



**MISSOURI HIGHWAYS AND TRANSPORTATION  
COMMISSION**

**Official Minutes**

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**MINUTES OF THE REGULARLY SCHEDULED HIGHWAYS AND  
TRANSPORTATION COMMISSION MEETING HELD IN CAPE GIRARDEAU, MISSOURI,  
TUESDAY, DECEMBER 6, 2016**

A regularly scheduled meeting of the Missouri Highways and Transportation Commission was held on Tuesday, December 6, 2016, at 1625 Kingshighway Street, Cape Girardeau, Missouri. Gregg C. Smith, Chairman, called the meeting to order at 10:00 a.m. The following Commissioners were present: Michael B. Pace, Michael T. Waters, Jr., Mary E. Nelson, John W. Briscoe, and Edward D. Hillhouse.

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 Tuesday, December 6, 2016.

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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 Smith, Aye  
Commissioner Pace, Aye  
Commissioner Waters, Aye  
Commissioner Nelson, Aye  
Commissioner Briscoe, Aye  
Commissioner Hillhouse, Aye

The Commission met in closed session on Tuesday, December 6, 2016 at 8:30 a.m. and adjourned at 10:00 a.m.

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**-- OPEN MEETING --**

**EDWARD D. HILLHOUSE QUALIFIED AS A MEMBER OF THE MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION**

On December 2, 2016, Governor Jay Nixon announced the appointment of Edward D. Hillhouse of Villa Ridge, to the Missouri Highways and Transportation Commission for a term ending March 1, 2017, or until his successor is duly appointed and qualified. Mr. Hillhouse will take the position held by Vice Chair Stephen R. Miller, who resigned from the Commission on July 1, 2016, and whose term expired on March 1, 2011. Mr. Hillhouse was duly sworn on December 5, 2016 in Cape Girardeau by the Honorable Scott A. Lipke, Associate Circuit Judge of the Cape Girardeau County Circuit Court.

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**APPROVAL OF MINUTES**

Upon motion by Commissioner Waters, seconded by Commissioner Pace, the Commission unanimously approved the minutes of the regular meeting held November 2, 2016. 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 December 6, 2016, Consent Agenda**

No items were removed from the consent agenda. Upon motion by Commissioner Waters, seconded by Commissioner Nelson, 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 December 6, 2016, meeting.

**Audit Committee** – Commissioner Waters stated there is no report and the committee will meet next in March 2017.

**Legislative Committee** – Commissioner Pace reported December 1, 2016 was the first day the Missouri legislature began pre-filing legislation for the 2017 session. At this time, only a handful of transportation-related legislative proposals have been introduced and include a bill that will establish a Waterways Trust Fund for ports and a memorial bridge designation for fallen MoDOT worker Lyndon Ebker who was killed while on duty last year.

The Commission and the department will pursue the filing of legislation pertaining to distracted driving; the passage of a primary safety belt law; a federal commercial motor carrier mandate proposal;

and allowing blue-tooth technology to be used for operation on some commercial motor vehicles to enhance efficiencies and safety.

The 2017 session of the Missouri General Assembly begins at 12 noon, on January 4.

The Commission and MoDOT stand ready to assist Governor-elect Greitens and his transition team as he prepares to take leadership of the State of Missouri. The swearing in ceremony of the new governor and the other statewide elected officials is scheduled for noon on January 9.

On the federal level, congressional budget leaders are currently debating another continuing resolution; the current one expires on December 9. The 2017 session of the US Congress begins on January 11.

**Missouri Transportation Finance Corporation (MTFC)** – Commissioner Smith stated there is not a report and the board will meet next in February 2017.

**MoDOT and Patrol Employees’ Retirement System** – Commissioner Pace reported the Board met on November 17, 2016 and accepted the audit report from Williams-Keepers for the past fiscal year. He highlighted three points of the audit report including it was another clean report, the auditor noted complete cooperation from MPERS staff during the audit, and no new recommendations were reported. The MPERS comprehensive annual financial report is available on MPERS’ website at [www.mpers.org](http://www.mpers.org). As of November 30, 2016 the year to date return is 2.88 percent which trails the policy return slightly, but for the three, five, and ten year periods the actual returns are still very favorable relative to retirement systems in its peer group.

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## **DIRECTOR’S REPORT**

During the December 6, 2016, Commission meeting, Director Patrick McKenna provided the following report:

**First Year Highlights** – Director McKenna expressed his appreciation to the MoDOT team for their welcome and their hard work during his first year as Director. He noted the passage of the federal FAST Act, which secured federal transportation funding for a fixed period of time, was one significant factor that allowed the department to increase the amount of projects in the State Transportation Improvement Program. He noted a significant amount of work took place to add these projects to the program in a very short period of time. He also noted that while the construction program improved, it still remains less than the all-time high the department reached in 2010. He stated seeing the ability of MoDOT staff

to set in motion a plan for resources that had not been planned was very interesting and instructive and showed the great capabilities of the department.

The Director reminded everyone that last December the state experienced historic flooding. The service provided by the department when responding to this emergency is a primary function that the department performed in an extraordinary fashion.

**Awards** – Director McKenna reported at the annual AASHTO meeting in November, the department received two prestigious national awards. One was the Francis B. Francois award for innovation for the field traffic alert safety team project that also won the Governor’s Award for Quality and Productivity. The team developed a system to provide drivers with improved traffic information, and to speed incident response. The Road to Tomorrow team won the AASHTO President’s Award for performing exemplary service that could have a salutary impact on transportation nationwide. The Road to Tomorrow team is taking steps to find ways to add value to the state transportation system, to enhance its funding streams, and to prepare MoDOT to integrate 21<sup>st</sup> century technologies into its transportation systems and services.

**Safety** – Director McKenna reported highway fatalities are running seven percent ahead of one year ago. As of November 27, 848 persons had been killed on Missouri roadways, compared to 794 at the same time last year. Unfortunately this is a national trend as the country comes out of the recession and more people are driving more. The major culprit for these fatalities is distracted driving. Director McKenna reminded everyone that one of the legislative priorities this year is to pass a proposal to ban the use of cell phones or electronic devices while operating a motor vehicle. MoDOT took the initiative to lead by example and has banned the use of devices while driving and operating department equipment and vehicles. He also reported that sixty percent of the fatalities were unbuckled. Another legislative priority is to seek a primary safety belt law.

**New District Engineer** – Director McKenna explained that Becky Baltz, former Southwest District Engineer retired and asked Chief Engineer, Ed Hassinger, to introduce the new District Engineer for the Southwest District. Mr. Hassinger introduced Travis Koestner as the new District Engineer. Travis has served most recently as the Assistant District Engineer in the Central District of MoDOT, but has also worked in a statewide role with the Construction and Materials Division.

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## **PUBLIC COMMENT REGARDING U.S. 61 IN JACKSON**

Richard Frenzell of Jackson voiced concern about a recent improvement made on U.S. 61 near his home. This improvement included a round-a-bout with splitter islands on the roadway leading up to the round-a-bout. Large trucks are running up on the sidewalk creating noise and vibration in their effort to swing wide enough to go through the round-a-bout. Mr. Frenzell requested the Commission look into his concern and address the problem.

Chairman Smith thanked Mr. Frenzell for his comments and let him know the Commission has heard his concerns.

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## **CITIZEN'S GUIDE TO TRANSPORTATION FUNDING IN MISSOURI**

Director McKenna explained the complexity of transportation funding is a hurdle to the formulation of good transportation policy. Consequently, the department has developed an education piece to hopefully make transportation funding less complex and more understandable for the citizens, stakeholders, and elected officials of Missouri. This tool should encourage good conversations regarding public policy about investing in Missouri's transportation network. Over the past year as the director has met with citizens around the state, similar questions were asked of him. The Citizen's Guide to Transportation Funding in Missouri is a response to those questions to address the confusion about transportation funding.

The Guide will answer several basic questions including: How does Missouri compare? How is the transportation network funded? Where is the money invested? What are the costs of operating and maintaining the transportation network? What are the current conditions of the transportation network? What is the cost of the current condition to the average citizen? What are the high priority needs? What would it take to improve the current conditions?

Missouri's transportation system is the nation's seventh largest state highway system – a system that is larger than neighboring states Kansas and Illinois combined. However, Missouri ranks 47<sup>th</sup> nationally in revenue per mile, primarily because the state's large system is funded with one of the lowest fuel taxes in the country: 17 cents per gallon. Missouri also ranks sixth nationally in the number of bridges. This system does not include the city and county transportation networks.

Missouri's transportation revenue totaled almost \$2.5 billion in fiscal year 2016. The primary sources of those funds are state user fees that include the state fuel taxes, vehicle registration and license fees, and taxes on vehicle sales. The state funds total approximately \$1.5 billion. The federal revenue, which comes from the federal gas tax, is a large component and total approximately \$900 million. Federal funds are received on a reimbursable basis; this means the department programs the funds, pays for the construction, and then seeks reimbursement from the federal government. The smallest source of funds is Missouri General Revenue which totals approximately \$18 million.

MoDOT does not receive the entire \$2.5 billion of transportation revenue. A significant portion is distributed to cities and counties for a total of about \$400 million. There are also two other state agencies that receive a portion of the funding and that includes about \$250 million for the Missouri State Highway Patrol and Department of Revenue. Also, from 2000-2010 MoDOT sold bonds that provided additional resources for highway improvements and now about \$280 million per year is expended for debt payment. Virtually all of the remaining money, \$1.4 billion is devoted to road and bridge work. This includes approximately \$500 million to operate and maintain the system and over \$800 million for the construction program. A small portion, approximately \$95 million is expended for other modes of transportation.

The Commission has a funding allocation policy that distributes funds in the areas of safety, taking care of the system, and flexible funding. MoDOT uses the funding allocation and works

collaboratively with regional planning groups across the state to identify transportation needs and prioritize those needs.

Each year about 50 billion miles are traveled on the state highway system. The majority of travel occurs on interstates and major routes. Currently, ninety percent of these routes are in good condition. The condition of the system's roadways decline as the volume of traffic decreases. Missouri's minor routes are currently in eighty-one percent good condition. The final segment of the system, the low volume routes, are in seventy-three percent good condition. The bridge condition includes 866 poor condition bridges and about 1,000 bridges that are weight restricted.

There is a cost associated with the condition of the transportation network. The monthly cost per driver is about \$169 and includes vehicle operating costs, safety, and congestion. However, when compared to how much the average driver pays of about \$30 per month for the transportation system, there is a significant gap between the costs of the current conditions and what is being invested in infrastructure.

With MoDOT's current available resources, the reality is the department must focus its attention on keeping the existing system in the condition that it is in today. To do that, some districts must devote every available dollar to maintaining the condition of their roads and bridges, and they are still going to lose ground over time. That leaves a number of unfunded transportation needs. Investing an additional \$150-\$200 million per year would enable MoDOT to adequately maintain the existing system and begin to make progress on improving road and bridge conditions. The required investment to take care of the system equates to an average of \$3.30 per month for each licensed driver in Missouri. An additional investment of \$275 million would allow the department to invest in projects that increase economic growth and improve safety. The required investment for economic development and safety projects equates to an average of \$5.34 per month for each licensed driver in Missouri. Major interstate highway reconstruction would be an additional investment of \$300 million per year and would require an

investment that equates to an average of \$5.82 per month for each licensed driver in Missouri. Many Missourians depend on non-highway modes of transportation; however, the state currently invests very little money toward those needs. Creating a sustainable source of funds with an additional investment of \$80 million to improve multimodal transportation options would require an investment that equates to an average of \$1.55 per month for each licensed driver in Missouri.

Director McKenna concluded, the Citizen's Guide to Transportation Funding in Missouri will further explain how transportation funding works, including how funds are distributed and invested across the state, and provide information on high-priority unfunded needs. The guide is currently a forty page document that is available to the public, and the same information is available on MoDOT's website in smaller components for ease of reading and digesting. Additionally, the department has made available on MoDOT's website a transportation calculator that helps the citizens of Missouri determine how much they pay individually for today's transportation network. Director McKenna thanked the team that put the Guide together and included staff from the Planning, Financial Services, Communications, and Information Systems divisions.

Commissioner Pace thanked the director for breaking down this complicated subject into an understandable educational tool. Chairman Smith encouraged the director to share this Guide with the Governor-Elect and his transition team.

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**AUTHORIZE THE CALLING OF SENIOR LIEN REFUNDING STATE ROAD BONDS, SERIES 2006 AND SECOND LIEN ROAD BONDS, SERIES 2007**

On behalf of the Director, Roberta Broeker, Chief Financial Officer, presented a report and recommendation regarding the calling of bonds. She reminded everyone the department sold \$4 billion worth of bonds that allowed the department to accelerate transportation projects. She noted once the debt is issued the department actively monitors the bonds for opportunities to refinance

them, call them, or do something that would lower the interest costs. She noted there is \$90 million worth of bonds that will be callable in February 2017 and \$27 million worth of bonds will be callable in May 2017. The department has the option to either refund the bonds or call the debt. The department has determined the best thing to do in this instance is to call the bonds. She reported calling \$118 million of debt is estimated to save approximately \$23 million. Ms. Broeker also explained there is sufficient cash in the state road fund and the state road bond fund to pay off the debt. Public Financial Management, the Commission's financial advisor, concurs with calling the bonds to achieve the projected interest savings.

Ms. Broeker recommended the Commission:

- Authorize the calling of Senior Lien Refunding State Road Bonds, Series 2006, totaling \$90,860,000, callable as of February 1, 2017 and Second Lien State Road Bonds, Series 2007, totaling \$26,965,000, callable on May 1, 2017.
- Authorize staff to provide written directions to BOKF, N.A. (Trustee), to call the bonds for redemption and provide required notices to the bondholders and any other entity for redemption of Senior Lien Refunding State Road Bonds, Series 2006, as of February 1, 2017, pursuant to the Master Bond Indenture dated December 1, 2000 and the Supplemental Bond Trust Indenture No. 6 dated November 1, 2006.
- Authorize staff to provide written directions to BOKF, N.A. (Trustee), to call the bonds for redemption and provide required notices to the bondholders and any other entity for redemption of Second Lien State Road Bonds, Series 2007, as of May 1, 2017, pursuant to the Master Bond Indenture dated July 1, 2005 and the Supplemental Bond Indenture No. 4 dated September 1, 2007.

After consideration, and upon motion by Commissioner Waters, seconded by Commissioner Nelson, the Commission authorized the staff to take action as recommended above.

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## **2016 ANNUAL REPORT TO THE JOINT COMMITTEE ON TRANSPORTATION OVERSIGHT**

Patrick McKenna, Director, presented to the Commission the 2016 Report to the Joint Committee on Transportation Oversight, which will be filed with the committee by December 31, 2016. This report is also known as the accountability report and provides a comprehensive account of MoDOT's projects and finances from July 1, 2015 to June 30, 2016, and demonstrates the Commission

and department's commitment to transparency, fiscal responsibility and wise use of taxpayer dollars. In addition to explaining the project planning process, the report lists the projects included in the 2017-2021 Statewide Transportation Improvement Program.

Director McKenna's vision for MoDOT is to build upon the core values that were in place when he arrived a year ago – Safety, Service and Stability. Safety is paramount. Safety comes first for both the customers and MoDOT employees. The department will continue its legacy of providing outstanding customer service. Good customer service means keeping commitments and completing projects on time and under budget. It means providing updated travel information. It means being ready to respond during disasters such as last winter's historic flooding. Stability is also important. Missourians rely on a modern and safe transportation system to get to work, school and everywhere in between. A healthy transportation infrastructure ensures businesses can operate and grow. It ensures the state can prosper and jobs can be created. Essentially, transportation is what keeps Missouri moving.

Missouri's transportation system faces a long-term insufficient funding challenge. It is important for Missourians to work together. Investments in transportation are part of the solution for the state's growth and prosperity. The path forward is simple; MoDOT will work every day to improve the condition of Missouri's infrastructure and the organization.

The director reported the department has good financial management. A team of independent auditors determined MoDOT's finances meet generally accepted accounting principles, demonstrating MoDOT's accountability with the resources it has been given. It is the seventeenth consecutive year that the department has received a clean opinion, meaning the agency's financial statements are sound.

Director McKenna then described the state transportation system and the sources of funding for the system. With 34,000 miles of highways and 10,400 bridges, Missouri has the nation's 7th largest state highway system, yet in revenue per mile Missouri ranks 47th. The state transportation system is funded primarily from three sources: (1) Missouri user fees that include fuel taxes, registration and

licensing fees and motor vehicle sales taxes. State fuel tax has been 17 cents per gallon since 1996; many of the registration and licensing fees were last increased in 1984, and some date back to 1969. (2) Federal Revenue that comes from the federal fuel tax of 18.4 cents per gallon for gasoline and 24.4 cents per gallon for diesel. Federal fuel taxes have not changed since 1993. (3) Missouri General Revenue is less than 1 percent of the department's budget. But because fuel taxes are not indexed to the Consumer Price Index, the purchasing power of the Missouri fuel tax over the last 20 years has effectively dropped to 8 cents during a time when the costs of asphalt, concrete and steel have doubled and labor costs have also increased significantly.

In fiscal year 2016, MoDOT's contractor awards were \$516 million and will be \$700 million in 2017. At those levels, MoDOT is focused on keeping the system in the condition it is in today. MoDOT also spends about \$509 million each year to operate the system – winter operations, mowing, striping, traffic signs and signals, ditches/drainage, pavement repairs and sealing, bridge maintenance, etc. But improving the system is not possible at current funding levels. It also leaves unfunded needs like expansion projects that increase economic growth and improve safety, major interstate reconstruction, and improvements to multimodal transportation options.

Missourians enjoy access to a large transportation system that keeps everyone connected. Maintaining and improving the transportation system is expensive, but is a worthwhile investment. The average Missouri driver contributes about \$30 per month to fund their access to the transportation system and the services MoDOT provides. Incremental increases in funding for improving road and bridge conditions, and investing in high-priority needs that currently are unfunded can offset the \$169 of hidden costs drivers are paying each month due to congestion, rough roads and traffic crashes.

This report shows the department is delivering projects on time and within budget. A formal presentation of the annual report by Director McKenna to the Joint Committee on Transportation Oversight is required sometime in February 2017.

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**REPORT AND RECOMMENDATION REGARDING NOTICE OF PROPOSED AMENDED RULEMAKING – ARBITRATION AND MEDIATION OF CONSTRUCTION DISPUTES**

On behalf of the Director, Dave Ahlvers, Construction and Materials Engineer, presented the notice of proposed amended rulemaking for 7 CSR 10-26, arbitration and mediation of construction disputes, which changes the title of the rule and clarifies the existing claims process and procedures will be used.

This rule is being reviewed and updated as a result of the periodic review process required by law. Section 536.175.1 RSMo requires each state agency to review each of its rules in the *Code of State Regulations* (CSR). As a result, proposed amended rulemaking for administrative rule, 7 CSR 10-26, Arbitration and Mediation of Construction Disputes is required to be updated to reflect the department’s current business practices.

The department supports this notice of proposed amended rulemaking to ensure the arbitration and mediation of construction disputes rules reflect current statutory requirements and processes, and be as clear and concise as possible without redundancy.

The public will have an opportunity to submit comments in support of or in opposition to this proposed amended rulemaking. All comments received from the public will be considered and summarized in the orders of rulemaking.

After consideration, the Commission, via approval of the consent agenda, unanimously authorized the Secretary to the Commission to file the notice of the proposed amended rulemaking with the Joint Committee on Administrative Rules and the Office of the Secretary of State for publication in the *Missouri Register*, and authorized the Director, Chief Engineer, Chief Financial Officer, or Assistant Chief Engineer to execute documents to initiate the rulemaking process.

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## **REPORT AND RECOMMENDATION REGARDING NOTICE OF PROPOSED AMENDED RULEMAKING – CONTRACTOR DISQUALIFICATION FOR MISCONDUCT**

On behalf of the Director, Dave Ahlvers, Construction and Materials Engineer, presented the notice of proposed amended rulemaking for 7 CSR 10-18, contractor disqualification for misconduct. This rule is being reviewed and updated as a result of the periodic review process required by law. Section 536.175.1 RSMo requires each state agency to review each of its rules in the *Code of State Regulations* (CSR). As a result, proposed amended rulemaking for administrative rule, 7 CSR 10-18, Contractor Disqualification for Misconduct is required to be updated to reflect the department's current business practices. The proposed changes will define the review board, add safety violations to the causes for disqualification, add the proposed disqualification time period to the notice of proposed disqualification, and clarifies that no appeal will be considered when a proposed action is based upon a conviction, judgment, admission or debarment or other declaration of ineligibility by another state, political subdivision, or federal entity.

The department supports this notice of proposed amended rulemaking to ensure the contractor disqualification for misconduct rules reflect current statutory requirements and processes, and be as clear and concise as possible without redundancy.

The public will have an opportunity to submit comments in support of or in opposition to this proposed amended rulemaking. All comments received from the public will be considered and summarized in the orders of rulemaking.

After consideration, the Commission, via approval of the consent agenda, unanimously authorized the Secretary to the Commission to file the notice of the proposed amended rulemaking with the Joint Committee on Administrative Rules and the Office of the Secretary of State for publication in the *Missouri Register*, and authorized the Director, Chief Engineer, Chief Financial Officer, or Assistant Chief Engineer to execute documents to initiate the rulemaking process.

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**REPORT AND RECOMMENDATION REGARDING NOTICE OF PROPOSED RESCINDED RULEMAKING – CONTRACTOR DRUG TESTING PROGRAM**

On behalf of the Director, Dave Ahlvers, Construction and Materials Engineer, presented the notice of proposed rescinded rulemaking for 7 CSR 10-19, contractor drug testing program. This rule is being reviewed and updated as a result of the periodic review process required by law. Section 536.175.1 RSMo requires each state agency to review each of its rules in the *Code of State Regulations* (CSR). As a result, proposed rescinded rulemaking for administrative rule, 7 CSR 10-19, Contractor Drug Testing Program, is necessary due to lack of statutory and regulatory authority.

The public will have an opportunity to submit comments in support of or in opposition to this proposed rescinded rulemaking. All comments received from the public will be considered and summarized in the orders of rulemaking.

After consideration, the Commission, via approval of the consent agenda, unanimously authorized the Secretary to the Commission to file the notice of the proposed rescinded rulemaking with the Joint Committee on Administrative Rules and the Office of the Secretary of State for publication in the *Missouri Register*, and authorized the Director, Chief Engineer, Chief Financial Officer, or Assistant Chief Engineer to execute documents to initiate the rulemaking process.

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**REPORT AND RECOMMENDATION REGARDING NOTICE OF PROPOSED AMENDED RULEMAKING – CONTRACTOR PERFORMANCE RATING TO DETERMINE RESPONSIBILITY**

On behalf of the Director, Dave Ahlvers, Construction and Materials Engineer, presented the notice of proposed amended rulemaking for 7 CSR 10-10, contractor performance rating to determine responsibility. This rule is being reviewed and updated as a result of the periodic review process required by law. Section 536.175.1 RSMo requires each state agency to review each of its rules in the

*Code of State Regulations* (CSR). As a result, proposed amended rulemaking for administrative rule, 7 CSR 10-10, Contractor Performance Rating to Determine Responsibility is required to be updated to reflect the department's current business practices. The proposed changes will clarify the chair of the review committee, correct MoDOT's administration is performed by seven districts rather than the former ten districts, corrects the statement that the commission does prequalify bidders, clarifies the rating process, simplifies the title of a rule, clarifies the intended use of an interim report, and clarifies the actions available to a contractor upon receiving an unacceptable rating.

The department supports this notice of proposed amended rulemaking to ensure the contractor performance rating to determine responsibility rules reflect current statutory requirements and processes, and be as clear and concise as possible without redundancy.

The public will have an opportunity to submit comments in support of or in opposition to this proposed amended rulemaking. All comments received from the public will be considered and summarized in the orders of rulemaking.

After consideration, the Commission, via approval of the consent agenda, unanimously authorized the Secretary to the Commission to file the notice of the proposed amended rulemaking with the Joint Committee on Administrative Rules and the Office of the Secretary of State for publication in the *Missouri Register*, and authorized the Director, Chief Engineer, Chief Financial Officer, or Assistant Chief Engineer to execute documents to initiate the rulemaking process.

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## **REPORT AND RECOMMENDATION REGARDING NOTICE OF PROPOSED AMENDED RULEMAKING – CONTRACTOR PREQUALIFICATION**

On behalf of the Director, Dave Ahlvers, Construction and Materials Engineer, presented the notice of proposed amended rulemaking for 7 CSR 10-15, contractor prequalification. This rule is being reviewed and updated as a result of the periodic review process required by law. Section 536.175.1

RSMo requires each state agency to review each of its rules in the *Code of State Regulations* (CSR). As a result, proposed amended rulemaking for administrative rule, 7 CSR 10-15, Contractor Prequalification is required to be updated to reflect the department's current business practices. The proposed changes will correct department titles and divisions that will be implementing the rule, and indicates only electronic bids will be received.

The department supports this notice of proposed amended rulemaking to ensure the contractor prequalification rules reflect current statutory requirements and processes, and be as clear and concise as possible without redundancy.

The public will have an opportunity to submit comments in support of or in opposition to this proposed amended rulemaking. All comments received from the public will be considered and summarized in the orders of rulemaking.

After consideration, the Commission, via approval of the consent agenda, unanimously authorized the Secretary to the Commission to file the notice of the proposed amended rulemaking with the Joint Committee on Administrative Rules and the Office of the Secretary of State for publication in the *Missouri Register*, and authorized the Director, Chief Engineer, Chief Financial Officer, or Assistant Chief Engineer to execute documents to initiate the rulemaking process.

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**REPORT AND RECOMMENDATION REGARDING NOTICE OF PROPOSED AMENDED RULEMAKING – TECHNICIAN CERTIFICATION PROGRAM**

On behalf of the Director, Dave Ahlvers, Construction and Materials Engineer, presented the notice of proposed amended rulemaking for 7 CSR 10-23, technician certification program. This rule is being reviewed and updated as a result of the periodic review process required by law. Section 536.175.1 RSMo requires each state agency to review each of its rules in the *Code of State Regulations* (CSR). As a result, proposed amended rulemaking for administrative rule, 7 CSR 10-23, Technician

Certification Program is required to be updated to reflect the department's current business practices. The proposed changes will define the review board members, define the instructor role, define the suspense period timeframe the review board could impose, add certification types as needed for construction methods currently used, and provide accountability of the supervisor in the case of improper procedures being performed by an intern.

The department supports this notice of proposed amended rulemaking to ensure the technician certification program rules reflect current statutory requirements and processes, and be as clear and concise as possible without redundancy.

The public will have an opportunity to submit comments in support of or in opposition to this proposed amended rulemaking. All comments received from the public will be considered and summarized in the orders of rulemaking.

After consideration, the Commission, via approval of the consent agenda, unanimously authorized the Secretary to the Commission to file the notice of the proposed amended rulemaking with the Joint Committee on Administrative Rules and the Office of the Secretary of State for publication in the *Missouri Register*, and authorized the Director, Chief Engineer, Chief Financial Officer, or Assistant Chief Engineer to execute documents to initiate the rulemaking process.

\* \* \* \* \*

**REPORT AND RECOMMENDATION REGARDING FINAL ORDER OF RULEMAKING – ORGANIZATIONAL RULE**

On behalf of the Director, Micki Knudsen, Human Resources Director, presented the final order of rulemaking for 7 CSR 10-1.010 Organization rule, which updates the department's organizational structure consistent with the department's current business practices. These rule changes are due to Section 536.175.1 RSMo, which requires the Commission to review each of its rules in the CSR.

The Commission authorized the filing and publication of the proposed amended administrative rulemaking at the August 3, 2016 meeting. The proposed amendment was published in the *Missouri Register* on September 15, 2016, and no comments were received during the thirty (30) days following the publication.

After consideration, the Commission, via approval of the consent agenda, unanimously approved the final order of rulemaking and authorized the Secretary to the Commission to file the final order of rulemaking with the Joint Committee on Administrative Rules and the Office of the Secretary of State, and authorized the Director, Chief Engineer, Chief Financial Officer, or Assistant Chief Engineer to execute documents to complete the final rulemaking process.

\* \* \* \* \*

#### **CONSIDERATION OF AGREEMENT FOR RELOCATION SERVICES**

On behalf of the Director, Micki Knudsen, Human Resources Director, recommended approval to execute the agreement with Nexus Relation Group, Inc. of Lenexa, Kansas to provide relocation services to the department for a period of three years with the option for two additional one-year renewals. The current contract expires on December 31, 2016. A Request for Proposal (RFP) was submitted to numerous vendors nationwide and advertised locally and on MoDOT's Internet site. The RFP selection team reviewed three bid responses and determined the Nexus proposal was the most responsive to the requirements of the RFP and the needs of MoDOT. Nexus will provide home marketing assistance, buyer value option services, and management of household goods to eligible transferring employees.

Via approval of the consent agenda, the Commission unanimously authorized the Director, Chief Engineer, Chief Financial Officer, or Assistant Chief Engineer to execute the agreement with Nexus Relation Group, Inc. of Lenexa, Kansas to provide relocation services to the department for a period of one year with the option for two additional one-year renewals.

\* \* \* \* \*

**CONSIDERATION OF BIDS FOR TRANSPORTATION IMPROVEMENTS**

On behalf of the Director, Eric Schroeter, State Design Engineer, presented the following recommendations pertaining to bids received on federal-aid and state highway and bridge projects during the past month. He noted Calls C01, C08, G10, and H03 have local funding, as noted in Table I below, and the department received all of the necessary concurrences.

Mr. Schroeter recommended (1) award of contracts to the lowest responsive bidders for bids received at the November 18, 2016, letting, as recommended and noted in Table I below. (2) Rejection of bids received on Calls C09, H04, and H06 as noted in Table II below, due to the bids being excessive per Section 102.15 of the Missouri Standard Specifications for Highway Construction.

**Table I  
Award of Contracts  
November 18, 2016, Bid Opening**

Call No.	Route	County	Job No.	Bid Amount	Non-Contractual Costs	Contractor	Description
A01	149	Putnam	J1L1701	\$1,790,122.38	\$0.00	W. L. Miller Company	Resurface
	W		J1L1702				
A02	E	Andrew	J1L1703B	\$988,950.36	\$0.00	Herzog Contracting Corp.	Resurface
	Z	Dekalb	J1L1703C				
	111	Holt	J1L1703D				
A03	C	Sullivan	J1L1704	\$1,414,418.98	\$0.00	W. L. Miller Company	Resurface
	B	Mercer	J1L1705				
A04	113	Holt, Nodaway	J1L1703E	\$1,446,848.90	\$0.00	Herzog Contracting Corp.	Resurface
A05	246	Worth	J1S1049	\$3,220,418.00	\$134.80	Emery Sapp & Sons, Inc.	Bridge Replacement
	46		J1S2227		\$346.00		
A07	69	Daviess, Dekalb	J1S3028	\$2,130,377.70	\$0.00	Herzog Contracting Corp.	Coldmill, Resurface and Add Shoulders
	190	Daviess, Livingston	J1S3118				Resurface
B02	61	Ralls	J3P2206	\$4,315,766.86	\$0.00	Magruder Paving, LLC	Coldmill, Resurface and Add Turn Lanes
*C01	49	Cass Jackson	J4P2256	\$6,372,925.46	\$5,000.00	Radmacher Brothers Excavating Co., Inc.	Grading, Paving, and Bridge

Call No.	Route	County	Job No.	Bid Amount	Non-Contractual Costs	Contractor	Description
C02	I-70	Saline	J3I3008	\$4,736,791.11	\$0.00	Emery Sapp & Sons, Inc.	2 Bridge Deck Replacements
C03	Various	Johnson	J3P3037D	\$1,045,189.84	\$0.00	Lehman Construction, LLC	4 Bridge Deck Replacements
C04	50	Johnson	J3P3053	\$5,477,139.75	\$0.00	Capital Paving & Construction, LLC	Coldmill and Resurface
		Pettis	J3P3059				
C06	Various	Various	J4I3164	\$529,075.52	\$0.00	Radmacher Brothers Excavating Co., Inc.	Bridge Slope Repairs
C07	24	Jackson	J4P3081	\$2,776,436.29	\$0.00	Ideker, Inc.	Coldmill, Resurface and ADA Improvements
C08	10	Clay, Ray	J4P3081B	\$2,992,564.62	\$0.00	Pyramid Contractors, Inc.	Coldmill, Resurface and ADA Improvements
C10	92	Clay, Platte	J4P3139	\$2,895,035.22	\$0.00	Superior Bowen Asphalt Company, LLC	Coldmill, Resurface and ADA Improvements
D01	D	Miller	J5M0272	\$2,456,770.30	\$0.00	Magruder Paving, LLC	Resurface
D02	F, MM, TT	Camden	J5S3148				Resurface and Shoulder Widening
D03	7	Pulaski	J5P3100	\$1,032,139.90	\$0.00	Widel, Inc.	Bridge Deck Replacement
D04	42	Maries	J5P3106	\$339,348.80	\$0.00	Widel, Inc.	Bridge Deck Replacement
D05	68	Maries	J5P3122	\$922,861.12	\$0.00	Capital Paving & Construction, LLC	2 Bridge Rehabilitations
D06	54	Camden, Hickory	J5P3125	\$6,257,551.24	\$0.00	APAC-Central, Inc.	Resurface
			J7S2211				
D07	5	Howard	J5P3156	\$3,423,241.05	\$0.00	Capital Paving & Construction, LLC	Resurface
		Cooper, Morgan	J5P3170				Resurface and Add Shoulders
D08	V	Phelps	J5S3153	\$777,595.95	\$0.00	Lehman Construction, LLC	Grading and Pavement
D09	O, P	Morgan	J5S3157	\$590,699.78	\$0.00	Capital Paving & Construction, LLC	Resurface
D10	V	Camden	J5S3158	\$408,199.88	\$0.00	Capital Paving & Construction, LLC	Resurface

Call No.	Route	County	Job No.	Bid Amount	Non-Contractual Costs	Contractor	Description
F01	70	St Charles	J6I3133	\$9,513,686.45	\$0.00	L.F. Krupp Construction, Inc. dba Krupp Construction	Coldmill and Resurface
F04	64	St Louis	J6I3132	\$6,742,578.91	\$0.00	Chester Bross Construction Company/C.B. Equipment, Inc.	Coldmill and Resurface
F05	Various	Franklin, Jefferson, St. Charles, St. Louis, St. Louis City	J6P3013	\$1,995,000.00	\$0.00	Concrete Strategies, LLC	JOC - Bridge Maintenance
F06	Various	Franklin, Jefferson, St. Charles, St. Louis, St. Louis City	J6Q3000E	\$958,876.50	\$64,776.44	Gerstner Electric, Inc.	ITS Maintenance
G01	44	Lawrence	J7I3049	\$2,711,433.64	\$0.00	Emery Sapp & Sons, Inc.	Bridge Rehabilitation
G02	B	Bates	J7P2228L	\$536,733.90	\$0.00	Boone Construction Co.	Bridge Replacement
G03	K	Vernon	J7P2228M	\$542,574.48	\$0.00	Widel, Inc.	Bridge Replacement
G04	65	Taney	J7P3076	\$3,965,377.36	\$0.00	Leo Journagan Construction Co., Inc.	Coldmill and Resurface
G05	76	Barry, Stone	J7S2227B	\$2,232,666.62	\$0.00	Blevins Asphalt Construction Company, Inc.	Resurface and Add Shoulders
G06	76	McDonald	J7S3176	\$1,848,181.51	\$0.00	Blevins Asphalt Construction Company, Inc.	Resurface and Add Shoulders
G07	W	Barry	J7S3185	\$963,512.91	\$0.00	Hutchens Construction Co.	Resurface and Add Shoulders
G08	39	Lawrence	J8S2272	\$1,500,268.61	\$0.00	Blevins Asphalt Construction Company, Inc.	Resurface and Widen Shoulders
**G09	EE	Greene	J8S3058	\$1,475,544.90	\$0.00	Blevins Asphalt Construction Company, Inc.	Coldmill, Resurface and Add Shoulders
	AB		J8S3059				
G10	Airport Blvd		J8S3058B		\$0.00	.	Coldmill and Resurface
G11	BL 44	Greene	J8S3060	\$1,132,820.54	\$0.00	Blevins Asphalt Construction Company, Inc.	Coldmill and Resurface
G12	249	Jasper	J7P3078	\$1,527,000.00	\$0.00	Jeff Asbell Excavating & Trucking Inc.	JOC - Slide Repairs

Call No.	Route	County	Job No.	Bid Amount	Non-Contractual Costs	Contractor	Description
G13	465	Stone, Taney	J7P3119	\$2,191,658.22	\$0.00	Leo Journagan Construction Co., Inc.	Coldmill and Resurface
H01	60	Howell, Texas	J9P3158	\$1,071,000.00	\$0.00	Pace Construction Company	Resurface
***H03	17	Howell, Texas	J9P3296	\$2,164,000.00	\$0.00	Pace Construction Company	Resurface
H05	U	Butler, Stoddard	J9S3051	\$511,085.95	\$0.00	Joe's Bridge & Grading, Inc.	Bridge Deck Replacement
H07	142	Butler, Ripley	J9S3171	\$1,505,000.00	\$0.00	Pace Construction Company	Resurface
<b>TOTAL:</b>				<b>\$103,429,469.51</b>	<b>\$70,257.24</b>		

\* Call C01 – Funding by City of Belton - \$21,633.00; Funding by City of Grandview - \$21,633.00; Funding by City of Kansas City - \$21,633.00.  
\*\* Call G09 – Funding by City of Springfield - \$206,913.00  
\*\*\* Call H03 – funding by City of Mountain View \$23,161.00

**Table II  
Rejection of Bids  
November 18, 2016, Bid Opening**

Call No.	Route	County	Job No.	Bid Amount	Non-Contractual Costs	Contractor	Description
C09	58	Cass	J4P3081E	\$2,493,271.19	\$0.00	Ideker, Inc.	Coldmill, Resurface and ADA Improvements
H04	U	New Madrid	J9S3034	\$547,325.80	\$0.00	Joe's Bridge & Grading, Inc.	Bridge Replacement
H06	ZZ	Dunklin	J9S3152	\$410,796.00	\$0.00	Joe's Bridge & Grading, Inc.	Bridge Replacement

**Commission Consideration and Action**

After consideration, and upon motion by Commissioner Pace, seconded by Commissioner Waters, the Commission took the following action with the abstentions noted below:

1. Awarded contracts to the lowest responsive bidders for bids received on the November 18, 2016, bid opening, as recommended and noted in Table I above. Non-contractual costs for these projects are shown on the above tabulation.
2. Rejected the bids received on Call C09, H04 and H06, as noted in Table II above, because they were considered excessive.

3. Authorized the Director, Chief Engineer, Chief Financial Officer, or Assistant Chief Engineer to execute the contracts awarded above.

Commissioner Pace abstained from voting on Call H03. Commissioner Briscoe abstained from voting on Call B02.

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### **REPORT AND RECOMMENDATIONS REGARDING THE ROUTE 54 CHAMP CLARK BRIDGE PROJECT IN PIKE COUNTY, INCLUDING LOCATION APPROVAL**

The proposed improvement is to provide for a new bridge over the Mississippi River on Route 54 in Pike County. The Route 54 Mississippi River Bridge project is estimated at \$63.2 million for right of way, utility relocation, and the Design-Build contract. Traffic management will be a part of the design-build proposals that will be submitted for consideration.

On behalf of the Director, Paula Gough, Northeast District Engineer, recommended approval of the location as determined by the Environmental Assessment and the subsequent Finding of No Significant Impact.

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

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### **REQUEST FOR APPROVAL OF LOCATION AND DESIGN OF HIGHWAYS**

#### **Route 19, Shannon County Job No. J9P0438 Public Hearing Held November 1, 2016**

The proposed improvement is to provide for a new bridge over Sinking Creek. The estimated construction cost of this improvement is \$3,267,000. Route 19 will remain open to traffic during the majority of the construction. The tie-ins at each end are planned to be made half at a time while traffic is shifted to one lane, two way operation via temporary traffic signals. Once the tie-ins are completed, traffic will be shifted to the new roadway and bridge while the temporary bridge and roadway are

removed. The contractor will be allowed to submit a proposal to close Route 19 to traffic a maximum of seven calendar days to make the tie-ins at each end of the project.

On behalf of the Director, Mark Shelton, Southeast 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 environment effects of the recommended location and design, the Commission via approval of the consent agenda unanimously found and determined the recommended location and design would best serve the interest of the public and approved the recommendation.

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**RATIFICATION AND APPROVAL OF PLANS FOR CONDEMNATION**

On behalf of the Director, Eric Schroeter, State Design Engineer, recommended the Commission ratify and approve the following detailed project plans, approved by the Chief Engineer, which have been filed for condemnation.

<u>County</u>	<u>Route</u>	<u>Job Number</u>
Holt	I-29	J1P3023C
St. Charles	61	J6P3071
Scott	I-55	J0I0956

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 --**

The Commission received the following written reports.

**FINANCIAL ACCOUNTABILITY REPORT – QUARTERLY REPORT**

Brenda Morris, Financial Services Director, provided to the Commission the written Quarterly Financial Accountability Report for the period ending September 30, 2016.

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**FINANCIAL – BUDGET – REPORTS  
YEAR-TO-DATE FINANCIAL REPORT, PERIOD ENDING OCTOBER 31, 2016**

Brenda Morris, Financial Services Director, submitted a written financial report for fiscal year to date October 31, 2016, with budget and prior year comparisons.

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**CONSULTANT SERVICES CONTRACT REPORT**

Eric Schroeter, State Design Engineer, submitted a written report of consultant contracts executed in the month of October 2016, 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 177 active contracts held by individual engineering consultant firms prior to November 1, 2016. Fourteen engineering consultant services contracts were executed in October 2016, for a total of \$4,327,435. There were four non-engineering consultant contract executed in October 2016, for a total cost of \$332,608.

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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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