Transcript of Nevada Department of Transportation
Construction Work Group Meeting
September 11, 2017

Chairman Len Savage	Dennis Gallagher	Dale Keller	Boyd Ratliff (Dist III)
BJ Almberg	Sharon Foerschler	Pedro Rodriguez	Roger Philipi, Atkins
Frank Martin	Stephen Lani	Denise Inda	Bill Wellman, Las Vegas Paving
Reid Kaiser	Jeff Freeman	Mario Gomez (Dist I)	Greg Novak, FHWA
Bill Hoffman	Darin Tedford	Thor Dyson (Dist II)	Chris Koeing, Kiewit
Tracy Larkin	Cole Mortensen	Jenni Eyerly	

Savage: Good afternoon, everyone. Welcome to the September 11th, 2017 Construction Working Group Meeting here in Carson City. It looks like we have Elko and Las Vegas. Who's there from Elko, please?

Ratliff: This is Boyd Ratliff, [phonetic] District Engineer.

Savage: Boyd, thank you, and congratulations on the appointment.

Ratliff: Oh, thank you.

Savage: We look forward to working with you, Boyd. From Las Vegas?

Gomez: This is Mario Gomez, [phonetic] Assistant District Engineer.

Savage: Anyone else in Las Vegas, Mario?

Gomez: That's it, just me.

Savage: I'd like to welcome Member Martin and Member Almberg. When Member Martin is in Las Vegas, the screen is always larger, so we're able to see you much clearer. [laughter] [crosstalk] Seriously, thank you for making the effort to come up and work here. I think this is one of the first times we've had all three Board Members present here in Carson City, so I appreciate everyone's effort. So, let's go ahead and get started. Item No. 2, any Public Comment up here in Carson City? Las Vegas or Elko, any Public Comment? We'll move on to Agenda Item No. 3, Comments from the Working Group. Are there any comments from NDOT?

Kaiser: Reid Kaiser for the record. John Terry, there was a couple items that he was going to talk on this meeting. He's not here. I don't know if he talked to Cole at all about shared savings on the CMAR projects. I know that's under Agenda Item 3, 7-3, and also, he was going to give an update on the CMAR Bill that went through legislate. So, should we just wait until December?

Savage: Yes.

Kaiser: Okay.

Savage: Just postpone those comments until December would be fine.

Kaiser: That's all I got.

Savage: Anyone else? Any other comments?

Almberg: I actually have a comment. Is—over in our highway project on Highway 6, during—I wouldn't say the start of, but early on in that project, we had two fatalities in four days in our construction zone, and I just want to—I don't know what we are doing or if there's things that we can do differently to try to minimize some of that. I realize construction zone is a very tough place to deal with. I believe it's a little bit difference between, you know, the rural areas where you may be driving for an hour at a time with nothing going on, and all of a sudden, somebody is stopped in front of you. So, I don't know if there are some other things that can possibly be done. I know I've talked to Boyd, our District Engineer over there, and there were some things that were—made some modifications to that construction zone to hopefully minimize that, or not minimize it, but to stop that I guess I should say. So, I don't know. I just want to make sure that we do everything we can to keep the traffic public safe in our construction zones.

Kaiser: Reid Kaiser, Assistant Director for Operations. What we are doing is we're considering placing an impact attenuator, because those are—what's going on is you're having traffic—we put down the temporary rumble strips to advise traffic coming up to these paving projects, or whatever they might be, and I'm not sure what's going on with the people driving the vehicles, but they end up plowing into the cars in the back of the cue. And so, what we're considering doing is putting an impact attenuator with a flagger that will stay about a mile, a half-a-mile behind the cue at all times to advise oncoming traffic that there's a cue ahead. So, we are looking at doing that. I mean, I know it's happened on a couple of construction projects, but you're going to have the same type of traffic control scenario on our own chip seals. So, we're looking at doing that, and we're in the process of reviewing any other alternative that we might be able to come up with nationally to help advise drivers that there is a cue coming ahead due to a construction project.

Dyson: Thor Dyson, District Engineer for District II. We took note of what happened on US 6, very concerned as well. We've implemented the temporary rumble strips on I-80. It's a little different scenario where you don't have a long—you know, one, two hours with nothing going on. With us, the temporary rumble strips moved. They couldn't stay stationary. We messed around with them. We're hoping another manufacturer or another vendor can provide temporary rumble strips that will function. If we can get our hands on them and they work, we'll do that. In addition, been in contact with Highway Patrol, and those accidents on 6, I was informed by Highway Patrol that they don't want my staff in District II to adjust traffic control. Well, you have to. When you have a moving operation, a moving-paving operation, you've got to move your traffic control, but if you have a crash, for the investigation purposes, NHP wants that to stay in place. Well, that's not going to suffice. So, we talked with NHP, and we do have what we call peek signs for incident ahead, and we would put that in advance of where the accident occurred, and we would put that in advance of where the traffic control signage is, so that NHP could quickly do their investigation. So, we're aware of it, and I think the impact attenuator, Reid, is a great idea. There's certainly probably other options that we need to look at.

Kaiser: Yeah, I mean, even on a lot of fatalities, we had the temporary that—or the temporary rumble strips available, and we're also meeting with the Transportation Incident Management Group, the TIM Coalition, and discussing with them other alternatives that we could come up with to help advise traffic... [inaudible]

Inda: Do you want me to add to that, Reid?

Kaiser: Yeah, by all means.

Inda: I mean, we're looking at a lot of things. The rumble strips are where—we've included them on some. They're a newer item on contracts, and so we're refining the specs. We're making sure that we have very good specs in there, good information to provide to the contractors so we don't have those issues like you guys experienced on your contract. There's a couple of brands available. One brand is rated for higher speeds. We also want to make sure we're using that on a project where the traffic is stopping. Rumble strips are not really appropriate for a single lane closure where the traffic is just flowing through at a reduced speed limit. So, we're trying to become more knowledgeable and share that information with the districts, with Roadway Design, and get that information out. You know, like Reid said, we're working with our Traffic Incident Management Coalition. The AGC attends some of those TIM meetings here in Reno, and as a result of a recent TIM meeting, they invited NDOT to a subcommittee. I think it was, like, a traffic control committee, so we had some TIM representation, some Highway Patrol representation and just talking about issues in work zones. And so, they actually suggested that this become maybe a quarterly meeting, and so I thought that that would be a great thing to make sure, because it was a very narrow group of

NDOT folks who made the presentation at the meeting, and I'd like to make sure that we get District input as well as Headquarters Construction, but furthering that conversation about, you know, work zones and how traffic control can be improved. But we're looking at lots of options, BJ—or not lots of options. I don't want to exaggerate. We're looking at any option we can find that's appropriate. We're actually—I had my staff go back through projects that are about to advertise or just about to start, and we're looking at opportunities where there might be something—because, you know, projects get designed. They might sit on the shelf for a while. Then they come out. They get dusted off, advertised, and go out to bid. So, some projects that are right now going out may not have some of these current practices. We're dusting those off, looking at them, seeing, you know, can we get that in real quick before the project is advertised; do we need to do a change order. One of the things we're adding are extra flagger hours, maybe not with an impact attenuator at this point like Reid was talking about, but do we need extra flagger hours so that we can have an additional flagger in advance of the cue, you know, are other ways to get things out there. One of the items we talked about in conjunction with TIM is that enforcement. We have the uniformed traffic control officer item on most—well, all contracts at this point, and so the District Engineers work with the contractor to have Highway Patrol out on those projects and making sure that that officer is in the right place. If it's a project where we're concerned about the distracted driver not paying attention, plowing into the end of the cue, let's get that officer with his red and blue flashing lights in advance of the project, you know, maybe not sitting right up in the middle of the work zone or even after the work zone. So, there's lots of discussion going on, on how to tweak it, but we're not—you know, we're not there yet, and it's a tough thing to solve driver distraction.

Almberg: It is, you know, and I just appreciate you being proactive.

Martin: I drove that road a week ago today and a week before that. I found the—having been in the underground business and the barricading plan and everything, I found it was pretty well marked in my opinion, but yeah, it comes up—when you come up on that, you've just finished a stretch that is as straight as can be. And so—but it is—to me, it felt like I had plenty of warning. I was driving a motor home and a car trailer going down the road that was 50,000 pounds. I didn't have any trouble getting my coach under control and keeping track of where I was, and so on, but I do see how people become distracted by long stretches. Like I said, knowing what little I know about traffic, whoever the contractor is there, in my opinion, did everything right.

Dyson: Thor Dyson—again, District Engineer Thor Dyson. I just wanted to add on the uniformed traffic control officers. I know, Reid, you brought to my attention there's been some concerns that on some of our jobs, our contracts, the NHP uniformed traffic control officer has not been there, and that's been recently. Like, when Burning Man comes into our area, there's no one available. We've documented it. We've requested it. So, there's staffing issues with NHP. I mean, if they can, they will; and if it's an emergency, they'll show up. But we have had some difficulties getting—we call them UTC, uniformed traffic control officer, bid item, for them to show up on certain projects because of special events or fires or with...

Martin: I remember a Board Meeting when we've talked about that very issue, and according to what the person from the Highway Patrol told us at that point in time, it was strictly an overtime deal.

Larkin: It is, yeah.

Martin: And it was all discretionary whether they were going to show up or not, and there was no contingent of officers that could be included in traffic safety for construction projects. It was an overtime deal, and it was, "You want the overtime?" "No, I don't want the overtime." And then it becomes unmanned. So, yeah, I get that, Thor.

Larkin: The other part with it being an overtime deal is that that way, they say they can dedicate it. When it's on overtime, they dedicate the officer to it, and they don't... [inaudible]

Martin: Yeah, yeah, and don't [inaudible] for calls, yeah, but the officer has still got to take the overtime.

Larkin: Yes, he does.

Savage: Thanks for the information on that. I hope that—hopefully, that helps, BJ, and at this time, I want to thank the Department, too. From the Director's Office, Deputy Director is here, District Engineers, Administration Services, Operations, Construction and Project Management. It's nice to have Project Management here. I know you haven't had that in the past, so I appreciate you guys being here. Construction Office, FHWA, Greg, we appreciate it. Shawn with PIO and both Bill with Las Vegas Paving and Chris from Kiewit, we appreciate everybody's input. I think it's very important that everyone takes the time. With that being said, I did ask Mr. Hoffman to—and it's probably my mistake in the past—to get copies of these packets to Member Skancke as well as the Governor's Office. This one in particular is very informative. You have both April Meeting minutes as well as June Meeting minutes, and there's a lot of information here that we will, of course roll up our sleeves and drill down on with consultants and contractors, and I think it would really benefit them for a quick review this morning. Any other comments from anyone in the audience or at the table?

Kaiser: Reid Kaiser. What I'll do is I'll go through these minutes, and I'll highlight our consultant conversation. That way, they can—won't have to worry about reading through the whole packet. There's some stuff in it that might not be real interesting.

Savage: I think there are, though. I mean, that's [laughter] I think there are some really nice points in there that don't get to the level of the Board at times.

Kaiser: Okay.

Savage: And I know HR is one of them.

Kaiser: Yeah.

Savage: And I just know that there are some things. It's awfully kind of you. If you'd highlight mine. [laughter]

Kaiser: There's some really interesting stuff in there, though.

Savage: There is. For us, but I'd rather have them look at it all.

Kaiser: Okay.

Savage: But thank you for offering. Any other comments? Okay, we'll move on to the Meeting minutes. I might need Mr. Gallagher's help. April 10th Meeting minutes approval. That's when the Controller was here and myself, and BJ was not on the Committee at the time. Member Martin was absent, and am I okay just to approve the Meeting minutes as is with corrections?

Gallagher: Since you were the only person present, yes.

Savage: Okay. [laughter] Thank you, Mr. Gallagher. I'll move to approve the Meeting minutes for April 10th, 2017.

Martin: Do we have a second? [laughter]

Savage: Moving on to Agenda Item No. 5, the Approval of Meeting minutes of June 12th, 2017. Are there any comments, additions, or deletions? I had a couple, very minor. Page 34, the top paragraph, it says the PIL Office. It should be the PIO, Public Information Office. Page 51, Savage, underneath the second comment, "I just worry about the old rancher that hasn't driven Highway 50 in five years coming in at midnight." We were talking about the new roundabout. It wasn't his age of 50. [laughter] He was driving 50. That's all I have. Are there any other corrections or comments? I'll take a motion to approve the minutes of June 12th.

Martin: So moved.

Almberg: Second.

Savage: Second. All in favor? [ayes around] Minutes approved. We'll move on to Agenda Item No. 6, Presentation and Discussion of the consultant selection process, advertisement of the RFP through notice to proceed, used for full administration of construction projects and augment construction crews statewide. This is an informational only item... [inaudible]

Kaiser: Sharon Foerschler, our Chief Construction Engineer, and Jenni Eyerly, our Administrative Services Chief.

Savage: Good afternoon, Sharon, Jenni.

Foerschler: For the record, Sharon Foerschler, Chief Construction Engineer.

Eyerly: Jenni Eyerly, Administrative Services.

Foerschler: So, this is intended just as a quick overview of the process that the construction division undertakes to procure consultants to help us administer our construction program. It's not exactly for the whole department. It's the process that we follow. You will find the processes, and Jenni can probably elaborate if you are interested in some of the other divisions, but this is just solely written from the perspective of the construction division.

Eyerly: The process is very similar for the whole department, but the type of services that Sharon procures is fairly standard. So, they tend to have the luxury, if you will, of keeping things relatively the same procurement-to-procurement, whereas when we look at procurements on a Department-wide basis, there's a lot of variety. So, we end up with different minimum qualifications, different services that we're looking for. So, today is just for the construction.

Savage: Thank you, Jenni.

Foerschler: Yeah, at least it was trying. [crosstalk] Okay, so, I'm using the right arrow. The left arrow goes to the end. The right arrow goes forward in my world. [laughter]

Hoffman: Just checking.

Foerschler: It worked about an hour ago. So, when we look to procure consultants, we have to find the scope of work. We have to do an estimate that's approved from Director's Office. We define the minimum qualifications and the evaluation criteria that we are going to use. So, not much is different at that level other than the estimates. Those four things need to be done before we go out for the Request for Proposal.

Okay, so, I'll just walk you through each one real quick. Our scope of work, we typically either do a full administration procurement, which means we hire a construction crew through a consultant to administer an entire construction program. So, they act just like our construction crews, start to finish. Then we also do an augmentation, which is where we will infuse staff with an existing NDOT construction crew to help bring them up to a staffing level that they can actually administer all projects that they have effectively. So, when we do a full admin, we have a resident engineer. Full admin or augmentation will have an assistant RE. We typically have two levels of technicians, Level III and Level IV. In our world on the NDOT side, we have technician Levels I through IV. So, you come in at a Level I, and then you progress through the steps. So, when we hire consultants, we want the higher level technicians, so we go Level III and IV. And then we'll also hire testers. So, the technicians act as inspectors and testers. Then we'll have an office engineer, which is just the same as our office engineer for a construction crew. They do all the paperwork. They take care of that, and then depending on the project, we may have a scheduling staff, someone to help us administer and review the construction schedules. And then often times, we'll also have a field office for the staff to sit in and/or material lab, and that's more dependent on whether it's a full admin or maybe more in a remote area where we don't have the facilities. It's based on what we have, you know, in-house and what we need to augment through the construction crew—or the consultant crew, excuse me.

The estimate is generated by our office. We base it on the staffing needs and the project parameters, so project duration, complexity, schedule on a project. As you know, there were questions on the Glendale augmentation a couple months ago, day, night, weekend work. So, those are going to drive the estimates up. Right now, to generate the estimate, we're using the rates of compensation that we paid our consultants for the last three years, and we're doing that as an average. So, we're saying, okay, we think it's going to be X amount an hour based on that. Our cost is based on loaded rates. So, we have an hourly rate, and then the office overhead for the consultant firm is then applied to that, and that becomes the hourly rate of compensation that we pay for the staff.

Martin: So, let me ask you a question on that.

Foerschler: Sure.

Martin: Because I did—on one of the Agenda Items for the Board, I did an across-the-board cost for man hour, compared overhead rates. The overhead rates went from 113% to 205%, and the one that was 205%, my simple note was—I didn't bring it up in the Board Meeting. This was a better agenda. I just simply said we needed a different auditor, because I can't fathom 205% overhead on a contract. The base rate runs from $57 to $73 an hour, and the loaded rates run up over $200 an hour. You have the 200% added to it. And so, I'm wondering how does that work in this world, because the audited overhead rate—like I said, I faced in my world, the vertical world, dozens and dozens and dozens of audits, and I'm hard-pressed by the Army Corps of Engineers and by NAFAC and all the other acronyms in the federal world to come up with a 50% loaded rate. How do you come up with a 200% audited labor rate? Don't get that—or audited overhead rate.

Foerschler: I cannot disagree with you. I don't understand it, either. I'm not an auditor, but I can tell you from our agreements, we run about 150 is about an average. I'd say—and we looked at a lot of our agreements over the last couple of years, and I would say the highest overhead rate was about 160. So, we don't get up that high as 200.

Savage: So, Sharon, I have a question, too, for you along with Member Martin's comments. What's included in the loaded rate? So, the loaded rate is an hourly rate, plus the audited overhead rate? So, the hourly rate, what's included in the loaded rate? Is that a sale rate the contractor—or the consultant has...

Foerschler: So, what that is...

Savage: ...because typically—excuse me—typically, and again, in the vertical world, that loaded rate includes the overhead.

Foerschler: Yes, and it does here as well. So, our loaded rate is the hourly rate paid to the employee plus the audited overhead rate.

Savage: Okay.

Foerschler: Now, I can tell you that we are starting down a path in our negotiations moving forward that we are asking for a complete loaded rate, and when I say that, I mean it includes the vehicle and it includes their cell phone. It includes their nuclear guages for our testers. So, in past agreements, you will see that we had an hourly rate, and then we had a cell phone bill. We had a truck bill. We had the nuclear [inaudible] now, and we just started this within the last month—well, actually, I would say six to eight months, where just give an hourly rate of what that employee costs to be on the ground. We don't want to pay, you know, X amount for the truck. It's all inclusive. So, that's the path we're moving forward. We were successful. We did an augmentation to administer our local public agency program. So, that's just our resident engineer. The local public agency program is federal dollars handed down through NDOT to a local agency, and it's a match when we have a very—we have a delegated oversight from FHWA to make sure that the local entities are administering the projects appropriately and in accordance with federal guidelines.

Savage: Okay.

Foerschler: Because it's such a—it's not the level of oversight that we provide for our construction projects, it was taxing our REs, that they didn't have time to go out and do it. So, we provided that service. We also have an on-call service for all three of our districts. So, we have the ability—the districts have the ability to call up a consultant, say, "Hey, I'm going to need you for three or four months," during the surge of a construction project. And we negotiated those agreements as well to include just an hourly rate, because you only need someone for three or four months. You know, so, that's the path we're moving forward to. We were successful in our last negotiation in an augmentation in Las Vegas.

Martin: So, where I was—what we were referring to is Jacobs, their all-in labor rate was $200 an hour with the 140% markup and the 10% fee, because they get a 10% fee on top of the...

Savage: Rate?

Martin: Uh-huh, 10% to 12% depending on the circumstance.

Savage: So, the loaded does not include the profit.

Martin: Loaded rate does not include the profit. Loaded rate doesn't include the overhead. Loaded rate—and then on this one here, I don't remember which was—they had a—a fixed fee is 12.5%. The service provider overhead rate of 197.02 direct labor cost plus .51 of direct labor cost for facilities, capital cost of money, which takes you up to almost 198% overhead multiplier. And on this one, which was unique, there was no way to get to what the base rate was, because you only provided what the total dollars were and no man hours that was attached to it. That was on master labor agreement for Kimley-Horn. I think, yeah, the safety agreement, Kimley-Horn.

Foerschler: I can't comment on that. That's not one of our agreements.

Martin: Yeah.

Foerschler: So, it's handled a little bit differently than our agreements.

Savage: I have a question at the same time here. I know we talked about it at the last meeting, so forgive me if I'm misstating this, but does Project Management use the same format with this rate? If my memory serves me, Project Management did not use the same format for this consultant rate. And I know Mr. Terry is not here. I know Cole is, and if we want to hold it until the next meeting, that's fine, too.

Mortensen: I can certainly talk about that. For the record, Cole Mortensen, Project Management. We generally run one of two ways, either the cost plus fixed fee, which is the direct labor, the overhead rate, and then the fixed fee, which is generally the—we're usually in that 10%-12% range, depending on the project, and we have a worksheet that we generally go through to try to stay consistent with where and how fixed fees are being applied and what magnitude those are. And then the other method that we'll do is similar to this, and it's a specific rate of compensation where on an individual basis we'll agree upon that rate that then gets multiplied by the overhead and then the profit in there, and it gets billed at as an hour per hour. The difference between the two is basically kind of how the fixed fee functions. If on a regular consultant contract, say, we've got a five-million-dollar contract, they manage to get all the work that we need done in three-and-a-half million dollars, they're still entitled to the fee that we agreed upon up front. If they end up running more internal hours than what they'd initially anticipated and, say, don't do as much direct costs, then they don't get any additional fee above and beyond what we actually agreed upon up front, and we donned the specific rate of compensation for those contracts where we're not necessarily sure what the total need is going to be. Specifically, when we have our Contract Management Group on Design-Build jobs like Neon, we switched over to specific rate of compensation, because there's no way of really knowing how many times you're going to have to review a set of plans. You know, it depends on the quality of plans that come in, those types of things. So, rather than, you know, losing—potentially losing a big chunk of fixed fee for being over-conservative in the beginning, we just pay on the specific rate.

Savage: Okay, thank you, Cole. I guess—and from a businessman's perspective, why doesn't construction and Project Management have the same formatting for the rates so that the—because you have the same consultant sometimes. Sometimes one consultant will be working both with the construction as well as Project Management, and wouldn't it confuse them if there was a different way to arrive at the rate?

Foerschler: We administer ours very consistently regarding the subconsultants. I know when you guys negotiate, different type of deliverables.

Mortensen: Well, it depends on the project for us. So, for us, we're more dynamic, I think, in the scope of work that we're using. So, in a lot of ways, I really don't know how those conversations have gone in the past, but in a lot of ways, it's just based on the type of work that we're doing. It's not as easy to specifically point to somebody and say, "Contractor is going to be out there 40 hours a week. We need you out there doing X number of tests every day." It's not quite that easy.

Savage: And I guess I'm looking at it from the consultant's standpoint on how—if I'm getting audited, how I arrive at this rate. Maybe I'm looking at it wrong. I don't know if there's a consultant here today. I don't think there is.

Eyerly: Jenni Eyerly, Admin Services. So, first and foremost, I think I should let you know that Robert Nellis and I have had some conservations about this audited rate, and we actually would like to put together a presentation and get it to the Board or this group to kind of lay out the process and then how it does get applied to all of our different agreements. So, I'm probably speaking a little bit prematurely, but the rate that they audit is the firm's cost. So, we don't have a say or control in what that rate is. All we can do is work with it the way that Sharon's group and Cole's group does to use it as we need to for the type of project that we're doing. So, I think even in the beginning of this presentation I said, you know, what Sharon does is pretty homogenous. They know what to expect. They know generally how many hours they're going to use. So, they use the form of compensation they use because it fits with that particular type of service.

Hoffman: If I could chime in real quick, Bill Hoffman, Deputy Director, for the record. There's at least three or four, maybe even five different types of procurements we can do, different types of agreements that have a couple of the elements that Cole was talking about, but there's a wide variety of how we can actually go out and procure an agreement. With fixed fee lump sum, there's things in between. So, the fact that Project Management and construction are doing things a little differently is because of the flexibility they need for what they do. So, that flex ability is helpful within the Department. Sure, we want to be consistent within that path or that road for whatever that agreement mechanism is, but there's four or five different ways we can skin the cat, so to speak. Would you agree with that, Jenni? So, I don't think we should all be doing everything exactly the same. We shouldn't, because every division is different and needs that flexibility. What we need to do is make sure those mechanisms, those agreements we're doing, are accurate and are efficient and effective for NDOT; we're not blowing money on 200% overhead rates.

Savage: Right. No, and I appreciate that, Bill, because I think that flexibility is very important, because everybody runs differently. I guess what I'm asking and I think what Jenni was eluding to, and I think it's going to be beneficial, is what's audited [inaudible] so, I want to make sure is when consultant A, when they're charging Project Management, is charging the same thing at construction. That's all I'm asking, and whether or not—they probably are.

Hoffman: Right.

Savage: But I think this audited technique would be informative, I think, for the group to understand how they get to the end result.

Eyerly: This is Jenni again. So, they have the same rate. They have a single audited rate for that firm. Now, it changes from time to time. So, it's not a—if Cole starts a project today and Sharon started one a year-and-a-half ago with the same firm, they may or may not have the same rate, but they have one rate that applies to that firm based on all of their expenses and how they were audited [inaudible] arrives at. What we have seen is midstream, sometimes it will change, and we have the consultant coming to us and saying, "Our rate is changing, and we don't want you guys to either overpay us or underpay us and we make that up at the end of the project. We want to adjust it now." So, they will come to us midstream and say, "We need it to be different. Our rate has changed, and so now our overhead percentage was 140, and now it's..."

Martin: I guess maybe the devil is in the details, because when I would go through my audits, the—when it was—you say so whoever it was. They would just say not allowed, not allowed, allowed, not allowed, and we'd go down through a list, and you end up with 12 items allowed and 32 items disallowed. And so, when you have—and I'm looking here. Jacobs, like I said, was at what, 137%. This one, I can't remember who it was, was 113%. When you have that kind of disparity, it would beg to say there's not the same set of inclusions in the direct rate and in the overhead rate. When you have—when you have a 67%—or 87% difference in overhead rates, you're not looking at apples and apples. You're looking at apples and oranges on the things that go into that rate.

Hoffman: Right. Well, and if I could, again, Bill Hoffman, Deputy Director. I gave—was it about a year, year-and-a-half ago, I gave a presentation to this group on overhead rates and how we arrive at those and how they're generated, and I actually used an example from a construction crew for that. What I would offer you all is at the end of every contract, our audit services goes through and does exactly what you just said, no, yeah, no, yeah, all the way down the list, and whatever they say no goes out the door. They use at least five or six national auditing specifications or guidelines when they do it, AASHTO, and account—I mean, so, when they get at the end of the project, if it's 205%, and you can ask the consultants out here, that's a really horribly-run business if you're at 205%.

Martin: Yeah, we tolerate that. We hire them.

Hoffman: Well, it's not good business, but the 205% I think that you included, Member Martin, was all of the—it was the profit and everything else. It wasn't a true overhead rate, which was what you said, what, 140?

Martin: Well, this specifically said that it was an overhead rate—wait.

Hoffman: Because I think to get to 205, you added the profit and then the fee on there, too, to get to the 205, which is something you definitely should consider for...

Martin: Okay, so, this was the Master Negotiation Summary for the implementation of the Strategic Highway Safety Plan. So, that was Kimley-Horn, and they said service provider has an overhead rate of—you guys said 197.02% of direct labor cost; however, you don't identify what the direct labor cost is, plus .51% of direct labor cost for facilities, capital cost of money. No fixed fee is payable on this FCCM cost. And then I just said what's the base rate, how many hours, because the base rate is not identified. You just say that it's 197. The multiplier on the overhead is 197% for Kimley-Horn.

Hoffman: Well, what I would offer to the Board here is maybe we could get Sandeep and our audit services together with Jenni and put together more details. So, the presentation I gave you guys a long time—was very general and very quick, and it sounds like Jenni wants to maybe go into a little bit more detail and explain that a little bit more, how do you go from overhead to, you know...

Martin: Direct.

Hoffman: ...direct rate. So, we'd be willing to do that.

Savage: It might be helpful for a future agenda item.

Hoffman: Okay.

Savage: I'd appreciate that.

Kaiser: Member BJ, you're a consultant. How do you figure out your overhead rate?

Almberg: I don't. I figure it all in my hourly rate, and that's what I was trying to get to, is I believe that in our Board Packets, when these consultant agreements come in, instead of providing us an overhead rate—that doesn't mean anything to us. All we see is 135%, 140%, 150%, and I've asked that question before when I can. And the reason I say when I can ask it is when we have the same scope of service, scope of work, and we've actually selected three consultants and hired three consultants for that. I've asked before, these all have three different overhead rates. Which one are we going to get more hours out of? At the end of the day, it comes down to an hourly cost. And so, when you provide me overhead rate, you guys can't answer me the—we're going to get more out of consultant A or consultant B or consultant C? But I believe that if you provided in there their hourly rate, including all overhead and everything associated with it, when we come in here, it's very easy for us to say, okay, we're going to pay this consultant $150 an hour. We're going to pay this consultant $200 an hour, and we're going to pay this one $130. It's pretty easy for us to figure out exactly which consultant we're going to get more work out of.

Mortensen: If I could on that, that starts getting really convoluted in a hurry, and the reason that I say that is depending on the firm, and we've seen—at least what I believe has happened with part of our engineering firms is during the downturn in the economic slump, they got rid of a lot of the junior level staff. So, we saw overheads dropping because the people that were actually working on our projects had higher salaries. So, again, it kind of goes back to each one of these firms gets an annual audited overhead rate that's far compliant, and in some cases, the firms will have two overhead rates depending on if it's a field overhead rate or an office overhead rate. For USA Parkway, Jacobs was using a field overhead rate for us, because we supplied the office for the design group, right? So, there are so many variables that impact what that overhead rate is. You may be getting more hours out of one group by having a lower overhead rate, but it may be that you're getting higher level individuals working on a project that are charging higher salaries. So, you might not actually get more hours out of it. You may just be paying higher salary individuals.

Almberg: Well, you could answer that both ways. I mean, with just giving us an overhead rate, we can't determine either, and so I'm saying why don't you just include them both? And I'm satisfied that I'm seeing an hourly rate and the fact that you come in here and there's also an overhead rate, because like I say, I have difficulty grasping what's going on and how this is working at times. You know, I understand, you know, from—because you would forward me that presentation in the past, and we'd have conversations about that.

Hoffman: Right.

Almberg: And so, you know, sure, I grasp it as a concept, but also, as you start critiquing that, there are certain ways that you can take it, and, like, I've said this before, too. You know, if we have the same hourly direct cost for individuals between two different consultants and one is on the top floor and one is on the bottom floor consultant, those overhead rates can be substantially different for the same kind of staff. And so, I don't know what the answer is, but I can't quite get to where I feel 100% comfortable with just strictly overhead rate.

Hoffman: Okay.

Almberg: You know, and I've asked for a copy here, and you're saying that we recognize and approve those consultant fees based on average of last several years of fees. So, that sounds very similar to us as when we come and we prepare our engineer's estimate. The engineer's estimates are based on years and years of a database of cost of asphalt per ton, cost of—you know, how far back, and you're saying—when meeting an engineer's estimate, how far back are you keeping this database, and I think we should be doing the same thing for—which it sounds like we are, but for the consultants [inaudible] so, if we don't come in here and we get a consultant, then it's kind of off the charts, saying, "Hey, this is not what is within our acceptable range."

Martin: So, in Line Item 2 on the procurements over $300,000, I think it was—you got Atkins, CH2M Hill, and Louis Berger. At no place in the package do you identify what the overhead rate is for either one of—all three—are all three of those companies working on the same overhead rate and the same base rate? Do we know that?

Mortensen: I don't think so, and I believe that...

Martin: Louis Berger was, like, 113%. I'd hire them any day of the week.

Mortensen: I thought that those three were—wasn't that on-call agreement?

Martin: Yes, an on-call.

Mortensen: For the total, and then we'll go out in most cases with those and do a task order that you guys will...

Martin: But we don't know what we're paying on the multiple or on the base.

Savage: These are all healthy discussions, because there's no right or wrong answer here, because I know—I'll take my personal experience. We're probably the highest priced hourly plumber-welder in the area, but I can produce more in that one hour than that guy who charges a third of my—not a third, but three-quarters of my price. So, I know it's value based with consultants. I think this discussion will go on and on and on, but it's healthy, because it's value based, and we're trying to ensure the taxpayers get the right price at the end of the day. And I know the Department is doing that. I don't think there's any doubt. We're trying to understand and feel better about where we're going with some of that. My question to you, Jenni, the hair came up on the back of my neck regarding the consultants changing their pricing during the agreement. In the contractor's world, we don't get to change our pricing during the contract. Do the consultants get to change their pricing during their contraction agreements?

Kaiser: Reid Kaiser. They can change their overhead rate, but they cannot change, and correct me if I'm wrong, Sharon, the hourly rates they were planning to pay a technician. So, if we hire a technician at $30 an hour, they cannot ask for more money on that rate, you know, up to $35 or something. But the reason they want to change their overhead rate is because we're going to audit it at the end of the agreement, regardless of whether they get paid 110% or they get paid 200%. So, if they get paid 200%, there's a big chance that if their overhead rate is actually 130, they're going to owe us a big check at the end of the job, and they don't want to do that. So, they want to change—they would rather have it either match or maybe a little bit lower so that either they break even; they don't have to pay us anything, or maybe we have to send them a little bit more money to make up that overhead rate.

Hoffman: It's like your taxes.

Kaiser: Yeah, it's like your taxes. You know, I mean, you might claim an extra $500 taken out of your paycheck so that you don't have to pay a big tax bill at the end of the year. It's the same idea.

Savage: See, and I—personally, as a business guy, I don't agree with that, because I think they should be held to the agreement, because we're putting a crew on and putting a crew here, putting a crew there. Depends on what manpower we have and how we're approaching that work.

Kaiser: Yeah, but the—again, the hourly rate is going to stay the same.

Savage: But the overhead, too, like BJ's argument, instead of my little trailer, I'm going to move to a nice penthouse and have an operation where I have higher overhead. So, let's get Chris in. Yes, Chris, from Kiewit.

Koenig: Chris Koenig with Kiewit, a couple observations. With all due respect, you're starting to kind of conflate risk-based contracting and service-based contracting. We live in the world where we guarantee a price, and we take a risk, and we get paid for that. Service providers, again, no disrespect, are not used to taking risk. So, if you say, this is guaranteed, then they're going to be taking a risk that that—what we're talking about here is that their overhead rate may change in the middle, and that cost to them has gone up. They're going to incur that cost whether it's guaranteed to the Department or not. So, now if they have to price that, like we do, there's going to be some contingency that they don't pay for it over and over and over. Maybe it goes up on this job. Maybe it doesn't. So, kind of starting to conflate risk-based versus service-based.

Savage: Service-based.

Koenig: And then the other question I had was are you considering evaluating overhead rates as a criteria for...

Savage: Consultants.

Koenig: ...consultants, and again, you got to remember that audited means, like Cole was saying [inaudible] the feds have come in. They've logged it. It's real cost. It's what you spent last year on your business outside of the direct cost. You and Frank have the same business. You do the same amount of work. You may have two offices, one up here and one down there and Frank does one, and it's a matter of how you do your business. And, you know, for a guy that has a higher overhead rate, I'm selling—there's some value that comes with that, and, you know, for someone that has a lower, they're going to say, "Hey, we're going to streamline." But to just say I'm going to hire the guy with the lowest overhead rate every time, you may not be getting all the value that comes with part of that overhead.

Martin: I don't think—for me, I never go with a low-cost provider, okay? That's a dumb way of doing business. It ends up with big liabilities all the time anyway. And all I'm saying—I think all any of us want to do is get an understanding of what's fair. Is 200% fair? I don't know.

Dyson: I have a question, Thor Dyson, District Engineer. Do the overhead rates change with project delivery? So, if you have a CMAR versus a Senate Bill, does that change?

Mortensen: Not that I'm—not that I'm aware of with the sole exception of what I mentioned earlier. If we're providing the office, then they can use the field office rate, whereas during the procurement, they were running out of their home office, so they were paying to keep the lights on.

Dyson: It doesn't matter on the project delivery.

Mortensen: No, it doesn't.

Dyson: Okay.

Lani: Stephen Lani, Assistant Construction Engineer. One quick point of clarification, too. Like Mr. Hoffman, we have multiple methods of procurement, and if the option to go back or the ability within the agreement in the way it's structured to change or to keep the overhead rate as a dynamic rate that will be audited at the end of the project and the overhead adjusted base that was actually consumed is only applicable to the agreement procurement type where cost plus fixed fee and an overhead multiplier is specifically spelled out within the terms of the agreement. In the case of the construction agreements that we're working with, we have migrated to the specific rates of compensation. In the specific rates of compensation, we have a consideration in the back of our minds of where they should be operating with their field or home office overhead rate based upon the type of work that we're asking them to do, and we're using that as a backcheck to figure out if that loaded rate out the door of what we're paying for that individual is reasonable; what does it come down to, but if their overhead rate fluctuates as a firm throughout the life of the contract, it's not in the agreement and contract we have for them to be able to go back and move that up or down, because we don't get an audited rate of the actual project at the end, because the overhead was not actually considered as part of the specific rate of compensation as its total package. So, if we hired, generic numbers, an inspector for $25 an hour is what that individual was physically receiving in their paycheck, if we work off the basis of that firm is about 150% overhead, ballpark, and we're in the 8% to 10% profit margin, he probably loads out the door without a vehicle, without the other stuff, at $65 to $70 an hour is what that individual's rate is. Once we establish that specific rate of compensation for that classification of individual, unless—that's fixed for the term of the agreement, and it doesn't matter what that element is in there, but we're using those numbers as overhead and profit because that's the way we operate. We're not on—we're trying to get to a baseline of what should that individual be worth. Granted, we're only paying our equivalent technician $18 an hour. The overhead or operating rate that we as an agency have is different, but where is the industry sitting at? What's that individual worth? If a guy is $80 an hour out the door, what does that get us? Where are we at? The overhead audit only comes back in, in a specific rate when you're outside of the specific rates compensation like cost plus fixed fee.

Savage: Thank you, Stephen. Bill Wellman, did you have any...

Wellman: I think, you know, Chris is right, but at the same time, you got to remember state law does not allow him to negotiate on professional service contracts. That's one of the biggest heartaches that we always have, and that's what you're talking about here however, philosophically, as you guys are talking about, 113% is way different than a few hundred percent. If somebody can run it a lot more efficiently for certain reasons, then they should, in fact, have some consideration in some form. And I think that all plays back in everything that I see, and I watch as I sit in these meetings or all of the meetings or even in the projects themselves. That ought to be managed a little bit more by saying, "What's the goal? Is it a $100,000 contract, $1,000,000 contract?" Whatever it is, how do we back into it the number of man hours? I guarantee that I'm not seeing very many $25 or $30 an hour people out there. I see $60 and $75 an hour people, because that pumps that up that much more. So, Chris had the same issue on Design-Build that we have up here, and we don't get to do it that way. It's a multiplier and multiples, usually, three plus times whatever that is. So, you might be getting a bargain at 130% markup right there. But anyway, you're never going to be able to fix this, because state law will never [inaudible] allow you to do it; however, you need to be cognitive that if you start guys at 200%, then when you do the RFP, then, frankly, they're not going to be the best value in the future, because you're having to pay too much.

Eyerly: This is Jenni. Just to clarify one thing, by state law, we are allowed to negotiate. We are not allowed to select the firm or [inaudible] so, there is negotiation that takes place. It's just that to get to the top-ranked firm [inaudible] cost. Now, if negotiations don't work with the top-ranked firm, we can go to number two.

Almberg: That's what I wanted to make clear, too, that you may not—just because they got a top-ranked firm doesn't mean you have to go with them. If we can't get to the point where their fees match what we have projected for the project, we can go to number two, and so you can't...

Wellman: That begs the question, show us where you rejected the preferred contractor, because... [inaudible]

Mortensen: I just terminated a consultant's agreement [inaudible] for final scope—or for final design were a number of issues, but price became more important.

Wellman: Perfect.

Mortensen: Then we had to turn around [crosstalk] then we had to turn around and advertise for final design for the remaining scope of work on it, and it was just we were having problems communicating, and the price wasn't what we were looking for, and so we walked away.

Kaiser: And Denise Inda in traffic operations has also went to number two for that same reason.

Almberg: I don't think you have—I don't think you have to do it too many times before they recognize. [laughter] [crosstalk] I hope so.

Savage: Yes, Tracy.

Larkin: I noticed that Roger Philipi [phonetic] with Atkins was nodding and shaking his head a lot. I wanted to see if he wanted to add anything.

Philipi: Thanks. Roger Philipi with Atkins. You know, one thing I've seen with some of our competitors that might have a leaner overhead than even ours, they tend to be able to pay higher salaries, but you might see in that particular company that those people have to pay more for insurance because they don't get the benefits that maybe our company has. So, it's very competitive out here. You know, we're all trying to steal each other's good employees. You know, that's kind of how it goes out here. So, if somebody is running a high overhead rate and they want to steal somebody from over here that's getting a real high salary, it's hard to do that. You know, so, you have to be competitive. You know, I think those—I'm not going to tell you—oversimplify and say it balances out, but I think you can see if somebody's got a pretty good overhead rate, it means they're paying their wages higher and that [inaudible] pretty close to the bottom line, what you're going to do for, you know, one firm or another.

Savage: Thanks, Roger, and thanks for attending as well.

Philipi: Yes, sir.

Savage: Okay, Sharon and Jenni, sorry to get off track there. [laughter] Holy smokes. [laughter] [crosstalk]

Foerschler: But I can tell you that within the last two weeks, we did—our office did negotiate with the consulting firm and told them what we were willing to pay, and they came back and asked for more, and I said no. And they came back to the plate and said, "Okay, we'll accept." So, we're trying to get a handle on this issue. Side note, I won't tell you who that consultant is, so, anyways, we generate—our office generates the estimate, and then it gets approval through the financial side and the Director's Office.

So, our minimum qualifications is based on the needs of the project. Like I said, it could be a complex project with a lot of structure work. It could be a simple [inaudible] we do require highway construction experience. We don't necessarily say it has to be NDOT, but we don't want people out in the field doing inspection and testing that don't have highway construction experience. The testers that we procure, we require them to be certified just like our own construction crews, so they're NACTAC, ACI certified, and then again, we get a higher level of proficiency within the inspectors and testers with the Level III and IV inspectors that we require. And then our REs, we hire full admins. We require them to have attended and gone through our weeklong training in-house NDOT Resident Engineer Academy that we hold yearly. And then sometimes, depending on the project, we might require assistant RE to have a PE license so that they can provide a higher level of expertise during the construction.

Okay, so, I have some evaluation factors I printed out for you guys. When we put out our RFP—if anybody else wants to see it they’re welcome to, we tell them what we're looking for. So, what we're going to evaluate them on is their team, their approach, their availability and capacity, their past performance, their project knowledge, and their DBE goal. And there are weighted factors [inaudible] what you guys have in front of you is what the evaluation team for NDOT, the in-house people, look at when they're evaluating these parameters. So, the consultant will put together their RFP and touch on each of these criteria, and the evaluation factors, now, ours are, like I said, pretty standard, because we're not going outside the box too much of what we're procuring. But they're developed by the Project Manager, and we say Project Manager; that's in the construction office, and then

Admin Services, Jenni's group, manages our procurements. And then what you have are the guidelines for the Evaluation Committee to score the proposal.

So, in the RFP that the consultant sees, we define the scope. We specify the qualifications necessary. We give them the evaluation criteria; however, we typically don't give the weighted factors, but they don't change for our procurements. So, if a consultant has gone to a debrief after an unsuccessful procurement for them, they know what the weighted factors are, so it's not a big secret. Again, like Jenni said, we're not allowed to include cost as an evaluation factor. The RFP includes, you know, when we want them due. We have an avenue for them to submit questions. We can provide answers during the procurement. That's all done online. We define the insurance and DBE requirements, how the proposal should be formatted and laid out, you know, what font size. We get that specific, because we limit the number of pages they can submit. So, if you're a smart consultant and you want to get as much information in as you can and we don't tell them to use ten font, then you need a microscope to read it, right? They get a lot more information in there. So, we define all of that, and then there's also a draft of the agreement terms for them to take a look at.

Okay, and then the consultants are notified that there's an RFP hitting the street through our vendor bulletin. Those go out every week. Like Jenni says, there's over 450 subscribers, so it's not hard for these vendors to know there's something on the street, or the service providers I should say. We typically advertise for three weeks, and during—at least for our office, the RFP, the advertisement period, we have no verbal conversations with any consultants. We don't know who has packages, who's going to submit. So, we try to really pull ourselves out and be fair and even with everybody. So, we don't have any phone calls. We don't have any visits. We don't have any lunches. We don't do any of that stuff.

Dyson: Sharon?

Foerschler: Yes?

Dyson: Thor Dyson. I believe the committee members, too, also has to sign a document stating that you're not going to talk—so, if I'm on one of the committees to evaluate the RFPs, I have to sign something saying that I'm not going to talk to anybody, and you might want to elaborate that, Jenni.

Eyerly: Yes. So, there is a letter that goes to each committee member at the beginning of the process and explains to them their rights and obligations throughout the entire procurement process, and that's part of that, is their communication, or lack thereof with any potential submitters. So, all that communication is coordinated through Admin Services, and what we typically see is that potential proposals will submit a question, and then we answer it through the Q-and-A process so that gets published out on the website, and all proposers can see all the same information.

Savage: That is helpful, thank you.

Foerschler: So, when the RFPs are submitted, they send in the statement of qualifications, and I, as the Division, have—review those and determine if they can be prequalified so that the RFP can be submitted to the evaluation team. So, I make sure that they can meet the minimum requirements for the RFP. And then the Evaluation Committee, typically, you'll have—wherever the project is located, you'll have some staff from that district on the review team, and then we have construction division staff. I don't ever review proposals, because my staff does, and then we are required to have an outside person. So, we try to get someone who's from that area. We do have difficulty getting an outside person, but we do it. We don't move forward until we have it, but it's difficult because it's a time commitment.

The RFP team typically has two to three weeks to review them. They review the proposals independently, and then they get together. Admin Services manages the meeting where they get together and they talk about the proposals, and they score them as a team. So, you don't get different ways—we used to do it where you independently scored them, and then those scores were merged. And we found that there were sometimes conflicts, because what one person read, maybe the other person didn't interpret the same. So, by having a consensus approach, it leads to a lot more consistency on how they're scoring these consultants. Okay, and then the scores are recorded for each of the evaluation criteria, and the committee does not know what those scores are.

Admin Services manages that, and then I go and I look at the scores as the Division Head, and I make a recommendation to the Director on whether to move forward with award or do we want to go to step two, which is an interview with the top firms. And it just is kind of a judgment call, if you will, how close the scores are. We had one RFP, was it a year-and-a-half or so ago that was in a half-a-point. To me, that's a tie. You absolutely have to go to interviews at that point, because they're so close. So, the Director, though, does determine the final action. He either signs off on what I recommend or he makes a different recommendation that we then follow.

Dyson: And we take that—Thor Dyson again. We take that seriously, because we don't want to waste the consultant's time to do an interview if they really aren't a serious candidate.

Foerschler: Right.

Dyson: So, we only do that if it's important enough or close enough. It's that genuine that we need to do the interviews; otherwise, I mean, then they're investing more time into the proposal when they're not serious. So, we take that serious.

Savage: Makes sense.

Foerschler: So, when we go into the interview, and Jenni can probably expand a little bit on this, but it's a fresh slate for the consultants. You don't have the proposals anymore. You don't know what the scores are. They're starting out from square one, and you evaluate them based just on the interview.

Savage: And whoever wins that interview, wins the job?

Foerschler: That's correct.

Savage: So, if they have real good sales guys from Chicago show up and the other guy doesn't have the guys from Chicago, he's got them from Reno, they may win?

Foerschler: Look at it that way, correct.

Savage: Because I've seen it happen with certain [inaudible] work, and I'm just bringing that up. I wouldn't say the Department would ever do anything like that. I'd just be aware of there are dueling salespeople out there that could do much better than... [inaudible]

Eyerly: This is Jenni. There's two sides to this every time we get into these conversations, I think. It's important to balance out the sales pitch side of things to the benefits of having an in-person interview to see a team, to see how they work together, to see how they interact. I relate it to the job application process. You submit a job application, that's your proposal. It says what your qualifications are. It says on paper who you are. But when you get into the room and you can have a back-and-forth conversation, that's where you sometimes can really see who a firm is and who their team is and how they interact with one another. And I think that's part of the benefits that we see when we do go to interviews. We're not looking at the same criteria as the proposal, so I think that's important, but that's part of the reason that we start the scoring over, is because we've already determined firms who we believe are really well qualified to do the project. Now we're going to look at some different criteria to really separate one from the other, because in effect, the scores are so close, it's almost a tie, and we're trying to determine who's best at that point. So, I do understand there's definitely been some comments about, you know, where we can do the schmooze, do the sales pitch part, but I think as a department, we do see the benefit of those in-person interactions.

Savage: And, you know, delve specifically into their proposals at the time, asking questions about team members, who's available and who's not available.

Eyerly: It's different criteria. Do you want to elaborate on what you guys had for construction, because I don't want to talk...

Foerschler: So, we're...

Savage: I agree. I appreciate that.

Foerschler: We haven't done interviews in a little while now.

Savage: Okay.

Foerschler: But the review team will come up with the questions, and you're not allowed to ask the same questions that came up on the RFP so, if you ask who their project team is, you can't ask who their project team is. If you ask for ten years of experience, you can't ask them to expand on the ten years of experience. So, through the review of the proposals, we rely on the team to say, okay, well, we didn't quite get that out of the proposals. What is something else we could ask to get that information a little bit better?

Savage: Okay.

Foerschler: So, a little more qualifying questions I would say, a little more in depth than you ask in the proposal, and the teams get those questions before they sit down for the interviews, and we ask them—we limit how many people they can bring. So, they can't bring 30 people and say, you know, this is our team. And we ask them to bring the project team, members of the project team that were on their proposal.

Savage: Okay.

Foerschler: And then it's the same committee that reviewed the proposals that's going to sit on the interview. So, you don't have different perspectives going into the different phases. And then the scoring is done on the same basic parameters, and boom, we have a successful firm.

Almberg: If those consultant questions are predetermined, can you ask additional questions in the interview or are they just coming in and basically giving you a presentation to answer each of my questions?

Foerschler: You can ask clarifying questions. You can't ask additional questions. Okay. So, then firms are notified. Unsuccessful firms are always invited for a debrief. One of the requirements from the Review Committee is to provide comments for every firm, what was good, what was bad, what they liked, what they didn't like. And by doing a consensus, we've gotten rid of some of those conflicting comments that you might have heard consultants vocalize, and, hey, this guy thought it was a strength, and he had the same comment. The other one thought it was a weakness. And I can tell you I have reviewed proposals in my career. It's not a fun thing to do, and it's very difficult to come up with constructive criticism, and, you know, if you've got two proposals, it's not so hard, but you could have a dozen. We've had it where we've—in the past, you know, you might have 15 proposals. We don't see that now, because our market is very limited. The last RFP that went out had five proposers, and that's the most I've seen in a while. We had an augmentation RFP go out for the US 95 to 215 Interchange, two projects. It's a duration of about three years. We had two proposers. So, you just never know how many people are going to put in. So, once we come up with the firm and they accept, we commence negotiations once we are pleased—or I shouldn't say pleased, where the negotiations are acceptable, then we will execute the information to go to the Board for approval. And I want you to know we never exceed what we got budget approval for in the negotiations. If they come back and say, "Hey," you know, "we estimated $5 million, and we're looking at our budget approval of three-and-a-half," you know, at some point, I'll tell them, "You have to be below that, period." And you will probably see to date we haven't asked—we haven't asked to amend an agreement for more dollars, not that it can't happen, but we're very I would say, stringent in the way we administer our contracts during the construction for the consultant so that we keep control of the costs. Reid and I both sign the invoices. The Assistant District Engineer signs off on them. The Resident Engineer, if they're augmenting, sign off on the invoices if the hours are accurate. I can tell you they're very expensive and I’ve had many conversations about how can we be spending this much money in a month. Reid has questioned it as well. We're cognizant of it, but we administer the agreement in our office, do not administer the staff that's augmenting the construction crew, if that makes sense.

Martin: So, one question. Some firms accept, some don't. What's the percentages?

Foerschler: We haven't had one in my arena that hasn't accepted down the construction site.

Eyerly: Do you mean the debriefs?

Foerschler: Oh, on the debriefs?

Eyerly: The debriefs? I want to say it's somewhere around 50-50, probably a little bit less than 50%. It depends on the firm, and it depends on the procurement. Sometimes the winning firm will come for a debrief because they want to hear anyway what their strengths and weaknesses were. Some don't. It's sort of up to them. We did look into this in a little more depth partly because of Member Skancke's comments kind of talking about firms, and what we see is our firms who do business with us a lot come in debriefs, and the firms that we don't necessarily recognize their names quite as much, a lot of times we don't see them at the debriefs.

Martin: So, maybe they're shooting themselves in the foot.

Eyerly: It's an opportunity. It's also—I guess I should meter that with saying it's a difficult process to come in when you haven't been the successful proposer and hearing some—what we hope is constructive criticism, but, you know, sometimes it's received as being negative, and it's a tough situation. So, they're not fun. I mean, maybe there's reasons why firms don't attend.

Foerschler: Well, at the end of the day when we're done with the process, all the firms have access, if they want, to the winning proposals.

Martin: Of course.

Foerschler: And so, they can see for themselves what their strengths were and maybe where they can increase their effort or the information they're providing.

Dyson: Thor Dyson, District Engineer. But what Sharon is talking about, going all the way back to the beginning, the initiation of asking for a consultant to the construction augmentation or full construction administration starts with a very healthy discussion between Sharon's office, and in my case, my district office, and it's based on workload. It's based on what's happening with a particular project, and we go back and forth with Steve, with Sharon. Sometimes Reid is in the mix, and a decision is then made to move forward with an RFP process or not. I just wanted to throw that in, and then all the way to what Sharon just said, being we get them on board. We watch them. We cut them loose if we need to. We do a staggered—we do a staggered—okay, you know, I need this many people. The job is one down. Now you just need an office person, et cetera, and we work with them on that, with the construction office and the consultant that's doing—for the administration or augmentation to the group.

Kaiser: Reid Kaiser, and one more comment on top of Thor's comment. We also will schedule our projects accordingly. Like, this last year, there was a project on US 50 in Austin. We elected to advertise that later in the year so that we'll have NDOT already on it instead of having to put a full consultant crew out there. And you kind of load up an NDOT RE with a bunch of work in that area. So, we try to—you know, and that's a good thing and a bad thing, because then you got these REs that are managing five or six projects, which they're just running all over the place, but we like to have NDOT REs on them. Just they may have to augment that crew, but that's kind of—part of the game that we play.

Savage: That's good, better control. But I want to thank you, Sharon, and thank you, Jenny. As I've said many times before, it's about consistency and trust, and I know we're very grateful for your integrity and your ethics and the strength in that regard, because all the contractors and consultants have at the end of the day with many different department throughout the state or school district or university, it's ensuring that we give them the consistency and the trust in order to be fair. So, I thank you both. Your high level of integrity and ethics are very much appreciated, as well as everyone here at this table. It goes unsaid. I know we question a lot of things, but it's all in a healthy discussion to ensure that we're staying on the right track, because in our private world, we see different entities that get a little sloppy sometimes, and that's all we try to do. So, we're trying to get better at what we do, and I thank you both.

Almberg: Well, I think in the Director's Report today, when he was talking about the RFP process, and in a sense, loosening up some of these requirements, because when you come in and you said, hey, we've had up to five recently. We had two on this. Sometimes I think that it's very—there's the potential there of putting very strict requirements on it that you may be minimizing who can respond to you and leaving out quality companies out there that could do it, but because the restrictions were so tight, they didn't feel they could meet it, so they didn't even take the time to put in for it.

Martin: You're absolutely right. I've seen that in the vertical world. They give us five years. Well, five years ago, there was no jobs going anywhere, you know, and so it is good that we're looking at an alternative method.

Foerschler: Well, I can tell you that I had a conversation with a consultant that said, "Now, we won this procurement. Should I not put in for the next one, because the perception is we're getting all the work." My response was, "Well, you've got to make that business decision. I wouldn't let"—"because you're getting more work." You're putting in—if you look at, you know, how many times they've put in for work or submitted an RFP, it's two or three times more than some other firms. You got to be in charge of your own destiny. If you want the work and you got the resources, submit it. We don't look at how much you have. It's based on qualifications.

Savage: That's absolutely right, and I'll second that. It's not our decision. It's their decision, and some consultants or contractors are better with public works projects. Some are better with private projects. So, it's out there. So, that's a good answer, Sharon.

Dyson: Thor Dyson, District Engineer. I've got a solution to reducing consulting costs. Restore my construction crew [laughter] because NDOT, District II lost...

Savage: And that was discussed. I agree. That was discussed heavily.

Dyson: We lost a construction crew.

Savage: That was discussed heavily in the June 12th Meeting minutes heavily, and that's what goes around, comes around, eventually.

Dyson: But then, you know, on the flipside of it, if the economy, God forbid not, but if it tanks in three, four, five years, the last thing I want is a construction crew sitting around looking at each other not busy. So, I get it. The need for consultants [inaudible] or augmentation requirements, it's for the ebb and flow. So, when things start happening, we have them. We can use them, and if they're not busy, we let them go. It's hard on them, but it's easier for us as being the client. But right now, my REs, as Reid had eluded to, is we got anywhere from six to eight jobs per RE, and most of the consultants that are doing full administration, they have one job, and they look good. They get the closeout done. They get all kinds of things—they know what they're doing. They get it done quite well.

Savage: Thank you, Thor. Any other comments on Agenda Item No. 6? Thank you again, Jenni. Thank you, Sharon. Agenda Item No. 7, Old Business, CWG Task List. Item No. 1, Tracy will give an update on work force development.

Larkin: I expect my report to be much shorter. [laughter] Just a couple quick updates. On the Disparity Study, we'll see the new Disparity Study coming out before the end of the year, but it has been held back a little bit because we had—we being the—oh, shoot, the EPC. I can't think of the name, what the acronym stands for. Anyway, the Board that certifies the DBEs, there are six members, which is NDOT, two airports, the two RTCs, and Carson City. We all got together with the consultant who was putting together the Disparity Study. It's been under review for several months, but we needed clarification, specifically, on what turned out to be nomenclature, because they were saying we are basing a new DBE goal based on the available work force. They define available work force a little differently than we do, and we wanted that very clear. Their available work force was by taking every potential firm within the area that could be a DBE, and we're like, that's not real, because you have to have—you know, they have to be ready, willing, and able. And in some case, you had ready and able, not willing. Some firms just said they weren't interested, some really not able and also at many different levels. So, we are clarifying that, and they're working on bringing that more into—at least balancing the perception. What they have done with the Disparity Study, they are using a formula they've used in other states. It has been court proven to be held up, but we also want it very clear that if you're using that formula, you need to state in there the mitigating factors that could affect the potential DBE, and we're looking at probably a difference of several points. So, we're going to be very clear and cautious on it. We want a goal that we push on a little bit, but that's attainable, and it was all six—all six agencies were there and in agreement.

Savage: Excuse me, Tracy. Does the FHWA have a representative?

Larkin: Yes, and they were at—we made sure they were at the table at that meeting.

Savage: Okay, thank you.

Larkin: Yes, we want to make sure it goes smoothly, passive, because ultimately, they're the ones who are going to...

Savage: Absolutely, just wasn't sure. Thank you.

Larkin: And then a little bit on the work force development, we are working—still working for the construction work force development. We have—I gave some of you just a copy of an article which spurred something. Arizona DOT has a construction activity they've been working on for several years. We've contacted both New Mexico and Arizona DOT. We're going to have a peer exchange. We have put into FHWA for funding to bring them to Nevada to discuss with them some of the things that are working in the areas and also to drill down to find out what the similarities—what could maybe be low-hanging fruit for us and also which areas are diverse enough where we might have a different challenge. We've been talking—also working with RTC of Southern Nevada. We have been looking at drilling down—so many efforts we've done over the last two, two-and-a-half years, and I've been meeting individually with some of the consultants that have worked on those different projects and really trying to find out—I want what's behind the scenes, what really were the challenges that we found. And, you know, passing the protest, they challenge, and recreational marijuana is not helping us. But then there are some of the other things that we looked at that maybe transportation or some other items that during the trading period we may be able to address. So, those are where we're at right now.

Savage: Thank you, Tracy. Any other comments on Agenda Item No. 1? We'll move to Item No. 2, As-Builts.

Kaiser: That project is still moving forward. The Resident Engineer has been meeting with the contractor monthly and reviewing As-Builts and has been giving some advice and direction. So, that project is still moving forward.

Savage: Item No. 3, CMAR Change Orders and Agreements.

Kaiser: Okay, CMAR Change Orders and Agreements, as I mentioned, the first bullet point there, we'll talk about the shared savings in the December CWG, and there is one outstanding change order that will be coming up, and that is on State Route 28, the bike path. There is a sewer line that runs under State Route 28, the whole length of State Route 28, and it's falling apart. So, Incline Village has partnered with the contractor, and they're going to work through us to repair that damaged sewer line. [crosstalk] yeah. But that will show up in the change order, but we're not paying for it.

Savage: Okay. And again, to repeat last month’s meetings—we really talked a lot about the shared savings, and so that was very well embedded in the VE. It was understood that the VE is part of the shared savings, but we'll have John speak in December regarding the CMAR.

Kaiser: Yeah.

Savage: Move on to Agenda Item No. 4, the RE Assignments.

Kaiser: Yeah, District I, we have four, five, six, seven of the REs are in Las Vegas, and one is in Tonopah. In District II, we have—two of them are kind of spread out all over the District. One is in Carson City, one is in Reno, and one is in Tahoe. And in District III, we have a crew in Ely. We have one crew that's spread out all over the place, one in Winnemucca and one in Elko, and I'm sure just as in the road construction world, especially in northern Nevada, this is the time where everybody is trying to get all the work done at the end of the year before winter hits, and so there's a lot of long hours, a lot of work going on right now.

Savage: But Reid, again, I'd like to compliment yourself regarding the REs, NDOT REs running the jobs, and that's what I heard you say earlier, that that's been our policy, and we can hopefully continue to have that policy with the REs. Even if they're augmented, we still have an NDOT RE as the head RE. There could be an assistant RE. It's augmented, but the RE is always an NDOT RE; is that correct?

Kaiser: Yeah. We like to do that as much as possible. The only thing we got to be careful we don't run into, and Thor could probably support this, is some of the REs are starting to get burned out, you know, working a lot of hours, and you guys get good Project Managers, you know...

Martin: We kill them.

Kaiser: Yeah, you got to take care of them.

Savage: That's a concern.

Dyson: You get punished for doing a really good job.

Savage: So, is it my understanding there's no further RE additions because of legislature; is that true?

Dyson: Well, I'm not sure—I know in 2012, we—District II, in 2012, we had six RE crews, six fully staffed. Because of the recession and lack of work, the decision was made to—through retirements, attrition, promotions, whatever we could work out without having to let them go, we disbanded the crew. It took us, like, a year-and-a-half, two years, and so now we're down to five crews, but we're having to compete with the private sector. So, essentially, for the first time ever, this path month or two, I was down 11 positions out of the—out of 60. So, five crews, roughly 12 per crew, that's 60 positions, but I was down 11 positions, which is—so, I'm not just down one crew, technically, down two crews as far as people goes. So, it's difficult. We try to get as creative as we can without burning out the RE, using consultants, using—like Reid said, you know, we had full administration out on I-80, complete full administration. DCS was the consultant that was chosen to do construction administration on I-80 from Fernley out towards Nightingale. So, it would require legislative approval to get another crew or take positions away from other areas of NDOT, which I know it's not a popular idea, but—and Vegas lost a crew as well if I remember right.

Freeman: Yes, we did. Jeffrey Freeman [phonetic] for the record.

Kaiser: And that is correct, Lynn. Next legislative session, we're going to approach legislature to get some construction crews back.

Hoffman: I just wanted to make a quick point. So, Bill Hoffman for the record. Well, I was just wondering why we have to say, "For the record." I mean, it's on the record when we say it, but anyway. [laughter]

Kaiser: Because Dennis Gallagher does, and it sounds good.

Hoffman: No, but I just wanted to make a point that the legislature did not say no. We did not put in a request for those groups...

Savage: Oh, okay, okay.

Hoffman: ...because I listened very carefully to your question, and it wasn't a legislature no. It was—we put in positions to be approved by the legislature as part of our budget that came back. We did not ask for a construction RE crew.

Savage: Okay. Thanks for clearing...

Dyson: And Thor Dyson...

Savage: I didn't realize that.

Dyson: In 2012, it wasn't the legislature or the Governor, that I'm aware of, saying no, get rid of that crew. It was an internal decision to address... [crosstalk]

Kaiser: And we had no consultants augmenting or whole administration three or four years.

Savage: Well, it's a hard thing. I mean, the work has gone through the roof on a lot of different things.

Larkin: But sales will be done—Tracy Larkin [phonetic] for the record. [laughter] A lot of those positions were transitioned over into stormwater. So, at that time, that was considered a higher priority, so the majority of those positions turned into stormwater positions in all three districts, and all three districts lost a crew.

Martin: That's how that—I was wondering where those people came from. [laughter]

Larkin: That's how we wave them back up.

Savage: Darin.

Tedford: Darin Tedford. We did get additional positions for stormwater also. So, there was both. There was legislatively approved new positions, the 57 and the 29, and I'm just saying numbers, but we had some that had been vacant. They said—we said we need this many, and they said, "you can have less than that, because you got it anyway."

Savage: Okay.

Tedford: It was both.

Savage: That's good. Thanks for clarifying that. That's helpful. Any comments, Member Martin, on the REs? Item No. 5, Unbalanced Bidding, nothing new to report; is that correct, Reid?

Kaiser: I'm going to jump in here. Actually, I just got some information today from Steve, and what we're doing, and it's not—we haven't completed the analysis yet, but they're trying to figure out a way to compare the costs of a contract at bid time compared to when the work is complete. So, they're going to take the quantities that were used to build a project and apply those quantities to all the contractors' bid numbers at bid time to see who would actually give us the lowest contract. And through that analysis, we might be able to come up with some—a little better idea on where contractors might be unbalancing their bidders on. But that's in its infancy, so we are trying to—we are taking a look at that. Steve, if you want to expand on that, more than welcome.

Lani: It's a tremendous amount of data to wade through, and because of the way we do—where a contractor puts in—made a price, we have a—at the time of bid, we estimate the quantities, but we pay on final quantities, actually utilizing the contract. Trying to put the whole concept behind unbalanced bidding is the idea that a contractor can see a mistake in our potential estimate of quantities and capitalize either higher or lower unit bid prices. So, we're taking a backwards look, but we can't do that effectively until the contract is closed once we know how much—what was the final in-place quantity for every single item that was done, because all that data doesn't necessarily reside in a single warehouse element. We know what we paid, but we've got to go back and pull from other databases as to what everybody bid on each of those units for each of those items. So, our business process analysts are actually working with our programmers to figure out how we extract all that data and how we put it into a meaningful report is the part we're working with right now.

Savage: So, the quantities are disclosed prior to bid?

Lani: That's what the contractors bid on, yes.

Kaiser: They apply a unit price to our quantities.

Savage: The unit price, but they're your quantities, not their quantities?

Kaiser: They're our quantities.

Savage: Oh, wow. [laughter]

Martin: Such a different world. These guys have got it made. [laughter]

Wellman: If I can, Bill Wellman. You've been talking about this and talking about this and talking about this, and it has gone nowhere, and frankly, it's at risk of being challenged a few times, and where is the upset condition that exists up there? I don't think we've ever found that, essentially, and we're trying to split hairs on something, spending lots and lots of District time and money trying to find a fixed—in recent bids, you've seen pennies, one penny, different items. I think on that bid that was awarded today, there's items that were one penny, and there's reasons for that, and we get through that all the time, but I have not seen anything that has significantly made any changes in any of these bids where we need to try to argue or discuss this. If so, then I suggest you have a working group specific to talk about it rather than just kind of globally here, and then we think we're going down the path—because you can't fix it without us.

Savage: No, I think that's a point well made, and that's why I was going to ask the construction department just to interview the outside contractors for input.

Wellman: We had subcommittees on other projects before through our liaison committee, and we used to do it all the time, and actually, this was one of those items, and there was not a resolve.

Martin: You said a real prevalent problem. I know you guys run test cases on quantities all the time where you put proposals together. It is a real prevalent problem, unbalanced...

Lani: That's what this exercise has determined. The gut feeling is no. On the majority...

Martin: I get that sense. I've been reviewing those little spreadsheets for years and years and years and years.

Lani: We think where we—if we see a problem, it's going to be in some of the smaller, more—I won't say obscure, but the odd projects that are out there that are not necessarily our million [inaudible] bread and butter bridge type work. But we definitely know we have a problem, and we know where to target it. Right now, just like you said, it's a lot of discussion, a lot of speculation, yes, it's a problem, no, it's a problem, to prove it is, prove it isn't. If this data analysis comes out like we're expecting, we'll be able to see can we trend it by District; can we trend it by project type; can we—is there anything there that we see that's of concern. If the answer is no, then at least we have a data model that we can run once a quarter and kind of see where things are laying out. If it turns out that, you know, for grins and giggles, every landscaping job we ever see happens to be really odd, not picking on landscaping, but just picking a type of project, or maybe any given sub-district or in a given area we start to see these upsets, it's something we can sit down with a focus group and start to say, "How can we fix this?"

Koenig: I haven't—Chris Koenig. You need an analysis to figure this out? I'm not being a wise guy, but the only time you're going to see this is when you have a significant overrun or underrun in quantities. That's the only time, and I'm with Bill. If you're—are you chasing a ghost here? What's the analysis to do, unless you really think you're being affected, and to me, bid time, if we recognize a significant error in quantities, we're doing our own takeoff and we're way off, we have an obligation to bring that up before we bid. So, the guy that bids it down and then it overruns, that should stick out like a sore thumb, and there should be a discussion about you should have recognized this at bid time and you should have brought it to our attention.

Kaiser: [crosstalk] And we have had those discussions with contractors before, but, you know, it doesn't get anywhere. You know, I mean, there are certain contractors I know, because I've talked to them, that they'll screw with the numbers at bid time just to give us a—make us chase something that really isn't there. You know, and so how are we as an owner supposed to deal with that?

Savage: Go ahead.

Hoffman: Bill Hoffman. We did approach this with the liaison, the AGC liaison committee very briefly. I brought it up. I said, "There's penny-a-ton bidding. What are we going to do about all of this?" And one of the contractors in the room just said, "Don't tell"—"you're not going to dictate how we do my business, problem solved." That was, essentially, what I was told in that meeting. So, if we're really interested—and I agree with Billy and Chris wholeheartedly. The analysis, since they've run it, I think you should run that, quite honestly, to see what it tells us. But by the same token, I think we need to dig in, like you were saying, and the two contractors in the room, it has to be everybody. It can't be two, because the one person sitting outside of the room not in the discussions is going to be the, you know, the freewheeler that's going to cause all the problems. I think we start with these two and sit down and we start figuring out is this a big issue. If it's not, then we just dump it and we go to the next thing. I would agree with them.

Savage: I think there's two sides here. I mean, I understand what you two are saying, because you would bring it up before the bid is submitted, but I also see other contractors taking advantage of things against the Department, and that's what we've seen, not at your level, but on some of the other levels that have been concerning, and that's why Steve has been running some of this analysis.

Koenig: Yeah, if he's got penny-a-ton examples, then that shows you where you need to put your...

Lani: And we have been doing that. A classic example is we've had forever penny-a-ton bids on MC-70 prime coats. Why, because it's measured by the ton. We know why it's bid that way, because the contractors are not going to put that product down. They're not going to give us the way-backs. They've included the price in other elements. We've made an adjustment to prime coat by the square yard to cover everything. We don't care what products you’ve given us; we're continuing to make adjustments as we identify those. What we're looking for at this point is are there things that we're not picking. Penny-a-ton is easy to pick up. A buck-a-ton is easy to pick up. Five times the engineer's estimate is easy to pick up. It's that operating suddenly within some of the other things that we're looking—we're trying to target to see if there are other things that we're not catching.

Dyson: So, for—Thor Dyson. We had a project a few years ago. The stormwater aspects, the BMPs, all the contractors, even the engineer's estimate was around $100,000. The contractor that got the low bid put $5,000. We're all like, wow, we just got out of this consent decree, and we got EPA and the stormwater, and I just didn't want to be into a battle with the contractor who's, like, only got $5,000 into the stormwater BMP aspects of the job, and they're like, "No, don't worry. We got it covered." Well, I don't have that assurance that they're going to finish out complete stormwater BMP protection measures, mitigation measures, because I don't have any money in the bid item. And it's...

Savage: Dust control. That's one that comes to mind. You know, those guys look like dust control anyway, I think it's healthy.

Koenig: Don't make it a bid item.

Wellman: Exactly. Bill Wellman again, and that's why I'm saying. Go back and have a group and a committee, because NDOT breaks down quantities of such finite things, like drop inlets by the cubic yard. There's not even a cubic yard in a drop inlet, and then when you cut six inches off of that, which is tied to a lot of bridge structure stuff and the whole scope, you knock six inches off of that because flash flooding over the years has changed the grade and now we've got to adjust that. And that drop inlet now for that six inches—that little bit of concrete costs us more than the drop inlet was to build in the first place. That requires some adjustments. You have a project up here where this all started again and resonates and way back before Bill responded [inaudible] we did talk about this and used to do asphalt was separate from the aggregates. And you combine that now [inaudible] in place. You see penny asphalt anymore like that. You might see [inaudible] and you'll see that in Las Vegas, because we're not allowed to shoot it in Clark County, MC-250, but on your job you awarded today earlier, you got MC-250, and I asked the guys, "Is this still doing this?" because Clark County doesn't allow air quality. No, they don't allow it, but that's what you'll be looking at if you negotiate after the fact and figure out...

Lani: We're working through all of those. We're picking those up.

Wellman: Those are the things that are still out there today, and we're willing to sit down and talk to you guys and help you through some of this to manage through it. You guys—and you get advantage of it if it's in pennies. You guys have got the bid over here on your maintenance building. I remember that got resurrected two years ago, three years ago. I think it was Q&D that got the bid, but they bid the gravel for a penny, because your gravel quantity was going to be way less than the quantity [inaudible] they documented that you guys—it's not right, but you chose to bid the project anyway. They bid it for a penny, got the job. You got best value out of it. Think about it. On the flipside of it, you're getting best value by getting those type of savings, and us as contractors, you know, all the fist-fighting over trying to get projects these days, I can assure you we're not misbalancing high. We're misbalancing... [laughter]

Hoffman: That's a good point.

Savage: Okay, let's move on to Agenda Item No. 6, list of active agreements for Construction and Project Management.

Kaiser: Okay, Reid Kaiser. Again, you guys have any questions over the two spreadsheets, we got 32—I think I counted this correctly, 32 consultants working for constructions projects and 68 for our Project Management.

Savage: My only question is why aren't they the same format?

Kaiser: It's two different divisions.

Foerschler: They like ours.

Savage: Have you guys looked at each other's. [crosstalk] I mean, personally, I like construction, Cole, nothing against your Division but in my [crosstalk] what's that?

Martin: I like the last column, don't pay for the consultant.

Mortensen: Well, we went back the last time because it was a little tough to actually pull out the total paid [inaudible] consultant when they're working on multiple agreements. So, on the second page, we put what they've been paid for each agreement with a subtotal at the right-hand side.

Kaiser: [crosstalk] ...reduce it down to one lane, or excuse me, one [laughter] page.

Savage: And they're both readable. Don't get me wrong. I'm just trying to be more efficient when I'm trying to read it, but in the details, does anybody have any questions on the details, because these are very informative, very informative. What Member Skancke has been asking. It's all right here in the...

Mortensen: Is it the... [inaudible]

Savage: It's not the colors [laughter] two lanes, four lanes, diverging diamond.

Martin: It's the roundabout that gets me. [laughter]

Savage: Has Member Skancke seen this?

Kaiser: I did forward these to Member Skancke last week.

Savage: You did.

Kaiser: Yeah, both spreadsheets.

Savage: Okay.

Kaiser: So, he does have them.

Savage: Good.

Kaiser: Now, BJ, you did request the unit costs for these agreements?

Almberg: Yeah, what I requested was basically these schedules.

Kaiser: These schedules? Okay, so, I'll start working on that here this next week.

Almberg: Thank you.

Kaiser: And like I mentioned, I'll only forward those to you for agreements that are over half-a-million dollars.

Savage: I might just make one request, Sharon.

Foerschler: What's that?

Savage: Is on the page, the date, you know, it's very easy to calculate, but if you had a percentage column there, that would be really nice.

Freeman: Pay attention, Cole.

Mortensen: I'm taking notes. [laughter]

Savage: I mean, it's easy to calculate, but the percentage kind of [inaudible] just in the snapshot.

Lani: Are you looking for percent paid against the agreement?

Savage: Yes.

Lani: Okay.

Savage: Anyone have any questions or comments?

Martin: None here, sir.

Savage: BJ?

Almberg: No, I'm good.

Savage: Again, very, very good summary, very informational. Okay, we'll move on to Agenda Item No. 7, Update on the Design-Build Contracts. [crosstalk]

Keller: Can I steal your equipment? Right is forward.

Foerschler: Make sure—yeah, use... [laughter]

Keller: All right. Good afternoon. Dale Keller, Senior Project Manager for the Department, Manager on Project Neon.

Male: The right button. [laughter]

Keller: Next slide. [laughter]

Mortensen: Got to go manually.

Keller: Yeah, manually. This is—we were 44% complete of contractual days. We're roughly 650 as of the end of August. So, we're well over a year in construction moving forward here. Next slide. [laughter] Overall, on the contractual [inaudible] earned over roughly $260 million of our $571 million contract. You can see at the bottom left of the screen design is 100%, and construction is roughly 30% complete. So, all contractual value is about 45%. So, we're lining up right now on days as well as construction value of percent complete-wise.

Martin: What's the dollar value of the change orders approved to date, approved?

Keller: We will get there in a few slides.

Martin: Okay.

Keller: All right, earned value. So, this is the earned value slide where today what we expect to spend. The blue is what the original projection was, and the orange is what we have. Kiewit has been working on trying to even out that little saddle hump that we come through that's kind of a lull period into 2017. That's more based of our interim milestone completions and other restrictions tied to the contract, but we're tracking pretty close the overall construction value.

So, liven up a little bit. We have some pictures, kind of see what's going out there if you don't get out there every day. Go ahead, DJ. We're very proud—I know Reid mentioned this at the Board Meeting this morning, that over a year of actual physical construction, 400 man hours of craft man hours, and that's just Kiewit craft hours as well. There's no recordable injuries, which is tremendous, and hats off to Kiewit's safety program as a whole.

Here's a picture of setting our HOV girders. We're going high speed on the US 95 corridor. We're down to two lanes in each direction to make way for this big HOV flyover connection.

Here's the aerial photo of this US 95 work. We're working—on the top of the screen, there's the north, and the bottom is south. So, we're working our way from north to south there. You can kind of see how we're splitting the 95 to make a way for HOV.

At the same time, we have US 95 under construction work along our local street network of MLK. This picture was taken at the end of June. Everything to the left of that screen is new MLK realignment. That has been paved and since opened on Labor Day weekend. So, that was a good milestone to hit with our local street connection. City of Las Vegas is happy with that connection. It's open.

And lastly, this is our ATM gantry construction. Once again, this is very innovative technology we're installing. These are the same type of video screens you see in stadiums around the country. We installed three of them on the northbound US 95 [inaudible] 515. We're installing the three on southbound US 95 right now. We'll have these—kind of the first nine operational by the end of the year.

So, Member Martin, here is our status of our change orders. On this first sheet is everything we've seen before and previously been talked about and discussed.

Since the last time we talked, we've executed three additional change orders from roughly just under $2 million there. So, our total executed change orders is over $13, close to $14 million. To kind of put that in perspective, that's roughly 2.5% growth out of that time period of our $559 million contract original.

Martin: So, just a couple questions. $571 million is the original contract value.

Keller: No, sir, that included the change orders.

Martin: That includes this, okay.

Keller: Yes, sir.

Martin: And so, how much of this work has been done in addition to the base contract work? Is this 100% executed, 20% executed?

Keller: So, the change orders have executed, but how we bill it, we incorporated different activities into the schedule. So, we progress that payment as the work is being built. So, I don't have that numbers in front of me, but I can get that for you next time.

Martin: Okay, I'm just trying to get some kind of gauge around all the columns and zeros.

Savage: But the Right of Way change are not legal dollars or not [inaudible] dollars. They're actually construction dollars; is that correct?

Keller: Correct. So, out of the settlements that came out, there were some impacts to our construction contract, and so they didn't include it with the contract to date. So, you see the last four. They were all related to Right of Way changes. The very minor—overall, the big picture of how much Right of Way we acquired, roughly, over $200 million with the Right of Way. It's very minor changes that affected the contract [inaudible] Mr. Gallagher and Ruth Borelli, [phonetic] the Right of Way team, and we worked really close in making sure to limit any change that came out of the Kiewit's contract.

Savage: Absolutely, I agree.

Keller: So, that completes Project Neon. Is there any questions on Neon as a whole? That's very high level.

Savage: Well, just, again, want to thank you, Dale, the staff on the contract, Chris, your team, CH2M Hill, again, a lot of compliments. We're on track. Keep moving forward.

Keller: You left out Atkins, too.

Savage: Atkins.

Keller: Since Roger Philipi is back there.

Savage: I'm looking right at you, but you've never been here before I don't think, have you? Thank you. I apologize.

Martin: That's why I never mention names, because I always leave somebody out. [laughter]

Keller: All right, thank you for your time.

Mortensen: I'd also like to mention that as we get a little further along with the Garnet Interchange, we'll start including a few slides on it, but right now, we've just barely issued into P1.

Savage: Right, that's good.

Rodriguez: Good afternoon. Pedro Rodriguez, NDOT Project Management managing USA Parkway projects. I won't have much of an update for you next month. Looking at the fourth bullet there, we actually completed substantial completion September 7th. So, it was one day earlier. It should read September 8th right there. Roadway has opened up. All that's left now is to tie up the—all the items that are left on your punch list, testing of the IT, some of the items have to be completed as well, record drawings, things of that nature. New percentages here, our design status is really at 99%. Construction is 99%. Substantial completion, that's been met at 100% with a day to spare, nothing too exciting in there. Cost completion, we're actually at 99% as well. So, again, these are probably lacking invoices that are coming in as we're closing out the project.

This is kind of to recap what we already talked about. All we're waiting for at this point in regards to the design is the record drawings to be put together, and this is basically a compilation—we have already begun that. It will be a compilation of all the field design changes that occurred on paper now we know there won't be any more. I expect this packet to come in here fairly soon. We've reviewed all the FDCs, or Field Design Changes, that have occurred. A final design was completed. We don't expect anything revised there. So, this is literally just somebody compiling everything and giving it to us.

So, in here, as I mentioned before, 99% complete. Within Work Area 1, this is the existing paved section of USA Parkway. This is where the [inaudible] we're still expecting to be completed. It basically amounts to one item, a sculpture that's going to be installed there at the north end of the project. Costs about $600,000. Half of it has already been fabricated. The rest of it still needs to get put together and then get it installed here before final acceptance. So [inaudible] item was one of the items for a contract that could be completed after substantial completion.

Dyson: Is that going to make good target practice?

Rodriguez: Depends on if you like the sculpture or not. And no additional change orders were added pursuant to our last meeting. This is kind of a recap of a bunch of minor change orders with the addition—the only major change order here that was added was Change Order 9 there, the $4.6 million for the 14 miles of fiber optic conduit that was installed from the south at 50 heading north towards... [inaudible]

Dyson: Excuse me. Thor Dyson. Item—Change Order 7, I just wanted to bring—I saw the wildlife intercrossing. They're using it. The horses are using it.

Rodriguez: Are they?

Savage: That's good to hear.

Dyson: We still have horses on the road, but we have other horses using that.

Savage: The Department is working with Department of Ag. on that I mentioned.

Hoffman: Ag. and Wildlife and UNR.

Savage: Ag. and Wildlife, good, good.

Rodriguez: So, to—I'm not sure if Member Martin is going to ask the question, but we're roughly at $5.5 million total change orders, $4.6 of it being accounted for the fiber optic change, 99% installed total change orders.

Kaiser: Hey, Pedro, I got one quick question with that map right there.

Rodriguez: Sure.

Kaiser: How far does that water line run when it's ruptured?

Savage: I was thinking the same question.

Kaiser: Does it only run in the six-mile section?

Rodriguez: It runs within the six-mile section. It's the first five miles.

Kaiser: Okay.

Savage: Right up the road.

Rodriguez: Yes.

Martin: Is it an old line, Pedro or is that why—because it's my understanding it's failed two or three times. Is it old line or just crummy installation?

Rodriguez: The failures have all occurred within the same area. My understanding on the existing portion was that it was constructed in two phases. All failures are occurring in the second phase. It's not so much an old line as it is improper installation. When you're standing with the previous breaks is that water hammers on the inadequate backfill at the bottom, and it breaks, unfortunately.

Savage: Well, it's a great project, Pedro. I mean, to you and your team, compliments, many, many compliments. Sam the RE, yourself, Pedro, all the engineers.

Rodriguez: Yeah, there was a lot of people involved in this one.

Savage: The engineer—yes, there were. That's why this whole water line thing is frustrating, because it takes away all the goods, all the positives, and we know that's not our problem, but I thank you for your time and effort spent, and on to the next one.

Rodriguez: Incidentally enough, I haven't received any calls about the complaints of the water line. What I did get calls about the project is that we didn't design it to a faster speed. They want to go faster [laughter] and two lanes at the roundabout at 50 seems a little overkill since it narrows down to two lanes. So, nothing really... irrelevant.

Savage: Contractor did an excellent job, NDOT, consultants, everybody. It's a win-win I think all the way around. So, it's nice to see this, and it's the first new highway we've had in a while, cut right through the hills of Virginia City so, thank you, everyone. Thanks, Pedro. Moving on to Agenda Item No. 7B.

Kaiser: We attended two AGC meetings in the last quarter. One was a liaison meeting. The other one was just an AGC NDOT committee meeting. There is a liaison meeting tomorrow. We can definitely bring up the unbalanced bidding item at that meeting to see if there's any interest in getting together and I think whether there is no interest or not, we're going to keep moving forward with our analysis and see if we can find out any patterns or not.

Savage: So, who do we meet with in the south? [phonetic] This is all north here, right?

Kaiser: This is all north. They just—we're into the process of starting a meeting with the contractors in the south.

Larkin: We have held a couple—Tracy Larkin. We have held a couple meetings in the south, and I will tell you there's a big difference in the participation on that. So, we are working to include more in the south, but we had very limited participation, and I don't know why. I have not generally found this to be a problem with contractors not being able to express opinions, but in the south, it's very quiet and so for—actually, Bill Wellman and I were chairing it for about a year-and-a-half, two, and then when some of the sessions started up from the [inaudible] we kind of veered off, but we are looking at trying to get it going again. But really, I would get questions after, but I would never get questions during the meeting, and so we're working on it.

Martin: Is it a lack of trust amongst the—because there's really only three of you down there that does work for NDOT or RTC, right?

Wellman: Yeah, general contractors [inaudible] had interest once or twice [inaudible] and ones like AG Industries didn't participate. They used to participate up here. AG Industries, Frehner one of the original seven so I don't know why there's not a lot of interest.

Martin: Yeah, because you'd think even the concrete or asphalt companies would want to participate.

Wellman: Asphalt.

Savage: Okay. Agenda Item No. 8, Projects Under Development.

Kaiser: Again, John Terry isn't here, and I apologize. I didn't realize that until this morning, but I'm sure we have enough staff here that if you guys have questions related to any projects, we should be able to give you a good answer.

Savage: I just have two questions, and I'm sure the answer is there. I just couldn't find them. Where is the Reno Spaghetti Bowl on this summary?

Kaiser: I don't know if a planning project would show up in our five-year project.

Hoffman: So, Bill Hoffman, Deputy Director. What were you looking for, Len, exactly?

Savage: The Spaghetti Bowl.

Hoffman: Well, that's kind of—unfortunately it's kind of big and kind of all by itself. It probably wouldn't be on a list, but we can certainly put it on there.

Savage: I don't know. I thought it would be on this list.

Hoffman: Well, and it's...

Mortensen: They don't generally hit that list until we actually start—until we actually start having more solid cost estimates and more of what that project looks like. At this point in time, it's so early [crosstalk] yeah, but it's just too early to really be considered a tangible project.

Savage: And that's fine. I know I've requested beyond the whole business task because of the Board level, because I'm always interested where is RTC going to contribute on this project. I've heard a lot of conversations, but I haven't heard what they're going to put up at the table, and I'm very curious about that, and I know that will come out some time.

Hoffman: And we'll be bringing this quarterly to the full Transportation Board starting in December. I think we'll start getting on the quarterly update and then you can ask whatever questions you want there.

Savage: Thank you, Bill. Yes, Darin?

Tedford: If John was here, he'd probably say it, too, but that is a resource planning tool. So, design and whatever consultants' design would be using to help with their designing projects, that's their tool for what they're going to be working on.

Savage: Okay.

Tedford: Even though it goes five years ahead, that's a couple of—two years that you see first what they're working on, immediately what they plan on working on after that. For example, the second category is the three Rs that we populate from the Materials Division and Design and District's combined efforts that we go through, do the whole prioritization. We say, "Here's what you should be working on." So, that's kind of the Design's document, Roadway Design, as far as how they're going to accomplish all that and then everybody else, too, who has it, Structures, comes back to Materials for structural section design, hydraulics, whatever you see on there. That's kind of the agreed plan for what everybody is working on and when it's going to go out.

Savage: So, it's their roadmap.

Hoffman: Resource.

Savage: Resource.

Larkin: But we also like to state that it's a snapshot in time, very much subject to change. It just kind of shows you the general allocation of funds over the years, and like Darin was saying... [inaudible]

Savage: And that's important. That qualifier... [crosstalk]

Larkin: That [crosstalk] the one that sees this. It's a snapshot in time.

Savage: It's very important, because everything is changing.

Tedford: And there's a different list that you'll see that—Construction Division, I think in cooperation with Agreement Services, will publish—we send that out to our AG North anyway, say, "Here's contracts coming out over the next year." That's kind of the more definite list of projects that you'll most likely see than that list.

Savage: Okay.

Tedford: And then we always say until it advertises [inaudible] until it's awarded, you never really know... [inaudible]

Savage: That's fair. Thanks, Darin, and you might be able to answer my other question. The District Betterment Projects, are those the preventative pavement restoration, the PPP?

Tedford: Yeah, so, basically, the—so, the second category is...

Savage: 3R.

Tedford: The second category is 3R. That is [inaudible] overlays of varying depth, inch or so mill to four inches of mill to get rid of whatever distress, overlay accordingly to plan for the next 20 years' worth of traffic. That's how we design.

Kaiser: And that's like a $10 to $20 million project.

Tedford: Right, that's the 3R. So, the Betterment is approximately $25 million a year that's distributed through the District to spend on Chipseals, slurries, fog seals, keeping the road in shape until the next 3R comes along.

Kaiser: We have, like, three of those or four of those in the Board Packet this morning. Those are, you know, half-a-million to a million dollars.

Savage: Because I know that's always a—there's a lot of pressure there to keep those existing roads...

Kaiser: That's what's holding our desert roads together right now. That's the Betterment...

Tedford: That $25 million.

Dyson: We're applying—Thor Dyson. We're applying a very thick Band-Aid onto the roadway surface. It works.

Kaiser: Yeah.

Dyson: So, a chip seal can buy us five, six years if it's done right, whether it's done by a contractor or by NDOT maintenance forces. So, slurry seals, flex seals, chip seals, we're just extending, maximizing, squeezing every bit of performance and life out of that asphalt.

Savage: Kind of like what you did for Glendale for a long time. [laughter] Not you. [crosstalk]

Kaiser: Thor takes that stuff personal. [laughter]

Dyson: So, we had...

Savage: What I'm saying, Thor, seriously, I'm getting to my point here on Glendale. As you know, it's a...

Dyson: That's a 4R. Glendale is a 4R, which we hate—we love, because we get a brand-new road out of it, but we hate going through that process, because, one, it costs a lot of money.

Savage: Right.

Dyson: And two, it's very painful to the motorists and the business owners of that area. Reid authorized a betterment type project on McCarran, West McCarran. This year it started I think with SNC, and we're going to be doing a slurry seal up there to just give us some time until the 3R job comes in, but Darin and his group in Design is working along with District's. That's going to be in 2018. So, betterments are just kind of like a Band-Aid to get us there until we can really suture it up.

Savage: Right, right. And where I was going, back to this Glendale, [laughter] because this whole relinquishment deal, it has to go to legislature, because we're giving them 20 new Teslas out there, and that's a brand-new road, and Sparks is just not going to take it. It's just not good enough. So, what's good enough, we're going to have to go to legislature. We're going to have to [inaudible] by saying, "Listen, we cannot continue to maintain these roads." And I would take those dollars that we're using to the—put them back in this Betterment Program, because it costs us a lot of money to take some of those town roads, city roads, and I would hope the Department is looking at that legislatively, because a lot of states do that, I believe. ADOT does it. UDOT does it. We can't do anything more, so we're going to have to lay the other route. Yes, Darin?

Tedford: Something that Thor said is a good example, and you brought up Glendale, but any road is a good example where we put down brand-new road, like right now, or 30 years—25 years ago when we did Glendale, whatever we did. We do these betterments, these preventative maintenance activities, for a period of time, and it gets to a point where you can't Band-Aid it anymore, and there's a gap. So, Glendale has been in a gap for four or five years. Thor would say six, but—where it doesn't make sense to do anything more, but it's going to keep getting worse and worse and worse, and the complaints and the complaints. And the idea is the fourth R is reconstruct. So, you have restore, rehabilitate, and resurface. That's the 3R. That's our program. That's why we call it that. The fourth R, or the 4R project, would be reconstruct, and even then, we try not to reconstruct anything, which classically, the reconstruct would be dig out 14 inches and haul it to the landfill, terrible idea, but bring in new aggregate base and new plant mix, super expensive. So, what we did [crosstalk] on this job is we said go in there and pulverize—mix up the plant mix that's not in great shape, but if it was aggregate-based, it would be pretty good stuff, blend it with the base that's underneath, then take off some of the loose stuff off the top, cement treat the bottom, recompact it. Now you got really strong, good base because it's blended material, plus cement treated a little bit. Put the plant mix on the top. So, that design is super strong, super solid, and that's technically the worst that we would ever do to a road, not dig out 14 inches, but blend it, give the contractor a little bit, and reconstruct it in place.

Dyson: This is cement treated base. I mean, you're kind of recycling what you got there instead of hauling it off to a landfill. So, that's what we're doing in Glendale. We've done it in other parts of the state on I-80, I-15, Kingsbury, yeah.

Tedford: So, that's that life cycle. Then it starts all over. For four or five years, except for striping, Thor won't need to look at Glendale. They might start to get some cracks. Hopefully not, but they'll seal them, and that holds it over, and all of a sudden, it's 20 years later again, and you got to do something.

Dyson: It's kind of like a car when you start—you know, you get your new car. You do oil changes; you do oil changes; you do oil changes, and you might have a little bit more to do, 3R, and then you get to a certain point after that 30 years or 40 years, depending how well the road is constructed to begin with. Now you're going to have some heavy engine rebuild.

Savage: That's good. Thanks, Thor. Thank you, Darin. Any other comments or questions, BJ?

Dyson: The betterments are a mix of stripping a contractor doing the work or stripping NDOT doing the work, or other betterment projects can also be a combination of a contractor, slash, NDOT work. And we always bring in the lab or Design or whatever the specific division that—maybe it's Traffic Ops. or Signs or maybe it's...

Tedford: Hydraulics.

Dyson: ...Hydraulics. And so, Betterments are one of those three different combinations, contract number, what the contractor is doing, or NDOT or a combination of.

Savage: Okay, that's fair. Other questions or comments, Frank?

Martin: No, sir.

Savage: Agenda Item No. 9, Briefing on Status of Projects Under Construction, discussion only, the main Project Closeout.

Kaiser: Okay, we closed out five projects this last quarter. Looking at the Project Closeout Status sheet, there's a page-and-a-half of District I projects that are getting ready to be closed out and one page of District II contracts and a half-a-page of District III. Any questions?

Savage: One at District I. The top one has been out there for quite a while, but it looks like its closeout's in progress.

Foerschler: That's correct. We had some issues. This is in our old legacy system. When I say that, I mean before we had electronic documentation. It was a rather large project and to go through all those orange field books. In addition to that, we went through a couple of REs. So, some of the questions that we had and information we need at the closeout was a little bit difficult to nail down, so it took a little bit longer. But we have now gone through the orange books, and you should probably see that drop off by the next CWG.

Savage: Okay. On 3591, back to the plant establishment, so that job could probably not be closed out until 2019? Is that what I'm seeing?

Lani: That is correct. Plus we change ordered the language for plant establishment, yes. [inaudible] project with a three-year plan established—or two-year plan established from beginning to the end of construction, three years.

Savage: Excuse my memory here, but didn't we talk about bonding or something...

Martin: Yes, we did, two years ago.

Savage: ...other than another delivery method?

Foerschler: Yes, we did.

Savage: Has anything been done on that?

Kaiser: I tell you, I brought this up about a year ago, and we have not been able to find a good method to make this work.

Dyson: I have a suggestion. Don't landscape. Zero-scape.

Savage: Yeah. So, the bond idea didn't—I mean, on the vertical side, guys will put a bond out, and that will bond it for X amount of time.

Kaiser: The bond stays open, yeah. We looked at it.

Savage: Didn't work.

Foerschler: I'm going to have to defer to Mr. Hoffman's group since he's not here, but we've worked very hard with Design, who is the one that puts these plant establishment periods in to try to get them to revisit that, and we've been successful in a number of instances, but these stand-alone landscape projects where they're putting in plantings, they're insisting on having the plant establishment period, and we have been unable to determine a good amount to get around that. So, you'll see there's a lot less plant establishment periods on the closeout schedule than there used to be, but we haven't been 100% successful.

Savage: Okay.

Tedford: Len?

Savage: Yes?

Tedford: A good example is drive down to the Carson Freeway and 50, example, and there's dead pine trees there that have been in the ground for months so, we've paid them based on trees planting. We bought that dead tree. There's no plant establishment period. There's no requirement. There's no warranty. There's no anything else.

Martin: See, there's always warranty. There's always... [inaudible]

Tedford: Right. Also, that's the difference, is when we have a contract and we have bid items and everything is nailed down to whichever type of plant—the plant trees aren't even the funniest thing. The funniest is the half-gallon things that are on our bid item list that are there, that depending on our specs, and our specs can't say you have to maintain it for a year, because that's keeping the bond open. That's plant establishment, that if for whatever reason the drip doesn't work, the tree doesn't like it—the Assistant RE was telling me the story of where the trees came from and the temperature and the time and the 100 degrees and the 100 miles—well, 50 miles an hour, and all of a sudden, the tree gets shocked, and it doesn't make it. It's in the ground. It's dead down there, and they're getting calls all the time about it like, "Hey, you got dead trees," from the public.

Savage: But that's contractor's problem because...

Tedford: Not if we paid them—sorry, not if we paid them to plant the tree and didn't establish anything after that. Now, contract closeout, we could closeout a month later, and maybe we had them punch list those trees. But after a month, then they're free and clear.

Savage: Something has got to change. I mean, if we're going to do landscape, how are we supposed to maintain it, and how are we supposed to afford it?

Tedford: That's the thing, is after we let the contractor go, so to speak, then it's Thor's maintenance crews. That's their Right of Way now.

Savage: So, we got to—something has got to be done.

Tedford: Yeah, it's a little tricky, though.

Dyson: Of course, if there's only less than $50,000 and less retention...

Kaiser: Don't bring that up Thor. [laughter]

Dyson: Doesn't matter.

Savage: No, that will be discussed next meeting. [laughter]

Martin: Well, so far, Len, you brought up three BDRs here.

Savage: That's right. [laughter] Frank and I... [inaudible]

Martin: I was just going to say go see what State of Nevada Public Works Board does.

Savage: It's 5%.

Martin: No, on retention, but I mean as far as warranty, because if you get your closeout done, you get your...

Savage: Oh, warranty, yeah.

Martin: ...you get your retention back, but on warranty...

Savage: Sometimes it's extended. Sometimes it's two.

Martin: Exactly, and maintenance is always part of our deal.

Tedford: And is that the bond? You're talking about a separate bond?

Martin: No, payment for [inaudible] to issues on the job still in effect. Had this conversation three years ago on this deal. Pretty simple in our world, my world.

Foerschler: It's not so simple with federal funds.

Martin: Huh?

Foerschler: It's not so simple with federal funds, because then you have people out there working. They have [inaudible] certified payrolls. You have to track all that stuff. It's a little fuzzy.

Savage: Okay. Any other questions on 9A? All right, 9B, Projects Closed.

Kaiser: B and C are just the—gives you more information on those five projects.

Savage: And Item B, the savings on the 3641, significant savings, was that deletion of scope or BE or just what was that?

Foerschler: Just not utilizing all the quantities we needed. So, our quantities... [inaudible]

Savage: Because I mean, there was an actual $1.6 million cost savings on just those five projects.

Foerschler: Remember that it's the budget, so it's the contingencies. It's not just the bid amount.

Savage: Right.

Foerschler: So, we...

Kaiser: This one says it was the change orders. Hey, Boyd, do you have any information on 3641. That's 226 Deep Creek Highway. There was a change order out there for a reduction of $175,000.

Ratliff: Yeah, I saw that change order come through, but I'm not sure what that was—I assume it was a reduction based on oil failures or something maybe.

Lani: Sharon was correct. It was—the majority of that was the balancing change order at the end of the contract. The total quantities paid for the contract didn't—our system today, those get balanced at the end, and it reflects the change order. So, it balances out for the an underrun of quantity on the contract. I believe it was... [inaudible]

Foerschler: Yeah, if you guys remember, we talked about our reporting on the performance of these contracts and our electronic documentation system. You have to remodel quantities to 100%, and this shows up as a change order. So, we call it a [inaudible] it's a balancing change order, which is different than our previous three electronic documentation projects.

Savage: Item No. C, again, detail sheets. Any questions on the detail sheets? Very helpful, very clear. 9D, Status of Active Projects. I mean, with all the work you guys have going, it looks like the percentage of time you guys are there, percentage of budget, I mean, with all the work that's going on, it's very positive, very positive.

Foerschler: Construction crews do a phenomenal job... [inaudible]

Savage: Everybody, your oversight, give yourself credit... [inaudible]

Hoffman: I'd like to jump on to Len's comment, Bill Hoffman. The entire Department is working their tail off everywhere. So, I mean, obviously, kudos to construction, but boy, everybody is busy. They really are. So, thanks for noticing them.

Savage: And we see that, and we're grateful for that, because we see other departments throughout the state or other jurisdictions, and you guys are—the men and women of NDOT are working hard and smart...

Hoffman: Yeah, thank you.

Savage: ...very smart. Any comments [inaudible] or Member Martin on this open contract status?

Martin: No.

Savage: Just getting tired here. [laughter] How about E on partnering? Was someone replaced on that? We had a retirement.

Foerschler: We did. We had—Lisa retire. Lisa Schettler retired the first part of May. We just last week were able to make two offers to fill two positions in our office. So, we are not going to have a dedicated partner and program manager. It's going to be folded up into a Manager I position that has other duties as well. Only had two Manager I's—or had three total in the office, and one of them was to be over the Admin Group, which does all of the contractor payments, all the closeouts, all the admin work, the constructability section, and our Business Process Analyst. It was too much work for one Manager I, and then we had a Manager I just over partnering.

Savage: Okay.

Foerschler: So, it will more level the playing field and more the workload. We will have a Manager I that will administer the partnering program, but we're taking a little bit of a different approach in that if we have, say, partnering training that we need to do to the crews and contractors, and what not, we're going to outsource that. We will manage the program, but this is my feeling, and Reid has supported it, that we as engineers don't typically have that skillset to be effective at training and partnering, and what not. So, we will still have the program. We will still administer it, but in a different manner.

Savage: Because the whole objective is to minimize the litigation.

Foerschler: Right.

Savage: And I almost brought that up in today's Board Meeting. Our litigation, knock on wood, is pretty minimal, and I don't know if that's directly related to the partnering or not, but that's the carrot stick right there.

Kaiser: Yeah, I want to compliment our construction crews and the Construction Office. There's issues out there. They're solving them. They're taking care of them.

Savage: That's good.

Kaiser: Yeah, they're doing a great job of managing our conflicts.

Savage: Because all it does is get more expensive. If you don't get it quick, just more claims and more hours. So, thank you. Okay, Agenda Item No. 10, is there any Public Comment, Carson City, Las Vegas, or Elko?

Mortensen: Board Member Savage, if I might, it was brought up kind of earlier at the beginning—Cole Mortensen for the record—in Rudy's Director's Report today, some of the emergency stuff, and although it is an emergency, I kind of wanted to thank Thor for having the freeway service patrol extended east of Reno during the Burning Man exodus one way or the other. I think that was extraordinarily helpful in keeping traffic moving and getting the jalopies off the road and safely to the desert and that type of thing.

Hoffman: And up USA Parkway. That was a smart move by Thor.

Dyson: Yeah, Thor Dyson. Thanks, Cole, really appreciate it. We've done that for a few years, if I could talk on our federal FHWA partners and extend it up to Gerlach. [laughter] I had to stay within the I-80 confines, which is fine, and boy, I tell you, I think—you know, they need to be watched so the costs don't get accelerated. They need to be watched so they don't work outside of the control of access and outside of the freeway right of way. But I'll tell you, they—I'm sure it's the same in Las Vegas. They prevent a lot of secondary accidents. They help assist NHP. I'm thankful for them, and, you know, I invite any of you to come to our Dispatch Center, and boy, I'll tell you, between the hours of 7:00 and 9:00 in the morning and 4:00 and 6:00 at night, those freeway service patrol individuals are squawking. Denise's group has helped us get freeway service patrol, and it's worth every stinking penny from secondary accidents to, you know, keeping the public calm, reducing road rage, freeing up an NDOT maintenance crew to go address a more serious issue, maybe another accident somewhere else. Freeway service patrol can do a lot. So, thanks, Cole, for that comment on Burning Man. They help us anything from broken down jalopies to debris that's fallen off Burning Man vehicles to—you probably experienced personally some things that they assisted with out there towards Wadsworth.

Savage: No, that's good to hear, because we were questioning freeway patrol service beginning—you know, when it first was initiated, but now it's coming along. Thank you.

Mortensen: I think it's huge, especially, you know, with I-80 anymore. If you get an accident that closes one lane, it comes to a screeching halt anyways.

Dyson: And we have what's called—is it MOB? It's the big freeway service patrol vehicle where we can—and we're not trying to take money away from the tow truck companies. A lot of times they're busy, and they can't get to that disabled vehicle. We call them out. They pick up the vehicle, get it off, and maybe take it down to a casino parking lot or someplace, and then it can be addressed there with, whatever, the motorist and the insurance company, and the tow truck company that shows up later can deal with, but we now have that. I think it's in Vegas as well, right, Tracy, the MOBs? They're great, get the disabled vehicle off and get traffic flowing again.

Savage: That's good. That's good feedback. Anything else on Public Comment?

Larkin: I'd like to just make a really short comment. We've had several vacancies at the Assistant District Engineer level, and the one in Vegas has been filled, and the one in Elko and Tonopah, all the interviews have been complete, and within the next few weeks, you should see... [inaudible]

Savage: Nice.

Martin: Awesome.

Dyson: And Boyd is brand-new.

Savage: That's good news. Yes, welcome, Boyd. [laughter] We meet every three months. Thank you, Tracy. That's good news.

Larkin: It will be, but we'll see what that leaves. [laughter]

Savage: Oh, they're coming from [inaudible] okay, okay. There's always holes, but anything else? Agenda Item No. 11, I don't know if there are any issues that we need to discuss.

Gallagher: For the record, Dennis Gallagher, or for any other reason other than I like to hear my own name, [laughter] to save the Committee maybe a couple of motions, I do not believe that there is any item under this matter. And perhaps it might be—for future agendas, it be taken off the old business, and should a need arise, we'll put it under new business.

Almberg: Okay.

Savage: Okay, that's fair. Thank you, Mr. Gallagher. So, with that being said, we'll take a motion to adjourn.

Martin: So moved.

Almberg: Second.

Savage: All in favor, say aye. [ayes around] Thank you, everyone.

Male: Thank you.

Savage: Thank you.

[end of meeting]

Representative