

SOUTH DAKOTA TRANSPORTATION COMMISSION MEETING MINUTES

Thursday, April 25, 2024 at 9:00 a.m. CST

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

COMMISSIONER PRESENT: Don Roby Vice-chairman
Jaf Karim
Ron Rosenboom
Austin Simons
Mike Vehle

COMMISSIONERS PRESENT

VIA CONFERENCE CALL: Larry Nelson

DOT STAFF PRESENT: Karla Engle, John Keyes, Joanne Hight, Mark Leiferman, Christina Bennett, Sam Weisgram, Becky Hoffman, and Kari Kroll

DOT STAFF PRESENT:

VIA CONFERENCE CALL: Mike Behm, Shane Pullman, and Mark Peterson

OTHERS PRESENT: Bob Mercer – Keloland

OTHERS PRESENT

VIA CONFERENCE CALL: Audrey Ricketts – Department of Veteran Affairs; Jason Reaves – South Dakota Concrete Pavement Association; and Toby Crow – Association of General Contractors

Vice-chairman Don Roby called the meeting of the South Dakota Transportation Commission (the “Commission”) to order at 9:00 a.m. CST. A roll call was taken and a quorum was present.

Roby 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) chapters 3 – 23.

Karla Engle, Office of Legal Counsel, presented to the Commission a waiver request for Commissioner Austin Simons concerning a potential conflict of interest on bid #7 on Attachment #7 of the Commission packet. A copy of the waiver is included with these minutes as **ATTACHMENT A**. Engle explained that Commissioner Simons would be recusing himself from the discussion and vote on this item.

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

Roby asked for any other potential conflicts of interest. No other members of the Commission disclosed a conflict or requested a waiver.

Roby asked for a motion to approve the March 28, 2024 Commission meeting minutes.

A MOTION WAS MADE by Vehle and seconded by Simons to approve the March 28, 2024 Commission meeting minutes with the edits requested by Karim. All present voted aye by roll call vote. The motion carried.

Roby asked for a motion to approve the April 11, 2024 Commission meeting minutes.

A MOTION WAS MADE by Karim and seconded by Vehle to approve the April 11, 2024 Commission meeting minutes. All present voted aye by roll call vote. The motion carried.

Karla Engle, Office of Legal Counsel, requested the Commission set a hearing date of May 23, 2024 to consider amendments to Administrative Rules of South Dakota (ARSD) 70:01:02:02 – Pennington County Speed Zone Rule; 70:01:02:06 – Brookings County Speed Zone Rule; 70:01:02:15 – Butte County Speed Zone Rule; 70:01:02:21 – Custer County Speed Zone Rule; 70:01:02:49 – Meade County Speed Zone Rule; and 70:01:02:53 – Perkins County Speed Zone Rule.

A MOTION WAS MADE by Vehle and seconded by Simons to set the administrative hearing date for May 23, 2024. All present voted aye by voice vote. The motion carried.

RESOLUTION #2024 – 4.1 was adopted.

Engle introduced the amended Transportation Loan Information Sheet and summarized the changes that were made at the request of the Commission.

The Commission requested that the matrix be divorced from the document but be made available to loan applicants and the Commission. The discussion revolved around the interest rate noted on the document and if there should be a benchmark rate.

A MOTION WAS MADE by Nelson and seconded by Karim to approve the document with the deletion of the matrix.

A SUBSTITUTION MOTION by Nelson and seconded by Karim to approve the document with the removal of the matrix and to replace the word “sites” with “cities” throughout the document. All present voted aye by roll call vote. The motion carried.

Engle gave an update on the status of the challenge to the Federal Highway Administration (FHWA) Greenhouse Gas Emission Rule. She noted that on April 1, 2024 the judge declared the rule exceeded statutory authority and was arbitrary and capricious. The Plaintiff states conferred with FHWA and all parties made a joint filing stating FHWA will abide by the court's declaration and will not enforce the rule against the Plaintiff states and their municipal planning organizations unless the ruling is overturned. Consequently, the parties agreed the Plaintiff states' request for a permanent injunction could be dismissed without prejudice.

Roby opened the floor to public input.

No members of the public addressed the Commission nor offered input.

Christina Bennett, Division of Operation Support, presented to the Commission for Commission consideration the Fallen Hero Bridge dedication recommendations. Bennett shared the process for the selection by the Department of Veteran Affairs. There are 12 bridges recommended to honor 15 veterans – two bridges would honor siblings.

A MOTION WAS MADE by Rosenboom and seconded by Simons to approve the twelve Fallen Hero Bridge dedications as presented. All present voted aye by roll call vote. The motion carried.

Ryan Johnson, Division of Operations Support, presented the following informational Construction Change Orders (CCO) to the Commission.

CCOs completed in March contain an increase of \$528,512.97. Over the past 12 months, the overall contract increase is 2.44%.

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

ABERDEEN REGION

1. Project: NH-CR 0081(127)119, Hamlin & Kingsbury County, PCN 08XW
Location: US81 from Arlington to SD28
Contractor: Bituminous Paving, Inc.
Type of Work: cold milling, asphalt concrete resurfacing, shoulder surfacing

Original Contract Amount:	\$	9,528,149.55
Change on CCO No. 1:	\$	120,814.00
Net Change to Date:	\$	120,814.00

Explanation of Change on CCO No. 1: This increase is the result of SDDOT compensating the contractor for extra work to correct several pipe locations that had reacted severely to frost. The plans were to include this work but was left out due to an error. Work includes removing the in-place surfacing and soils, cutting the backslope to a 3:1 grade, backfilling with base course, and placing 2-2.5" lifts of asphalt concrete.

MITCHELL REGION

2. Project: IM 2292(103)2, Minnehaha County, PCN 06CF
Location: I-229 at Exit 2 (Western Avenue) in Sioux Falls
Contractor: T & R Contracting, Inc.
Type of Work: ramp improvement, LSDC overlay, approach slabs, approach pavement, replace pedestrian rail

Original Contract Amount:	\$	2,603,333.33
Change on CCO No. 1:	\$	110,695.54
Net Change to Date:	\$	110,695.54

Explanation of Change on CCO No. 1: This increase is the result of SDDOT adjusting the contract quantities of numerous items to match as built quantities through normal project variations.

3. Project: IM EM 0908(97)362, McCook & Minnehaha County, PCN 05T3
Location: I-90 WBL from 2 miles west of Humboldt to 2 miles east of Hartford
I-90 WBL at Exit 379
I-90 structure .4 miles west of Exit 390 over a creek
Contractor: Reede Construction, Inc.
Type of Work: remove & replace PCC surfacing, replace structure, grading, pipe work

Original Contract Amount:	\$	35,664,101.48
Change on CCO No. 7:	\$	57,959.30
Net Change to Date:	\$	111,061.45

Explanation of Change on CCO No. 7: This increase is the result of SDDOT compensating the contractor for extra work to repair damaged ROW fence discovered on the project.

4. Project: NH TA 0100(108)407, Lincoln County, PCN 01V6
 Location: Veteran’s Parkway - from Western Avenue to Cliff Avenue
 Contractor: John Riley Construction, Inc.
 Type of Work: grading, structure, MSE retaining wall, PCC surfacing, curb & gutter, storm sewer

Original Contract Amount:	\$	47,933,520.32
Change on CCO No. 7:	\$	96,109.31
Net Change to Date:	\$	247,475.78

Explanation of Change on CCO No. 7: This increase is the result of SDDOT compensating the contractor for extra work to furnish and install drainage pipes inadvertently left out of the plans resulting in drainage problems.

PIERRE REGION

5. Project: P 000S(00)287, Pierre Region, PCN 07DU
 Location: Various locations in the Pierre Region
 Contractor: Traffic Solutions, Inc.
 Type of Work: County pavement markings

Original Contract Amount:	\$	158,917.55
Change on CCO No. 1F:	\$	52,769.00
Net Change to Date:	\$	52,769.00

Explanation of Change on CCO No. 1F: This increase is the result of SDDOT compensating the contractor additional pavement markings due to normal variations in the county pavement marking job.

6. Project: P 1806(16)138, Lyman & Stanley County, PCN 04XW
 Location: SD1806 from SD273 north 11.3 miles to the Lyman/Stanley County line
 SD1806 - 6.4 NW of SD271 Over Cedar Creek
 6.7 NW of SD271 Over Straight Creek
 Contractor: Morris Inc.
 Type of Work: spot grading, cold milling, asphalt concrete resurfacing, pipe work, approach guardrail, erosion repair

Original Contract Amount:	\$	9,135,064.50
Change on CCO No. 4:	\$	143,500.00
Net Change to Date:	\$	143,500.00

Explanation of Change on CCO No. 4: This increase is the result of SDDOT compensating the contractor for an extra 1000 tons of asphalt concrete that was needed for additional spot leveling, strengthening, and repair.

7. Project: NH 0212(182)187, Dewey & Potter County, PCN 05EN
 Location: US212 from La Plant to the west junction of US83
 Contractor: Border States Paving, Inc.
 Type of Work: cold milling, asphalt concrete resurfacing, pipe work, landslide repair

Original Contract Amount: \$ 20,993,728.92
 Change on CCO No. 4: \$ (81,450.34)
 Net Change to Date: \$ (37,737.39)

Explanation of Change on CCO No. 4: This decrease is the result of SDDOT adjusting contract quantities of pavement removal, asphalt binder, and asphalt concrete through normal project variations.

RAPID CITY REGION

8. Project: NH 0044(220)46, Pennington County, PCN 04PD
 Location: SD44 from La Crosse Street to Covington Street in Rapid City
 Contractor: TI-ZACK Concrete, Inc.
 Type of Work: ADA curb ramps, sidewalks, signals, intersection improvement

Original Contract Amount: \$ 5,674,360.56
 Change on CCO No. 4: \$ 166,329.79
 Net Change to Date: \$ 117,454.84

Explanation of Change on CCO No. 4: This increase is the result of SDDOT compensating the contractor for extra work and materials to modify the traffic signal controllers, signal parts, and software to be able to communicate with the other local traffic signals.

9. Project: P 6403(10), Pennington County, PCN 08P3
 Location: South Rochford Road from Rochford southwest to Deerfield
 Contractor: Loiseau Construction, Inc.
 Type of Work: grading, drainage, base course, asphalt concrete surfacing

Original Contract Amount: \$ 23,381,920.13
 Change on CCO No. 7: \$ 134,127.00
 Net Change to Date: \$ (341,988.47)

Explanation of Change on CCO No. 7: This increase is the result of SDDOT settling a claim.

10. Project: PH 0034(202)12, Butte & Lawrence County, PCN 06UM
 Location: SD34 from Belle Fourche to Whitewood
 Contractor: Bituminous Paving, Inc.
 Type of Work: asphalt concrete surfacing, passing lanes, intersection improvements, pipe work

Original Contract Amount: \$ 10,186,452.80
 Change on CCO No. 6: \$ (180,860.46)
 Net Change to Date: \$ 61,379.84

Explanation of Change on CCO No. 6: This increase is the result of SDDOT adjusting contract quantities of various items through normal project variations and quality adjustments.

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

April 17, 2024

Replace Structure (189' Prestressed Girder, 262' Steel Girder), Approach Grading

1	05V1, 03AL NH 0012(221)278, P 0010(135)294 Robert R. Schroeder Construction Inc. US12 - Str 0.1 E of the Brown/Edmunds Co Line Over Snake Creek; SD10 - Str 2.7 W Of Houghton over the James River	Brown County \$10,418,223.64
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Rectangular Rapid Flashing Beacon Installation

3	08LF NH 0034(00)387 Dakota Traffic Services, LLC SD34 - Jct of 4th St SE in Madison	Lake County \$37,591.83
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Asphalt Surface Treatment

8	097C NH-P 0023(68) The Road Guy Construction Company Inc Various Locations in the Yankton Area	Bon Homme, Charles Mix, Clay, Hutchinson, Yankton County \$3,807,848.89
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Durable Pavement Marking

10	05VP PH 0030(37) Traffic Services Company LLC Various locations on the State System in the Pierre Region	Bennett, Jackson, Lyman County \$80,097.20
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Rout & Seal

11	0969 NH 0043(248) Highway Improvement, Inc Various Locations in the Custer Area	Custer, Fall River County \$117,478.70
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A MOTION WAS MADE by Karim and seconded by Vehle to approve bids # 1, 3, 8, 10, and 11. All present voted aye by roll call vote. The motion carried.

Bridge Deck Polymer Chip Seal, Approach Slabs, Bridge Rail

2	07D8 IM-NH-P 0012(290)	Grant, Roberts County
	BX Civil & Construction, Inc.	\$2,637,763.20
	Various Locations Throughout the Watertown Area	

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.

Pavement Restoration

4	097D NH-P 0040(355)	Butte, Custer, Fall River, Lawrence, Pennington County
	Interstate Improvement, Inc.	\$3,262,909.35
	Various Locations in the Rapid City Region	

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

Cold Milling, Asphalt Concrete Resurfacing, Full Depth Reclamation

5	06R0 P 0034(206)245	Hughes, Hyde County
	Anderson Western, Inc.	\$5,571,584.70
	SD34 - Fm Hughes/Hyde Co Line to the SD47 N Jct	

Cold Milling, Asphalt Concrete Resurfacing

6	06T0 P 0034(208)212	Hughes County
	Anderson Western, Inc.	\$2,118,589.76
	SD34, SD34 E & W - Fm Cleveland Ave to Farm Island Rd in Pierre	

A MOTION WAS MADE by Simons and seconded by Rosenboom to approve bids #5 and 6. All present voted aye by roll call vote. The motion carried.

Commissioner Austin Simons recused himself from consideration of Bid Item 7 at 10:02 a.m. and took a seat in the gallery.

Asphalt Surface Treatment

7	0972 NH-P 0032(44)	Campbell County
	Jensen Rock & Sand, Inc.	\$808,358.03
	Various Locations in the Mobridge Area	

A MOTION WAS MADE by Rosenboom and seconded by Vehle to approve bid #7. All present voted aye by roll call vote except Simons who'd recused himself. The motion carried.

Simons re-joined the Commission at 10:03 a.m.

Centerline Rumble Stripes

9 09FN PH 0010(229) Beadle, Brookings, Clark, Deuel, Faulk, Grant, Hand, Kingsbury, Roberts County

Diamond Surface, Inc
Aberdeen Region

\$5,639,914.39

A MOTION WAS MADE by Vehle and seconded by Rosenboom to approve bid #9. All present voted aye by roll call vote. The motion carried.

John Keyes, Program Manager for the Office of Right of Way, presented the following items to the Commission for their consideration.

1. Request Transportation Commission approval to grant an amended parking lot permanent easement to ZCN, LLC of Deadwood, South Dakota upon the following DOT property:

Lot H2 in Lot 31, Block 33, O.T., City of Deadwood, Lawrence County, South Dakota.

Lot H2 is located in Deadwood on the south side of Pine Street between Hwy 14A and Sherman Street. The property contains a raised driveway over it that provides truck access to the Deadwood Mountain Grand from the Parking area to the East.

DOT previously granted a permanent parking lot easement for Lot H2 to Deadwood City Limits, LLC (dated July 9, 2003 and recorded as Doc. No. 2003-4969). ZCN, LLC is the successor in interest to Deadwood City Limits, LLC.

The 2003 easement failed to identify the real property to which the easement granted therein is appurtenant, and the parties desire to correct and amend the easement to identify the property described below as the real property to which the easement granted therein is appurtenant (the **"Benefitted Property"**):

Lot A, being a Subdivision of the Lawrence County Courthouse Lot, located in the Southeast Quarter of Section 22 and the Southwest Quarter of Section 23, Township 5 North, Range 3 East, B.H.M., Original Town, City of Deadwood, Lawrence County, South Dakota, according to the Plat recorded as Plat Document No. 2003-1444.

A MOTION WAS MADE by Simons and seconded by Rosenboom to approve the amendment to the permanent easement in Lawrence County. All present voted aye by roll call vote. The motion carried.

2. Request Transportation Commission approval to abandon by resolution the temporary easements on Brown County Project NH 0012(289)289, PCN 04PF.
3. Request Transportation Commission approval to abandon by resolution the temporary easements on McCook County Project ER-P 0038(52)330, PCN 07N9.
4. Request Transportation Commission approval to abandon by resolution the temporary easements on Tripp County Project NH 0018(193)252, PCN 04FD.

A MOTION WAS MADE by Karim and seconded by Simons to approve the abandonment of temporary easements in Brown, McCook, and Tripp Counties. All present voted aye by roll call vote. The motion carried.

RESOLUTIONS #2024 – 4.2, 2024 – 4.3 and 2024 – 4.4 were adopted.

Mark Leiferman, Program Manager for the Office of Project Development presented the following STIP revisions for the Commission consideration:

FOR COMMISSION APPROVAL

(to add or delete a project in the 4-year construction STIP)

REV 24-043

This revision will add a FY2027 corridor modification project for 278th St from SD115 to SD11 in Lincoln County and other impacted corridors in the Mitchell Region. Detailed improvements and locations will be determined by a study.

FY 2027 Plus \$552,000

A MOTION WAS MADE by Simons and seconded by Karim to approve STIP revision #REV 24-043. Karim, Rosenboom, Simons, Vehle, and Roby voted aye and Nelson voted nay by roll call vote. The motion carried.

With no further business to come before the Commission, Vice-chairman Roby declared the meeting adjourned at 10:29 a.m. CT.

REQUEST FOR STATE BOARD WAIVER

THIS IS A PUBLIC DOCUMENT

Date: 4/25/24

Name of Board Member or Former Board Member: Austin Simons

Name of Board, Authority or Commission: SD Dot Transportation Commission

Brief explanation of your potential conflict of interest:

Attachment #7 Bid Awards Item # 7
for 4/25/24 Meeting

Brief explanation of the current or anticipated business transaction with a State agency or with a political subdivision of the State and your role in the transaction:

Brief explanation of the essential terms of the contract or transaction.

Brief explanation of why you believe a waiver should be granted:

Thorstenson Trucking, the company I own, is contracted by
Jensen Rock & Sand for Hauling Hot Oil.

Signature of Person Requesting Waiver: 