

Montana Transportation Commission

**February 18, 2021 Meeting
Commission Room
2701 Prospect Avenue
Helena, Montana**

IN ATTENDANCE

Loren Frazier, Transportation Commission Chair (District 3)
Tammi Fisher, Transportation Commissioner (District 1)
Shane Sanders, Transportation Commissioner (District 2)
Noel Sansaver, Transportation Commissioner (District 4)
Scott Aspenlieder, Transportation Commissioner (District 5)
Malcolm “Mack” Long, Director MDT
Mike Bousliman, Acting Deputy Director
Lori Ryan, Commission Secretary
Paul Johnson, MDT
Kevin Christensen, MDT
Dwane Kailey, MDT
Dustin Rouse, MDT
Jake Goettle, MDT
Carol Grell Morris, MDT
Paul Johnson, MDT
Carol Strizich, MDT
Chris Nigren, MDT
Bill Fogerty, MDT
Jim Wingerter, MDT
Bob Vosen, MDT
Patty Schwinden, MDT
Lucia Olivera, FHWA

Please note: the complete recorded minutes are available for review on the commission’s website at https://www.mdt.mt.gov/pubinvolve/trans_comm/meetings.shtml. You may request a compact disc (containing the audio files, agenda, and minutes) from the transportation secretary Lori Ryan at (406) 444-7200 or lryan@mt.gov. Alternative accessible formats of this document will be provided upon request. For additional information, please call (406) 444-7200. The TTY number is (406) 444-7696 or 1-800-335-7592.

OPENING – Commissioner Loran Frazier

Commissioner Frazier called the meeting to order with the Pledge of Allegiance and the Invocation. Commissioner Frazier asked for introductions.

Approval of Minutes

The minutes for the Commission Meetings of November 20, 2020, December 1, 2020, and December 29, 2020 were presented for approval.

Commissioner Aspenlieder moved to approve the minutes for the Commission Meetings of November 20, 2020, December 1, 2020 and December 29, 2020. Commissioner Sanders seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

Agenda Item 1: Local Construction Projects on State Highway System – Local Forces City of Kalispell and City of Livingston

Paul Johnson presented the Local Construction Projects on State Highway System – Local Forces, City of Kalispell and City of Livingston to the Commission. Under MCA 60-2-110 “Setting priorities and selecting projects,” the commission shall

establish priorities and select and designate segments for construction and reconstruction on the national highway system, the primary highway system, the secondary highway system, the urban highway system, and state highways. This statute exists to ensure the safety of our system, protect transportation investments, and encourage better coordination between state and local infrastructure improvements. MDT staff reaches out to local governments to solicit local projects on state systems to ensure compliance with this statute.

Summary: The City of Kalispell and the City of Livingston are planning to design and build transportation improvement projects on the state highway system. The projects will be funded locally and will utilize local forces for construction. The projects will be designed with input and concurrence from MDT staff to the extent practicable.

When complete, the City of Kalispell and the City of Livingston will assume all maintenance responsibilities associated with new project elements. Thus, MDT will not incur additional liability or maintenance costs as a result of the proposed projects.

On behalf of the local governments, as required by MCA 60-2-110, staff requests that the Transportation Commission approve the local projects listed below. The projects are also illustrated on the attached maps: City of Kalispell and City of Livingston.

Location	Type of Work	Cost (estimate)	Fiscal Year	Type of Labor
18 th Street (U-6733), from Airport Road to US-93, in Kalispell	Mill & Fill	\$120,000	2021	Local
Evergreen Drive (U-6710), from Whitefish Stage Road to Palmer Drive, in Kalispell	Mill & Fill	\$150,000	2022	Local
Center Street (U-6714), from 5 th Ave West to 7 th Ave West, in Kalispell	Mill & Fill	\$100,000	2021	Local
5 th Ave West (U-6721), from Center Street to Idaho Street, in Kalispell	Mill & Fill	\$110,000	2021	Local
Fleshman Creek Road (U-7404), from Prairie Drive to the City Limit, in Livingston	Resurfacing	\$150,000	2021	Local

Staff recommends that the Commission approve these improvements to the state highway system, pending concurrence of MDT’s Chief Engineer.

Commissioner Aspenlieder moved to approve the Local Construction Projects on State Highway System – Local Forces, City of Kalispell and City of Livingston. Commissioner Sanders seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

**Agenda Item 2: Local Construction Projects on State Highway System – Contract Labor
Cities of Billings, Bozeman, Butte, Havre,
Kalispell, Missoula & Westby**

Paul Johnson presented the Local Construction Projects on State Highway System, Contract Labor – Cities of Billings, Bozeman, Butte, Havre, Kalispell, Missoula and Westby. Under MCA 60-2-111 “letting of contracts on state and federal aid highways,” all projects for construction or reconstruction of highways and streets located on highway systems and state highways, including those portions in cities and towns, must be let by the Transportation Commission. This statute exists to ensure the safety of our system, protect transportation investments, and encourage better coordination between state and local infrastructure improvements. MDT staff

reaches out to local governments to solicit local projects on state systems to ensure compliance with this statute.

Summary: The Cities of Billings, Bozeman, Butte, Havre, Kalispell, Missoula and Westby are planning to design and build transportation improvement projects on the State highway system. The projects will be funded locally and will utilize contract labor. The projects will be designed with input and concurrence from MDT staff to the extent practicable. When complete, the cities will assume all maintenance responsibilities associated with new project elements. Thus, MDT will not incur additional liability or maintenance costs as a result of the proposed projects.

On behalf of the local governments, as required by MCA 60-2-111, staff requests that the Transportation Commission delegate authority to the cities to let and award contracts for the projects listed below.

Location	Type of Work	Cost (estimate)	Fiscal Year	Type of Labor
King Ave West (N-111), from Shiloh Road to 32nd Street West, in Billings	Overlay	\$700,000	2021	Contract
Rimrock Road (U-1002), from Virginia Lane to 27th Street, in Billings	Overlay	\$300,000	2021	Contract
Billings Boulevard (U-1013), from King Ave East to Underpass Ave, in Billings	Overlay	\$600,000	2021	Contract
4th Ave North (U-1018), from Division Street to 27th Street, in Billings	Overlay	\$400,000	2021	Contract
Rimrock Road (U-1002), at the Virginia Lane intersection, in Billings	New Traffic Signals, ADA Upgrades	\$300,000	2021	Contract
Griffin Drive (U-1217), from North 7th Avenue to Rouse Avenue, in Bozeman	New Turn Lane, Bike Lanes, Curb & Gutter, Sidewalks	\$4,400,000	2021	Contract
Griffin Drive (U-1217), at the Manley Road intersection, in Bozeman	New Traffic Signals, ADA Upgrades	\$2,000,000	2021	Contract
Kagy Boulevard (U-1212), near the M.S.U. Football Stadium, in Bozeman	Ped Crossings, ADA Upgrades	\$100,000	2021	Contract
South 19th Avenue (U-1201), from Kagy Boulevard to Stucky Road, in Bozeman	Roadway Widening, Intersection Upgrades	\$2,500,000	2021	Contract
Mercury Street (U-1823), from Arizona Avenue to Shields Avenue, in Butte	Reconstruction	\$1,200,000	2021	Contract
13th Street (U-5709), from McKinley Avenue to Boulevard Avenue, in Havre	Mill & Overlay	\$300,000	2021	Contract
Center Street (U-6714), from Meridian Road to 7th Ave West, in Kalispell	Reconstruction	\$1,500,000	2021	Contract
Russell Street (U-8105), at the Fairgrounds Trail Crossing, in Missoula	Ped Crossings, ADA Upgrades	\$200,000	2021	Contract
Rattlesnake Drive (U-8115), from Creek Crossing Rd to Lolo Street, in Missoula	Mill & Fill	\$800,000	2021	Contract
Mount Avenue (U-8116), from Brooks Street to Bow Street, in Missoula	Mill & Fill	\$100,000	2021	Contract
Higgins Avenue (U-8117), from Brooks Street to University Avenue, in Missoula	Mill & Fill	\$250,000	2021	Contract
MT-5 (P-30), from 1st Avenue to 2nd Avenue, in Westby	Sidewalks, Curb & Gutter, ADA Upgrades	\$70,000	2021	Contract

Staff recommends that the Commission approve these modifications to the state highway system and requests that the Commission delegate its authority to let, award, and administer the contracts for these projects to the Cities of Billings, Bozeman,

Butte, Havre, Kalispell, Missoula and Westby - pending concurrence of MDT's Chief Engineer.

Commissioner Sanders asked if this was standard operating procedure for the urban route projects. Carol Strizich said there isn't just one way MDT does things. If MDT has maintenance responsibility, we retain that responsibility but if the locals are responsible for maintenance, they perpetuate that responsibility. On new infrastructure we put the responsibility for additional or new infrastructure or new costs to the locals. Commissioner Frazier said some of the projects are pretty large in size, I understand projects are funded locally so is that totally funded with local funds and not from our system program. Carol Strizich said yes that is correct.

Brian Hexel, Deputy Public Works Director for City of Missoula, said the project on Higgins Avenue from Brooks at University was lumped in with Rattlesnake. The correction on that is Higgins is an MDT dedicated state route. That project is being done at the request of the local Maintenance Chief, Steve Felix, as a special project in accordance with our maintenance agreement with MDT and MDT maintenance funds will be paying for that. So it should not be in the same category. Mound and Rattlesnake are federal aid urban routes but city right-of-way. I don't know if that is a necessary distinction or not. MDT will still be responsible for the maintenance on the project on Higgins Avenue per our maintenance agreement.

Commissioner Fraser said these are generally funded by the local governments. In looking at our national routes, do we have staff to make sure things get done? Brian Hexel said it is being done at the request of Steve Felix, MDT Maintenance Chief. I assume he has a good reason to do it and I absolutely agree with it. It needs it. Commissioner Frazier said I am referring to the NH routes in Billings. Dustin Rouse said when we are working on a roadway that is our maintenance responsibility, yes we do provide oversight and verifying responsibilities.

Commissioner Sanders moved to approve the Local Construction Projects on State Highway System, Contract Labor – Cities of Billings, Bozeman, Butte, Havre, Kalispell, Missoula and Westby. Commissioner Aspenlieder seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

Agenda Item 3: Construction Projects on State Highway System – Billings Clinic, Bozeman

Paul Johnson presented the Construction Projects on State Highway System – Billings Clinic, Bozeman to the Commission. Under MCA 60-2-110 "Setting priorities and selecting projects," the commission shall establish priorities and select and designate segments for construction and reconstruction on the national highway system, the primary highway system, the secondary highway system, the urban highway system, and state highways. This statute exists to ensure the safety of our system, protect transportation investments, and encourage coordination on public and private infrastructure improvement projects that impact MDT routes.

Billings Clinic - Bozeman

The Billings Clinic is proposing modifications to East Valley Center Road (U-1211) in Bozeman to address traffic generated by their new facility. Proposed improvements include the construction of a new approach and installation of a westbound left-turn lane on East Valley Center Road.

MDT headquarters and Butte District staff have reviewed and concur with the recommended improvements. The Billings Clinic will provide 100 percent of project

funding and will be required to complete MDT's design review and approval process (to ensure that all work complies with MDT design standards).

When complete, MDT will assume all maintenance and operational responsibilities associated with the proposed improvements.

Summary: The Billings Clinic is proposing modifications to the Urban Highway System to address traffic generated by their new facility. Proposed improvements include the construction of a new approach and installation of a westbound left-turn lane on East Valley Center Road (U-1211) in Bozeman.

Staff recommends that the Commission approve these modifications to East Valley Center Road - pending concurrence of MDT's Chief Engineer.

Commissioner Aspenlieder moved to approve the Construction Projects on State Highway System – Billings Clinic, Bozeman. Commissioner Sanders seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

Agenda Item 4: Construction Projects on State Highway System – Contract Labor Bolinger Road Intersection, Belgrade

Paul Johnson presented the Construction Project on State Highway System, Contract Labor – Bolinger Road Intersection, Belgrade to the Commission. Paul Johnson said the Main Street Project in Belgrade (Agenda Item 7) was a complimentary project to this project. The Main Street project will work in conjunction with this improvement which is a local improvement.

Under MCA 60-2-111 “letting of contracts on state and federal aid highways,” all projects for construction or reconstruction of highways and streets located on highway systems and state highways, including those portions in cities and towns, must be let by the Transportation Commission. This statute exists to ensure the safety of our system, protect transportation investments, and encourage better coordination between state and local infrastructure improvements.

Bolinger Road Intersection - Belgrade

The City of Belgrade is proposing modifications to Main Street (U-605) to promote operational improvements, safety, pedestrian facility connectivity and improved stormwater drainage near the Bolinger Road intersection. Proposed improvements include the installation of turning lanes, curb and gutter, sidewalks and ADA upgrades at this location.

MDT headquarters and Butte District staff have reviewed and concur with the recommended improvements. The City of Belgrade will provide 100 percent of project funding and will be required to complete MDT's design review and approval process (to ensure that all work complies with MDT design standards).

When complete, MDT will assume all maintenance and operational responsibilities associated with roadway improvements and the City of Belgrade will assume all maintenance and operational responsibilities associated with pedestrian facilities (sidewalks, etc.).

Summary: The City of Belgrade is proposing modifications to the Urban Highway System to promote operational improvements, safety, pedestrian facility connectivity and improved stormwater drainage on Main Street (U-605) in Belgrade. Proposed

improvements include the installation of turning lanes, curb and gutter, sidewalks and ADA upgrades at the intersection of Main Street and Bolinger Road.

Staff recommends that the Commission approve these modifications to the Urban Highway System and requests that the Commission delegate its authority to let, award, and administer the contract for this project to the City of Belgrade - pending concurrence of MDT's Chief Engineer.

Commissioner Aspenlieder asked him to explain why the two projects are split into two projects and not done as one whole project. Paul Johnson said it comes down to different funding sources. The Main Street project will be funded by the Urban Program STPU funding. They save up their money via the Urban Program and when they get to a certain amount, they let the project. That is not to say the work might not be combined but typically we don't combine a project that is an MDT project with a local project. There are a lot of things that have to do with bidding and things like that. In this case, the City of Belgrade is funding one and MDT, through our STPU Program, is advancing a priority in the Belgrade area and it is one of our projects. That is the difference.

Commissioner Aspenlieder asked with these types of projects do you see these usually being the same contractor or the contracts load at the same time. What does the timing look like and the execution of these traditionally? Carol Strizich said there are two things to add to what Paul noted. Moving these projects forward separately really was coordinated with the local officials at their request to move one faster than the other. The second thing is as soon as a local project gets tied to a federal aid project, it becomes a federal aid project and there are additional restrictions and costs associated with it. In this instance it is beneficial to the local government to deliver their project separately from the federal aid project but we do coordinate for timing so as not to undo something that just got done. Dwane Kailey said federal aid red tape is the biggest issue – things like Davis Bacon wages come into play, Buy American comes into play, and an environmental document is needed. All that comes into play once we tie them together. Bill Fogerty, Butte District Administrator, said what is driving the timing of construction on this project is a local development including a new middle school. That is partly what is driving the sense of urgency for the intersection improvements. That work is being coordinated with their urban priority Main Street and the City of Belgrade is waiting to have enough money allocated in order to forward that project. We meet with those folks monthly and coordinate on a regular basis as far as planning goes.

Commissioner Frazier asked if the City of Belgrade was going to be administering the Bolinger Road project and is the Main Street project going to be an MDT administered contract? Carol said yes.

Commissioner Sanders moved to approve the Construction Project on State Highway System, Contract Labor – Bolinger Road Intersection, Belgrade. Commissioner Aspenlieder seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

Public Comment

No public comment was given.

Agenda Item 5: Construction Projects on State Highway System – Contract Labor Mullan Road Build Grant Project, Missoula

Paul Johnson Zanto presented the Construction Project on State Highway System, Contract Labor – Mullan Road Build Grant Project, Missoula to the Commission. Under MCA 60-2-111 “letting of contracts on state and federal aid highways,” all projects for construction or reconstruction of highways and streets located on highway systems and state highways, including those portions in cities and towns, must be let by the Transportation Commission. This statute exists to ensure the safety of our system, protect transportation investments, and encourage better coordination between state and local infrastructure improvements.

Mullan Road BUILD Grant Project – Missoula

The City of Missoula and Missoula County recently received a Better Utilizing Investments to Leverage Development (BUILD) grant to be utilized for improvements in the northwest portion of Missoula (in the vicinity of Mullan Road).

At this time, the City of Missoula and Missoula County are proposing to improve traffic operations and safety by installing roundabouts at the following intersections: Mullan Road (U-8123) and George Elmer Drive, West Broadway (N-132) and George Elmer Drive, and Mullan Road (U-8123) and Mary Jane Boulevard.

Additionally, the intersection of West Broadway (N-132) and Mary Jane Boulevard will be modified to add stop-controlled approaches - with signage to limit certain turning movements. All intersections will include bicycle and pedestrian facility improvements, storm drain features, and new lighting.

MDT headquarters and Missoula District staff have reviewed and concur with the recommended improvements. The City of Missoula and Missoula County will provide 100 percent of project funding and will be required to complete MDT’s design review and approval process (to ensure that all work complies with MDT design standards).

When complete, MDT will assume all maintenance and operational responsibilities associated with these improvements – with the exception of facilities associated with sidewalks, landscaping, storm drains, lighting, and roundabout center islands.

Summary: The City of Missoula and Missoula County are proposing modifications to the state system to promote operational and safety improvements in the northwest portion of Missoula (in the vicinity of Mullan Road). Specifically, the City of Missoula and Missoula County are requesting Commission approval to install roundabouts at the intersections of Mullan Road (U-8123) and George Elmer Drive, West Broadway (N-132) and George Elmer Drive, and Mullan Road (U-8123) and Mary Jane Boulevard. Additionally, the City and County are seeking permission to add stop-controlled approaches (with limited turning movements) at the intersection of West Broadway (N-132) and Mary Jane Boulevard.

Staff recommends that the Commission approve these modifications to Mullan Road and West Broadway in Missoula - and requests that the Commission delegate its authority to let, award, and administer the contract for this project to the City of Missoula and Missoula County - pending concurrence of MDT’s Chief Engineer.

Commissioner Fisher asked about West Broadway and the addition of a roundabout. Will that assist with access to the new Veteran’s Clinic being built off Broadway? Dwane Kailey said if you move ahead to Agenda Item No. 6, it is a coordinated project and we are working with the City and the County right now. We identified Linley as a safety improvement project, however, with the Build Grant the City and County are proposing to move that intersection to Mary Jane because our Safety funds are still eligible to help make those improvements. So we are working with the City and the County to actually put a signal in at the intersection of Mary Jane and West Broadway. We are fast tracking that and trying to accommodate the opening of the VA Facility this October. We are coordinating that. Agenda Item 5 says that

we're doing stop control but that is Plan B if we don't get the signal in in time. Plan A is to get the signal in in time for the opening for the opening of the VA facility.

Commissioner Fisher asked how the changes will affect access to the Forrest Lounge Bar on West Broadway. Dwane Kailey said he would research that and get back to her. Commissioner Fisher said Forrest Lounge actually lies right where you want to change the intersection at Flynn Lane. My assumption is that it is not going to limit access to the bar and may in fact enhance access so that it is not so screwy. Dwane Kailey said that is a skewed intersection and it is my understanding that Flynn Lane is going to be turned into a right-in/right-out only. The access to the businesses there will not change.

Commissioner Aspenlieder said when you said MDT is assuming all maintenance and operation responsibilities for the improvements with the exception of sidewalks, landscaping, storm drains, lighting and roundabouts. When you refer to bike and pedestrian facilities, is that assumed to be local responsibility for maintenance? Carol Strizich said I believe the on-road facilities are MDT responsibility but additional separated facilities go to the local officials. Carol Grell Morris said we've worked hard on this project with the City and those improvements in the right-of-way that are requested by the City are in fact going to be maintained by the City or the County. We're having some discussions on city limits type issues but the roadway type maintenance is all MDT. When you mention bike facilities and shared use path, those are considered right-of-way improvements so they would fall to the local government to maintain those. Commissioner Aspenlieder said so I'm clear, you're taking care of the surface and infrastructure and that's it. Carol Grell Morris said that is correct. We have agreements to that effect with the local governments.

Commissioner Frazier asked who is going to be overseeing the construction, the City or MDT. Dwane Kailey said I believe the Build Grant actually went to the County, but the County and the City are coordinating very closely on all this work and will provide the initial oversight, however, those improvements on our infrastructure will be essentially approved by MDT before we take over any maintenance responsibilities.

Commissioner Fisher moved to approve the Construction Project on State Highway System, Contract Labor – Mullan Road Build Grant Project, Missoula.
Commissioner Sanders seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

**Agenda Item 6: Highway Safety Improvement Program
Additions to HSIP Program (1 New Project)
SF199 Mary Jane Broadway INTX**

Paul Johnson presented the Highway Safety Improvement Program Additions to HSIP Program (1 New Project) SF199 MaryJane Broadway INTX to the Commission. The Highway Safety Improvement (HSIP) Program makes federal funding available to states to assist with the implementation of a data-driven and strategic approach to improving highway safety on all public roads. In Montana, the primary focus of the HSIP program involves identifying locations with crash trends (where feasible countermeasures exist) and prioritizing work according to benefit/cost ratios.

At this time, MDT is proposing to add one (1) new project to the HSIP program in the Missoula District (District 1). Project information is shown on Attachment A. The estimated total cost for all project phases is \$704,000 (\$634,000 federal + \$70,000 state).

Summary: MDT is requesting Commission approval to one (1) new project (listed on Attachment A) to the Highway Safety Improvement Program. The proposed project is consistent with the goals and objectives identified in the Performance Programming (Px3) Process – as well as the policy direction established in TranPlanMT. Specifically, traveler safety will be enhanced with the addition of this project to the HSIP program.

The estimated total cost for all project phases is \$704,000.

Staff recommends that the Commission approve the addition of this HSIP project to the highway program.

Commissioner Aspenlieder said there is a split between federal and state funds on this, does the state make up any overage on project costs. Dwane Kailey said if it is within the scope, yes we pick those up. However, if the local government requests additional scope or items that are not traditional to a project like this, then we ask the local government to pick up the costs. For example, if they want to add amenities like period lighting, we ask the local government to pick up those costs. If it stays within the scope of what we had for this project, we do pick up those costs. I want to give a big shout out to the City and the County to help facilitate the expedition of this project. The County right now is using their consultant to do the design work. For us to do a project takes a year or two or longer but to expedite this they are doing the design work for us right now on their dime. Once they get that done, they will hand off the design to MDT and we will use it to bid, award, and administer the project out on the street. I've got to give credit to the City and the County for working with us on this and helping us expedite this project.

Jeremy Keen, Missoula, said I want to second what Duane said that this project has been a real success and partnership and we really appreciate the MDT staff helping us move along quickly. We've gone from concept to 90% planned in just a little over a year on what will ultimately be a \$40 million project and the work to collaborate on both the Build Grant that this HSIP project is really meaningful. It will address three different intersections in Missoula that were a safety concern. I think it is a real testament to our ability to work together and get good projects done. Thank you for your work Commissioners and what you do; it makes for a good partnership in this.

Commissioner Fisher moved to approve the Highway Safety Improvement Program Additions to HSIP Program (1 New Project) SF199 Mary Jane Broadway INTX. Commissioner Sansaver seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

Agenda Item 7: Surface Transportation Program Urban Main Street – Belgrade

Paul Johnson presented the Surface Transportation Program – Urban Main Street, Belgrade to the Commission. The Surface Transportation Program Urban (STPU) provides funding for improvements on the Urban Highway System in Montana's 19 urban areas. STPU allocation amounts are based on a per capita distribution and are recalculated after each decennial census. Priorities for the use of STPU funds are established via local planning processes with final approval by the Transportation Commission.

At this time, MDT is requesting the addition of the following project to the STPU program:

Main Street - Belgrade: This project is located within the City of Belgrade on Main Street (U-605) between Bolinger Road and Jackrabbit Lane. The proposed project

scope is reconstruction with added capacity. The roadway will be expanded to three lanes – with new curb and gutter, sidewalks, ADA improvements and street lighting.

The estimated total cost for all phases is \$3,500,000 (including indirect costs and inflation). Belgrade's annual STPU Allocation is \$315,600 with an anticipated letting year (FFY 2026) balance of \$3,963,000.

Summary: MDT is requesting Commission approval for a reconstruction project on Main Street in Belgrade. The estimated total cost (for all project phases) is \$3,500,000.

The proposed project has been prioritized via local planning processes and is consistent with the policy direction established in TranPlanMT. Specifically, roadway system performance, traveler safety and bike/ped features will be enhanced with the addition of this project to the STPU program.

Staff recommends that the Commission approve the addition of this STPU project to the highway program.

Commissioner Aspenlieder asked what the significance was of adding in all the indirect costs and inflation. Paul Johnson said one reason we amplify that in this instance is that since this is an allocation that goes to Belgrade, we're trying to make sure that when we hit the fiscal year 2026 that we have this amount available. We spell that out a little bit more specifically. Almost all of our estimates include indirect costs but in this case the inflation was to federal fiscal year 2026 to align with the balance that would be available. We just wanted to emphasize that point that at this current pace, they would have sufficient funding in that year for this project. Commissioner Aspenlieder said isn't that pretty typical for other projects also because they don't go out right away. Do you add inflation to that also or is it just this particular project since it is five years out? Paul Johnson said all projects do include inflation and indirect costs. In other programs you have the ability to utilize additional funding if you need it if costs change. In this case we're saying this particular funding pot of money, \$3.963 million, is the only funding that can fund this project. I think it is a very important point to note there are not any other funding sources. They can't scramble other funding to do this project. This is locked into that one particular funding source and that we have to have sufficient funding when we get there. Maybe we've over emphasized it a little bit but we do want to say there aren't any other funding sources; we can't just add other funding. For instance, in the Interstate or the NHS programs we can shuffle funding around. For this project this is it; that's all the funding available for this particular project and those two numbers have to match up. Commissioner Aspenlieder said I appreciate the delineation.

Commissioner Sanders said most of the other projects we talk about says who takes care of it afterwards but this one does not. Is it assumed that Belgrade takes care of the maintenance after the project is done? Paul Johnson said typically it's a continuation of whatever maintenance authority is in place. The only other way we would have an exception is if we have an agreement that says otherwise. For all projects it is assumed there is a continuation of the existing maintenance unless we have an agreement that says otherwise. That is standard operating procedure.

Commissioner Frazier asked how this project was going to tie into the underpass that was recently advertised on Jackrabbit Lane. Do these two mesh? Bill Fogerty said those projects are being coordinated. So this urban project priority will tie directly into the Belgrade Urban Project.

Commissioner Sanders moved to approve the Surface Transportation Program – Urban Main Street, Belgrade. Commissioner Aspenlieder seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

Agenda Item 8: Bridge Program Projects, Additions to Bridge Program (1 New Project) Jefferson R 2M W, Three Forks

Paul Johnson presented Bridge Program Projects, Additions to Bridge Program (1 New Project) – Jefferson R 2M W, Three Forks to the Commission. MDT’s Bridge Bureau reviews bridge conditions statewide and provides recommendations for construction projects to be added to the Bridge Program. At this time, the Bridge Bureau recommends adding one new project to the Bridge Program. The estimated total cost for all project phases is \$981,000 (\$849,000 federal + \$132,000 state).

Summary: MDT is requesting Commission approval to add one new project to the Bridge Program.

The breakdown of project costs (by program) is listed below:

Surface Transportation Bridge (STPB) Program	\$981,000
National Highway Performance Bridge (NHPB) Program	<u>\$ 0</u>
	\$981,000

The proposed project is consistent with the goals and objectives identified in the Performance Programming (Px3) Process - as well as the policy direction established in TranPlanMT. Specifically, roadway system performance and traveler safety will be enhanced with the addition of this project to the Bridge Program.

Staff recommends that the Commission approve the addition of this project to the Bridge Program.

Commissioner Sanders moved to approve the Bridge Program Projects, Additions to Bridge Program (1 New Project) – Jefferson R 2M W, Three Forks. Commissioner Sansaver seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

Agenda Item 9: Certificates of Completion November – December 2020

Dwane Kailey presented the Certificates of Completion for November & December 2020 to the Commission. Just as a reminder this is our final close-out of these projects. We’ve done all the work, received all the federal notifications that we’re good to go, and this is the final action to close out these jobs and then release the bonds for these contractors. Staff asks that you approve these.

Commissioner Sansaver moved to approve the Certificates of Completion for November & December 2020. Commissioner Sanders seconded the motion. All Commissioners voted aye.

The motion passed unanimously.

Agenda Item No. 10: Discussion and Follow-up

Dwane Kailey, MT 16 Glendive North

Dwane Kailey said first and foremost on the informational side, at the last Commission meeting we brought a speed study to the Commission. In further review I was a little uncomfortable with moving forward without informing the Commission of what’s transpired. We had a little bit of a hick-up. The speed study

in question was MT16 Glendive North. The local government, Dawson County, had requested that we look at studying the speed limits on MT16 between Town Street and Highland Park Road in Glendive. We did go out and look at the speeds and staff's recommendation was to reduce the speed to 40 mph. The current speed limit is 45 mph and we recommended reducing it to 40 mph about 800 feet south of the east bound on/off ramp up to 900 feet north of the west bound on/off ramp. When we presented that to Dawson County, we typically want a letter from the County stating they either concur or do not concur with our recommendation. We didn't get that letter initially so the District Administrator reached out to them again and they responded with a letter that confused the heck out of us. My staff read it one way and I initially read it in line with the staff, however in going back and re-reading the letter, I'm uncomfortable moving forward without the Commission understanding what transpired. When I presented the study to you, I presented it as though the County concurred with our recommendation. However in going back and re-reading their letter, I'm not comfortable with that recommendation. Let me explain.

In the letter from the County it states "we now understand that the study is complete and the recommendation is to lower the speed limit from 45 mph to 40 mph due to the increased traffic between the intersections of Town Street to Highland Park Road on Hwy 16." The next sentence in their letter says, "The Board of Commission of Dawson County would like to fully support the recommendation of the speed study and appreciate the work that was done to keep our residents safe." So the last sentence says they support our recommendation but our recommendation does not match what is in the sentence previous to it.

So I wanted to bring this to the Commission's attention and you have three options you can pursue: (1) You take no action, the approval by the Commission at the last meeting stands essentially supporting our recommendation; (2) you can ask the department to put an agenda item on one of our Conference Calls for bid award; (3) you can ask the department to put an agenda item to revisit on the next April Commission Meeting, in which case we can present it to you. At that time you can do one of two things: (1) you could stand on the recommendation from the previous action; or (2) you could rescind that action and then take up a new action either adopting the county's request or some modification thereof. It is up to the Commission how you want to proceed. Again in reviewing the letter, reviewing the action, and working with the District Administrator, we were uncomfortable moving forward without disclosing this to the Commission and making sure you are aware of what transpired. I'll turn it over to the Commission and look for what actions you would like us to take.

Commissioner Sansaver said this does lie within my district. Duane is right, there has been a lot of confusion here between the county, city, and state. I spoke to the District Administrator in Glendive last week to try to clear this up. I would like to take option number two that we bring it up at the next Conference Call on Tuesday. Perhaps we can have Shane Mintz on that call so he can clarify all of this. It is the intent of this district to have the 40 mph all the way through and not interrupted by a 45 mph speed limit in between those two points. I don't have the map but I would like to see that and I know the District Administrator would like to see that as well that we have a consistent speed limit all the way through. I will have the District Administrator, Shane Mintz, on the line next Tuesday if that is the wishes of the Commission.

Commissioner Frazier said he would defer to legal. I don't know that we need an action but just a simple notification that you want it on the next Conference Call and we can take care of that. Carol Grell Morris said that is correct. The reason this has been suggested is that it was not on the agenda as an action item. So some direction to staff was needed as to the Commission's preference that it could be placed on the agenda as an action item if that is what the Commission chooses. . Commissioner Frazier said I prefer what Commissioner Sansaver would like to do and put it on the

next call. I would like to get some background information on it since I wasn't here when it was talked about. Dwane Kailey said he would be more than happy to send them the agenda item from the last meeting so you can have that to review prior to the conference call.

Director Long (referring to handout) asked if what the County Commissioners and Commissioner Sansaver are saying is on the left hand side of the handout and what our speed study suggested is on the right. Dwane Kailey said that is correct. Director Long said we have two different ideas. Duane said our study recommended 45-40-45-50 mph and they just want 40 mph all the way throughout. Director Long said I would like to have Shane Mintz on that call to get his background. Dwane Kailey said they would make sure that happens.

Jake Goettle, MDT – Presentation on Alternative Contracting

This is a continuation of the Orientation we did last week. This is a continuation of the Alternative Contracting presentation. We talked a little bit about Design Bid Build and Design Build, and JOC Contracting methods. So I'm going to focus today on CMGC, our pilot program and then I'll present a little bit about our project delivery selection process and how we select these projects.

CMGC Background

To refresh you, Construction Manager/General Contractor (CMGC), also referred to as General Contractor/Constructor Manager (GCCM), is a highly collaborative project delivery method where basically we bring the contractor on board during the design phase. It's often referred to a three-legged stool where each member of the team is an integral part of the design team if the project goes on to construction. We bring the contractor on early to just help the design team improve the constructability, provide cost estimates, provide scheduling materials for the project, give a more accurate means and methods for the construction of the project, and provide us with the key subcontractors during the design phase.

The process starts before this and is very similar to how we do Design Build – it is a qualifications-based selection where we advertise a Request for Qualifications (RFQ), we short list teams or Construction Managers (CM) and then those short listed teams are issued the RFP. With CMGC we've also implemented an interview process. As we go through those proposals, we bring the CM in for an interview as part of the selection process.

Again to talk about the two-step process which is similar to Design Build, it's before this phase one and phase two piece. Once we're done with that qualifications-based selection, then we enter into this two-phased contract with the general contractor or the construction manager in the first phase. So, phase one is the pre-construction portion. That is just the construction manager helping us through the design process. We have a separate contract with the design engineer and a separate contract with an independent cost estimator. We work through the design as a team and as we go through that, the general contractor or the construction manager is providing an estimate at different stages of design as well as the independent cost estimator and the engineer who are also submitting estimates on the projects. There's a whole lot that goes into this. We work through the design, the estimate and as we get close to completion, if MDT and the construction manager can agree to a price on the overall project, then we enter into the second phase which is the construction phase of the contract and we go to construction. The second phase of the contract is where we will bring that to the Commission for approval, just like every other construction project, before we go to construction.

The independent cost estimator is there to ensure we get a fair price. So it's an independent third party estimate. It's a blind process so we don't show their bid but we use it as a comparison. So it's a fair process and we're assured we're getting a good price for the taxpayers. If we can't agree to a price, we do have the option to cancel the contract or terminate the contract and not go on to the second phase. If we do that, then it would be delivered under a different delivery method – Design Bid Build or Design Build. It would likely be Design Bid Build because the design would be fairly complete at that point.

History on CMGC Process.

The Legislature approved these four pilot projects in 2017. As soon as they did that we jumped on our process, developed our guidelines with our FHWA partners and our industry partners. We held several workshops that trained ourselves, the contracting community, and the engineering companies in the state. Then we've held periodic updates and additional workshops as we've gone through each of the pilot projects. For the first few years of our pilot program, we met monthly internally with our MDT Steering Committee just to keep us on track and make sure we were heading in the right direction with the projects. In 2018 we started and advertised our first project.

Projects

Clarks Fork River, 1M NW of Trout Creek was our first project. It was a fairly complex design in a very constrained site that was a major rehab on this bridge. It is a 1200 foot long structure across the Clarks Fork River near Trout Creek. We selected the engineer and the construction manager in 2018. They work through the design phase in 2019 and then the project was started and completed in 2020. It was a very successful project. The total cost was around \$10 million. Dwane Kailey said we can provide you some more information on that particular project because of the innovations the contractor brought to the table and the timeframe they took to completely replace that deck. We have some video to show you the innovative methods they used and that might be helpful if you saw that.

Director Long said what was suggested as a price and what we finally paid were all very close. I've gotten feedback from the Montana Contractor's Association who has told me they will oppose this when we ask the Legislature to make this permanent. We feel this is an excellent arrow in our quiver to help us get projects like this out. The contractor community does not always see what we see. The project went to Kiewit Infrastructure, an out-of-state contractor, but they did exactly what they said they would do and they brought innovation in.

Kevin Christensen said one of the benefits of this method and one of the ideas of this collaboration is to retire risk. As a result when you get to the end you have cost certainty on a project and we certainly had cost certainty on the Trout Creek Project which came in just as planned.

Commissioner Sanders asked why the Montana Contractor's Association was opposing expansion of this program. Director Long said as we go through this you will see that the first two projects, Trout Creek and Salmon Lake, were awarded to Kiewit Infrastructure, an out-of-state contractor. The Montana Contractor's Association thinks it is favoring the big boys. Schillinger Construction out of Kalispell bid on the second project and they did great. To be able to compete with the caliber of Kiewit who has more breadth and depth, we as MDT thought that for a local contractor they did well but they didn't get it. The Contractor's Association said MDT was favoring the big boys. We didn't – all of our stuff is out there and is open for review and we brought it to the Commission. On the third project, they did a joint venture. LHC and Granit worked together. So in my opinion I think the local contractors are learning and adapting. Kevin Christensen said we've seen that in

other states. We collaborated with other states and Federal Highways to put our program together. Other states that have gone through what we're going through now have experienced exactly the same thing. The first few projects go to contractors like Kiewit who has done about 500 CMGC projects. Our local contractors haven't done any yet. On the second project, they competed very strongly with Kiewit and on the third one we have a joint venture. What the other states have seen is that the local contractors adapt, it's just a learning curve, they learn how the process works and eventually they become players in the game as well.

Paul Johnson said on both of these projects, Clarks Fork and Salmon Lake, they did hire several local subcontractors. Local contractors and subcontractors are also participating in the design phase as well, so they will start to understand and learn the process as we go through the design phase. These are fairly complex projects so there's a lot of subcontractors that are included in the contract.

Salmon Lake is the second CMGC. We hired a Construction Manager from Kiewit for this project in May 2019. We're currently in the design phase. It's a very complex project. We're constrained by the Lake on one side and on the other side of the road is a steep high wall so it will be a complex project to design and construct. We anticipate construction starting or us presenting for construction to the Commission in the fall of 2022-2023. We're hopeful that will be the case but it could take longer to get through the design.

Johnson Lane Interchange is the third project which is part of the Billings Bypass. It will be MDT's and Montana's first diverging diamond interchange on the east end of Billings. There is a lot of complexity to this project especially with traffic. This is where the highest volumes in the state are so maintenance of traffic is one of the key concerns on this project. We hired a construction manager in 2019. That was a joint venture between Granite and local contractor LHC. Several local subcontractors will be included in this contract. They are quite a ways into the design and are meeting today on 60% design and estimate discussions, so they are moving along pretty well. We anticipate presenting this to the Commission next year for award if we get to a successful construction price for the project.

MT 200 Bridges in the Lewistown Area is the fourth and final project. This is informational. This is replacement of 11 structures that are in advanced deterioration. They are all between Lewistown and Grass Range. The construction sequencing of doing 11 bridges at one time is the main reason for bringing the contractor on board to help us with this project and CMGC works well in that respect. We did hire the design engineer last year and they've been working through some very preliminary investigation to get enough initial information to start on the design. We will advertise for the construction manager next week and then work through that qualification-based selection and hire the construction manager. Then design phase will commence with the construction manager this year and next year. One thing with this project is we anticipate early work packages and if there are some locations that are simpler than others, then we can advance those to construction faster and start on some of the simpler sites before the design is 100% complete. We will bring this to the Commission before we enter into either that early work package or the final construction contract.

Delivery Selection Tool

This is a formal method for MDT to pick the right delivery method for a project. It evaluates Design Bid Build, Design Build and CMGC. The entire Design Team and the Technical Review Committee goes through the project, walks through the details of each project, and then looks at how each delivery method and how appropriate each delivery method is to address concerns with these five criteria, i.e., how well will Design Bid Build, Design Build, or CMGC address cost impacts and schedule impacts. Kevin mentioned the opportunity to manage risk. One of the key benefits

of CMGC is to manage risk by the party that is best able to address that risk. This process tells us which delivery method is best to manage each of these criteria.

This is the outcome of the MT 200 Bridges PDSP Project process. The five criteria we showed we do this red light, green light, yellow light process. There is a whole bunch of detail in this and I have the report if anybody is interested in looking at it. There is a list of pros and cons for each one and how they would manage the cost impacts, schedule impacts, and so on. In the end, it shows us which deliver method is most appropriate for this specific project.

Commissioner Sanders said MDT cannot enter into any more CMGC contracts at this point now that you've filled the four you were authorized for. Paul Johnson said that is correct. Commissioner Sanders asked when you propose taking this to the Legislature. Director Long said 2023. We should have all our data and be able to show them what we were hoping to see and do in the pilot program and here is the results. We will ask them to allow us to go forward and leave this as a permanent option in our quiver of how we look at things. Commissioner Sanders said I think it's great. I appreciate the fact that you have gone this far and the documentation you've provided. I think this is a great approach. I understand the Montana Contractor's Association concerns but we'll figure it out. Director Long said he had a very enjoyable time at the winter convention. I got to sit with the board and debate this and its fun being back with them because that is where my background is. This is what the whole world is going to. You may not be comfortable with it but look at how far we've gone. We've gone from Kiewit doing an incredible job to now LHC working with Granite and they are right in the mix of things. I'm excited to see what happens. I know it takes a while to get that evolution through it; we knew it and they will hopefully see that it is important for all for us.

Kevin Christensen said the vertical industry in Montana, every other state agency has been able to use this for 20 years plus. MDT was specifically excluded in the law from being able to do this. We thought it would be really simple to change the law to allow us to do it but it took us three Legislative sessions to get it through and then it was a pilot program. It's going really well so far and it would be great to see a local contractor get the fourth one. They've competed very strongly. I think it's going to be interesting when we go back to the Legislature to ask permission to get permanent authority to use this. We're going to need some local contractors to come to the podium in support of it. I don't know that we're there yet but we have time.

Director Malcolm "Mack" Long

Greeting

It has been both a joy and a pleasure to have new Commissioners and to be new myself and be a part of this wonderful team and organization. Coming from the outside, from construction, it's been wonderful to be a part of this and see the professionalism, knowledge, and enthusiasm the Department of Transportation has within its employees from top to bottom. I can't speak highly enough of them; it's just been wonderful.

Legislative Session

To bring you up to speed, this is the Legislative Session season and it has been even more interesting and fun to be a part of that. Every morning we go through pages of different bills and after that we go through the legislative commitments which may become bills. So we spend quite a bit of time both proposing working with the Legislature and trying to manage what the Legislature wants to bring our way. It's been good the last few months to be a part of that and to see the team and the organization we have. In my opinion, MDT tends to be the leader on almost

everything. We have excellent people who can give information to the Legislature, who can help them to give feedback, and who interact with the Legislature one-on-one and in a group. Legislators are still individuals.

Yesterday we had our Appropriations Subcommittee Meeting and it went very well but like anything else, you never know what might hit you. We had a Representative who all of a sudden threw an amendment out that passed. We have some CARES-2 Act money coming from the federal government and this Representative decided he wanted to tell us where it should go and how it should go. So he made the amendment and it passed through the Subcommittee and will keep working through the Legislature. We don't necessarily agree with it. In fact Kevin Christensen and I had a conference call with the Legislators and the Governor's Senior Advisor laying out our position. They did what they said they were going to do and I thanked them afterwards. I appreciated that it was their job to represent their districts and people but it's also MDT's job to represent everyone in the state who use our roads. As Lucia understands, we have guidance from FHWA. We don't always control what we do, they help guide us and we try to work with them and follow their guidance. My Dad taught me the Golden Rule growing up – he who has the gold makes the rules. I learned that young and I still understand that principle.

I appreciate this Commission and your service and everything you are doing. It has been a lot of fun for me and I couldn't ask for anything better than to be a part of this team. Thank you

Commissioner Sanders asked the Director when the Commissioners get approached by Legislators, whether it be our home district or not, about bills in the Legislature, how does the department want us to handle that? What type of involvement do you expect the Commissioners to have with the Legislature?

Director Long said from my position as the Director I'm assuming you, as Commissioners, will look at it as I do and try to be somewhat pro MDT. I have differing opinions sometimes but I always try to talk to Kevin, Wayne, or Carol about our history. What have we done before? For instance with a bill for our Motor Carriers Service, the dyed fuel is important. I don't always agree with it because I've been caught and fought over dyed fuel. Sometimes it is an accident and sometimes you can't help what a laborer does when they take your truck and fill up the sub tank and all of a sudden you have it in three pieces of equipment. Coming from that side, I don't always follow the right line but I understand it. So the long answer is you as Commissioners represent your District and you as individuals represent your own beliefs. I would hope you would follow what you feel is important and true. I don't think as the Director I should say "thou shalt". I think yesterday the Representative knew where we were coming from and we weren't able to respond in Committee but they knew from the day before. Kevin Christensen said they did.

Kevin Christensen said in our budget hearing yesterday they went down line-by-line and gave us everything we asked for which shocked us but it is what happened afterwards that was kind of concerning to us because there was an effort to begin to talk about the Legislature choosing projects for us and that is very concerning to us. We've got a process in place, our PX3 Process, Asset Management, Equitable Distribution of Funds across the state, and it's just alarming when you see that effort begin. They specified a bridge in the Butte District that we will use CARES money on. Then they talked about a gravel road up by Moccasin that needs to be magchlorided. Those decisions lay with the Commission and not the Legislature. So we're trying to quell those a little bit. They gave us a heads up anyway.

Commissioner Sanders asked if that was just an education process. Is this a rookie Legislature? Kevin Christensen said no not at all; it's quite the opposite. The CARES money we got was significant, \$102 million. I don't know that the Legislator doesn't understand our process and how we fit that money into our system and do

project selection and nomination and all that. He just had other ideas about it. Director Long said from the Association's standpoint, the independent private associations go above and beyond months before the Legislature comes and after the election. They do their own road show or they set up meetings with Legislators in different districts. As a department I have considered doing that to try and educate them and bring people up to speed because MDT is probably one of the more complex technical agencies in state government and it is not as easy to look at transportation as it is commerce.

Kevin Christensen said we actually did that last year. Our CFO, Larry Flynn, put that together and we did an overview of the department and our funding at a higher level. We actually had a good turnout. I don't remember how many sessions we did, maybe four or five, and they were well attended. Zoom helped quite a bit with that. There were anywhere from eight to fifteen Legislators at each one. Larry has a really good presentation.

Dwane Kailey said in the 2017 session, Senator Lang from Malta passed a bill forcing us to do better public involvement. To be honest the Director at the time and I chatted and actually supported the bill. We've been using that platform more and more to try and get educational materials out to the public. You hit it on the head, what we do is very complex, very challenging, especially when you have the whole public involvement part of it and trying to meet everyone's wants, needs and desires gets very challenging. So we're using that platform to try to educate the public more and more about what we do. Hopefully it is working and helping but it's a big state and a lot of people.

Commissioner Sansaver said going back to the original question of how Director Long wants us to handle the situations when Legislators approach us. My diplomatic protocol would be to let them know that we work as a solid Commission with all staff and personnel. That we would certainly bring any of the Legislators concerns back to a full Commission meeting and get some directives out of our District Administrators that could affect our own districts, and get him an answer back as soon as we could about any concerns they may have in our respective districts. I like to bring everything back to the Commission for a total Commission response, and have our Director involved in that discussion as it might become a Legislative issue. Certainly Director Long and Kevin would want to know about the questions being asked out there, or things being proposed by that Legislator, and have a total commonality from a Commission viewpoint. So any time a Legislator approaches me on any concerns in my district, I'm sure to let them know that the Commission will discuss it and I will have an answer for them as soon as I could possibly get one to them. I like to take it through Director Long and through our Commission for any of those type of questions that Legislators have.

Agenda Item No. 11: Project Change Orders November & December 2020

Dwane Kailey presented the Project Change Orders for November & December 2020 to the Commission. They are informational only. If you have any questions, please feel free to ask.

Commissioner Frazier said I see Swamp Creek is on here. I worked on the Swamp Creek project 20 years ago. Is this the same one? Dwane Kailey said yes it is but we're finally done. This is the last and final one and we are finally done with this project. For other members of the Commission this project was actually initiated in the 1980's and has had many, many challenges with it. Commissioner Frazier said Swamp Creek is a very appropriate name.

Commissioner Fisher said I know one change order that was actually made pre-construction after a contract has been let. Obviously you can't have change orders without a contract. How many of our change orders overall occur before construction even starts? Is that very common? Dwane Kailey said it is very rare. Most of the change orders happen during construction when there is a change in conditions or an unforeseen circumstance. We do have a few that happen prior to construction but that is typically related to a spec change or something else along those lines. Commissioner Fisher said in these change orders the only one that is preconstruction is the Design Build at Foy's Lake? Kevin Christensen said that is an Administrative Change Order which added the schedule of values to the contract which we add in by Change Order before construction begins. It is just for that Design Build and is in our Design Build process.

Agenda Item No. 12: Letting Lists

Dwane Kailey presented the Letting Lists from January through July to the Commission. These are fairly dynamic; they do move from letting to letting. They are informational only. If you have any question, feel free to ask.

Director Long asked how much is the total for this fiscal year? Dustin Rouse said we don't have a total through July. We have a current total but we can get that to you if you want it. Dwane Kailey asked how much we were anticipating for the year. Dustin Rouse said currently we have \$455 million in total obligations by the end of the fiscal year. Duane said \$325 million is for construction projects. That is \$455 million for total obligation which is all our federal aid funding in total and then \$325 million for construction federal funding. That does not include the state funds or the matching funds? Dustin Rouse said that is correct. The total of \$455 million includes all our annual programs, PE costs, and costs to purchase right-of-way, incidental costs of utility relocations – all of that goes into the \$455 million. The \$325 million that we are projecting for the year is for direct construction.

Director Long said you guys are our Board and also our Champions, and are the ones who get to talk to the Legislators. I'm circling back to the same Legislator who lectured us that the contractor community wanted more and was ready to do more. I don't think they know how much is actually going to be coming out this year. When I talked to the Montana Contractor's Association they are both excited and concerned with the fact that we have been given a lot of federal money and we're going to be putting a lot of work out there. Again coming from our backgrounds, we know in Montana that we don't have 12 months out of the year; we don't work all year around. It takes a while to ramp up and like the agricultural community, we're still dependent on weather in places like Swamp Creek. So for all of our edification, when that certain Representative is trying to say we need to get all this money out right now, we have a plan, we have always had a plan. As a department we have always looked ahead and we do believe in following our PX3, the right fix at the right place at the right time. Sometimes, though the Legislators mean well, they can have unintended consequences and it can tip things around. I want you to know as Commissioners that we have a very healthy bid process, we have put time effort and energy in it, and we feel right fix right place and right time that PX3 is important. If anyone asks you if we're doing enough, I hope you are comfortable in saying yes we are.

Dwane Kailey said to give you a little more background, up until last year our average contractor payments per year were around \$320 million. Last year we set a record and broke \$400 million for contractor payments. We've never seen that before. There are a number of factors that went into it. One of the biggest factors is we have been very successful in what we call "redistribution." At the end of the federal year, the federal government takes all unexpended or unobligated funds and redistributes them to the states. We have to submit a list of projects that we have ready to go.

Within weeks from the time we get notified of the money we're getting to the date we have to obligate it, it is a matter of three or four weeks. So they have to be ready. Every year our staff has excelled and we've had a very big list. Again the last three years we've seen almost \$50-\$60 million in redistribution. Percentage wise across the nation that is huge. We've done very well at that. The other thing I'd add is that in 2009 we received ARRA funding which was kind of a stimulus funding in the amount of \$211 million and we tried to put that out fairly quickly and we delivered most of it in two years. What we also saw was an uptick in LDs. We actually overwhelmed the contracting community. The big difference between 2009 through 2011 versus now is that the economy tanked in 2009 and a lot of contractors took their private sector crews and put them onto the highway projects so they actually had additional resources to throw at the work we were putting out there and they still struggled with it. I'm not trying to be disparaging to the contractors, quite the opposite, they did everything they could. However, in this economy right now the economy is not tanking and is doing very well in the State of Montana. They are doing a lot of private sector work so they are not going to be able to pull their private sector crews and put them on our jobs. So we are very concerned about throwing a ton of money out there because we may not get the bang we're looking for, i.e., they may end up increasing the bid prices to cover those LDs that they may be incurring on projects. That is some additional food for thought as you field those questions.

Commissioner Frazier asked if these were all low bid. Duane said yes. Kevin Christensen said there is an interesting one on here, February 25th US 191 East, that is the one we're turning into gravel. I don't know that we've ever done that before. Dwane Kailey said the issue there is that many years ago the border crossing was closed and the road basically services three or four households and that is it. Because funding has been limited, the county hasn't been able to put much money into maintenance so it is starting to crater and pothole pretty bad. Again it is servicing three or four homes or farms up there, so in working with the County we've agreed to go ahead and pulverize it and put it back into gravel. It will actually go back to their maintenance. In my history I've never seen us do that but it is the right treatment.

Dustin Rouse said it is the Antelope border crossing between Plentywood and Scobey. It is potholing really badly so the best thing to do is to turn that back over to the town, pulverize it and have them take care of it as a gravel base.

Agenda Item No. 13: Liquidated Damages

Dwane Kailey presented Liquidated Damages to the Commission. They are informational only. We actually changed our spec about a year ago. We used to have a spec that allowed contractors to dispute liquidated damages by bringing them to the Commission. We were challenged with that because it did not force the contractor to work through our claims dispute process. So we changed the spec and now they have to go through the claims process. However, we still have a number of contracts out there with this spec in it that we're still trying to get through the system. With that, there is a form we send to the contractor at the end of the project and we ask whether or not they are disputing the claims. All of these are checked "no" so the Commission need take no action. So it is presented to you for informational purposes. If you have any question, feel free to ask.

Commissioner Frazier asked if these were for running over contract time. Dwane Kailey said yes. Liquidated Damages were challenged a number of years ago by a contractor. We actually went through the courts all the way up to the State Supreme Court and we were successful in defending our ability to charge LDs.

Next Commission Meetings

The next Commission Conference Calls were scheduled for February 23, 2021, March 9, 2021, March 23, 2021, and April 6, 2021. The next Commission Meeting was scheduled for April 22, 2021.

Meeting Adjourned