



**MISSOURI HIGHWAYS AND TRANSPORTATION  
COMMISSION**

**Official Minutes**

**TABLE OF CONTENTS**

**August 7, 2019**

**VOTE TO CLOSE MEETING ..... 5**

**COMMISSION/DIRECTOR ITEMS**

**Approval of Minutes ..... 6**

**Consent Agenda ..... 6**

**Commission Committees and Commission Related Boards ..... 7**

**Director’s Report ..... 7**

**PUBLIC PRESENTATIONS**

**Presentation by the City of Maryville ..... 10**

**Presentation by the Nodaway County Commission..... 12**

**PUBLIC COMMENTS**

**Public Comment Regarding Rest Area Contracts..... 13**

**Public Comment Regarding Lettered Roads ..... 14**

**MODOT PRESENTATIONS**

**Northwest District Flood Response and Recovery..... 14**

**Northwest District Low Volume Roads ..... 16**

**MoDOT Aviation Section Update ..... 18**

**2020-2024 Missouri Road and Bridge Program..... 21**

**Transportation Funding..... 23**

**RESOLUTIONS**

**Resolution Expressing Appreciation to Governor Mike Parson for Outstanding Support  
to the Missouri Department of Transportation ..... 24**

**Resolution Expressing Appreciation to Justin Alferman for Outstanding Service  
to the State of Missouri..... 25**

**Resolution Expressing Appreciation To Brian Kidwell for Outstanding Service  
to the State of Missouri..... 25**

**ADMINISTRATIVE RULES/POLICIES**

**Commission Policy Review – Enterprise Risk Management Category ..... 27**

**BUSINESS ISSUES**

**Westside Intermodal Transportation Corporation and Appointment of Board Members..... 35**  
**Rest Areas, Welcome Centers and Truck Parking Management Services Renewal..... 35**

**STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM (STIP)**

**Consideration of Bids for Transportation Improvements ..... 36**  
**Request for Approval of Design of Highway..... 37**

**REPORTS**

**MoDOT Briefing Report ..... 39**  
**Financial – Budget – Reports: Year-to-Date Financial Report, Period Ending June 30, 2019.... 39**  
**Consultant Services Contract Report ..... 39**

**MINUTES OF THE REGULARLY SCHEDULED HIGHWAYS AND  
TRANSPORTATION COMMISSION MEETING HELD IN  
MARYVILLE, MISSOURI, WEDNESDAY, AUGUST 7, 2019**

A regularly scheduled meeting of the Missouri Highways and Transportation Commission was held on Wednesday, August 7, 2019, at the Mozingo Lake Conference Center, 25055 Liberty Road, Maryville, Missouri. Michael B. Pace, Chairman, called the meeting to order at 8:00 a.m. The following Commissioners were present: Gregg C. Smith, Michael T. Waters, Jr., Robert G. Brinkmann, P.E., and Terry L. Ecker. John W. Briscoe was absent.

The meeting was called pursuant to Section 226.120 of the Revised Statutes of Missouri, as amended. The Secretary verified that notice of the meeting was posted in keeping with Section 610.020 of the Revised Statutes of Missouri, as amended.

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Patrick McKenna, Director of the Missouri Department of Transportation; Rich Tiemeyer, Chief Counsel for the Commission; and Pamela J. Harlan, Secretary to the Commission, were present on Wednesday, August 7, 2019.

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*“Department” or “MoDOT” herein refers to Missouri Department of Transportation.  
“Commission” or “MHTC” herein refers to Missouri Highways and Transportation Commission.*

**-- CLOSED MEETING --**

**VOTE TO CLOSE MEETING**

The agenda of the closed meeting was posted in keeping with Sections 610.020 and 610.022, RSMo, including the following statutory citations allowing the meeting to be closed:

1. Section 610.021(1) – Legal actions and attorney-client privileged communications.
2. Section 610.021(3), (13) – Personnel administration regarding particular employees.
3. Section 610.021(11), (12) – Competitive bidding specs, sealed bids, or negotiated contracts.

Upon motion duly made and seconded to convene in closed session, the Chairman called for a voice vote of the members. The vote was as follows:

Commissioner Pace, Aye  
Commissioner Smith, Aye  
Commissioner Waters, Aye  
Commissioner Briscoe, Absent  
Commissioner Ecker, Aye  
Commissioner Brinkmann, Aye

The Commission met in closed session on Tuesday, August 6, 2019, at 3:00 p.m. and adjourned at 5:30 p.m.

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**-- OPEN MEETING --**

**COMMISSION/DIRECTOR ITEMS**

**APPROVAL OF MINUTES**

Upon motion by Commissioner Smith, seconded by Commissioner Brinkmann, the Commission unanimously approved the minutes of the regular meetings held June 5, 2019, and July 10, 2019. Commissioner Waters abstained from voting on the minutes. The Chairman and Secretary to the Commission were authorized and directed to sign and certify said minutes and to file same in the office of the Secretary.

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**CONSENT AGENDA**

**Consent Agenda Process**

In order to make the most efficient use of Commission meeting time and to ensure Commission members are well informed on issues requiring their action, staff prepares and submits to the Commission members, in advance of their meeting, internal memoranda consisting of advice, opinions, and recommendations related to the items of the Commission meeting agenda. Those items considered by staff to be of a routine or non-controversial nature are placed on a consent agenda. During the meeting, items can be removed from the consent agenda at the request of any one Commission member. The items that are not removed from the consent agenda are approved with a single motion and unanimous vote by a quorum of the members.

Minutes reflecting approval of items on the consent agenda are singly reported herein and intermingled with minutes reflecting action on related subjects that were openly discussed. Reference to “consent agenda” is made in each minute approved via the process described in the paragraph above. Minutes reflecting action on items removed from the consent agenda and openly discussed reflect the open discussion and vote thereon.

## **Consideration of August 7, 2019, Consent Agenda**

No items were removed from the consent agenda. Upon motion by Commissioner Waters, seconded by Commissioner Ecker, the consent agenda items were unanimously approved by a quorum of Commission members present.

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## **COMMISSION COMMITTEES AND COMMISSION RELATED BOARDS**

The Commission has two standing committees: Audit and Legislative. In addition, it elects Commission representatives to two boards: Missouri Transportation Finance Corporation Board of Directors and MoDOT and Patrol Employees' Retirement System Board of Trustees. The following committee and board reports were made during the August 7, 2019, meeting.

**Audit Committee** – Commissioner Waters stated there was no report and the next Audit Committee meeting is in September.

**Legislative Committee** – Commissioner Smith stated there was no report this month.

**Missouri Transportation Finance Corporation (MTFC)** – Commissioner Smith stated there was no report this month and the next meeting will be in October.

**MoDOT and Patrol Employees' Retirement System (MPERS)** – Commissioner Smith stated the MPERS board members attended the MAPERS conference in July to meet their educational requirements. No meetings have taken place to report on today and the next meeting is scheduled for September 26, 2019. Director McKenna reported the Senate has formed a committee to study the MoDOT and Patrol Employees Retirement System (MPERS). The committee will review MPERS operating expenses and management fee structure. An organizational meeting was held at the end of July and the committee will meet on September 11, 2019.

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## **DIRECTOR'S REPORT**

During the August 7, 2019, Commission meeting, Director Patrick McKenna provided the following report:

**Senior Management Positions Filled** – Director McKenna was pleased to announce that Jerica Holtsclaw was selected to be the new Motor Carrier Services Director. Her appointment was effective August 1, 2019. Ms. Holtsclaw’s most recent position with the department was the Planning and Programming Coordinator for the Transportation Planning Division. The Director also announced that David Silvester was selected to serve as the new District Engineer for the Kansas City District effective September 1, 2019. Mr. Silvester is replacing Brian Kidwell who is retiring. Mr. Silvester currently serves as the Central District Engineer.

**INFRA Grant** – Director McKenna reported over two weeks ago the department learned that Missouri had received an \$81.2 million Infrastructure for Rebuilding America (INFRA) grant which will enable MoDOT to replace the I-70 Rocheport Bridge and to build climbing lanes on I-70 at Mineola Hill. It is the largest competitive grant the department has ever received.

Building a new I-70 bridge at Rocheport will provide connectivity and mobility to commuters, travelers, and freight carriers for the next 100 years and will avoid the traffic snarls that would have happened during a short-term rehabilitation project that would have happened next year had pursuit of the grant not been successful. This grant will also trigger \$301 million in bonding, authorized by the Missouri General Assembly during the 2019 session, that will repair or replace another 215 bridges across the state. Those bonds will be repaid out of state General Revenue over a seven-year period. Thus, freeing up \$301 million that was already committed to these bridge projects in the current STIP to enable other high-priority transportation needs across the state. Those projects will be identified in cooperation with local planning partners.

When adding together the \$81.2 million of the INFRA Grant, plus the \$301 million in bonding, along with the \$50 million in general revenue for 45 bridges, and the State’s new \$50 million cost-share program – that’s an infusion of more than \$400 million into Missouri’s transportation infrastructure.

The department is sincerely appreciative of Governor Parson for his leadership and commitment to Missouri’s infrastructure needs. This could not have happened without his determination and unwavering support of infrastructure investment. Senator Blunt, Senator Hawley, Representative Graves, and Representative Hartzler, along with other members of the Congressional delegation, are also to be commended for keeping the project top of mind in the nation’s capital. Appreciation was also expressed to leaders in the City of Columbia, the City of Boonville, and Boone and Cooper counties for their commitment of local funds that when leveraged with state and federal dollars will make a new bridge a reality.



The challenge now is to deliver these projects in the most efficient manner possible to show the General Assembly and the people of Missouri just what MoDOT can accomplish when there are additional transportation resources.

**State Fair** – The Missouri State Fair starts on August 8, in Sedalia, running through August 18. MoDOT will have a number of volunteers manning the Highway Gardens that will feature displays that highlight Missouri’s transportation system and promote highway safety. The new Missouri state map will also be available at the fair for the first time.

**Meritorious Safety Award** – Director McKenna and Kevin James, Northeast District Assistant District Engineer, recognized Robert Deters, a Maintenance Supervisor at the Canton building in the Northeast District, who recently earned the Meritorious Safety Award. This award recognizes an employee for actions during an emergency or life-threatening event. Mr. Deters is the 136<sup>th</sup> MoDOT employee to earn the Meritorious Safety Award since its inception in 1991. During a flooding incident, Mr. Deters was an initial responder going out to try to keep the roads safe. An elderly lady drove into water over Route 16 and her car stalled in the water. This is a place that floods frequently. Robert has lived in this area all of his life and knows the road and the flash flooding that frequently occurs. Because of the location, he knew it would take too long for a response from many of the emergency responders before the water rose further and swept her car away. The water was eight inches deep at the time and rising quickly. Mr. Deters drove out to her, helped her out of the car, and helped her get into his truck. He backed out and helped her into a state patrolman’s car. He then drove around to the other side to block the road until the department was able to close the road. Less than an hour later, this location had water that was three feet deep. Mr. Deters knew there was no time to wait to assist the lady before the situation could have turned deadly for her or for emergency responders. They would not have made it to the location until the water was much deeper. He acted very quickly on his feet to prevent the disaster. Mr. Deters is a person who models MoDOT’s values as evidenced by his commendable actions.

**Award** – Last week, the new MoDOT website won an award at the annual conference of Transcomm, which is the AASHTO Subcommittee on Communications. This is the third national award the website has won since it was redesigned a year ago. Congratulations were extended to Matt Hiebert, Assistant Communications Director, and the web team for their great work on providing this improved communications tool to MoDOT’s customers.

**Innovations Challenge** – Last year the department made improvements to ensure that the innovations displayed in the Innovations Challenge were easier to implement, mainly by providing an ordering and

funding source. This resulted in the implementation of over 4,500 of those ideas across the state. That process will take place again this year.

To make it easier to find and implement the innovations that were in the project and production categories, this year there will be one SharePoint location that shares the best practices. All innovations on display at the Innovations Challenge Showcase in April were recently evaluated by management and thanks to a good showing by districts and divisions at the showcase, 34 innovations fell into the category of approved best practices. For the third year in a row, every district and Central Office had at least one best practice approved. Central Office took the lead this year with nine best practice innovations and the Northwest District and Southwest District with seven each.

The Director noted it is amazing the ideas that are submitted for the Innovations Challenge and each year seems to get better and better. He is looking forward to the kick off for the 2020 Challenge that is just around the corner.

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## **PUBLIC PRESENTATIONS**

### **PRESENTATION BY THE CITY OF MARYVILLE**

City Manager Greg McDanel was pleased to share the City of Maryville received a \$10.4 million Better Utilizing Investments to Leverage Development (BUILD) Grant. This grant will upgrade the South Main Corridor (old US 71) in Maryville. This is a critical corridor for the community as it includes healthcare, education, industry, retail, and housing. Sixty-two percent of retail sales in Nodaway County occur along this corridor. This corridor also has potential for future economic growth and serves as the first impression of the community. There are numerous challenges to this project including the absence of a grid system, lack of safe pedestrian features, a wide road bed, conflicting left turn movements, aesthetics, traffic congestion, storm drainage, and financing.

The city adopted a comprehensive plan in 2012 which identified this project as a top priority. In 2014 a traffic corridor study was completed. This study found a high volume of traffic, with rear end traffic crashes, a bottleneck at South Avenue intersection, and a three lane section of roadway. The traffic study recommended the project be constructed in three phases, and that the project address access

management guidelines, storm drainage, pedestrian features, as well as aesthetic improvements. The total project cost was estimated at \$12 million.

The project includes construction of additional lanes, beautification, and trails. Phase I engineering began in 2016. Then the community approved the half cent capital improvement sales tax in April 2017. Most of the design is complete for Phase I. In June 2018 the community began the application process for the BUILD grant. The application outlined the \$12.5 million project that sought \$10.5 million in federal funds and would provide a local match of \$2 million even though no local match is required. The application included a benefit cost analysis that indicated \$80 million in benefits over the thirty year lifetime of the improvement. Additionally, the application included significant letters of support from Representative Graves, Senator Blunt, Governor Parson, Representative Andrews, Senator Hegeman, education, industry, business, and MoDOT.

On December 6, 2018, the community was awarded the \$10.5 million grant. Soon thereafter, SK Design Group, Inc. was selected for the continued design of the project, and the Northwest Regional Council of Governments was selected to administer the project. This grant allows construction to occur as one phase instead of three phases, reducing disruption, and providing cost savings in design and construction as there will be less inflation of those costs over time.

The project schedule allows for engineering that is going on currently, with property owner and citizen meetings over the next six months. Then the project will go to bid in March 2020 with construction and obligation in July 2020. Construction will last approximately eighteen to twenty-four months.

In addition to the work on the South Main Corridor, there are more projects the city needs to improve the area's transportation system. The City is also interested in upgrading First Street (MO 46) from Main Street to Country Club Drive which is approximately one mile in length. Their desire is to construct upgrades including rebuilding the pavement, enclosing and reconstructing drainage, and

making the area walkable, including upgrading to American with Disabilities Act (ADA) standards. The City would also like improvements at the intersection of Route 136 and Liberty Road, the intersection of US 71 and South Avenue, and to have US 71 speed limits addressed.

Commissioner Ecker thanked Mr. McDanel for his presentation and congratulated him on the award of the BUILD grant; he noted it will be good for the community to be able to construct the project in one phase.

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### **PRESENTATION BY THE NODAWAY COUNTY COMMISSION**

South District Commissioner Bob Stiens highlighted Nodaway County's use of and success with the Off-System Bridge Replacement and Rehabilitation (BRO) program. The BRO program is managed by MoDOT. Federal funds are available to finance up to eighty percent of eligible project cost to counties for use in rehabilitating or replacing deficient bridges on roads classified as a local road, street, or rural minor collector. Nodaway County has approximately 310 bridges which rank them in the top three of Missouri counties. The County has completed approximately 72 soft match credit projects since 2001. Since 1993, Nodaway County has utilized \$21,090,000 in BRO funding and \$4,449,393 in soft match.

Nodaway County does a very good job in managing their bridges. The County replaces bridges with their own forces and uses those expenditures as soft match credit. Mr. Stiens stated the BRO is an excellent program for all counties in the state. He explained the BRO program really is subject to the soft match program and that it is difficult to have a successful BRO program if the county does not have the soft match. He explained that the county crews build the county bridges, and are able to build about four to six bridges per year. The county crews' work is used as soft match credit. Currently, the county has built up \$1,026,000 in soft match credit. He explained that Nodaway County is able to trade soft match credit for BRO credit. If a county does not have soft match credit available but does have BRO

credit, they can trade part of their BRO allocation for Nodaway County's soft match credit. This allows both counties to build more BRO bridges. Mr. Stiens explained one of the problems the county runs into are the environmental restrictions. It takes a lot time and funds to address the environmental issues associated with bridge construction. However, overall the BRO program works very well for the county.

Commissioner Waters stated that it is impressive that Mr. Stiens is able to take a pretty complicated program and make it sound pretty simple. He noted there are a substantial number of county bridges that the department does not have much to do with and it is impressive how the county manages those structures. Director McKenna noted that congress issued a rescission that cuts into the funding available in the BRO program. He stated there are specific impacts across the state affecting critical projects at the local level. Counties and cities are aware of the potential cuts in federal funding and are advocating with their congressional delegation to rescind the rescission that will dramatically reduce the funds available for these BRO projects.

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## **PUBLIC COMMENTS**

### **PUBLIC COMMENT REGARDING REST AREA CONTRACTS**

Susan Trump, Manager of Unified Services, a sheltered workshop in Bethany, thanked the Commission for extending the contract with Delaney Brothers who subcontract with sheltered workshops around the state. It is very important that sheltered workshops get to participate in this contract. The employees of the sheltered workshops are disabled and these are good and important jobs for them. They get to meet with the traveling public which is a tremendous esteem builder. Ms. Trump thanked the Commission again for their support of the sheltered workshop program.

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**PUBLIC COMMENT REGARDING LETTERED ROADS**

Gary Carlson, Gentry County Commissioner and Northwest Missouri Council of Governments Transportation Advisory Committee Chair, shared his thoughts regarding lettered routes in rural Missouri. These roads are very important farm to market roads that are important for small businesses and residences as well. Due to the budget shortfalls these roads are continuing to deteriorate. These problems include rutting, edges breaking off, potholes, and drop-offs. He expressed concern about the dangers of driving on these roads in these conditions, especially with the large farm equipment that uses these roads. While it is not an easy problem to solve, he hoped the Commission could apply more money to get these roads repaired.

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**MODOT PRESENTATIONS**

**NORTHWEST DISTRICT FLOOD RESPONSE AND RECOVERY**

On behalf of the Director, Chris Redline, Northwest District Engineer, reported on the Northwest District’s continued response to, and recovery from, the impacts of flooding. The Northwest District has been particularly hard hit with five of six Missouri River crossings closed at the peak of the flood.

Mr. Redline explained when the flood waters come up, the first duty is to make it safe and protect travelers from getting in harm’s way. Maintenance crews do a wonderful job of that, and the Northwest District crews have been fighting flooding since March 2019. Mr. Redline also recognized the highway patrol for their partnership and hard work through the blizzards this winter and right into the subsequent floods. MoDOT is collaborating with state and federal agencies to coordinate and expedite response and recovery efforts.

Mr. Redline stated this was not the typical flood, as MoDOT continues to respond to major river flooding. While many areas had the waters rise and recede, there remain many areas where water flows over the roads. There are even roads that have not been damaged by flooding but are being damaged by

trucks hauling rock for the railroads repairing their flood damaged tracks. Some areas are so damaged they look like gravel roads and the speed limits have had to be lowered so that they are safe for travel.

Mr. Redline described how the district is recovering from the flood. He reminded everyone how the maintenance crews take care of the initial flooding and road closures, then they watch the water so they know when it recedes to a point where the damage to the road can be assessed. Maintenance makes repairs where they can to safely open the roads after the water recedes. Many locations are beyond the scope of what maintenance can do and that work is contracted.

The recovery process is underway, crews are making emergency repairs to reopen roadways, and emergency contracts are in place to repair areas of extensive damage. MoDOT is assessing damage to the transportation system as flood waters recede. The district estimates that currently it will need \$25.8 million to repair flood damaged roads and bridges. This number will increase as the waters recede and more locations are assessed for damage. The district is taking care of the emergency repairs first to get the roads open. These emergency repairs include placing rocks in the holes, building shoulders back up, and putting some asphalt down. After the road beds dry and things settle out, the department will place permanent asphalt caps and complete the final repairs. Because so many of the levees have been breached, when the river levels rise again, many of these roads will be washed out again. Meanwhile, the department is making enough repairs to get traffic moving, realizing as the district continues to find new damage every week the total cost to make repairs will continue to rise.

Mitigation opportunities are being explored to build future resilience into recovery projects. The Federal Highway Administration has a program to build resiliency. All flood damaged routes are assessed to see if this is a viable option. The roadway typically has to experience multiple events in the same place over a period of time to qualify. While it will not keep the road from flooding, it will use materials that will keep the roadbed from washing out and allow the department to open it up more quickly and not incur as much future damage. An example of building resiliency includes replacing

material with rock to make the road more resilient in future floods. Several routes have been identified for resiliency projects including US 65, 159, and 36, and Routes 111, 118, and 41.

The department had to close Interstate 29 in March and had to figure out how to handle the traffic accordingly. While the water was only across the road in Missouri for four or five days, it was closed in Iowa for a very long time. The district coordinated the interstate closure with local law enforcement, the highway patrol, and Iowa's department of transportation. It was determined the best thing to do was get people off I-29 as quickly as possible in order to spread the traffic out more. Signing was placed in Kansas City to redirect traffic on I-35 up to I-80 and beyond. If travelers made it to St. Joseph they were directed on Highway 71 up through Maryville and then on up into Iowa. The detour routes were significant, taking travelers on longer routes out of their normal direction of travel.

The safety of citizens and workers is the department's primary concern. Mr. Redline noted some drivers will move or drive around barricades. The department keeps roads closed until the water is off of them and the damage can be assessed. Drivers expect once the road is showing out of the water they should be able to use the roads; however, it has been found where a roadway pavement is fine, but a pipe underneath the road is washed out making a thin asphalt bridge that will not hold most vehicles. Also there can be significant undermining of the roadbed that is not visible until the water recedes. The department's obligation is safety first and we ask that people do not drive around barricades.

Commissioner Brinkmann thanked Mr. Redline for his presentation commending the district for their work during this extended flooding season. He also noted when it stops raining we like to think everything is all right, but this flood continues to linger on and on.

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## **NORTHWEST DISTRICT LOW VOLUME ROADS**

On behalf of the Director, Chris Redline, Northwest District Engineer, explained low volume roads carry less than 400 vehicles a day and primarily serve local transportation needs. Missouri has



11,178 miles of low volume roads, which is about one-third of the state system. Travel on low volume roads is less than two percent of all state highway travel. The Northwest District has 3,043 low volume roads, the largest amount of all seven districts.

MoDOT's asset management plan has the goal of maintaining the condition of the state roads and bridges, including those on low volume roads. Statewide, low volume roads are currently rated seventy-four percent in good condition. Twenty-seven percent of Missouri's low volume roads reside in the Northwest District and they are currently rated sixty-three percent in good condition. It has been a challenge to hold this condition due to the harsh winter and flooding.

Low volume roads are primarily maintained by MoDOT forces and funded through the Operations and Maintenance Plan, which is located in section ten of the Statewide Transportation Improvement Plan (STIP). Once the department takes care of all of the bridges, major and minor roads, there are not any funds left in the STIP budget for the low volume roads unless the department starts sacrificing conditions on the major and minor roads and bridges. The department does not want that to happen so maintenance takes care of the low volume roads. Maintenance uses the operating budget for this work.

Every year the district goes through a budgeting process; each maintenance superintendent will know how much money is available to spend on materials, applies that money to the area's needs, and then develops their work plan. Typical pavement treatments on low volume roads include chip seals, asphalt pavement repairs, and patching. Jeremy Jackson, Maintenance Superintendent for Atchison, Holt, and Nodaway counties, shared his area's work plan. This work includes 44 miles of chip seal budgeted at \$570,000; 197 miles of long line asphalt patching at \$784,000; pipe/culvert replacement at \$75,000; snow removal at \$595,000; flood response/repair at \$157,000; and mowing. Mr. Jackson noted that he has 970 miles of low volume roads in his area, with only 12,000 tons of hot mix. If his buildings lay a one inch hot mix ten foot wide, only 38 miles can be laid on the roads.

Mr. Jackson noted the maintenance workers take great pride in their work and it shows in the quality chip seal work they are able to accomplish. These crews go the extra step to sweep and apply the rock at a proper time in order to reduce the opportunities for a windshield claim. Mr. Jackson proudly reported his area has not had a windshield claim for three years. Mr. Jackson described how it takes a crew of about twenty-six people to run two chip seal operations which is the collaboration of all four maintenance buildings in his area.

Mr. Jackson also reported on a few challenges. He stated equipment is growing larger and larger, but the roadway widths remain the same and do not have the strong foundation needed to support these heavier loads. Crews are addressing competing priorities every day such as flooding, wind mill farms, customer concerns, and incident response. He sadly acknowledged keeping low volume routes in good condition is a battle they are losing ground on.

Commissioner Ecker thanked Mr. Redline and Mr. Jackson for their report and for the fantastic job they do with the limited resources that are available.

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## **MODOT AVIATION SECTION UPDATE**

On behalf of the Director, Amy Ludwig, Administrator of Aviation, described Missouri's airport system, the economic impact of airports, and how the department works with airports to fund, plan, and construct airport projects. MoDOT's Aviation Section is responsible for administering Airport Improvement Program funds and state Aviation Trust Funds for 107 Missouri airports. Out of the 107 airports, 75 of them are in the National Plan of Integrated Airport Systems which means they are eligible for Federal Airport Improvement Program funds. The 32 remaining airports are eligible for State Aviation Trust Funds only.

The state airport system is an economic engine for the state as well as the communities they support. In 2012, the department conducted an economic impact study that showed Missouri's airports

support over 100,000 jobs, have over \$3.1 billion in annual payroll, and provide an overall annual economic impact of \$11.1 billion.

Multimodal Division's Aviation Section works directly on project management with the airports, handling the projects from cradle to grave. This includes planning efforts, environmental work, land acquisition, design, construction, and close-out. Additionally, this unit of MoDOT conducts airport safety inspections, which are required every three years, at all public use airports. The Aviation Section also collaborates with the Federal Aviation Administration (FAA), Missouri Airport Managers Association, Missouri State Aviation Council, and the State Aviation Advisory Committee to deliver a quality aviation program for Missouri.

This construction season, there are 107 active projects at 62 different airports in the state. The combined value of those projects is over \$65 million. This is a typical construction season for aviation in Missouri. The department uses asset management to maintain pavement conditions for airport runways. Public airport runways are in eighty-nine percent good or excellent condition. A subset of those runways are called business capable and have a runway of 5,000 feet or longer. Currently, there are 36 business capable runways that are in eighty-seven percent good or excellent condition.

The critical funding source for runway improvements is the Airport Improvement Program. The Aviation Section administers the use of those funds to airports as a State Block Grant Program. As a participant in the State Block Grant Program, MoDOT works closely with airport sponsors and the Federal Aviation Administration to administer Airport Improvement Program funds for 69 of the 75 airports in the National Plan of Integrated Airport Systems. The department has received over \$500 million through the State Block Grant Program since 1990. The last five federal fiscal years, the program has averaged about \$27.5 million per year in federal funds. The Aviation Section uses the FAA formula to prioritize projects, focusing on the runway center line out. Runway pavement, maintenance, and lighting compete very favorably for funding. The further away from that center line, the lower the

projects score and the more difficult it is to compete for funds. Recently runway rehabilitation projects have been very successful whereas runway expansion projects are very difficult to secure funding for in the current funding climate.

Recent federal funding opportunities include supplemental appropriation funding. Last fall Congress passed the FAA Reauthorization Act of 2018 which provides stability in funding the program. This reauthorization created the potential for addition funding through supplemental appropriation funding. As a result there are five airports in Missouri that have benefited from the program and received \$24.5 million. Four of these airports are in the State Block Grant Program: Tarkio, Bowling Green, Trenton, and Memphis. The fifth airport is at Joplin. Missouri airports have applied for another round of the supplemental appropriation funding and are awaiting the results.

Missouri is also fortunate to have a dedicated revenue stream for Missouri airports through the State Aviation Trust Fund. This fund averages about \$5 million per year available for projects. The department follows the same project prioritization formula as the FAA for distribution of these funds. The department is mindful that there are state airports that do not have any other revenue stream when programming projects. In addition, if the State Aviation Trust Fund receives more than \$4.5 million in revenue in a calendar year, then the Air Service Program is triggered. This program allows the department to issue grants to commercial service airports for air service promotion and marketing. Ms. Ludwig noted there is a sunset in 2023 for the tax for this fund. The aviation community will be asking the General Assembly to extend the sunset.

Missouri is fortunate to have the revenues to help airports with needed projects. However, airport project needs far exceed the funds available, so MoDOT works closely with airport sponsors to prioritize projects that will maintain safe airport conditions. The State Airport System Plan Update was recently completed and indicated there are over \$700 million of project needs in the next five years.

This averages to about \$140 million of project needs per year that has only \$32 million available per year.

Commissioner Smith thanked Ms. Ludwig for her presentation and stated that airports in small communities have a huge economic impact. He also noted that most people do not realize how important the airports are and there is a need to share that story more.

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## **2020-2024 MISSOURI ROAD AND BRIDGE PROGRAM**

On behalf of the Director, Machelles Watkins, Transportation Planning Director, provided a report on two new products aimed at better communicating with the public about how their transportation dollars are invested and acknowledging the fact that people like to receive information in a variety of ways. The two new products are the Missouri Road and Bridge Program booklet and a new interactive Statewide Transportation Improvement Program map. The 2020-2024 Missouri Road and Bridge Program and online map present projects from the 2020-2024 Statewide Transportation Improvement Program (STIP) that was approved by the Missouri Highways and Transportation Commission on July 10, 2019.

The STIP is a federally required planning document with content defined by federal regulations. It is intended to specify the federally funded projects and programs to be delivered during the five year planning horizon, but it also must provide detailed technical information on those projects and programs. While federal regulations specify it is a public document, it contains a large amount of complex information and is not particularly user-friendly for customers and partners. The STIP is a really big document that contains a lot of technical information that is useful for the folks who deliver the projects listed in the STIP. However, it can be intimidating and frustrating for the public to use when seeking a little information about the one project they have an interest in.

In an effort to better communicate how Missouri's road and bridge revenues are invested, MoDOT created the Missouri Road and Bridge Program. The Missouri Road and Bridge Program presents simplified road and bridge project information in an easy-to-read format, in an effort to more effectively communicate with partners, legislators, and the public.

The Missouri Road and Bridge Program booklet was first developed last year and was successful in communicating at many different levels. It was helpful in communicating with the Governor's office about how additional transportation infrastructure funds could be used, and was instrumental in laying the groundwork for the Governor's Focus on Bridges program. It was also helpful in communicating with the legislature throughout the legislative budget process. It also received the Director's Stability Award at the Innovations Challenge competition showcase in April 2019.

The department has since improved upon the booklet by highlighting the Focus on Bridges projects. The booklet also identifies those projects that are at risk of being delayed or not delivered should Congress fail to act to maintain federal funding at the current level. Additionally, a section was added to include the Operations and Maintenance Summary that outlines the amount of work that each district will accomplish with its maintenance forces.

In addition, MoDOT created a new online, interactive map as a communication tool for project information. The new interactive project map can be found on MoDOT's STIP webpage, located at: <https://www.modot.org/statewide-transportation-improvement-program-stip>. This map provides the visual representation of how transportation dollars are being invested throughout the state. The information on this map can be drilled down in a variety of ways to address the user's interests.

Commissioner Pace thanked Ms. Watkins for her presentation noting what a great opportunity to maximize and leverage technology for the public's use. Commissioner Waters stated this is going to make it much easier to find a project when somebody wants to know what is going on in their area.

\* \* \* \* \*

## **TRANSPORTATION FUNDING**

Director McKenna and Brenda Morris, Chief Financial Officer, reported in late July, the department was awarded an \$81.2 million Infrastructure for Rebuilding America (INFRA) grant. As a result, the department must develop a financial plan to address the total funding for the Rocheport Bridge and Mineola Hill projects on Interstate 70. The INFRA grant is a piece of the puzzle to gather all these funding resources. There remains a gap in funding even with the award of the grant.

There are funding options available for consideration. One option considered at the time of application for the grant was the use of a TIFIA low interest loan. While that remains a viable option, the length of time it takes to go through the application process led the department to consider other options. The department has several partnership programs including the Governor's Cost Share Program, the Commission's Cost Share Program, and a Missouri Transportation Finance Corporation loan. These programs can be used to help address the gap in funding to complete the financing for these projects. There is some financial availability within each of these programs. This request warrants consideration due to the positive impact to traffic on I-70. Motorists will not be subjected to reduced lanes and long traffic delays as they would with the previously planned rehabilitation project for the Rocheport Bridge.

Director McKenna stated the department realizes the effort to secure additional funding is very fluid right now and that he would like for the Commission to be aware of the options available. The Director asked the Commission to authorize the Director, or his designee, to submit a cost share application to either or both of the Commission's Cost Share Program and the Governor's Cost Share Program depending on what is available and will fulfill the needed funding. He also asked the Commission to authorize the Director or his designee to submit a loan application to the Missouri Transportation Finance Corporation.

After consideration, and upon motion by Commissioner Waters, seconded by Commissioner Smith, the Commission approved the Director's recommendations as noted above.

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**RESOLUTIONS**

**RESOLUTION EXPRESSING APPRECIATION TO GOVERNOR MIKE PARSON FOR OUTSTANDING SUPPORT TO THE MISSOURI DEPARTMENT OF TRANSPORTATION**

Via approval of the consent agenda, the Commission unanimously approved the following resolution:

**WHEREAS**, the Honorable Mike Parson was sworn in as Governor on June 1, 2018, representing the citizens Missouri; and

**WHEREAS**, Governor Parson has performed his duties with vision, dedication, and genuine compassion for the best interests of highway workers and the citizens of Missouri; and

**WHEREAS**, Governor Parson has devoted a great deal of time and energy to many important transportation issues; and

**WHEREAS**, on June 10, 2019, Governor Parson signed Senate Concurrent Resolution 14, authorizing support for a \$301 million bridge bonding program in the state of Missouri; and

**WHEREAS**, Senate Concurrent Resolution 14, in combination with Missouri Department of Transportation's acceptance of a federal grant, will assist Missouri in funding the reconstruction of the Missouri River Bridge on Interstate 70 at Rocheport, critical infrastructure in Missouri; and

**WHEREAS**, on July 9, 2019, Governor Parson signed into law House Bill 499, authorizing the revocation of a driver's license when a driver strikes a highway worker or utility worker in a construction or work zone and when a driver strikes an emergency responder in an emergency zone; and

**WHEREAS**, this law will ensure the safety of highway workers and the safety of all motorists from potentially dangerous drivers; and

**NOW, THEREFORE, BE IT RESOLVED** that the Missouri Highways and Transportation Commission does hereby publicly express its appreciation and gratitude to Governor Parson, for the work he has performed for the citizens of Missouri.

**BE IT FURTHER RESOLVED** that a copy of this Resolution be forwarded to Governor Parson so he will have a permanent record of the high esteem in which he is held by the members of the Missouri Highways and Transportation Commission.

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**RESOLUTION EXPRESSING APPRECIATION TO JUSTIN ALFERMAN FOR OUTSTANDING SERVICE TO THE STATE OF MISSOURI**

Via approval of the consent agenda, the Commission unanimously approved the following resolution:

**WHEREAS**, Justin Alferman was elected to the Missouri House of Representatives in 2014, representing the citizens of the 61<sup>st</sup> legislative district until June 4, 2018; and

**WHEREAS**, Representative Alferman performed his duties with vision, dedication, and genuine compassion for his constituents and in the interests of highway workers and the citizens of Missouri; and

**WHEREAS**, Representative Alferman devoted a great deal of time and energy to many important transportation issues; and

**WHEREAS**, Representative Alferman sponsored legislation that authorized driver’s license revocation when a driver strikes a highway worker or utility worker in a construction or work zone and when a driver strikes an emergency responder in an emergency zone; and

**WHEREAS**, Representative Alferman worked diligently with members of the General Assembly to better ensure the safety of highway workers and the safety of all motorists from potentially dangerous drivers; and

**WHEREAS**, his work and dedication contributed to the successful adoption of House Bill 499 that was signed into law by Governor Mike Parson on July 9, 2019; and

**NOW, THEREFORE, BE IT RESOLVED** that the Missouri Highways and Transportation Commission does hereby publicly express its appreciation and gratitude to Former Representative Alferman, for the work he has performed for the citizens of Missouri.

**BE IT FURTHER RESOLVED** that a copy of this Resolution be forwarded to Justin Alferman so he will have a permanent record of the high esteem in which he is held by the members of the Missouri Highways and Transportation Commission.

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**RESOLUTION EXPRESSING APPRECIATION TO BRIAN KIDWELL FOR OUTSTANDING SERVICE TO THE STATE OF MISSOURI**

Via approval of the consent agenda, the Commission unanimously approved the following resolution:

**WHEREAS**, Brian Kidwell began his distinguished career with the Missouri Department of Transportation on May 1, 1986, and will be retiring on August 31, 2019, with more than 28 years of service to the State of Missouri; and

**WHEREAS**, Brian Kidwell served in a variety of capacities beginning as an intern as a Senior Materials Technician in the former District 4, moving through increasingly responsible assignments of Construction Inspector, Resident Engineer, Operations Engineer, kcICON Project Director, and

Assistant District Engineer, culminating in his promotion as District Engineer for the Kansas City District; and

**WHEREAS**, throughout his career, Brian Kidwell was an expert at building bridges both structurally and socially. His inspiring leadership and engineering knowledge brought him much success with the implementation of the design build process and completion of many significant transportation projects. A major design-build project in Missouri included the kcICON project that reconstructed and rehabilitated four-miles of Interstate 29/35 into downtown Kansas City and constructed a new iconic cable-stayed river bridge that was completed in December 2010; and

**WHEREAS**, throughout his career, Brian Kidwell served admirably, diligently, tirelessly, and collaboratively on behalf of the Department of Transportation and the State of Missouri, as evidenced by his ability to establish and maintain excellent relations with organizations in the Kansas City District for the betterment of Missouri's transportation system. His talent and ability to genuinely connect with the community was evidenced through his ability to navigate and resolve community concerns related to projects including the kcICON Bridge and the Fairfax Bridge on Highway 69. For kcICON his leadership led to the formation of a community advisory group that provided their input on the project name, goals, and aesthetics. The community advisory group was a model of collaboration that has been repeated for other projects across the state; and

**WHEREAS**, Brian Kidwell believed that it is important to be accountable through the wise use of resources to deliver transportation solutions of great value. As Assistant District Engineer in Kansas City, he was challenged to reduce project costs by \$30 million and was able to accomplish this through innovative means that were cost effective and accelerated the projects; and

**WHEREAS**, Brian Kidwell's interest in and concern for others endeared him to his co-workers and friends, and everyone he met and knew through his friendly approach and keen sense of humor. His ability to stay steady and cool while under pressure made him a valuable resource that many relied upon; and

**WHEREAS**, his work ethic, integrity, expertise, and distinguished career merited acceptance and respect throughout the state from the public he served and the construction, engineering, and economic development industries; and

**WHEREAS**, Brian Kidwell recognized the importance of balancing family and career and is a loving husband and a devoted father all while performing his job duties with compassion, dedication, and pride;

**NOW, THEREFORE, BE IT RESOLVED** that the Missouri Highways and Transportation Commission does hereby publicly express its appreciation and gratitude to Brian Kidwell for his service to the citizens of Missouri.

**BE IT FURTHER RESOLVED** that a copy of this resolution be forwarded to Brian Kidwell so he will know of the high esteem and affection in which he is held by the members of the Missouri Highways and Transportation Commission and the Missouri Department of Transportation staff.

\* \* \* \* \*

## ADMINISTRATIVE RULES/POLICIES

### COMMISSION POLICY REVIEW – ENTERPRISE RISK MANAGEMENT CATEGORY

Following a comprehensive review of all Commission policies, on November 7, 2013, the Commission formally compiled and adopted the Commission policies that the department currently operates under today. Since this initial action some policies have been updated as necessary. As part of the Commission's desire to periodically review Commission policies, the department and Commission have conducted a thorough review of the policies in the Enterprise Risk Management category. As a result of this review process, recommendations were made to reaffirm with updates the policies in the Enterprise Risk Management category. On behalf of the Director, Pamela J. Harlan, Secretary to the Commission, recommended the Enterprise Risk Management category of policies be revised as indicated with the green text for new language and red strikethrough text for deleted language, blue strikethrough text that was deleted and moved, and purple text that was moved as follows:

**Category:** ENTERPRISE RISK MANAGEMENT CATEGORY  
**Subcategory:** General

The Commission believes in an integrated approach to managing the various risks ~~MoDOT~~ the Missouri Department of Transportation faces in managing Missouri's extensive transportation system. Accordingly, the Commission has delegated to the Director the responsibility for ensuring an enterprise risk management system is adopted by the Department and used to appropriately identify and mitigate risk. The Director will conduct an executive management review of the Enterprise Risk Management Program process and will provide an annually report thereon to update the Commission.

Effective Date: August 7, 2019 ~~November 7, 2013~~  
Supersedes Policy Dated: November 7, 2013  
Last Reaffirmed:  
Date of Origin: November 7, 2013  
Related Commission Minutes: November 7, 2013 – Comprehensive Policy Review. August 7, 2019 comprehensive policy review.

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**Category:** ENTERPRISE RISK MANAGEMENT CATEGORY  
**Subcategory:** Liability Insurance

**Related Statutes:** Section 226.092, RSMo 2000 – Commission may provide automobile liability insurance, when – self-insured and partial self-insured plans, when.

*Prior to enabling legislation sought by the Commission and enacted during the 1971 legislative session, employees who operated state equipment were required, as a condition of employment, to carry liability and property damage insurance. The first policy for such coverage paid by the Commission commenced on April 1, 1972.*

The Commission's self-insurance plan for fleet vehicle liability, general liability, and workers' compensation became effective January 1, 1987, with administrative services being outsourced for vehicle fleet liability and worker's compensation. General liability claims were administered in-house prior to establishing the self-insurance plan and continued after the self-insurance plan was put in place. In-house administration of fleet vehicle liability claims was authorized by the Commission on October 6, 1989; worker's compensation in-house administration was authorized by the Commission on September 9, 1994, and was implemented on January 1, 1995.

The Commission recognizes ~~that~~ the nature of many of the jobs performed by Department employees are such that liability issues are likely to arise for the Commission, the Department, and employees thereof; therefore, under the authority of Section 226.092 RSMo 2000, the Commission will provide and the Department will administer, through self-insurance, commercial insurance, or a combination thereof, a fleet vehicle liability insurance program and a general liability insurance program to protect the Commission, the Department, and the employees thereof against liability. The cost of these programs will be borne by the Commission.

Effective Date: August 7, 2019 ~~November 7, 2013~~  
 Supersedes Policy Dated: November 7, 2013 ~~October 6, 1989~~  
 Last Reaffirmed:  
 Date of Origin: September 22, 1971

Related Commission Minutes: May 3, 1956; August 18, 1966; October 15-16, 1970; September 22, 1971; February 17-18, 1972; January 9, 1987; October 6, 1989; November 7, 2013 – Comprehensive Policy Review, August 7, 2019 comprehensive policy review.

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**Category: ENTERPRISE RISK MANAGEMENT CATEGORY**  
**Subcategory: Liability Insurance**  
**Sub-Subcategory: Self-Insurance Plan**

The scope and coverage of the Commission's plan for general liability and vehicle fleet liability cases is in keeping with its approved Self-Insurance Plan document titled, *Missouri Highways and Transportation Commission, Self-Insurance Plan for Injuries and Damages Caused by the Condition of Property and the Operation of Motor Vehicles.*

**MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION  
 SELF-INSURANCE PLAN FOR INJURIES AND DAMAGES CAUSED BY THE CONDITION OF  
 PROPERTY AND THE OPERATION OF MOTOR VEHICLES**

**TABLE OF CONTENTS**

(1)	DEFINITIONS	PAGE
	(A) Self-Insurance Plan.....	1
	(B) Self-Insurance Fund.....	1
	(C) Employer .....	1
	(D) Commission .....	1
	(E) Department .....	1
	(F) Injury .....	1
	(G) Damages .....	1
	(H) Insured .....	1
	(I) Occurrence.....	1
	(J) <del>Director</del> Executive Committee .....	1
	(K) Employee .....	1
	(L) Gender .....	1
	(M) State Legal Expense Fund .....	1
	(N) Trustee.....	2
(2)	<b>EFFECTIVE DATE .....</b>	<b>2</b>

(3)	<b>COVERED PERSONS AND LIMITS OF LIABILITY</b>	
	(A) Covered Persons .....	2
	(B) Limit of Liability .....	2
(4)	<b>COVERAGE AGREEMENT</b>	
	(A) Limited Coverage .....	2
	(B) Duty to Defend .....	2
	(C) Own Legal Counsel .....	3
	(D) No Waiver .....	3
(5)	<b>EXCLUSIONS</b>	
	(A) Injury to Employee .....	3
	(B) Other Coverage .....	3
	(C) Punitive Damages .....	3
(6)	<b>LEGAL SERVICES</b>	
	(A) Chief Counsel .....	3
	(B) Outside Counsel .....	3
	(C) Employer Rights .....	3
(7)	<b>CLAIMS ADJUSTMENT</b>	
	(A) Defense of Claims .....	4
	(B) Procedures .....	4
	(C) Consent .....	4
(8)	<b>PAYMENT OF CLAIMS AND SUITS</b>	
	(A) Authority .....	4
	(B) Order of Payment .....	4
(9)	<b>SELF-INSURANCE PLAN FUNDING</b>	
	(A) Actuary .....	4
	(B) Funding .....	4
	(C) Time Lag .....	4
	(D) Claim Experience .....	5
(10)	<b>SELF-INSURANCE FUND</b>	
	(A) Dedicated Fund .....	5
	(B) Trustee .....	5
(11)	<b>MISCELLANEOUS PROVISIONS</b>	
	(A) Insured's Duties in the event of Occurrence, Claim or Suit of Insured .....	5
	(B) Action Against the SIP .....	6
	(C) Subrogation .....	6
	(D) Changes in the SIP .....	6
	(E) Assignment .....	6
	(F) Cancellation .....	6
	(G) SIP Interpretation .....	6
	(H) SIP Constitutionality .....	7
	(I) Governing Law .....	7
	(J) Captions .....	7
(1)	<b>DEFINITIONS</b>	

- (A) Self-Insurance Plan (SIP) shall mean the Missouri Highways and Transportation Commission (Commission) Self-Insurance Plan for Injuries and Damages Caused by the Condition of Property and the Operation of Motor Vehicles.
- (B) Self-Insurance Fund shall mean the moneys set aside in trust and dedicated to the SIP to pay all accrued and anticipated claims and certain costs of administering the SIP which amount of contribution to the plan is determined annually and included in the budget request for contribution to the Commission's self-insurance plan.
- (C) Employer shall mean the Commission and the Department.
- (D) Commission shall mean the Missouri Highways and Transportation Commission.
- (E) Department shall mean the Missouri Department of Transportation (~~MoDOT~~), a constitutionally independent agency of the Executive Branch of the State of Missouri, including all its divisions, districts, offices, departments and parts.
- (F) Injury shall mean physical damage to or destruction of tangible property, bodily or mental injury, sickness or disease, including death, to which the SIP applies and resulted from an "occurrence" while the SIP was in effect. The term "injury" shall not be deemed to mean intentional torts.
- (G) Damages shall mean any monetary consideration due a claimant or the amount of a final judgment entered in favor of plaintiff(s) and against an Insured by a court of competent jurisdiction.
- (H) Insured shall mean any person or organization designated in the Covered Persons provision (Section (3)(A)) of the SIP.
- (I) Occurrence is any Injury, as this term is defined herein, that is the result of negligent acts or omissions under the instances described at sections 537.600.1(1) and (2) RSMo.
- (J) **Executive Committee shall include the individuals who fill the positions of Director, Deputy Director/Chief Engineer, Assistant Chief Engineer, Chief Safety and Operations Officer, Chief Administrative Officer, and Chief Financial Officer.** ~~Director shall mean the Director of Risk and Benefits Management, or the successor position thereto by whatever name it is titled.~~
- (K) Employee shall mean a person employed by the Commission or Department as defined by Missouri law.
- (L) Gender -- Persons described or referred to in the masculine gender include females and persons described or referred to in the feminine gender include males.
- (M) State Legal Expense Fund (SLEF) shall mean the moneys appropriated by the general assembly and moneys otherwise credited to such fund pursuant to section 105.716 RSMo for the payment of any claim or amount required by any final judgment rendered by a court of competent jurisdiction against the state of Missouri, or any agency of the state, pursuant to sections 536.050, 536.087 or 537.600, RSMo.
- (N) Trustee shall mean the Employer or a bank or other financial institution selected by the Chief Financial Officer for the Department, as authorized by the Commission.
- (2) **EFFECTIVE DATE:** Effective August 7, 2019 the Commission reaffirmed and updated the Self-Insurance Plan for Injuries and Damages Caused by the Condition of Property and the Operation of Motor Vehicles for all existing and future claims. This policy supersedes the policies previously adopted by the Commission on September 11, 2013 and December 5, 1986. ~~, the Missouri Highways and Transportation Commission pursuant to Section 226.060, RSMo 1986, and the approved minutes of the Missouri Highways and Transportation Commission Meetings held on December 5, 1986, hereby adopts the Self-Insurance Plan for Injuries and Damages Caused by the Condition of Property and the Operation of Vehicles for all existing and future claims.~~
- (3) **COVERED PERSONS AND LIMITS OF LIABILITY:**

- (A) **Covered Persons:** Each of the following is an Insured under the SIP to the extent set forth below:
1. The Employer and any of Employer's officers and administrative personnel;
  2. Individual members of the Commission; and
  3. All employees of the Commission and Department as defined by Missouri law while they are acting in the course and scope of their official duties.
- (B) **Limit of Liability:** The Limit of Liability for any Occurrence is the amount provided for by section 537.610 RSMo. This amount is the maximum coverage available under the SIP without regard to the number of Insureds who are alleged to be liable or found liable for an Injury.
- (4) **COVERAGE AGREEMENT:**
- (A) **Limited Coverage:** Coverage is provided to an Insured for an Occurrence that results in Injury as this term is defined by the SIP in an amount up to the Limit of Liability (see (3) (B) above).
- (B) **Duty to Defend:** The Employer shall have the right and duty to defend any suit seeking such damages against the Insured, even if any or all of the allegations of the suit are groundless, false or fraudulent, and may make such investigation and such settlement of any claim or suit as it deems expedient, but the Employer shall not be obligated to pay any claims or judgment nor to defend any suit after the applicable Limit of Liability (see 3(B) above) has been exhausted by payment of judgments or settlements. In the event that a claim or suit is being defended at the time the applicable Limit of Liability (see 3(B) above) becomes exhausted, such defense may continue at the sole discretion of the Employer. Any continuation of defense shall not constitute a waiver, expansion, nor undertaking of liability in excess of the statutory limits of liability provided for by section 537.610 RSMo.
- (C) **Own Legal Counsel:** In the event that any Insured elects to employ his own legal counsel (see Section (6) below) and declines legal counsel provided by Employer, there is no obligation under the SIP to pay any sum such Insured may become legally obligated to pay, unless payment of settlement or judgment is approved by a member of the Executive Committee ~~the Director of Risk and Benefits Management~~ and the Chief Counsel to the Commission (see Section (7) below).
- (D) **No Waiver:** Nothing in the SIP shall be construed as a waiver of any governmental or official immunity of any Insured, or to expand the liability of the Commission or any Insured as provided under sections 537.600 and 537.610 RSMo. Pursuant to the Missouri Supreme Court's holding in *Cottey v. Schmitter*, potentially unlimited liability exists for employees under the State Legal Expense Fund (SLEF), notwithstanding section 105.726 RSMo. The SIP shall provide coverage for claims against the ~~Commission-MHTC/Department MoDOT~~ and employees only up to the applicable limits of section 537.610 RSMo (see Section 3(B) above). Any settlement or judgment will be paid by specific Commission authorization pursuant to the terms of the SLEF and Missouri statutes. The fact that the Commission may authorize such payments does not constitute an acknowledgement that the *Cottey* decision was correct. Any such payment authorized by the Commission shall not be construed as a waiver of any governmental or official immunity of the Employer, the Commission, the Department, any of their officers or employees, or any Insured under the SIP.
- (5) **EXCLUSIONS -** The SIP does not apply to:
- (A) **Injury to Employee:** Any Injury to any employee of the Employer arising out of and in the course of his employment by the Employer; or
- (B) **Other Coverage:** Any damages or amounts for which the Employer or any carrier as his insurer may be held liable under any ~~worker's workmen's~~ compensation law, unemployment compensation law or disability benefits law, or under any similar law; or

- (C) **Punitive Damages:** Any claim for punitive or exemplary damages, or any other statutory damages awarded to punish and deter wrongdoers rather than to compensate a claimant or plaintiff for an Injury.

(6) **LEGAL SERVICES:**

- (A) **Chief Counsel:** The furnishing of all legal services, including legal defense, shall be the responsibility of the Employer through its Chief Counsel. Required legal services may be provided by the Chief Counsel and his staff, or if outside legal counsel and services are needed, such may be engaged by the Chief Counsel.
- (B) **Outside Counsel:** Any covered person may request the employment of outside counsel, including recommending the desired counsel or law firm. Such request must be made in writing to the Chief Counsel for consideration.
- (C) **Employer Rights:** In the event a covered person desires, in addition to the legal services provided above through the Chief Counsel, to employ legal counsel of his choice, such employment of legal counsel shall be at the covered person's expense. In the event that the covered person elects to employ his own legal counsel to assist the Chief Counsel or counsel hired by the Chief Counsel, the right to make all decisions in regard to the defense of the claim or suit shall remain the right and the duty of the Employer and its Chief Counsel.

(7) **CLAIMS ADJUSTMENT:**

- (A) **Defense of Claims:** All claims adjustment activities shall be deemed to be carried out for the sole and only purpose of assisting the Chief Counsel in defending potential legal action, causes of action or litigation against the Employer or any covered person, and shall be closed meetings, records and votes.
- (B) **Procedures:** Procedures for claims adjustment, including claim payments, denials and settlements shall be as determined by the **Financial Services** Division ~~of Risk and Benefits Management~~ in consultation with the Chief Counsel.
- (C) **Consent:** Written consent or approval in claim settlement will not be required from an employee. Input from any employee should be made to the **Financial Services** Division ~~of Risk and Benefits Management~~ or the Chief Counsel.

(8) **PAYMENT OF CLAIMS AND SUITS:**

- (A) **Authority:** Subject to the provisions of Sections (7) and (9), the payment of the claims and suit judgments from the Self-Insurance ~~Plan~~ Fund will be on certification pursuant to Commission authority.
- (B) **Order of Payment:** Payments from the Self-Insurance ~~Plan~~ Fund will be made in the order that claims or suit final judgments become payable, without regard to claim reserves previously established, date of incident, date of claim demand or date suit was filed.

(9) **SIP FUNDING -** The Commission directs the Department to fund the SIP under the following guidelines:

- (A) **Actuary:** The funding of the SIP shall be determined by the Commission as recommended by the Department based on actuarial projections of an independent actuary employed by the Employer.
- (B) **Funding:** The level of ~~amount of~~ funding shall be sufficient to support or pay for projected costs of claims and SIP expenses and private counsel legal defense as determined through actuarial review and ~~Division of Risk and Benefits Management in consultation with the Division of~~ **Financial Services** **Division**.
- (C) **Time Lag:** The amount of contribution to the fund will consider the lag between the time a claim arises and when payment is to be made.



(D) **Claim Experience:** To the extent that it can be actuarially projected, the level of funding shall be based on previous claim experience as modified and trended to account for anticipated current year incidents and cost, including shock-losses (infrequently occurring catastrophic losses) as actuarially determined.

(10) **SELF-INSURANCE FUND:**

(A) **Dedicated Fund:** The Self-Insurance Fund and all additions thereto shall be set aside and dedicated and so shall remain as long as any claim or expense payable under the SIP or any changes adopted thereto prior to its termination, may be outstanding and may become payable. Such Self-Insurance ~~Plan~~ Fund shall be used solely for the purpose of payment of such claims and expenses and not be subject to diversion for any other purpose by the Commission or the Department so long as said Self-Insurance ~~Plan~~ Fund shall exist. It is the intent of the Commission that upon termination of the SIP, all funds in the Self-Insurance ~~Plan~~ Fund not needed as specified above shall be returned to the State Road Fund.

(B) **Trustee:** The Self-Insurance Fund shall be held by the Employer as Trustee or a bank or other financial institution as Trustee. Selection of the Trustee shall be by the Chief Financial Officer for the Department, as authorized by the Commission.

(11) **MISCELLANEOUS PROVISIONS:**

(A) **Insured's Duties in the Event of Occurrence, Claim or Suit are as follows:**

1. **Notice to Financial Services Director:** Upon the Insured becoming aware of an incident in which the covered person is involved resulting in any alleged injury to which the SIP applies, written notice containing particulars sufficient to identify the injured person, plaintiff, and/or claimant and the Insured, as well as reasonably obtainable information with respect to the time, place and circumstances thereof, and the names and addresses of any known witnesses, shall be given by or for the Insured to the **Financial Services** Director as soon as practical.
2. **Forwarding Demands:** If claim is made or suit is brought against an Insured, the Insured shall forward to the **Financial Services** Director every demand, notice, summons or other process received by him or his representative as soon as possible.
3. **Employee Cooperation:** The Insured shall cooperate with the Employer to defend any suit brought against the insured and, upon the Employer's request, assist in enforcing any right of contribution or indemnity against any third party. The insured shall attend hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses. The Insured shall not, except at his own cost, voluntarily make any payment, assume any obligation, or incur any expense.
4. **Waiver of Coverage:** Failure of the Insured to cooperate with the Employer shall constitute a waiver of the coverage provisions provided by the plan.

(B) **Action Against the SIP:**

1. **Compliance with SIP:** No action shall be maintained by an Insured against the Employer unless, as a condition precedent thereto, there shall have been full compliance with all of the terms of the SIP, and not until the amount of the SIP's obligation to pay shall have been finally determined either by final judgment against the covered person or by written agreement of the Employer and the Claimant and/or Plaintiff.
2. **No Waiver:** No person or organization shall have any right under the SIP to join the Employer as a party to any action against the Insured to determining the Insured's liability, nor shall the Employer be impeded by the Insured or his legal representative. Nothing in the SIP shall be interpreted or otherwise construed as a waiver of any governmental or official immunity of the Employer, the Commission, the Department, or any of its officers or employees in the course of their official duties, or any other Insured.

- (C) **Subrogation:** In the event of any payment under the SIP, the Employer shall be subrogated to all the Insured's rights or recovery therefore against any person or organization and the Insured shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The Insured shall do nothing after loss to prejudice or otherwise lessen, reduce, or waive such rights of subrogation.
- (D) **Changes in the SIP:** All changes in the SIP subsequent to the first approval of the SIP by Commission shall be prepared by the **Financial Services** Director ~~of Risk and Benefits Management~~ and forwarded to the Chief Financial Officer for review and approval. After approval as to legal form by the Chief Counsel, the **Chief Financial Officer** ~~Director of Risk and Benefits Management~~ will submit the changes to Commission. Changes shall become effective on the date fixed by the Commission.
- (E) **Assignment:** The interest hereunder of any Insured is not assignable. If the Insured shall die or be adjudged incompetent or cease for any other reason to be an Insured under the SIP, this coverage shall thereupon terminate. At the discretion of the **Financial Services** Director, the SIP may cover the Insured's legal representative with respect to an Occurrence to which this SIP applies when the **Financial Services** Director has been given notice of such Occurrence.
- (F) **Cancellation:** The SIP may be canceled by the Employer effective July 1 of any year, with notice of such cancellation being given to all covered persons at least ninety (90) days prior to the effective date of such cancellation.
- (G) **SIP Interpretation:** The SIP document sets forth the provisions of the Missouri Highways and Transportation Commission Self-Insurance Plan for Injuries Caused by the Condition of Property and **the Operation of Motor Vehicles** ~~Vehicle Liability~~. The SIP shall be read in its entirety and not severed except as provided below.
- (H) **SIP Constitutionality:** In the event that any part of the SIP is held to be unconstitutional or otherwise declared illegal, the other parts of the SIP will remain in full force and effect.
- (I) **Governing Law:** To the extent not preempted by federal law, the provisions of the SIP shall be construed, enforced, and administered according to the laws of the state of Missouri.
- (J) **Captions:** The captions contained herein are inserted only as a matter of convenience and for reference, and in no way define, limit, enlarge or describe the scope or intent of the SIP, nor in any way will affect the SIP or the construction of any provision thereof.

Effective Date: **August 7, 2019** ~~September 11, 2013~~  
 Supersedes Policy Dated: **September 11, 2013**  
 Last Reaffirmed: November 7, 2013  
 Date of Origin: September 11, 2013  
 Related Commission Minutes: September 11, 2013; November 7, 2013 – Comprehensive Policy Review.

Via approval of the consent agenda, the Commission unanimously approved the policy revisions described above.

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**BUSINESS ISSUES**

**WESTSIDE INTERMODAL TRANSPORTATION CORPORATION AND APPOINTMENT OF BOARD MEMBERS**

On behalf of the Director, Brian Kidwell, Kansas City District Engineer, conveyed the following recommendation of Westside Intermodal Transportation Corporation Board of Directors as it pertains to the membership on that board:

- Reappoint B. E. Peek to a six-year term beginning December 27, 2019, and expiring December 26, 2025.
- Appoint John Dustin to fill the unexpired portion of the six-year term held by M. V. Miller, which is set to expire December 26, 2019, and reappoint him to a six-year term beginning December 27, 2019, and expiring December 26, 2025.
- Appoint Benjamin Sharpe to fill the unexpired portion of the six-year term held by M. C. Garland, which is set to expire December 26, 2021.
- Appoint Mark Bristol to fill the unexpired six-year term held by R. D. Lambeth, which is set to expire December 26, 2021.

Via approval of the consent agenda, the Commission unanimously approved the appointments and reappointments to the Westside Intermodal Transportation Corporation Board Members as recommended and noted above.

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**REST AREAS, WELCOME CENTERS AND TRUCK PARKING MANAGEMENT SERVICES RENEWAL**

On behalf of the Director, Debbie Rickard, General Services Director, explained the department entered into a performance based contract effective October 1, 2016 to provide facility and property management, operation, maintenance and repair services for all Missouri Highways and Transportation Commission rest areas, welcome centers and truck parking facilities. DeAngelo Brothers, LLC submitted a request to renew the contract for all locations for the first renewable period, October 1, 2019 through September 30, 2021. The renewal meets procurement requirements and continues partnering

with sheltered workshops to perform janitorial services, lawn mowing, and painting services. The Commission authorized contract extensions for two additional two-year periods.

Ms. Rickard recommended approval of the renewal of the current contract with DeAngelo Brothers LLC for facility and property management, operation, maintenance, and repair services for all Missouri Highways and Transportation Commission rest areas, welcome centers, and truck parking facilities. She also requested the Commission authorize the Executive Committee to approve any future specific site modifications to the contract which may be in the best interest of the department.

Via approval of the consent agenda, the Commission unanimously approved the recommendations noted above.

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**STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM (STIP)**  
**CONSIDERATION OF BIDS FOR TRANSPORTATION IMPROVEMENTS**

On behalf of the Director, Eric Schroeter, Assistant Chief Engineer, presented the following recommendations pertaining to bids received on federal-aid and state highway and bridge projects during the past month.

Mr. Schroeter recommended award of contracts to the lowest responsive bidders for bids received at the August 5, 2019, emergency letting, as recommended and noted in Table I below.

**Table I**  
**Award of Contracts**  
**August 5, 2019, Emergency Bid Opening**

<b>Call No.</b>	<b>Route</b>	<b>County</b>	<b>Job No.</b>	<b>Bid Amount</b>	<b>Non-Contractual Costs</b>	<b>Contractor</b>	<b>Description</b>
A01	A	Gentry	J1S3346	\$119,319.60	\$0.00	H.B. Construction, Inc.	Bridge Flood Repair
A02	H	Buchanan	J1S3348	\$168,050.00	\$0.00	H.B. Construction, Inc.	Debris Removal
			<b>TOTAL:</b>	<b>\$287,369.60</b>	<b>\$0.00</b>		

**Commission Consideration and Action**

After consideration, and upon motion by Commissioner Smith, seconded by Commissioner Ecker, the Commission took the following action:

1. Awarded contracts to the lowest responsive bidder for bids received at the emergency August 5, 2019, bid opening, as recommended and noted in Table I above. Non-contractual costs for these projects are shown on the above tabulation.
2. Authorized the Director, Chief Engineer, Chief Financial Officer, or Assistant Chief Engineer to execute the contracts awarded above.

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**REQUEST FOR APPROVAL OF DESIGN OF HIGHWAY**

**Route H, Jackson County**  
**Job No. J4P3212**  
**Public Hearing Held May 23, 2019**  
**On-Line Public Hearing Held May 24, 2019-June 6, 2019**

The proposed improvement provides sight distance at the intersection of Route H and Pink Hill Road. The project will have normal access right of way. It is anticipated that traffic will be maintained on the existing facility for the majority of the project. The project is 0.15 miles in length.

On behalf of the Director, Brian Kidwell, Kansas City District Engineer, recommended approval of the location and design as presented at the public hearing.

After full consideration of the favorable and adverse economic, social, and environmental effects of the recommended design, the Commission via approval of the consent agenda unanimously found and determined the recommended design would best serve the interest of the public and approved the recommendation.

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**APPROVAL OF PLANS FOR CONDEMNATION**

On behalf of the Director, Travis Koestner, State Design Engineer, recommended the Commission approve the following detailed project plans, approved by the Chief Engineer, for filing as necessary for the condemnation of right of way.

<u>County</u>	<u>Route</u>	<u>Job Number</u>
Cass	2	J4P3212D

In accordance with Section 227.050 RSMo, the Commission via approval of the consent agenda, approved the detailed project plans for the above noted projects and directed they be filed as necessary for the condemnation of right of way.

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-- **REPORTS** --

**REPORTS**

The Commission received the following written reports.

**MODOT BRIEFING REPORT**

Patrick McKenna, Director, provided to the Commission the written monthly Issue Briefs that were sent from the department to the Governor since the previous MoDOT Briefing Report. There were two briefing reports for the past month.

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**FINANCIAL – BUDGET – REPORTS  
YEAR-TO-DATE FINANCIAL REPORT, PERIOD ENDING JUNE 30, 2019**

Todd Grosvenor, Financial Services Director, submitted a written financial report for fiscal year to date June 30, 2019, with budget and prior year comparisons.

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**CONSULTANT SERVICES CONTRACT REPORT**

Travis Koestner, State Design Engineer, submitted a written report of consultant contracts executed in the month of June 2019, for both engineering and non-engineering related projects. The department utilizes consultants to efficiently manage workload and provide specialized expertise to supplement and support department staff. Expenditures for consultant services are funded from the Commission approved Statewide Transportation Improvement Program and MoDOT Operating Budget. There were 365 active contracts held by individual engineering consultant firms prior to June 1, 2019. Eleven engineering consultant services contracts were executed in June 2019, for a total of \$834,066. There were fifteen new non-engineering consultant contracts executed in June 2019.

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By unanimous consensus of all members present, the meeting of the Commission adjourned.

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**The Mission of the Missouri Highways and Transportation Commission is to:**

- Represent the citizens of Missouri pursuant to the Constitution by providing independent and nonpartisan governance of the Missouri Department of Transportation; and
- Establish policies, exercise oversight, and ensure accountability in developing and maintaining a world class transportation system in Missouri which fosters safety and economic development.

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