current rate of \$15.00 / MGal. to \$25.00 / MGal. This item was last modified in 2009. Average unit bid prices for the item of Water for Granular Material and information provided from AGC was used to establish this rate.
27. Dust Control Chlorides - change from the current rate of \$0.35 / pound to \$0.45 / pound. This item was last modified in 2009. Average unit bid prices from the last two years and information provided from AGC was used to establish this rate.
28. Flagging – change from the current rate of \$28.99 / hour to \$30.37 / hour. This item was last updated in 2018 with a change in labor rate. This change is a result of an increase to the profit factor from 5% to 10% in accordance with force account work in specifications. No change to labor rate.

29. Pilot Car - change from the current rate of \$41.88 / hour to \$43.87 / hour. This item was last updated in 2018 with a change in labor rate and equipment rental rates. This change is a result of an increase to the profit factor from 5% to 10% in accordance with force account work in specifications. No change to labor rate or equipment rental rates.

Johnson also presented the following unit bid prices to go into effect on October 7, 2020. These prices will be pre-entered in the bidding package for each project or will establish a standard price to be used whenever no project contract unit price exists for that item.

Each unit price listed is considered full compensation for the cost of labor, material, and equipment to provide the item of work and/or material, complete in place, including (but not limited to) royalty, waste of unsuitable materials, equipment rental, overhead, profit, and incidentals.

Items specified in this list may be paid for on progressive estimates without the benefit of a prior approved Construction Change Order.

Specification Section Number	Specification Section Name	Item Name	Price per Item
5.8	Construction Stakes, Lines, and Grades	Engineer Directed Surveying/Staking	\$150.00/hour
7.7	Public Convenience and Safety	Water for Dust Control	\$25.00/M.Gal
9.3	Payment for extra haul of Materials	Extra Haul	\$0.20/ton mile (Truck) or \$0.08/ cubic yard station (Scraper)
120.5 A.5.	Roadway and Drainage Exc. & Emb.	Unclassified Excavation, Digouts	\$11.00/cu.yd.
120.5 H.	Roadway and Drainage Exc. & Emb.	Extra Haul	\$0.20 /ton mile (Truck) or \$0.08 /cubic yard station (Scraper)
120.5 I.	Roadway and Drainage Exc. & Emb.	Water for Embankment	\$25.00/M.Gal
421.5	Undercutting Pipe & Plate Pipe	Undercutting Culverts	\$15.00/cu.yd.
510.5 D.	Timber, Prestressed, and Steel Piles	Timber Pile Splice	\$750.00/each
		Steel Pile Splices (*All Weights)	Splice made before either of the pieces has been driven.
		8 HP*	\$150.00/each
		10 HP*	\$175.00/each
		12 HP*	\$200.00/each
		14 HP*	\$225.00/each
		Steel Pile Splices (*All Weights)	Splice made after one of the pieces has been driven.
		8 HP*	\$325.00/each
		10 HP*	\$425.00/each

		12 HP*	\$525.00/each
		14 HP*	\$600.00/each
510.5 E.	Timber, Prestressed, and Steel Piles	Pile Shoes (Timber Pile)	\$150.00/each
510.5 H.	Timber, Prestressed, and Steel Piles	Pile Tip Reinforcement (Steel Pile)	
		10" HP Tip Reinforced	\$160.00/each
		12" HP Tip Reinforced	\$185.00/each
		14" HP Tip Reinforced	\$225.00/each
601.5	Haul Roads	Granular Material	\$20.00/ton
601.5	Haul Roads	Asphalt Concrete (including asphalt)	\$120.00/ton
601.5	Haul Roads	Cover Aggregate	\$45.00/ton
601.5	Haul Roads	Asphalt for Prime	\$925.00/ton
601.5	Haul Roads	Asphalt (Tack, Flush & Surface Treatment)	\$600.00/ton
601.5	Haul Roads	Water	\$25.00/M.Gal
601.5	Haul Roads	Dust Control Chlorides	\$0.45/lb
634.5	Temporary Traffic Control	Flagging	\$30.37/hour
634.5	Temporary Traffic Control	Pilot Car	\$43.87/hour

A MOTION WAS MADE by Fouberg and seconded by Zander to approve the price schedule for miscellaneous items as presented in Attachment #8. All present voted aye by roll call vote. The motion carried.

Mike Behm, Division Director of Planning & Engineering, presented the following STIP revisions for Commission consideration:

REV 20-057 This revision will add FY2020 Statewide Speed Data for Winter Maintenance Operations project which received a Federal Highway Administration State Transportation Innovation Council (STIC) Grant.

FY 2020 Plus \$125,000

REV 20-059 This revision will add a FY2020 grade raise project on SD262 southeast of Alexandria in Hanson County in the Mitchell Region. This highway has been closed for an extended period of time due to water being over the roadway.

FY 2020 Plus \$1,873,000

REV 20-060 This revision will add a FY2021 Modify Intersection, Traffic Signal project to the I90 - Exit 395 (Marion Rd) Ramps in Minnehaha County in the Mitchell Region.

FY 2021 Plus \$1,300,000

Behm identified a correction needed to the proposed REV 20-060 to increase the dollar amount from \$976,000 to \$1.3 million.

A MOTION WAS MADE by Stoick and seconded by Karim to approve the STIP Revisions including the increase in funding for REV 20-060. All present voted aye by roll call vote. The motion carried.

Behm presented the following informational STIP revisions:

INFORMATIONAL REVISIONS FOR THE COMMISSION

REV 20-SC-037 This revision increased the cost of a FY2020 Mill & AC Surfacing, ADA Curb Ramp and Traffic Signal Replacement project on US18 in Bennett County in the Pierre Region. (Sequence #48, Page 47 in the 2020-2023 STIP Book).

FY 2020 Plus \$1,810,000

REV 20-SC-038 This Revision added "Repair Str RCBC" to the Improvement Description and increased the cost to a FY2020 Pavement Restoration project on SD248 in Lyman County in the Pierre Region (Sequence #474, Page 125 in the 2020-2023 STIP Book).

FY 2020 Plus \$52,000

REV 20-SC-039 This revision increased the cost of a FY2020 Interchange Reconstruction project on I90 Exit 59 (LaCrosse St) in Rapid City in the Rapid City Region. (Sequence #635, Page 151 in the 2020-2023 STIP Book).

FY 2020 Plus \$2,744,000

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

August 5, 2020

Structure (21' x 7' Precast RCBC) & Approach Grading

1	00Z3 BRO 8017(05) Corr Construction Services, Inc Structure 0.2 miles north of Hermosa over a creek	Custer County \$213,617.80
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Cold Milling & Asphalt Concrete Resurfacing & Pipe Work

3	05E4 NH 0014(222)254 Asphalt Paving & Materials Company US14 - Fm E of Blunt to the Hughes/Hyde Co Line	Hughes County \$3,589,804.32
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Rest Area Lighting

4	07T4 IM 0294(73)121 Action Systems Inc.dba Action Electric	Moody County \$101,040.60
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I29 - Rest Area at Exit 121 (Ward) - Moody County

Signing & Delineation

5	04L4 PH 8052(71) Hamm Contracting, LLC Various County, City, & Township Roads in Pennington County	Pennington County \$3,256,560.10
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A MOTION WAS MADE by Roby and seconded by Fouberg to approve bid #s 1, 3, 4, and 5. All present voted aye by roll call vote. The motion carried.

Structure (2-12'x12' CIP Box Culvert) & Approach Grading

2	07JR ER 0079(85)160 Corr Construction Services, Inc SD79 - 10 miles NE of SD168 Over Frog Creek	Butte County \$1,088,233.30
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A MOTION WAS MADE by Fouberg and seconded by Zander to approve bid #2. All present voted aye by roll call vote. The motion carried.

August 19, 2020

ADA Curb Ramp Upgrades & PCC Pavement Restoration

2	04PC, 07EX NH 0018(232)447, NH 0018(225)445 D & G Concrete Construction, Inc. US18 - Through Canton	Lincoln County \$2,244,316.02
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Grade Raise, Asphalt Concrete Surfacing & Slope Protection

3	07NA ER 6191(28) WEBSTER SCALE INC Approximately 15 miles north of Webster on 435th Ave in between 125th St and 126th St in Day County	Day County \$1,353,429.90
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Signing & Delineation

4	05HC PH 0010(147) Signs Up Ltd DBA Haren's Trees and Critters Various County, Tribal and City Roads in the Aberdeen Region	Edmunds, Hamlin, McPherson County \$1,230,425.63
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A MOTION WAS MADE by Stoick and seconded by Roby to approve bid #s 2, 3, and 4. All present voted aye by roll call vote. The motion carried.

Structure (68'-0" Prestressed Girder Bridge) & Approach Grading

1	078F BRP 6302(00)19-1 Corr Construction Services, Inc Structure 2.5 miles north & 6.9 miles east of Millboro on 296th St over Rahn Lake	Tripp County \$1,197,550.40
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A MOTION WAS MADE by Zander and seconded by Karim to approve bid #1. All present voted aye by roll call vote. The motion carried.

August 25, 2020

ROW, Grade Raise, Asphalt Concrete Surfacing, Riprap, Pavement Marking & Guardrail

083F ER-P 0262(09)360

Midland Contracting Inc

SD262 3 mi ESE of Alexandria

Hanson County

\$1,971,928.26

A MOTION WAS MADE by Fouberg and seconded by Zander to approve the bid from the August 25, 2020 bid opening. 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 Commission consideration:

1. Transfer – Minnehaha County

Request Transportation Commission approval by resolution to transfer by quit claim deed to the city of Sioux Falls the following highway right-of-way property interests:

North Career Avenue, from its intersection with South Dakota Highway 38 (also known as West 60th Street) to West Maple Street and West Innovation Street from its intersection with West Tickman Street to North Career Avenue and the portion of North Louise Avenue from West Tickman Street north approximately 0.86 miles, all in Sioux Falls, Minnehaha County, South Dakota, legally described as follows:

Lot H2 in the NW1/4 of Section 36, Township 102 North, Range 50 West of the 5th P.M., Minnehaha County, South Dakota. Said Lot H2 contains 0.41 acre, more or less. Plat Book 61, Page 28.

Lot H7 in the NE1/4 of Section 36, Township 102 North, Range 50 West of the 5th P.M., Minnehaha County, South Dakota. Said Lot H7 contains 2.18 acres, more or less. Plat Book 64, Page 97.

Lot H5 in the NE1/4 of Section 36, Township 102 North, Range 50 West of the 5th P.M., Minnehaha County, South Dakota. Said Lot H5 contains 5.40 acres, more or less. Plat Book 61, Page 29.

PE1 and PE2 in the NE1/4 of Section 36, Township 102 North, Range 50 West of the 5th P.M., Minnehaha County, South Dakota. Said Lot PE1 contains 0.46 acre, more or less and Lot PE2 contains 3.72 acres, more or less. Plat Book 61, Page 27.

Lot PE1 in the NW1/4 of Section 36, Township 102 North, Range 50 West of the 5th P.M., Minnehaha County, South Dakota. Said Lot PE1 contains 3.97 acres, more or less. Plat Book 61, Page 26.

Lot H3 in the SE1/4 of Section 36, Township 102 North, Range 50 West of the 5th P.M., Minnehaha County, South Dakota. Said Lot H3 contains 4.557 acres, more or less. Deed Book 471, Page 103. Plat Book 62, Page 145.

Lot H4 in the SW1/4, except Lot H3 contained therein of Section 36, Township 102 North, Range 50 West of the 5th P.M., lying east of Outlot B & Tract 2 of Green Hills Addition to the City of Sioux Falls, Minnehaha County, South Dakota. Said Lot H4 contains 1.538 acres, more or less. Deed Book 468, Page 359. Plat Book 62, Page 146.

Lot H2 in the N1/2 of the N1/2 of Section 1, Township 101 North, Range 50 West of the 5th P.M., Minnehaha County, South Dakota. Said Lot H2 contains 2.988 acres, more or less. Deed Book 470, Page 583. Plat Book 62, Page 147.

Lot H1 in the S1/2 of the NW1/4 of Section 1, Township 101 North, Range 50 West of the 5th P.M., Minnehaha County, South Dakota. Said Lot H1 contains 1.528 acres, more or less. Deed Book 472, Page 725. Plat Book 62, Page 151.

Lot H1 in Tract 4, except Lot 1A contained therein and together with the N1/2 of the vacated street abutting thereto and Tract 5, all of Tickman Addition to the City of Sioux Falls, Minnehaha County, South Dakota. Said Lot H1 in Tract 4 contains 0.151 acre, more or less. Lot H1 in Tract 5 contains 0.146 acre, more or less. Deed Book 470, Page 307. Plat Book 62, Page 148.

Lots H1 in Tracts 6 and 7 of Markey Addition to the City of Sioux Falls and the S1/2 of the vacated street abutting Tract 7 thereof, Minnehaha County, South Dakota. Said Lot H1 in Tract 6 contains 0.186 acre and Lot H1 in Tract 7 contains 0.226 acre. Deed Book 470, Page 307. Plat Book 62, Page 149.

Lot H2 in Tract 5 of Tickman Addition to the City of Sioux Falls, Minnehaha County, South Dakota. Said Lot H2 contains 0.02 acre, more or less. Deed Book 475, Page 434. Plat Book 63, Page 287.

Lot H2 in Tract 4 of Tickman Addition to the City of Sioux Falls, Minnehaha County, South Dakota. Said Lot H2 contains 0.02 acre, more or less. Deed Book 475, Page 434. Plat Book 63, Page 286.

Lot H1 in Lot C of Tract 1 of Tickman Addition to the City of Sioux Falls, Minnehaha County, South Dakota. Said Lot H1 contains 0.02 acre, more or less. Deed Book 477, Page 396. Plat Book 63, Page 222.

Lot H1 in Lot B of Tract 3 of Tickman Addition to the City of Sioux Falls, Minnehaha County, South Dakota. Said Lot H1 contains 0.01 acre, more or less. Deed Book 476, Page 359. Plat Book 63, Page 220.

Lot H1 in Tract 2 of Tickman Addition to the City of Sioux Falls, Minnehaha County, South Dakota. Said Lot H1 contains 0.01 acre, more or less. Deed Book 476, Page 334. Plat Book 63, Page 221.

Lot H1 in Lot B of Tract 1 of Tickman Addition to the City of Sioux Falls, Minnehaha County, South Dakota. Said Lot H1 contains 0.01 acre, more or less. Deed Book 477, Page 396. Plat Book 63, Page 223.

Lot H2 in the SW1/4 of Section 1, Township 101 North, Range 50 West of the 5th P.M., Minnehaha County, South Dakota. Said Lot H2 contains 1.479 acres, more or less. Deed Book 470, Page 575. Plat Book 62, Page 152.

Lots H1 in Tracts 4 & 5 of Markey Addition to the City of Sioux Falls, Minnehaha County, South Dakota. Said Lot H1 in Tract 4 contains 0.192 acre, more or less and Lot H1 in Tract 5 contains 0.182 acre, more or less. Deed Book 468, Page 937. Plat Book 62, Page 150.

Lot H1 in the S1/2 of the SW1/4, except Tract 1 of Greenfield's Addition contained therein, of Section 1, Township 101 North, Range 50 West of the 5th P.M., Minnehaha County, South Dakota. Said Lot H1 contains 0.82 acre, more or less. Deed Book 448, Page 145. Plat Book 59, Page 57.

Lot H1 in the E1/2 NE1/4 SW1/4 of Section 1, Township 101 North, Range 50 West of the 5th P.M., Minnehaha County, South Dakota. Said Lot H1 contains 0.06 acre, more or less. Deed Book 448, Page 145. Plat Book 59, Page 56.

Lot A in Lot H1 of the NE1/4, NE1/4 of Section 1, Township 101 North, Range 50 West of the 5th P.M., City of Sioux Falls, Minnehaha County, South Dakota. Said Lot A of Lot H1 contains 10,511 square feet, more or less. Plat Book 82, Page 175.

Lot A in Lot H1 of the SE1/4, NE1/4 of Section 1, Township 101 North, Range 50 West of the 5th P.M., City of Sioux Falls, Minnehaha County, South Dakota. Said Lot A of Lot H1 contains 97,398 square feet, more or less. Plat Book 82, Page 176.

Lot A in Lot H1 of the NE1/4, SE1/4 of Section 1, Township 101 North, Range 50 West of the 5th P.M., City of Sioux Falls, Minnehaha County, South Dakota. Said Lot A of Lot H1 contains 42,070 square feet, more or less. Plat Book 82, Page 177.

Lot A in Lot H2 of the N1/2, SE1/4 of Section 1, Township 101 North, Range 50 West of the 5th P.M., City of Sioux Falls, Minnehaha County, South Dakota. Said Lot A of Lot H2 contains 85,480 square feet, more or less. Plat Book 82, Page 178.

Lot A in Lot H1 of Tract 2A of the Replat of Tracts 1 and 2 of 2A, Ericksen Addition in the SE1/4, SE1/4 of Section 1, Township 101 North, Range 50 West of the 5th P.M., City of Sioux Falls, Minnehaha County, South Dakota. Said Lot A of Lot H1 contains 13,332 square feet, more or less. Plat Book 82, Page 180.

Lot H1 in Tract 3 of Ericksen Addition to the City of Sioux Falls, Minnehaha County, South Dakota. Said Lot H1 in Tract 3 contains 0.33 acre, more or less. Deed Book 409, Page 617. Plat Book 53, Page 36.

Lot H1 in Tract 5 of Ericksen Addition to the City of Sioux Falls, less Lots F and G in Lot H1 of Tract 5, Minnehaha County, South Dakota. Said Lot H1 in Tract 5 less Lots F and G in Lot H1 of Tract 5 contains 0.30 acre, more or less. Deed Book 409, Page 252. Plat Book 53, Page 17.

Lot H1 in Tract 7 of Ericksen Addition to the City of Sioux Falls less Lot E in Lot H1 of Tract 7, Minnehaha County, South Dakota. Said Lot H1 in Tract 7 less Lot E in Lot H1 of Tract 7 contains 1.86 acres, more or less. Deed Book 409, Page 252. Plat Book 53, Page 19.

Lot H1 Tract 6 of Ericksen Addition to the City of Sioux Falls less Lots D and E in Lot H1 of Tract 6, Minnehaha County, South Dakota. Said Lot H1 Tract 6 less Lots D and E in Lot H1

of Tract 6 contains 0.94 acre, more or less. Deed Book 409, Page 251. Plat Book 53, Page 18.

Lot H1 in Tract 1 of Greenfield's Addition in the SE1/4 of the SW1/4 of Section 1, Township 101 North, Range 50 West of the 5th P.M., Minnehaha County, South Dakota. Said Lot H1 contains 1.04 acres, more or less. Deed Book 447, Page 771. Plat Book 59, Page 58.

Lot H1 in Tract 1A and Lot H1 in Tract 1B of Markey Addition to the City of Sioux Falls, Minnehaha County, South Dakota. Said Lot H1 in Tract 1A contains 0.01 acre (471 sq. ft.), more or less and Lot H1 of tract 1B contains 0.41 acre, more or less. Deed Book 478, Pages 504 and 505. Plat Book 63, Page 219.

Lot H2 in the NW1/4 of Section 12, Township 101 North, Range 50 West of the 5th P.M., Minnehaha County, South Dakota. Said Lot H2 contains 0.32 acre (14,278 sq. ft.) more or less. Deed Book 476, Page 495. Plat Book 63, Page 209.

Lot H1 in the North 16 Rods of the West 15 Rods of the NW1/4 of the NE1/4, Except the West 40 Feet located in the NW1/4 of the NE1/4 of Section 12. Township 101 North, Range 50 West of the 5th P.M., Minnehaha County, South Dakota. Said Lot H1 contains 0.06 acre, more or less. Deed Book 477, Page 444. Plat Book 63, Page 210.

Lot H1 in Lot 1 of Block 1 of the Vocational Technical Addition to the City of Sioux Falls, Minnehaha County, South Dakota. Said Lot H1 contains 0.17 acre, more or less. Deed Book 477, Page 223. Plat Book 63, Page 211.

This resolution will complete the requirements of Exchange Agreement No. 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.

The State will retain and reserve the right to control of access between the Transfer Segment and Interstate 29.

Mitchell Region and Sioux Falls Area DOT recommends the transfer.

A MOTION WAS MADE by Stoick and seconded by Roby to approve the transfers in Minnehaha County. All present voted aye by roll call vote. The motion carried.

RESOLUTION #S 2020 – 8.3, 2020 – 8.4, 2020 – 8.5, and 2020 – 8.6 were adopted.

2. Abandonment – Haakon County

This resolution will abandon the temporary easements on Haakon County Project NH-P 0031(28), PCN 0423.

3. Abandonment – Hughes County

This resolution will abandon the temporary easements on Hughes County Project NH-P 0031(28), PCN 0423.\

4. Abandonment – Jackson County

This resolution will abandon the temporary easements on Jackson County Project NH-P 0031(28), PCN 0423.

5. Abandonment – Stanley County

This resolution will abandon the temporary easements on Stanley County Project NH-P 0031(28), PCN 0423.

6. Abandonment – Gregory County

This resolution will abandon the temporary easements on Gregory County Project NH 0018(188)320, PCN 04EA.

7. Abandonment – Meade County

This resolution will abandon the temporary easements on Meade County Project IM 0901(38)40, PCN 5580.

A MOTION WAS MADE by Foubert and seconded by Stoick to approve the abandonment of temporary easements in Haakon, Hughes, Jackson, Stanley, Gregory, and Meade Counties.

RESOLUTION #S 2020 – 8.7, 2020 – 8.8, 2020 – 8.9, 2020 – 8.10, 2020 – 8.11, and 2020 – 8.12 were adopted.

8. Condemnation – Project IM 0902(112)59, PCN 6568, Pennington County

Request Transportation Commission resolution determining that the taking and damaging of real property interests in and to the following property is necessary for a public purpose and authorizing condemnation:

Parcel A9 – I-90 Amoco, Inc; mortgage – First Western Federal Savings Bank
Parcel CA2 – Moyle Petroleum Company, Inc.

To date, the Department of Transportation has been unable to acquire the real property interests through negotiations for the project IM 0902(112)59, Pennington County, PCN 6568, I90 - Exit 59, (Lacrosse Street) in Rapid City, Structure # 52-420-285, 52-420-286, 52-424-285, Interchange Reconstruction, PCC Surfacing, Auxiliary Lane Addition (West Bound & East Bound), Structure Widening, Deck Overlay, Approach Slabs.

A MOTION WAS MADE by Foubert and seconded by Zander to approved condemnation in Pennington County. All present voted aye by roll call vote. The motion carried.

RESOLUTION #2020 – 8.13 was adopted.

Behm presented the request and supporting documents for the 2021 – 2024 STIP, Transit Improvement Program (TIP), and Metropolitan Planning Organization's Transportation Improvement Programs (MPO TIPs.)

Roby left the meeting due to phone difficulties.

A MOTION WAS MADE by Zander and seconded by Fouberg to approve the STIP as presented in items #6a and 6b in Attachment #13. All present voted aye by roll call vote, except Roby who was absent. The motion carried.

A MOTION WAS MADE by Fouberg and seconded by Zander to approve the TIP and MPO TIP as presented in items #7, 8, 9, and 10 in Attachment #13. All present voted aye by roll call vote, except Roby who was absent. The motion carried.

Commissioner Roby rejoined the meeting at 12:54 p.m. CDT

Doug Kinniburgh, Office of Administration, requested Commission consider and approve the Bridge Improvement Grant (BIG) applications listed on Attachment # 14. Kinniburgh also requested a STIP revision to include the grant awards.

A MOTION WAS MADE by Fouberg and seconded by Zander to approve an award for all the grant applications listed on Attachment #14 under the 2021 BIG for Preliminary Engineering and approve STIP REV 20-061. All present voted aye by roll call vote. The motion carried.

Bridget Carnahan, Environmental Engineer for the Department, and Hilary Morey from the South Dakota Department of Game, Fish & Parks presented to the Commission an informational item on the agencies' Wetland Mitigation Partnership.

Vehle opened the floor to public input. No member of the public addressed the Commission or offered input.

With no other business to come before the Commission, Vehle asked for a motion to adjourn.

A MOTION WAS MADE by Zander and seconded by Fouberg to adjourn the meeting. The Chair declared the meeting adjourned at 1:15 p.m. CDT

FRIEBERG, NELSON & ASK, L.L.P.

ATTORNEYS AT LAW

ROBERT B. FRIEBERG
THOMAS H. FRIEBERG
LARRY A. NELSON
BRENDA M. ASK (SD & IA)
SAMUEL J. NELSON

AUGUST FRIEBERG (1863-1932)
ROSCOE A. FRIEBERG (1903-1982)
BLAINE O. RUDOLPH (1925-2016)

Sender's Address:
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July 29, 2020

Mr. Mike Vehle, Chair
South Dakota Transportation Commission
South Dakota Department of Transportation
700 East Broadway Avenue
Pierre, SD 57501

Re: *Conflict of Interest Disclosure*

Dear Chairman Vehle:

This letter is in response to SDCL § 3-23-1 and SDCL § 3-23-2, and is intended to address whether I, my wife, or any entity in which we have ownership interests derives any direct benefit from a contract or transaction with the State of South Dakota that specifically relates to the South Dakota Department of Transportation and my involvement as an active SDDOT Commissioner.

I am an employee in the law firm of Friberg, Nelson & Ask, L.L.P. The law firm is appointed as a City Attorney for legal services for the municipalities of Hartford, Worthing, Canton, Alcester, Salem, Beresford, Wakonda, and Wagner, all of which are located in South Dakota. Should a situation arise with a SDDOT contract or transaction with any of these municipalities I would disclose any potential conflict at that time.

I have enclosed the completed Annual Disclosure for Commission Member pursuant to SDCL Chapter 3-23, and Request for State Board Waiver pursuant to SDCL Chapter 3-23.

I will continue to review the agenda items for upcoming Transportation Committee meetings and be forthcoming in any potential conflict of interest. Thank you for your consideration.



LARRY A. NELSON
Commissioner
South Dakota Transportation Commission

LAN/src

CC: Darin Bergquist, Secretary of Transportation, SDDOT
Karla Engle, Chief of Legal Counsel, SDDOT

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

THIS IS A PUBLIC DOCUMENT

Name of Member: Larry A. Nelson

Name of Board, Authority or Commission: Transportation Commission

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

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

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

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

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

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

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

Attach additional pages, if necessary.

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

Description of the contract	Parties	Description of the direct benefit	Date contract was authorized
Hired Attorney	Lincoln County Rural Water Systems, Inc. & Frieberg, Nelson & Ask, LLP, law firm	Hired Attorney paid by LCRW for legal services	1996 - Renews yearly
Hired Attorney	City of Canton, South Dakota & Frieberg, Nelson & Ask, LLP, law firm	Hired Attorney paid by the City of Hartford for legal services	1990 - Renews yearly
Hired Attorney	City of Worthing, South Dakota & Frieberg, Nelson & Ask, LLP, law firm	Hired Attorney paid by the City of Worthing for legal services	1994 - Renews yearly
Hired Attorney	City of Hartford, South Dakota & Frieberg, Nelson & Ask, LLP, law firm	Hired Attorney paid by the City of Hartford for legal services	1996 - Renews yearly

Attach additional pages, if necessary.

Please see additional pages attached

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

Description of the Contract	Parties	Description of the direct benefit	Date contract was authorized
Hired Attorney	City of Beresford, South Dakota & Frieberg, Nelson & Ask, law firm	Hired Attorney paid by the City of Beresford for legal services	1992 - Renews yearly
Hired Attorney	City of Alcester, South Dakota & Frieberg, Nelson & Ask, law firm	Hired Attorney paid by the City of Alcester for legal services	2018 - Renews yearly
Hired Attorney	City of Salem, South Dakota & Frieberg, Nelson & Ask, law firm	Hired Attorney paid by the City of Salem for legal services	2018 - until services for cases are no longer required
Hired Attorney for Lincoln County Rural Water System, Inc., who has an agreement with City of Harrisburg & City of Sioux Falls for water line relocation project and use of DOT funds	Lincoln County Rural Water System, Inc, City of Harrisburg, City of Sioux Falls & Frieberg, Nelson & Ask, law firm	Hired Attorney paid by Lincoln County Rural Water Systems, Inc. for legal services	1996 - Serves at pleasure of Board
Legislative Contract Lobbyist	Larry A. Nelson, Samuel J. Nelson & Sioux Falls School District 49-5	Hired lobbyist paid by Sioux Falls School District 49-5 for lobbying services	2014 - original contract date, subsequent yearly renewals
Union County Court Appointments for criminal legal services	Samuel J. Nelson of Frieberg, Nelson & Ask, LLP, law firm, with assistance of Thomas H. Frieberg, Attorney, and Union County	Hired Court Appointed Attorney paid by Union County for legal services to criminal defendants who cannot afford a retained Attorney	January 1, 2016, through December 31, 20__, contract with Union County
Mental Health Board Chairman appointed by Lincoln County Commission, South Dakota	Brenda M. Ask and Lincoln County Commission	Appointed as Co-Chair to the Mental Health Board and paid by Lincoln County for mental health services	Appointed June 2009 and reappointed yearly by Lincoln County Commission

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

Description of the Contract	Parties	Description of the direct benefit	Date contract was authorized
Counsel for the Disciplinary Board of South Dakota Bar Association	Thomas H. Frieberg and South Dakota Bar Association	Hired by and paid by Disciplinary Board of South Dakota Bar Association, which Association receives money from the Attorney General's office	Hired June 2018 by President of the Board as determined by President of the Board
Hired Attorney	University of South Dakota and Thomas Frieberg of Frieberg, Nelson & Ask, LLP, law firm	Hired Attorney for University of South Dakota for legal services	2005 - Renews yearly
Lincoln County Court Appointments for criminal legal services	Brenda M. Ask of Frieberg, Nelson & Ask, LLP, and Lincoln County	Hired by Lincoln County as Court Appointed Attorney paid by Lincoln County for legal services to criminal defendants who cannot afford a retained attorney	Last appointed 2017, appointed as needed by Court
Turner County Court Appointments for criminal legal services	Samuel J. Nelson of Frieberg, Nelson & Ask, LLP, and Turner County	Hired by Turner County as Court Appointed Attorney paid by Turner County for legal services to criminal defendants who cannot afford a retained attorney	Appointed as needed by Court
Hired Attorney	Thomas Frieberg of Frieberg, Nelson & Ask, LLP & Beresford School District	Hired Attorney paid by the Beresford School District	Firm has represented since approximately 1960 – Renews yearly
Hired Attorney	City of Wagner, South Dakota & Thomas Frieberg of Frieberg, Nelson & Ask, law firm	Hired Attorney paid by the City of Wagner for legal services	2014 – Renews yearly

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

Description of the Contract	Parties	Description of the direct benefit	Date contract was authorized
<p>Clay County Court Appointments for criminal legal services</p> <p>Hired Attorney</p>	<p>Samuel J. Nelson of Frieberg, Nelson & Ask, LLP, and Clay County</p> <p>City of Wakonda, South Dakota & Thomas Frieberg of Frieberg, Nelson & Ask, law firm</p>	<p>Hired by Clay County as Court Appointed Attorney paid by Clay County for legal services to criminal defendants who cannot afford a retained attorney</p> <p>Hired Attorney paid by the City of Wakonda for legal services</p>	<p>Placed on appointment list December 2018, will be appointed as needed by Court</p> <p>2018 – Renews yearly</p>

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

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

Attach additional pages, if necessary.

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

Signature of Member:



Date:

7/29/2020
7/29/2020

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 7-29-2020

Brief explanation of contract for which a waiver is requested:

1.
 - a) Samuel J. Nelson, Frieberg, Nelson & Ask, LLP, law firm and Sioux Falls School District 49-5.
 - b) Larry A. Nelson is an employee in the law firm of Frieberg, Nelson & Ask, LLP.
 - c) Sioux Falls School District 49-5 is represented and lobbied on behalf of during each South Dakota Legislative Session.
 - d) Lobbying services are provided in exchange for payment.
 - e) 2018, until no longer serving as Lobbyist by Sioux Falls School District 49-5.
2.
 - a) Thomas Frieberg, Frieberg, Nelson & Ask, LLP, law firm and Disciplinary Board of South Dakota.
 - b) Larry A. Nelson is an employee in the law firm of Frieberg, Nelson & Ask, LLP.
 - c) Thomas Frieberg is retained as Counsel for the Disciplinary Board of South Dakota and provides legal services.
 - d) Legal services are provided in exchange for payment.
 - e) June 2018, until no longer serving in capacity as Attorney for the University of South Dakota.

July 24, 2020

Mr. Mike Vehle
Chairman, South Dakota Transportation Commission
South Dakota Department of Transportation
700 East Broadway
Pierre, SD 57501

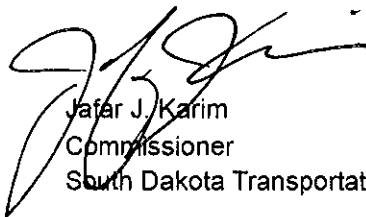
RE: Conflict of Interest Disclosure

This letter is in reference to SDCL § 3-23-1 and § 3-23-2, and is intended to certify that neither I, my spouse, nor any entity in which we have an ownership interest derives any direct benefit from a contract or transaction with the State of South Dakota that specifically relates to the South Dakota Department of Transportation and my involvement as an active SDDOT Commissioner.

I am employed by Black Hills Service Company, LLC ("BHSC"). While my employer is not party to any agreement that would require disclosure under South Dakota law, an electric utility affiliate of BHSC, Black Hills Power, Inc., may enter into agreements from time to time related to crossing South Dakota highways, or transmission right of way agreements. These agreements would occur in the normal course of business and generally do not involve the exchange of financial consideration.

Please be advised that I will continue to review the agenda items for upcoming SDDOT commission meetings and will be forthcoming in disclosing any potential conflict of interest, including any potential conflicts of interest involving my employer, or an affiliate of my employer.

Sincerely,



Jafar J. Karim
Commissioner
South Dakota Transportation Commission

CC: Darin Bergquist, Secretary of Transportation, SDDOT
Karla Engle, Chief Legal Counsel, SDDOT

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

THIS IS A PUBLIC DOCUMENT

Name of Member:

JAFAR J. KARIM

Name of Board, Authority, or Commission:

SD TRANSPORTATION Commission

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

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

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

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

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

1. **Contracts in which you have an interest pursuant to SDCL Chapter 3-23 and which do not violate any other provision of law** – Provide the following for each contract in which you have, or will have, an interest. For further information see SDCL 3-23-2.1 and 3-23.3.1.

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

Attach additional pages, if necessary.

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

Description of the contract	Parties	Description of the direct benefit	Date contract was authorized

Attach additional pages, if necessary.

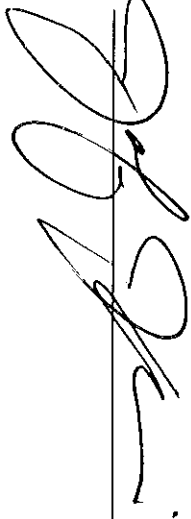
3. Entities in which you possess an ownership interest of five percent or more that receive grant money from the State, either directly or by a pass-through grant, or that contract with the State or any political subdivision for services – Provide the following for each such entity. See SDCL 3.23-3.1.

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

Attach additional pages, if necessary.

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

Signature of Member



Date

July 24, 2020

State Authorities/Boards/Commissions - Annual Disclosure Form

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

THIS IS A PUBLIC DOCUMENT

Name of Member: Rodney Fouberg

Name of Board, Authority or Commission: South Dakota Transportation Commission

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

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

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

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

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

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

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

add row

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

Description of the contract	Parties	Description of the direct benefit	Date contract was authorized
Agreement for Voluntary Right of way Donation. Perpetual Easement for Shared Use Path/Recreational Trail. Project Number P-Tapu (13) PCN 05C9. Aberdeen SD project number 7 1/24/18 SDDOT letting. 0.296 acres 5' wide by 2,581' long. Dated 16th day of January 2017. Easement donated. One dollar (\$1.00) and other good and valuable consideration.	Glenna N. Fouberg-Donor City of Aberdeen, SD- Donee	I, Rodney Fouberg am the husband of Glenna N. Fouberg Donor.	1/16/2017

add row

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

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

add row

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

Signature of Member:

Rodney Fouberg

Date:

7/24/20