

Transcript of Nevada Department of Transportation  
Construction Work Group Meeting  
June 6, 2016

Chairman Len Savage	Jeff Freeman	Denise Inda
Controller Ron Knecht	Steven Lani	Thor Dyson
Frank Martin	Darin Tedford	Mary Martini (Las Vegas)
BJ Almberg (Guest)	Megan Sizelove	Mario Gomez (Las Vegas)
Reid Kaiser	Lisa Schettler	Kevin Lee (Elko)
John Terry	Jenni Eyerly	Paul Schneider (FHWA)
Dennis Gallagher	Teresa Schlaffer	

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Savage: Good afternoon everyone. I'd like to welcome everybody to the Construction Work Group here in Carson City. I see that we have Kevin in Elko. In Las Vegas we have Mary—

Martini: And Mario.

Savage: And Mario, hello, welcome. Welcome everyone. Also would like to welcome Member Martin in Carson City, it's always nice to have you here Frank.

Martin: It's always a pleasure to see your face. [laughter]

Savage: The Controller and I appreciate it. We'd like to welcome our other Board Member, for a brief while, BJ Almberg. He's in the audience on his way back to Ely, thought he'd just take a few moments before he heads back. So, I thank you BJ for taking the time.

Almberg: No problem, thank you.

Savage: So, with that, let's go ahead and get started. Public comment, anybody here in Carson City that would like to make public comment? Anybody in Las Vegas or Elko, public comment?

Martini: None here.

Lee: None here in Elko, thanks.

Savage: Thank you Mary, thank you Kevin. With that being said, let's go to Agenda Item No. 3, Comments from the Construction Working Group. Any comments from Board Members or Staff, please speak now.

Kaiser: None here.

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Martini: None here.

Knecht: I'll be brief. That's it. [laughter]

Savage: Well, Mr. Controller, you had mentioned earlier, possibly moving the start time 45 minutes after the Transportation Board Meeting because it is a little bit rushed during the 30 minutes, so let's move it to 45 minutes.

Kaiser: Okay, will do.

Savage: For the next meeting.

Knecht: Thank you Mr. Chairman.

Savage: Anything else in Las Vegas on comment or in Elko?

Martini: No comments from Las Vegas.

Savage: Kevin, do you have anything in Elko?

Lee: No, thanks.

Savage: Okay. Moving along, Agenda Item No. 4, has everyone had a chance to review the Meeting Minutes of March 14, 2016? And, if there are any comments, please state them.

Knecht: Mr. Chairman, I've got two items here. One is on Page 5, the two paragraphs from me, the bottom part of the page, the second paragraph, third line, I probably was mumbling that day or something. I said, when we raise questions like that, it's not to cast dispersions upon anybody's integrity, actually that should've been aspersions. So the 'DI' should be replaced by an 'A'. I don't know, maybe we don't want to cast dispersions on anybody.

And on Page 11, in my two line comment there at the top, provisions in the professional engineers, mode of ethics, that would be Code of Ethics, instead of mode.

Savage: Is that all Mr. Controller?

Knecht: That's all I have at the moment.

Savage: Member Martin?

Martin: I have no comments, no sir.

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Savage: With those corrections, I'll take a motion.

Martin: Move to approve the meeting minutes.

Knecht: Second.

Savage: All in favor? [ayes around] The meeting minutes are passed with the revisions as noted. Moving to Agenda Item No. 5, a presentation and discussion, updates made to NDOT's Consultant Procurement Process, information only. Mr. Kaiser.

Kaiser: Jenni Eyerly from our Administrative Services Division will give this presentation.

Eyerly: Good morning, good afternoon actually.

Savage: Good afternoon Jenni.

Eyerly: I put together a lot of information in the informational item memo. I did want to just hit some of the highlights of that and then open it up to any questions that you might have. We had a significant change to 23 CFR 172, which is the Consultant Procurement Procedures outlined by Federal Highway Administration. They went into effect May 22<sup>nd</sup> of last year, we had a year to update our procedures. I want to say, it took every bit of a year to get it to the point where it needed to be updated in compliance with that new rule. It wasn't that there were a lot of significant changes, it was just that we really needed to go through it with a fine tooth comb and make sure that we had everything in there that we needed. In all seriousness, it was about a three to four month effort of workshops and revisions and discussions with FHWA on that process. That is one of the reasons for changes.

The other is that we made some internal process improvements. We looked at things like, where we used to have a prequalified list of consultants that we would send out RFPs to. So, they had to—everyone that was interested would send in their firm's resume and experience and we would evaluate them as to whether we thought they were eligible to bid on a proposal, on RFPs. A lot of times, they would just sit on the list and it would cause a lot of work for internal staff and work for consultants that may not even come to fruition. We looked at combining and we have it now combine that pre-qualification with the proposal.

So, in the RFP it states, the minimum qualifications for that particular project. Then each firm submits their qualifications and we evaluate those based on a

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specific project. We've found that to be a much better use of our time and the consultant's resources, in that process.

We did get some feedback from some consultants on our procurement processes and we got some comments on our RFP. We made some modifications to the checklist and tried to group like items together. We tended to have things in multiple sections which could be very confusing for people. We made some changes there.

I think in this group, we've been talking for a while now about the consensus process and moving to consensus evaluations where Committee Members can speak with each other about strengths and weaknesses they see in the proposal. We found that some projects and project managers like that process and it works well. Others, just a straight individual proposal evaluation can work just fine. It really depends on the nature of the project and perhaps what the project manager is looking for in that particular procurement. It does give them an opportunity to talk about it amongst themselves.

One significant change I want to highlight in the Federal Regulation Update was that we now need to state whether we're going to procure just with proposal evaluations or if we're going to move to an interview, or if we're going to do our proposal evaluations and then see where the scoring is and if we've got two really close firms, then we might move to an interview. Now we have a definite proposal evaluation, a definite interview or a let's wait and see what the scores do.

Savage: And that's stipulated in the agreement.

Eyerly: That is in the RFP—

Savage: In the RFP—

Eyerly: Yeah, right up front in the proposal. So, generally, a really simple kind of run of the mill project that we're looking for would probably go to just a straight proposal evaluation. Something that's much more complex or we really want to dive in and see, perhaps a demonstration or the capabilities of the team members and how they might work together and have more of a back and forth, would go to interview. Then, there's those in between that it depends if we have a clear winner at the proposal stage or not.

Savage: So, is it mandatory to have that interview or is it an option of the Department?

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Eyerly: It's an option. But, if we state in the RFP that we're going to go to interviews, then we have to go to interviews.

Savage: Then it has to.

Martin: That seems—that process seems a little subjective because—and maybe it should be. I'm not saying, it's subjective, it's wrong. When something is objective it's clearly fine black and white, subjective, ugh, let's see if we can change the outcome somehow or another. The subjective piece is something that I was—struck me as being—you know, unless you do it on every RFP or every RFQ, say tell up front that there's going to be interview or no interview, then you don't leave the subjective, but to have somebody propose and then after they propose, 25 days after you received their proposal to ask them to prepare for an interview just seems to be a little subjective. I don't know how you all feel about that.

Eyerly: So that's what we actually—that's our current process. Before this update, was that we would put out the RFP and be silent about how we would do the evaluation. So that firm had no idea whether they were going to end up with an interview or not and so that's what happened. There was time delay and then they're planning on making travel arrangements and coming here. While it is still subjective in terms of the judgment of the project manager and the Director's Office and looking at the nature of the project in some cases, in others, we know we don't have time to go to interview or the type of project it is doesn't warrant an interview. We want to be able to tell those firms, we don't expect you to show up. There's others where we know we want to go to interviews. So, likewise, we wanted to let them know, prepare ahead of time to be here, basically, if you're in the top ranked proposals.

For those ones in the middle, we didn't want to tie our hands where if we did a proposal evaluation and they were so close that we had time and the nature of the project warranted to where we would go to interviews, we didn't want to exclude that ability.

Martin: Right. Okay, I got a better understanding now, thank you.

Eyerly: You're welcome. The other point I wanted to highlight was the on-call process. We did have an on-call process years ago here at NDOT. It was incredibly cumbersome. It was even more involved than the pre-qualification process but similar where we had a list of disciplines and pros would submit on each discipline. So, one engineering firm might submit 10 copies of 10 proposals, so they're putting forth 100 proposals to get considered for this on-call process. We

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did away with that several years ago. It wasn't compliant with federal requirements at that time and with this new federal rule update, we were able to work through a different on-call process that we believe will be more efficient for the Department. We worked with FHWA to make sure it's compliant with the regulations, but it will give us that flexibility to be able to procure services at short notice.

One of the examples that comes up is sub-service utility work where we know that on all of our projects, or many of them, we're going to need sub-service utility services, but we don't have a definition of the project itself in time to actually go through the full RFP process, or the cost of the services might be \$25,000 or \$50,000 and we just need somebody that we can kind of pull off the list and send them out to a project. The biggest change to that process is, we're going to put out an RFP for our on-call services. In that RFP, we state how many firms we're going to hire and we define the general scope of the project. It's going to be sub-service utility work either maybe in Northern Nevada or statewide, whatever we might choose. Then as projects come up, the project manager will go through a secondary selection process where they look at the availability of the firm and then perhaps any specialty experience they might have if there's nuances with a particular project. They'll go through that secondary evaluation process. It's a lot quicker than the RFP. The RFP is to get us firms that we believe are adequately qualified to perform the work. We're not looking at trying to rank anybody in terms of their overall qualifications. In that secondary review it really is just, which of your team members are available right now on this particular project and then is there anything specific to this project that we're looking for. The firms will be ranked—

Martin: That could be in all the disciplines, engineering, little short-term—this is kind of like, what I think in our industry Len is called a JOC, Job Over Contract. Is that—

Eyerly: Yes. So we're looking at like, right-of-way, bridge, roadway design, traffic ops. There's a bunch of—a wide variety of disciplines and we've worked with the Assistant Directors to basically set some guidelines about when we're going to use on-call and when we're going to use a regular RFP.

For example, in construction, if we're doing crew augmentation, those are generally less dollar amount than a full construction administration. Those on-call services will be used for a lot of the crew augmentations where they're pretty straightforward and we kind of have some kind of a framework for what they

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generally are. Then the full administration projects, which are larger, will generally go out as an RFP, in and of themselves.

Knecht: Quick question, Mr. Chairman, Jenni, just to make sure the record is clear. The on-call process always involves at least a second and third set of eyes, or is it ever the case that the person who is going to be overseeing that makes the choice unilaterally?

Eyerly: The initial choice is made by Committee as to who gets on the on-call list.

Knecht: Right.

Eyerly: Then the project manager, with the approval of their division head, so there's two sets of eyes on the secondary selection.

Knecht: Thank you.

Dyson: It's not like a list and then—you don't pull the first one off and then they drop down and you pull the next one, it doesn't work that way?

Eyerly: No, and that was the problem that FHWA had with that whole process.

Dyson: All right. So you're cool now with the new class.

Kaiser: Reid Kaiser for the record. The consultants like the other way better because we were actually able to distribute the work a little better.

Dyson: We did it that way, right? Thor Dyson for the record.

Kaiser: But, we can't do that anymore.

Dyson: So, that's changed.

Kaiser: That's changed.

Savage: Are we restricted to the amount of on-call consultants for that one division?

Eyerly: In terms of the number of firms we choose?

Savage: The number of firms.

Eyerly: We're not restricted, but we don't want to open it up too wide because every firm on the list is going to get each project. So you don't want to really be picking between 10 firms every time you have a project coming up. Because that kind of

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defeats the purpose of on-call. You want a small number of highly qualified firms that you know you can rely on to get that work done.

Savage: Yeah, there's a fine line there I think Jenni, with all due respect, because you need competition up there. You want to have that pool of consultants deeper, rather than thinner, in my mind, that are all qualified, okay. Because this one—like we had talked at the T-Board, they have a lot of work in progress. He may be really good or she may be really good at this one task, but are they really the best choice at this time? So, I think the deeper quantity of qualified consultants in every category is important rather than just two or three, in my personal opinion. It gives you more to choose from.

Eyerly: I think that's something we can consider at the RFP stage because that's where we determine how many firms we're going to get—how many firms we're planning to get on the on-call list as of the result of the RFP is defined upfront.

Savage: Exactly.

Eyerly: I guess a flipside to that would be that, in the past we've had lots of firms on an on-call list and then only two or three of them would get work out of the process. We're trying to find that balance between, as you said, having enough in the pool that we have the resources available to us, but not so many that we've got a lot of firms who are wasting their time—seeming like we're wasting their time.

Savage: Yeah, there's a fine line there. It's just a matter of who gives us the best value of what this Department and the taxpayers need. A couple of questions I have, does this require T-Board approval?

Eyerly: No. This is an informational item.

Savage: This is informational only for us, but does this have to go to—

Kaiser: Changes in the process?

Savage: Yes.

Kaiser: I don't think so.

Savage: No, okay. And, the other question, if you can expand a little bit, maybe I wasn't listening because I was looking at some of the papers, but on the former employee on the Board of Examiners, right now we have a state law, I believe it's two years with an exception that the Director's Office has the ability to overrule that. I'm not quite sure on what this new proposal is.



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Eyerly: Sure.

Savage: And the pros and cons that go with it.

Eyerly: Sure. This actually, this has come up a couple of times with consultants that had proposed on our projects. There's an NRS, as you said, that requires if a former state employee has worked for the state within two years, they're not entitled to basically sign a contract or work on another project for the State of Nevada. It's the Board of Examiners that need to approve any exceptions to that. The Director's Office makes the decision of whether or not they're going to submit that employee to the Board of Examiners or not.

Savage: Okay.

Eyerly: In the past couple of years, we've been working through the implementation of this new regulation and it's changed a couple of times which has caused some of our consultants some frustration because we've had times where we've been sending everybody. If they were listed on a proposal, we were sending to them. We had other times where we said, I don't think we want to go through this process any more so we're not going to do that. So, we've had some consultants getting kind of caught in the middle during their proposal evaluations or during submission of their proposals because they're listing former state employees and there was uncertainty as to how they were going to be treated. Were they going to be taken to the Board of Examiners, were they not going to be?

In turn, our Committee Members had confusion because they may have evaluated a proposal last time where nobody was going to the Board of Examiners and now they're on a new Committee and they're maybe assuming that it's the same thing. That nobody is going to be going.

What we did is, we standardized the process and we basically are instructing the Committees to evaluate all proposals as if that employee were to be approved. Regardless of whether they end up going to the Board of Examiners or not, or they end up getting approved or not, the purpose of that evaluation is to look at that state employee. There's language in our RFP and in our agreement that says, any time you substitute somebody, it's at our approval and it has to be equivalent or better. That's why we felt confident telling our Committee Members to evaluate based on that particular employee because we know we're either getting that employee or someone better.

Savage: That sounds really good in theory.

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Martin: Yeah. Really good in theory.

Savage: Really good, but how practical it is, it's going to be difficult, I believe, to overview.

Kaiser: Well, fortunately so far, the Board of Examiners has not declined anybody the opportunity to work for us, when we've taken them there. We have not had to deal with that.

Savage: But this is going to open the door a little bit for those consultants to possibly put a retired NDOT person on their list because in the past it's been two years, end of story.

Kaiser: Right.

Savage: So now they may think, well they might be able to get an exception because this is a precedent to the fact that it could put the Board of Examiners in a precarious position, in my mind.

Eyerly: Member Savage, I just wanted to point out, we have had people in the past that have been submitted on proposals. So the submitting of a former employee isn't new to us. It's just our handling of it that changed a little bit and now we've standardized it. We've also received an indication from the Governor, through the Board of Examiners, in some comments and feedback he's given us when we've taken employees requesting this exception, that in general, if an employee is submitted as part of a proposal for a firm that's competing for an award, that he tends to support that exception because that employee is now employed with a firm that just happens to be competing for our work.

I took an employee of mine to the Board of Examiners and we were doing a direct agreement with that person, rather than them being employed through a firm on a proposal and it was a whole different experience. They wanted to know a lot more about that particular situation. It seems like, at least right now, the temperature of the Board of Examiners is that if it's someone who competed fair and square for a proposal in a competitive state, versus being a former employee and we need their skills and we're requesting that we hire them directly, they're taking the latter a little more—they're looking at it a little more intensely than they are the first one.

Savage: Because it's all about minimizing any protest, is what it's really about. Minimizing protests from the secondary or third proposer, who is not apparently

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successful. We have to be aware of that as well. And, does the FHWA have this same provision in other DOTs?

Schneider: I don't know.

Eyerly: I think to minimize the protests, we would look at that in terms of their request for substitution. That's where we need to balance that interest of, if for whatever reason the former employee doesn't come to work on that project, it's the request for substitution at the equivalent or better that the Department needs to really look at, the possible protest in what another competing firm might have to say about that if we don't get that employee.

Savage: That's my only concern. It just needs to be very clear. There's always an opportunity that someone will take this road. This Board [inaudible] I'm sure you've been thorough within the Department. So, when does this go into effect and when does FHWA have to actually approve this new format?

Eyerly: They approved this the week before May 22<sup>nd</sup>. We had a year to get it done so— [crosstalk] It was the 19<sup>th</sup> or somewhere around there.

Schneider: 16<sup>th</sup>.

Eyerly: Oh, there you go. The 16<sup>th</sup>, whew, we made it. It technically was in effect May 22, 2015. If we were doing those things in the last year, they were compliant and okay. Our NDOT system and procedures were approved May 16<sup>th</sup>. That's what we're operating under going forward.

Savage: That's all I have. Any other questions Controller or Member Martin?

Martin: I just—this consensus process, I need to understand that just a little bit more. What it basically does is, as I understand it, it allows the selection committee to do what we're not allowed to do, when we're—if Len and I are proposing on the same job, we're not allowed to talk to one another because that's called—

Savage: Collusion.

Martin: Collusion. And so, what—so, explain to me how this is different in that situation. Because if Len and I are the only two guys going after a job, we can talk to one another and figure out, except for it being against the law, figure out which one of us is going to get the job and which one of us are going to get paid for not getting the job.

Eyerly: Sure.

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Martin: So, tell me what's different between what I just described and this consensus? Because consensus, collusion, both begin with C's. [laughter]

Eyerly: Well, let me clarify, that begins with C too. [laughter] On the proposal side, we do have very strict rules about communication. It's very clear in the RFP that the proposers are not permitted to talk with each other. They're actually not permitted to talk with people within the Department other than the Agreement Services Designated Representative during the procurement. That's the proposer's side.

On the Department's side, we're looking for the most qualified firm. In recent years, we had rules in place where proposers had to individually score proposals and that was it. We took whatever score they gave us. In some circumstances and depending on the project and on the project manager, we got a lot of feedback about wanting to be able to talk to other members of the evaluation committee. Because what one person saw in a proposal as a weakness another might see as a strength, and they wanted that opportunity to really use the expertise on a panel and be able to bring out those particular issues that they might see.

The process is mediated, for lack of a better word, by Agreement Services. We have a representative in the room, and I think Paul is shaking his head. FHWA comes and observes the consensus meetings. Sometimes we even have legal in there, just making sure that we are following the process adequately and that the outcome is truly a consensus of the group.

There's a process now where in a consensus, they still perform their individual proposal evaluations and they provide that as a starting point so we still have that on the table. Then there's ability to discuss what they see in their proposals so that if someone might have scored it perhaps not giving enough weight to a certain section or not realizing that something that was said was an issue, it can come out.

Martin: So Len is a heck of a salesman and he just absolutely convinces me that I've viewed this thing all wrong and I need to go with his guy. That's the door you're opening right there.

Eyerly: That can happen in a consensus process, that is absolutely—

Savage: No need to use me as the example. [laughter]

Eyerly: Well, you're already—no, never mind.

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[crosstalk]

Eyerly: That can happen in consensus, and that needs to be balanced out by—you've got five people on a panel, so it's usually not a one to the other. There's five people whose opinions can be put forward. It's not perfect. We're all human. We have opinions. We have—sometimes people are more overbearing than others. The representative from Administrative Services is there to make sure that everybody has a voice and that everybody has an opportunity to speak to their concerns, give their reasons for the score they gave and then help the group to work through those kinds of discussions.

Kaiser: Now, on our committees that review these proposals, it is required that we have somebody from outside of NDOT on this committee for selecting the consultant. It is good that we are able to discuss some of the history or maybe some of the—with some of these consultants, because the individual there may not be familiar with any of them. Also, they may have history or they may see something we don't see. I think it does help us on a review process, being able to discuss amongst ourselves each of the proposals.

Dyson: Thor Dyson for the record. I agree with Mr. Kaiser completely because I've been—I've sat on these consultant committees. Typically there's a wide range of individuals that are on the consultant committees that, some have five years, eight years, 15. In my case, I have 25, 26 years with the Department and had various opportunities to work with different consultants and when you get their proposal, they're not always straightforward. If you happen to have worked on a job, specifically with that particular design-build team, consultant, contractor team and they're not being forthright, that won't ever come up in a consensus if I know something that is erroneous in the proposal, I won't have an opportunity to inform them, oh by the way, rest of the committee, are you aware that, da, da, da, da. Go verify that issue, do you still want to do that? And, like Mr. Kaiser said, we do have members of the RTC, the cities, City of Reno, Sparks, for District 2 to participate in these committees. We can provide them information, they can provide us information that we're just completely unaware of on these. And, we can get that vetted out in a consensus meeting.

To Member Martin's point of view, if you had someone with a very, very strong leadership personality in a key position, they could do a heck of a sales job and hijack the consensus. I've experienced that a little bit too and it can get disconcerting.

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- Savage: Thank you Mr. Dyson, thank you Mr. Kaiser. Jenni, is there a moderator or independent referee that sits in these consensus?
- Eyerly: Yes, from Agreement Services.
- Savage: From Agreement Services.
- Eyerly: Yes.
- Savage: Okay. And does everyone sign a non-disclosure?
- Eyerly: Yes.
- Savage: At the beginning?
- Eyerly: Yes.
- Savage: And do they sign any type of code of ethics criteria?
- Eyerly: We all have a code of ethics as employees of the state.
- Savage: And they're signing that document before they're going into this consensus group?
- Eyerly: We call it a jury letter, but it basically outlines their responsibilities for participating in this particular committee. It's a more stringent—it's a specific document, rather than our general code of ethics, but each member of the committee signs that.
- Savage: That's good. It can be very healthy, it can be very dangerous, I mean, we all know that. It's up to the people and it's up to us to try to ensure that everything is straight.
- Martin: I always thought collusion was good. Okay. I forget, we're on recording. [laughter]
- Savage: Will you call the Sherriff please? [laughter] Anything else Jenni?
- Eyerly: Unless there's any more questions?
- Savage: Any other questions or comments from Las Vegas? Elko? Or here in Carson City?
- Martini: One comment, this is Mary Martini, District 1, Las Vegas. One of the areas that I particularly like about the consensus is the differing perspective. The various

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members are generally picked because they come from a broad background. Someone from environmental, for instance, will see things differently than the engineers and the designers. You get to listen to the other perspectives in a way that gives you more of a 360. So, while it's possible for somebody to bull dog a consensus meeting and run away with it, I think that it's far more likely that you get a better decision and a more well-rounded one.

Savage: Thank you Mary. Any other comments from Las Vegas or Elko? How about Carson City? Does anybody have anything to say in Carson City? Thank you Jenni.

Eyerly: You're welcome.

Savage: We'll move on to Agenda Item No. 6, the Presentation and Discussion of NDOT's 2016 Resident Engineers meeting held up in Elko.

Kaiser: Reid Kaiser. Just to give you guys a quick briefing on our RE meeting. It was held March 8<sup>th</sup>, 9<sup>th</sup> and 10<sup>th</sup> in Elko this year. This is annual meeting and it rotates among the three districts on where it is held. What the RE meeting is, is an opportunity for the Resident Engineers to discuss amongst themselves any problems with some of our specifications or plans or issues that they're running into.

As an example, stormwater. Our stormwater specifications are fairly new. Now that they've been using them for a year, they've been able to go through them and discuss any problems that they may have ran into. It gives them an opportunity to discuss what worked good, what didn't and what we need to change. It's also a good opportunity for them to get to know each other. They spend three days together. They go out for dinner at night. It's a good time for everybody to understand what they're dealing with and spend time together dialoging what's going on in their projects.

Something that I was encouraged about this year is, we have some fairly new assistants coming up. We had some positions and as an Assistant Resident positions that these new employees have taken. They had a lot of comments. They spoke up and weren't bashful and wanted to make some changes. That's encouraging to see that and kind of brings a little life back into some of the programs sometimes. It was encouraging to see that.

Some of the biggest topics that we talked about this year were reducing speed limits through our construction work zones; safety for our REs and for our

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Assistant REs and for the crew and also for the contractor is their number one priority. We have certain requirements that we want them to follow when they lower the speed through their work zone. That was discussed quite a bit at the meeting. Equipment for the crews, trucks, that was discussed quite a bit. There was a lot of discussions on the RE's role in our CMAR and design-build projects. We are rewriting our construction manual and we're going to hopefully outline that a little better so that there's a real clear understanding on the role on those kinds of projects. Utilities continue to be a problem for us but I don't know if there's ever anything we can ever do about that. It's been the same for me for the last 25 years. I'm sure you guys probably run into that in your guy's—

Martin: Are you talking about the existing utility situation?

Kaiser: Yeah.

Martin: In your construction projects?

Kaiser: Yeah.

Martin: Right now, you still have your own staff preparing the as-builts, right?

Kaiser: Yes.

Martin: Is there a correlation between our staff preparing the as-builts versus the conflicts that we run into?

Kaiser: I don't think so. I think the utilities are—typically they're in way before we ever go and build the project.

Martin: Oh, I see what you're saying. You're talking about in a green field construction situation. I know over at the Meadowood Mall Interchange that Meadow Valley did, there was huge amounts of utility conflicts, power lines, sewer lines, all that kind of stuff. Well, the Meadowood Mall Interchange had been there for a long time, so we should've known where all that stuff was.

Kaiser: We should have, but you know, there's a lot of times that utility companies tell us where they're going to put them and then they run into different field conditions or something and then they change and they don't always track them best themselves. It's something we constantly run into.

Those are some of the high points. I gave you guys pretty much all the information, all the issues that we talked about. Do you guys have any questions that you'd like to ask myself or any of us?



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Savage: Just a couple of comments Reid. I want to thank you and the REs and headquarters for really getting together. It's quite clear that the new leadership we have here in Carson City supports the Resident Engineer. I think that was a problem with the earlier Administration. I think it's important that we listen to them and you guys have done that here and tried to incorporate some of their ideas. They're the ones out there. They're the ones out there fighting the fight every day. It's good to see some of the ideas that they have and that you're listening. I think that's very important.

A couple of things. It's, like you said, number three, it's very important that the environmental support is earlier and timely. It's critical in today's day and age. The REs are very concerned about that.

Item No. 5, the 3557, who was the Engineer on record on 3557? Does anybody know?

Kaiser: I am not familiar with that contract number.

[crosstalk] The Carlin Tunnel Bridge Replacements.

Lani: 3557 was the Dunphy Bridge Replacements, 3537 and 3540 were the Carlin Tunnel Bridge Replacements. That was an inside design, NDOT designed the Dunphy project in house.

Savage: Inside? Inside, okay. Then No. 32, I was a little confused on this because in my mind, CMAR is just a method of delivery. I wasn't clear on why and how it would affect the technical engineering and construction? I didn't understand that. Because it's just a method of delivery is all it is. How would it really affect where the RE is coming from?

Kaiser: Well, the CMAR projects and the design-build projects, they're administered—there's a certain set of guidelines for the design-bid-build projects that we have to adhere to. Okay. That's administered through our Construction Division. Well, the CMAR and the design-build are administered through our Project Management. Okay. So, we try to administer them through the Construction Division so they are set up that way but like on our design-bid-build projects, the contractor is not required to come up with quantities and yet, quantities are how the RE tracks certifications, the number of tests they do on the materials that they're being used on the compactions on the dirt and so forth. Sometimes there's a breakdown. That's what they're requesting is, where is their involvement and how are they supposed to administer something where it's not like a design-bid-

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build project. They're set-up to administer a design-bid-build project where it's very clear what the quantities are, what the processes are. And that is what we're working on, what I mentioned earlier. We're coming up with those guidelines in our Construction Manual rewrite, to hopefully alleviate some of those questions.

Savage: Oh, okay. So that's where that's coming from.

Kaiser: That's where that's coming from.

Savage: I understand now.

Dyson: Thor Dyson for the record. There's been a lot of internal lively debate to figure out the definition of roles, the definition of past aments and like Mr. Kaiser said, the quantities and from the district's level, the district's perspective and the RE's level, we want to be able to survive an audit if FHWA or state auditors come in. There's a check written to a contractor or design-build team, but there's no logical explanation what the check is, I want to be able to and the REs want to be able to say, that check was written for this, these things. Here's how many guard rail feet, how many feet of fence, how many yards of concrete, etc., etc. That's what we're trying to work out.

Kaiser: And there's different guidelines for these types of contracts, coming from the FHWA to us. So, it's not real clear to REs. Again, they're used to design-bid-build.

Savage: Are the quantities disclosed on the design-build contract from the contractor? Because they have the take off.

Martin: It's not designed yet, so they don't have a take off. I know exactly—forgive me for interrupting Mr. Chairman. I know exactly what you're talking about because I face the same thing in my office. If I have a guy that is phenomenal, taking a set of drawings from the Clark County School District, he can build every school, every design. Then I turn him in, try to turn him into a CMAR, or a design-build guy, it's two different worlds. If you're trying to manage the process with the same people, it can be done, but good luck.

What I'm not understanding about this thing, where design-build, CMAR and not so much design-bid-build, but where design-build and CMAR have—you're expecting X number of miles of lane. It's got to conform to all your specifications and all that kind of stuff. In the end, does it really matter what your quantity was, because if they propose \$250,000, \$250M, for the road going from here to that end of the table with all the interchanges and everything else, in the

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end, you've got that. What do you care about the quantities for? I think that's an old way of trying to exert control.

One of the advantages of design-build, in your business, if you've got a better way of designing a mechanical system and you propose \$79,000 and the other guy proposes \$69,000 or \$89,000, as long as I'm cool, I don't care how you got there. That's—that now, you've got to meet the specifications on material qualities and all those kinds of things. I'm not discounting that. But, when you have an end goal, down there is \$250M and you start down here at zero. By the time you get there, if you paid out \$250M, why does it matter how you got there if you got everything here that you wanted as far as material quality and product quality and you got a road going from here to there with all the interchanges and everything else that was in your specification? Those quantities, to me, under the design-build or a CMAR, I can't see how they're important, because the reason the guy got the design-build, Kiewit, is because he figured out a different way to do it and his quantities are going to be much different than anybody else's is. That's where he used the design-build process. Kiewit used it to their advantage on Project NEON. Beat the tar out of some of the top performers in the State. Once we get that product and it meets your requirements, do we really care what happened in between here as long as we get to there?

Savage: So my only concern Frank would be the past—

Martin: The past—

Savage: Where's the foundation—

Martin: That's—that's—

Savage: [crosstalk]

[crosstalk and laughter]

Martin: We have a schedule of values that breaks it down. You guys have a schedule of values, but you tie everything to the quantity. Not to value. And you tie it to quantity. If you tie it to value that we're going to have—and the contractor is giving it to you, we're going to have 897,000 cubic yards of [inaudible]. Okay. Once you get 50% of that road done, you're getting a bill for 445,000 cubic yards of dirt right? Ain't that right? That's the way it should be. The same way in your business. You give me a schedule of values for the piping, for the duct work, for the grills, for the mechanical and for the units. I don't care how much I pay along

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here, I do care that you deliver the units and I pay you for the units, the mechanical units.

Savage: You also owe 5%.

Martin: [crosstalk]

Savage: The Department doesn't own 5%.

Martin: No, that's the problem. That's why I'm not understanding, you've got an old way of thinking here, design-bid-build. That's what everyone of these REs. If you're taking a round peg and sticking it in a square hole of design-build, it ain't going to work without some indoctrination.

Kaiser: That's the plan. When we come up with this language, we'll run it through our project management and make sure it's in line with the program they set forth to run the CMAR and the design-bid-build or the design-build projects. Make sure that it does comply with both [crosstalk]

Terry: John Terry, Assistant Director. As somebody who has worked on a lot of design-build, I'll tell you, you've identified just what's happening in the heavy highway construction design-build. Years ago, it was design-build, was a completely different entity and it was done differently. The powers that be at DOT and we're not the only one, have dragged it back closer to being like design-bid-build. The biggest reason being, construction QA or QC or whatever you want to call it to draw that line. We now do acceptance testing. When we did acceptance testing, we didn't use to. The early design-builds, the contractor was responsible for that and we just audited it. Now we do acceptance testing. Our guys say, well we have to test every asphalt, every ton and this every so many tons, so we need quantities. Now they've dragged quantities out of us. There was no real need for quantities before. We paid on a cost loaded developed schedule, percent complete, work breakdown structure. Not quantities as DOTs do them. More over the years, as DOTs have gotten uncomfortable with that, they've tried to drag it back closer to what it was for design-bid-build.

Martin: Make it fit in the box.

Terry: That's part of it, you know. To me, the big thing is, years ago, all the early design-builds usually had a maintenance component, or had a tolling and a maintenance component. So then, we didn't care if you gave us three inches of asphalt, you gave us eight inches of asphalt. You had to maintain it for 20 years, you had to deal with it. Then when we said, now design-bid-build is, as soon as

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it's done, remember we don't really do warranties, we take it over and so we're going to take it over, we're saying, you've got to do it our way. So, we've kind of dragged them back from a performance back to, you've got to do it our way. Design-build has sort of evolved. I think we can get through these relatively minor issues and we're still going to pay on a cost load, percent complete basis. They sort of dragged it back closer to the way a design-bid-build is, that's what is causing the [crosstalk] in my opinion.

Martin: So my fear as a Board Member, is that at some point in time, you continue down this path. We heard the gentleman make the presentation on the Garnet Interchange and the widening, doing design-build, because it delivered six months earlier. We continue down the path of this antiquated unit thinking, you're going to pull the design-build back to the exact same kind of schedule and costs as you do with design-bid-build. When you do that, my belief is, you open yourself up to a huge amount of risk due to, as we see on our contracts, change orders. Because we get the quantities wrong. On a design-build, you don't have to worry about whether the quantities are wrong. But, you keep going down this path, you're going to drag the contractors to say, there is no point in me using my innovation. I'm going to go back to the design-bid-build world and you're going to end up paying.

Terry: Right, we don't want to drag it to the point where—

Martin: You're going to slow the project delivery [crosstalk]

Terry: We don't want to drag it to the point where you told me how to do it. I did it your way and now you have to pay because that didn't work.

Savage: Yeah, that's right.

Terry: We don't want to go there.

Martin: But you're getting there. Every time you go back to this unit deal, you're getting there.

Terry: I think we're managing, but it's caused a lot of un-comfort, that's my—I will tell you, the other part is CMAR. CMAR should have essentially the same quantities as design-bid-build, but we in design-bid-build would give the resident engineer a contingency and a way to deal with change orders of a minor amount and then a change order process. Versus, CMAR, we negotiate with the contractor and we set money aside in a risk reserve for already identified risks. So we don't pay that

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upfront, but we pay it if we hit it. Utilities being a big one, different site conditions, etc.

We internally have had some issues with when is it a risk reserve, when is it a change order and how do we deal with that. I think other than that CMAR is pretty close to design built there.

Kaiser: Pretty close.

Savage: Thank you John. Thank you Member Martin. The comments are well made.

Tedford: Chairman Savage, can I add on to that?

Savage: Yes.

Tedford: Darin Tedford with Materials Division. One of the issues and Member Martin, you hit on it exactly is the material quality. You said our \$250M job, as long as we get to the end and have the material quality that we want, why do we care about quantities, 100% agreed. The trick is, whether it's Paul's money or NDOT money, that we've established in the design-bid-build process how often we have to sample materials so that they're comfortable reimbursing us or we're comfortable spending our money on quality material. We have those frequencies established based on quantities, on bid unit prices and bid items. I don't think that's a big deal and I don't think we have to derail a design-build process too much. It's a matter of figuring out what would change in our Construction Manual so that the resident engineer, so Thor's guys can know how often they need to sample so that we can accept the job. Whether we prepare the memo that says, everything was tested in accordance and met our specs, except for these things that we dealt with and therefore, were requesting reimbursement or therefore, we're suggesting that we close out the job and make all the payments. That's kind of where we're stuck. Like everybody said, that's not a huge deal but it is the basis of the feds accepting the job from us and reimbursing us the money that we already spent.

Savage: Thank you Darren. Thank you again Member Martin, John Terry. It's all very healthy discussions. It's good to hear that everybody's got their sleeves rolled up and trying to make it better, rather than move backwards.

Moving backwards, on No. 38, I noticed the value was \$500 for the REs, has that limit been raised [inaudible] or are they going to have to issue 10 POs to get the \$5,000?

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Kaiser: I can't answer that. I'm not sure on that.

Dyson: So, I can speak for District 2. I'm sure Mary and Kevin have maybe a slightly different version. I have what's called an Authorization Memo that I submit to all my staff in supervisory roles that can buy supplies, equipment. We're talking things like, well it can range from a couple of dollars all the way up to \$10,000. I think I have—I believe I have authority up to \$10,000. The real big purchases would have to come from Reid and the Director's Office, as far as large quantities of material or for maintenance for example.

So, different people have different categories, different levels of what they can purchase. It doesn't mean that they, the REs won't get what they asked for, but if it exceeds \$500, they need to get either my assistant's approval, or myself, before they go out and spend—and it's actually construction's money, it's not District 2's money. I just limit the—I have to watch my budget and I want to make sure like, right now as we're in budget mode, trying to get to the end of the fiscal year, June 30<sup>th</sup> is our fiscal year for the state. I've got financial management and the budget dudes, dudettes —I should say, ladies, watching me closely and I don't want to overrun that dollar amount too quick.

Savage: So long, I guess, Thor—and thank you for the explanation, how long has it been \$500 for the REs?

Dyson: Quite a while.

Kaiser: I think it's been quite a while.

Dyson: Yeah, quite a while.

Kaiser: Hats, vests, survey, you know, construction stakes, that kind of stuff.

Dyson: Tape measures.

Savage: It just sounds like they could use a little larger source. [crosstalk] I don't know if it was 1960, 1970s, when the \$500—[crosstalk and laughter]

Dyson: I can speak from experience. It's all fairly 1990s. [crosstalk] From experience, but I mean, the Director's Office and the accounting and the financial is okay with it and I'm willing to go up higher—

Savage: I thought I'd bring it up. I mean, we just spent \$500 talking about it. So, we'll move on. Do we have any other questions or comments from anybody?

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Martin: I had Item No. 39.

Savage: Yes sir.

Martin: This makes logical sense, but there's no response. Every place else there's a response, well almost every place else, there's response. Item No. 39, why can't the field lab crews obtain and use Bio-T Max to clean their asphalt equipment anymore? The Materials Division uses this method to clean and preserve their equipment.

Lani: Steven Lani, Assistant Construction Engineer. Questions 35 to the end were submitted by the REs either at the meeting and/or after the deadline for the initial publication. What you received in your copy is the responses that were effectively the meeting and the compilation immediately after. That's why it's still in draft mode. The rest of that is still being compiled. So anything from 35 on, if you back up a couple of pages, were all late submittal questions or questions that were discussed openly at the meetings, so the formal responses are still being compiled.

Martin: This one seems to make good logical sense, I mean.

Tedford: Darin Tedford, Materials Division. In the past, we had issues on contracts where behind the paper samples of hot mix asphalt would come in and exhibit mysteriously low-test results. One of the instruments that the testers use in the field and that they would claim with Bio-T Max is a splitter. So, they bring in their sample, make sure its hot and split it down in the representative sizes to be burned off, checked for gradation. Half of it gets sent to Materials Division for acceptance testing and it came to be apparent they were using high dosages of things like, Bio-T Max which used to be Tri-Flow or something else that are actually solvents of asphalt. So, they're instructed at this time not to use the solvents and other materials for cleaning and lubricating the equipment.

Martin: Is the solvents degrade the test?

Tedford: Yes.

[crosstalk]

Tedford: Same thing when we make sure, or we usually make sure the contractors aren't using No. 2 diesel to keep the asphalt off their shovels and their rakes and everything else that comes—

Dyson: The truck beds.



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- Tedford: The truck beds. There's release agents for the truck beds they're supposed to use in limited quantity, not puddled in the bottom, that kind of thing.
- Martin: But I see the Materials Division uses this stuff.
- Tedford: Yeah.
- Martin: Your Division.
- Tedford: Well, in that case, basically we're cleaning the instruments—
- Martin: I'm just being facetious.
- Tedford: I know, but I can reply, using it sparingly and also washing and sometimes running them—we clean our asphalt testing equipment, we put it through the furnace to cook all the asphalt off of it and wash it with soap and water.
- Knecht: Real quickly Mr. Chairman, I'd like to concur with Member Martin's advocacy on behalf of value and Mr. Terry's somewhat advocacy on behalf of performance and the resistance to backsliding to the old paradigm. I would suggest that your so right that I might make you both honorary economist but that would probably turn you around and you'd go the other direction, so I don't—
- Martin: You want that job too John?
- Terry: No.
- Martin: No? [laughter] Thank you.
- Savage: Okay, with that being said, are there any other comments, Las Vegas, Elko or here in Carson City?
- Martini: One thing I was going to offer to the group, this is Mary Martini, District Engineer for Las Vegas. The discussion around design-build is not unique to Nevada. There's a technical bulletin from FHWA that provides a lot of information. If you can't sleep at night and you really need something to read, I think Lynette Russell sent it to the group, the internal group, but if any of the members of the CWG would like it, we can forward it to you. It provides more of that data. The other DOTs are struggling with the same issues around how much the QA and other data keeping gets you away from the cure—you know, you have a contract in order to build to provide this product at this amount of money.

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The other thing I would add to that discussion that we didn't discuss was the analysis of change order. That does bring in other items, not to discuss now but just to put into the record. Thank you.

Savage: Thank you Mary. Any other comments here in Carson City? Well, thank you every one again, and we'll move on to Agenda Item No. 7, Old Business. Mr. Kaiser.

Kaiser: Okay. Item No. 1, Contractor Pre-Qualification. Our Steering Committee has come up with a draft contractor past performance rating sheet and its been updated. We have or are going to send it out to the REs very soon. Our Committee has approved it so now it's the next step to have the REs approve it. Then after that, we'll take it to the AGC for approval.

Should I just keep going?

Savage: Yes.

Kaiser: On the item, any questions, No. 1?

No. 2, NDOT DBE Process, nothing new to report this quarter.

Item No. 3, As-Builts. As you had talked about earlier, Frank, or Mr. Martin, we have put that written into our requirements, into a contract that's a roundabout they're building out in Pahrump, so that's still moving forward.

[crosstalk about out of order on agenda]

I got messed up, I'm sorry. I got 3 and 4 backwards on the Agenda. My mistake.

Martini: Question. My understanding is that we're doing the as-builts on Las Vegas Boulevard, not in Pahrump.

Kaiser: That's right. You're right. I can't even read my own writing. No, it's on Las Vegas Boulevard.

Martini: It looked like Mr. Freeman was ready to correct you but I got to it first.

Kaiser: Yeah. That's okay. Okay. Item No. 4, CMAR Projects. NDOT has three CMAR projects. There have been no change orders to report in regards to those three CMAR projects. I have all the agreements written down for those. Are there any questions in regards to those three CMAR projects?

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- Savage: The only question I had is, are we getting the service and the value from the Independent Construction Estimators? How is that going? We typically use Stanley Consultants is what I've seen and the Atkins Group, I think [inaudible] that they've got on their ICE. I just want to make sure that the Department is getting the service we expect.
- Terry: John Terry, we pay a lot of money for it. I can say that. It's costing us some money but we don't really have the ability ourselves to do production based estimates to control the contractors estimates. I believe, as we—you've seen our phases of estimates where we do that—eventually we are getting the contractor's estimate down lower. Sometimes we're raising the risk reserve, but we're getting the contractor's estimate down. I would say we're getting better estimates from our CMAR contractors and we have better feeling for those estimates, but we're paying quite a bit of money for these nice estimates. No doubt about it. It's another one of those things we're sort of locked into. We're not internally developing the ability to do these types of estimates. We're kind of relying on consultants on every CMAR job, we have to have a separate ICE. I think we're getting value out of it, we're just spending some money on it. And it slows the process a bit too.
- Savage: Yeah. Are there other independent cost estimators besides Stanley?
- Terry: Yeah, we've used others, I'm just not sure. Stanley has done the majority.
- Schlaffer: Atkins.
- Terry: And Atkins.
- Savage: Okay. Just thought I'd ask that question, thank you Mr. Terry.
- Kaiser: Are they a requirement of CMAR projects?
- Savage: Yes.
- Terry: Pretty much, we're locked into it for now.
- Savage: Back to you Mr. Kaiser.
- Kaiser: Okay. Item 7A5, Consultant Agreements. I've got a spreadsheet of all the consultant agreements that the Construction Division and the Project Management Division have entered into in the last six months. Are there any questions on either one of those spreadsheets?

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- Savage: I have a few. First of all, I want to thank you for developing this. I think this is the first sheet or summary we've seen in this spreadsheet, is that correct?
- Kaiser: I think we had one last September or maybe it was December CWG.
- Martin: I've seen something but I don't remember what it was.
- Savage: And this is a good start. I really think it's a good start. I just had a couple of questions. Is this construction and project management?
- Kaiser: Construction is the first sheet and the second page is the project management. That's why there's two different formats. Then the third page is a continuation of project management.
- Savage: So it'd be nice to have one format.
- Kaiser: Yeah. I'll work on that. [laughter]
- Savage: I thought that might be the answer. [laughter]
- Kaiser: Somebody might get some extra work down there in Construction.
- Lani: Which format do you like?
- Savage: I like the construction one. But that's my opinion. I mean, Member Martin or the Controller can certainly speak up or anyone here at the table. All this is is a quick snapshot, like we've done with the contractors. It's been very beneficial. Quick snapshot. Quick [crosstalk]
- Kaiser: It's a matter of me getting a hold of them so they can put it in that format. I'll take care of it.
- Savage: The paid to date, through what date? There's nothing on this one about 2016, correct?
- Kaiser: Yeah, there's some—no, there isn't. There is no 2016. Although, a lot of these agreements will be for 2016 contracts.
- Savage: We have approved at the T-Board in the last six months major consultant agreements.
- Kaiser: Well, the NEON agreement was approved in 2016. I think the must be the—is this the advertised date?

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Lani: It's based upon the agreement, fiscal approval date. So if you look, the NEON—a couple of the big NEON—NEON testing, USA Parkway crew augmentations that have just recently been approved, you know, you're talking on \$15M and two \$5M construction augmentation agreements. You look at those, those are actually 2015 agreements, technically by the way Agreement Services is indexing their numbers. That's why they show up under 2015.

Martin: But it's money being expended in 2016.

Lani: Correct. These are categorized based upon the year that the agreement is indexed, not necessarily the year the money is being expended.

Martin: So the expended date includes monies paid through today or through last month.

Lani: The date on the bottom of the form is 05/24/16, correct.

Savage: I think it's a good start. I think it's something that we can certainly work towards.

Kaiser: We will.

Savage: Try to drill down more with it. I didn't see, for example, on the project management, I didn't see anything about the Spaghetti Bowl. The CA Group is currently doing that traffic study. That's not on there.

Terry: Yeah, I wonder why not.

Savage: So, that's something to look into.

Kaiser: Well, this says just the agreements that have been entered into in the last six months. That agreement is older than six months ago. I think that was entered into, what last summer some time. These are just the last six months agreements from Project Management. Construction put all their agreements the last three years.

Eyerly: I think that was run out of Design.

[crosstalk]

Kaiser: I'm not quite sure why.

Eyerly: The Design [crosstalk] run out of Design.

[crosstalk]

Terry: That's a good catch, I don't know why that's not in there.

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[crosstalk]

Savage: It's not about me catching it. It's just about trying to take a quick snapshot. Like the contraction contract, work in progress format that you used back in 9A, if we can get something similar to that.

Kaiser: Okay.

Savage: Just work in progress.

Martin: Yeah, that's the close out documents.

Savage: Right, close out status. One of the things that I saw on the Louis Berger, US-395 Carson Highway, we're almost, I'd say 95% paid to Louis Berger for that work. I would think that we're good on final design.

Terry: Well, when we do design consultant agreements, we keep them open during construction to address shop drawings and issues that come up in the field. We tend to not close out design agreements until construction is complete. We may never spend that money.

Savage: That makes sense. Okay. That's all I had. Member Martin or Controller?

Martin: I'm good.

Savage: Mr. Controller?

Knecht: No.

Savage: Do we have any comments from Las Vegas or Elko or here in Carson City?

Martini: None in Las Vegas.

Savage: It's a good start. Thank you Kevin, thank you Mary. Back to you Mr. Kaiser.

Kaiser: Okay. Item No. 6, Unbalanced bidding. There's nothing new to report. If you see any of these items that you would like for me to remove from the agenda I can. Or, I can leave them on there and when something does come up, I can add it to the notes.

Savage: I think that's the reason they're there. I understand there is no work in progress.

Kaiser: Yeah.

Savage: Like, unbalanced bidding is a good example, but it's nice to—

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- Kaiser: Okay.
- Savage: Because we look at it every 90 days. You guys look at it every day. So, it's a good reminder for us.
- Kaiser: Okay. Okay, Item No. 7, NDOT Staff Update. Kimberley King who gave the presentation last March has moved back up to Juno, Alaska. We did hire a new Human Resources Manager. I didn't want to burden that new individual with this task, her first Construction Working Group. We'll get you updated numbers at the September CWG.
- Savage: Very good. Is it getting any better, I heard you say new blood?
- Kaiser: Well, yeah, I was—
- Savage: [crosstalk] –Resident Engineers?
- Kaiser: Yes, I mean, on that respect it is. They took them from our construction office or materials division. It was good for them, it might be a set back for somebody else.
- Savage: So, we'll look forward to that in September.
- Martin: It's called poaching. [laughter]
- Kaiser: Okay, Item 7B, Requested Reports and Documents. There was a number of AGC meetings we attended. Are there any questions in regards to any of those items we have in the packet? A lot of it is the same information we're going through today.
- Savage: Just one comment. Maybe this is for Megan. I saw the comment about the eDocs and the field manager. Are you having good success with that?
- Megan: We are—well, we haven't gotten any recent feedback, so no news is good news, from the contracting community. We have I would say at this point, six or seven different contractors that have contacted us to get information to sign up with the read only version. And that was the intent of putting it on the AGC's agenda to try to get information out to them. So far they all seem pleased with the ability to have more transparency, information of the contract.
- Savage: Thank you Megan. Mr. Kaiser.
- Kaiser: Okay. That completes Item No. 7.

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Savage: Okay. If there are no other comments, we'll move to Agenda Item No. 8, Projects Under Development, the Five-Year Project Plan.

Terry: John Terry, Assistant Director. I didn't make any real presentation but I'll give you the same disclaimers we give every time we talk about the five-year plan. We don't have this much money. This is how much money, this is how many jobs we get ready to go out. This is what our designers are working on, whether they be consultants or our internal staff. The Over Program, that worked intentionally because things happen. With that, maybe I move to this current year. Today's Board Meeting we actually advertised—you know, we awarded two of our biggest in-house design jobs this year. I believe those two totaled like \$50M. We are right in the middle of, kind of our peak period this year of delivering projects. It will start slowing down through the summer. Then we get to federal kind of shut down period in the fall for a month and a half, two months.

We're looking real good for obligating our federal money this year. This year is looking good. Looking beyond that, there's some placeholders in there. They're not all real jobs in there. As you get out a few more years, especially in the major projects. I'd maybe add to that, a lot of things that were talked about at the Board Meeting are showing up on here. We now have a specific ADA Program. We have a specific landscaping and aesthetics program. We have Stand Aside Safety Projects. We have set aside pedestrian safety projects. They've all been populated in here within the last year. Again, they're a little over allocated. While we struggle with pedestrian safety on the rather aggressive schedule we had early on because we knew we were going to run into electrical and other issues, we're now starting to deliver a lot of those as well.

With that, I'll open it up to any questions.

Savage: I want to thank you Mr. Terry for being so receptive to the team who put these numbers in pedestrian safety. This is a major concern of the Board.

Martin: I have one question. The last one, [inaudible] Project, this is the one up in Tahoe?

[crosstalk]

Terry: Yeah, what do we call that, other?

Martin: Yeah, I don't know what to call that. There's not a lot of miles or roadway for us to wave our flags at, but that's not really our money. We're spending somebody else's money, aren't we?



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- Terry: It's a mixed bag. There's our money. There's some fed money. There's some Central Federal Lands money that is federal money that we wouldn't have gotten. There is some of our money as well. It's a mixed bag on that project. I don't know if you've got any more to add to that Paul.
- Dyson: Private money.
- Terry: Private money.
- Schneider: Washoe County money.
- Terry: Washoe County money, but there is some of our money in it. Yeah, I don't know which of these categories it actually fits into.
- Savage: If the—
- Martin: Community Service—
- Terry: Some of the work that we threw in, which was the water quality work, was work we would've done otherwise, that will play into this. The majority of the bike path—in other words, what others were going to do, that had money that we absorbed it and are delivering with ours.
- Savage: Because in May, I did ask for a list of funding sources. I never did get that. [crosstalk] I asked for it. And maybe—that was when Carl Hasting was speaking, I think and a lot of other—[crosstalk]
- Terry: Yeah, we should add that to Old Business and report on that.
- Martin: You gave us a list, I think it was almost nine—
- Savage: I didn't see a list.
- [crosstalk]
- Martin: He rattled them off—[crosstalk]
- Savage: He rattled it off.
- Martin: Like seven or eight or something like that, but nobody knew where the dollars were really coming from. And, more importantly, really what the total dollars were.
- Savage: Yeah.

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- Terry: It's in the [inaudible], but we could get—we should put that in old business and report [inaudible]. You did ask that question.
- Savage: And then, is there anything on this list with the Spaghetti Bowl and North Valleys? I couldn't find it.
- Terry: We had a place—I believe we just put a placeholder in the capacity, projects—
- Kaiser: I believe there's also some Traffic Operations projects listed in here. Is that right Denise?
- Inda: Yeah, I'm scrolling down to see. No, it should be still listed under—hang on. Yeah, the first—Page 5 of the Five-Year Plan, that's the Traffic Operations page. The first item on that list is the US-395 North Valleys ITS Project. That one is in direct response to Rudy wanting to get our project out soon.
- Terry: But we have placeholder for the bigger Spaghetti Bowl, but I believe it is 2021 or beyond. It does not show up on here.
- Savage: Okay. Thank you Mr. Terry for the Five-Year Plan. Any other questions or comments from anyone? If not, we'll move on to Agenda Item No. 9, briefing on the status of projects.
- Kaiser: Well, this last quarter, we closed out eight projects. I'd like to note that we closed out 3409, that's been hanging out there for a long time. Thank goodness that's now behind us, from the Construction Office anyway. I don't know if it is legally.
- I want to thank our Construction Office. They continue to work hard. We're down to two and half pages now. A little under two and a half pages.
- Martin: A little under two and a half pages.
- Kaiser: Yeah. So that's a real step forward in getting our projects closed out. We haven't heard anything from contractors complaining, at least I haven't, in a long time. So, that's nice.
- Martin: Just kind of curious here, under contract number—I'm looking here, like on Page 2, Contract No.—and underneath it, it says, FM, does that mean it's my job or? [laughter] Are you volunteering me for something Reid? See, underneath the job number it says FM.

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- Sizelove: That's just identifying if it's a field manned contract or if it's a conventional—or, legacy contract. It's internal—internally we know what it meant.
- Martin: Whew. [crosstalk] I didn't remember volunteering for that one. [crosstalk]
- Savage: On that same note, where do you differentiate between project management and construction? How can we tell by just looking at the snapshot?
- Kaiser: I'm not sure.
- Savage: On Page, Item 9A, there's two and a half pages of contract status, projects in progress.
- Freeman: For the record, this is Jeff Freeman, Chairman Savage. Construction Division will close out traditional design-bid-build projects and CMAR projects that run through our tracking system. The design-build projects go somewhere else. The close out process is through project management as well. We'll close out design-bid-build, CMARs and project management closes out design builds.
- Savage: But Jeff, my question is, where can I see that this project is with Project Management, CMAR, design-build or if it's design-bid-build? Is there a symbol or?
- Freeman: We note down CMARs, if you look down on—
- Kaiser: 3541.
- Freeman: 3541 is a CMAR, so we have—
- Savage: Right, I see the CMAR.
- Freeman: Design-builds aren't tracked on this.
- Savage: Why not?
- Freeman: We don't close those out. That's—project management closes them out. This is just what we close out. So, we don't—we don't gather the paperwork. We don't submit the as-builds. We don't audit it. That's what this is for, to track—to make sure we have all the certificates, we get done our audit. That's not our function in design-builds. So, we don't track it.
- Savage: But I remember other projects—I mean, not other projects—other task booklets where Amir's name for example is on some of these [inaudible]

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- Speaker: [inaudible]
- Savage: What's that?
- Terry: We used to have [inaudible]
- Savage: We used to have them on there.
- Freeman: Those are major projects where he's listed as Project Manager. But, if it's a design-build project that's run through project management, they track payment, they do the close out. This is one for Construction Division.
- Kaiser: So like when 3580 which is the Boulder City Phase 1, when you guys get ready to close that out, that will have Amir's name on it?
- Tedford: Or the project manager.
- Kaiser: Well, I know, but he's the project manager on. So that wouldn't then?
- Freeman: No, that would list the REs who were tracking payment. Where you will see Amir's name show up is in the current projects. 9B, sheets down, that's where you'll start seeing who in project management or consultant design-build.
- Savage: Maybe I'm missing something here, but I mean, shouldn't we have all the projects?
- Tedford: Can I add, Darin Tedford for the record. When we had two lists before of the construction and the project management projects, you only had one list. There's not the other list is what Jeff is saying. There should be another list. It just isn't—that's the design-build projects. They don't get closed out the same. You're basically missing a list because it comes from Project Management.
- Savage: Just in this packet though but we've had it before.
- Tedford: For design-builds?
- Savage: Yes.
- Tedford: In the close out?
- Savage: In the—this isn't just close out, this is—
- Tedford: I think your 9A is close outs.
- Savage: 9A is not just close outs, I'm confused.

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Tedford: Well, 9A is—

[crosstalk]

Freeman: 9A is close outs and the Construction Division has never tracked a design-build close out.

Eyerly: We haven't had a design-build to close out since—

[crosstalk]

Kaiser: No, we had Mesquite.

Eyerly: It's been a while though, since we've been able to add one.

Martin: What about 15-South?

[crosstalk]

Dyson: --longer ago.

Martin: That was a few years ago too.

Sizelove: And if I could, maybe add some additional clarification here. In the past, we have had a column that was specifically calling out the project manager in the event that like, Mr. Freeman suggested is that, if it was one of the larger projects, [inaudible] we would identify who that was, but not all projects have a project manager from the Project Management Division. So, in the interest of trying to clean up our form from the Construction Division standpoint, we eliminated that column, for close out block. This log —only has CMAR and the conventional delivery projects which is what we track through the Construction Division.

Lani: Steven Lani—part of the close out process which you're looking at on your 9A attachment are effectively contracts that are run through the Contract Administration, through the field manager and Legacy Systems. The design-builds are effectively an agreement that are paid off of a payment voucher system. They are not—they follow a separate process. They're under an agreement as opposed to a conventional construction contract. So, maybe that's part of the confusion as to why design contracts and closeout status are not on this attachment.

Savage: That makes sense.

Lani: Does that help a little bit?

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Savage: That helps, yeah. Yeah.

Lani: Whereas CMAR is under conventional construction contract

Savage: Yeah, that makes good sense. Thank you Megan. Any other questions on 9A? We'll move to 9B, Summary of Projects Closed.

Martin: 3409, you said you were done with it in the construction but not in the legal, is there something going on Dennis?

Gallagher: For the record, Dennis Gallagher. We've been contacted by a counsel representing one of the subcontractors. We expect there may be a legal action filed, but nothing yet.

Dyson: Thor Dyson, for the record. Is that a District 2 Project?

Martin: No, 1. District 1.

Martin: We can move it out there. [laughter]

[crosstalk]

Dyson: I'll take all I can get. [laughter]

Kaiser: Any questions on 9B?

Savage: Just congratulations, eight projects closed out.

Martin: That's awesome.

Savage: That's really, really nice.

Martin: That's one of the best months we've had, isn't it? Best quarters?

[crosstalk]

Kaiser: It's getting up there, yes. It's getting harder to get these things closed out because we're getting so few of them.

Martin: Yeah, I noticed there's just a couple that go back to '13 and '14.

Savage: I also noticed the cost savings too on the second to right column there. The total amount over and under budget. Just like to note the cost savings on three or four different projects. 1, 2, 3, 4, 5, 6 out of the 8 projects, NDOT has an overall cost savings on 6 out of 8 projects. Again, compliments to all the Divisions.

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- Martini: One comment regarding Capriati. Just an FYI, currently under the provision 4, quotes under \$250, there's a list of contractors that can propose on that work. Capriati is still on that list and has recently been proposing on our quotes. We are in the process of deciding how to address Capriati for future work.
- Savage: Point well made, Mary. I think that's a legal question to be discussed at a later point. Any other comments or conversation on Item 9B? With that, we'll move on to 9C, Projects Closed, and the details. This is backup from the previous section 9B. [pause] Any comments or questions from anyone? Okay. We'll move on to Agenda Item 9D, Status of Active Projects.
- Martin: The red is where you run into a dollar and/or schedule issue, right?
- Freeman: Correct.
- Kaiser: Yeah.
- Martin: And the yellow is just watch it.
- Freeman: We think it could be.
- Martin: So out of all of these that got reds on them, are most of them dollars or most of them scheduling? And, sometimes I know mostly they're tied together.
- Kaiser: Why would 3580 be red?
- Freeman: 3580 is Boulder Bypass.
- Kaiser: Yeah.
- Freeman: And, I'm pretty sure we're going to use up all the contingencies.
- Kaiser: Okay.
- Martin : Pretty soon what?
- Freeman: We're going to use up all the contingencies on Boulder Bypass.
- Lani: Some of these, on like 3580, the adjusted contract bid amount, which includes the bid amount, plus or minus any authorized change orders to date already exceeds the original agreement estimate budgeted amount. So, even though we have not certainly expended that, we already anticipate that if we were to fully utilize all the funding within the change orders that are out there to date, we will in fact exceed the budgeted amount for the contract.

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- Martin: So, what's driving the change orders on that one? Because it can't be what, 35-40% complete?
- Freeman: Yeah, we're around there.
- Freeman: Mostly utilities, yeah. It's all mostly utilities.
- Martini: This is Mary Martini, District Engineer in Las Vegas. The Phase 1 Project has several large change orders, either in process of executing or have been executed. One addresses those [inaudible] utility concerns. Two, addressed the division or work between Phase 1 and Phase 2, to eliminate the overlap between two different contractors. The third one is to address some items in the bridge that will address maintenance, future maintenance. Those are the large ones.
- Savage: Who is the Engineer of Record on that project?
- Kaiser: NDOT is.
- Savage: [pause] I don't have any further questions or comments, anything further Frank or Mr. Controller?
- Martin: No, nothing.
- Savage: Any other comments or questions here in Carson City? Las Vegas? And Elko? Okay, we'll do a quick Item No. E, Partnering/Dispute process. Lisa.
- Schettler: Good afternoon. Lisa Schettler. So, we finished up our training this year for DRT and contractor, NDOT staff and also for potential DRT candidates. We're going to offer the training again early next year. It really increased our pool of candidates for future DRTs to choose from that are trained specifically in Nevada. Another thing we've done is, on the NDOT website, we have both Partnering and the Dispute Resolution pages. The list of partnering facilitators and the list of DRT candidates along with a link to their resume. So both contractors and NDOT people have access to that list and they can, in their selection process, read the resumes and whatnot. We're trying to put that in and our candidate list has increased quite a bit with our recent training.
- Also, for our FHWA/NDOT partnering project, we had a meeting recently with our expert panel and we refined our agenda for the upcoming conference. It's going to be a half a day of pre-conference training on Monday, September 26<sup>th</sup>. Then a day and a half conference that will address innovative and effective partnering practices. We're moving forward with that.



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Our next Nevada AGC Meeting up here in the North is currently scheduled for June 17<sup>th</sup>. That's all I had, any questions?

Martin: Are we having—a few years ago or so we were having issues with partnering not going very deep. Are we having better luck getting our REs bought into the partnering and the contractors getting bought into the partnering now then what we had at that point in time? I just remember a conversation going back, this was quite a while ago, that partnering was not extremely successful for us.

Kaiser: Steve or Jeff could probably comment on this, and Mary and Kevin and Thor. Just from my perspective, I would have to say it is because I'm not hearing a whole bunch of issues out in the field. They're not getting elevated to me, so that's telling me that they're solving them. That they're probably still having them because construction has issues. And so, they're solving them on the job or at the district level. I'm not hearing about it, that's a good sign in my opinion.

Savage: But you're not saying you don't have anything to do. [laughter] No, that's good. It's good to hear there is passion and engagement from the contractors because it's all the legal costs that we want to avoid at the end of the day. It's good to hear that Frank.

Martin: It is.

Savage: Thank you Lisa.

Dyson: Thor Dyson from District 2. I think partnering is working quite well. There are some lively discussions at times on various jobs for various reasons. Some of those are inherit to NDOT and some of those are inherit to the contractor. I can very clearly tell you, I'm very pleased to tell you that we're working through the issues and resolving as many as we can at the lowest level.

I also think with the economy improving and the projects are being bid and there's less controversy on the projects, I'm not sure I'm articulating this very clearly, but it seems like, we're getting off—we're getting good plans. Whether they're consultants or they're from in-house designers. We're also getting some good team work from the contractors and NDOT staff as well.

So, partnering is needed, particularly on the complex and tricky projects. We've got to have it. It should occur on all projects, informally as well as formally.

Knecht: Question on that last comment Thor, you said with the economy improving, we're second longest continuous expansion. It's been the weakest but it's also been the

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second longest in many decades. Some people think in the labor statistics from Friday tend to suggest that we may be at the end of it. Will things get worse if the economy gets worse?

Dyson: Potentially. There are certain projects, when economic times are difficult, the contractor will potentially bid a job where they, how can I put it politically correct—they'll low ball the bid to get the job to keep the iron moving and their people working. And so you see less of that, there's less controversy.

I think the struggles we're facing right now at NDOT is having the staffing and resources, the people, the expertise to manage the jobs and the contractors are having staffing and resources from individuals to man their jobs. So, therein lies the real difficulties now and we realize that, you know, we need to help them and they need to help us because we're shorthanded on both sides of the fence.

Savage: Thank you Mr. Controller. Thank you Thor. That just—something comes to my mind. I think in today's T-Board Meeting, we saw a couple of areas where there were only two proposers on some of the consultants. Contractors were still getting three or four different bids with the contractors. I think it's important that the Department look at it internally and possibly reach out to some people that we haven't seen bids from or proposals from on the consultant side. I know things are getting busy out there but it's nice to have that pool. It's nice to know as a contractor and probably a consultant that, hey we're still welcome to NDOT. The door is open. We'd like to see your RFP, whatever it might be. I'd hate to get down to just two submittals. Just a comment.

That being said, are there any other comments in Carson City? Las Vegas? Mary?

Martini: We're good.

Savage: And, Elko, any comments?

Elko: No additional comments.

Savage: Okay. So, we'll go to Agenda Item No. 10, is there any public comment in Carson City, Las Vegas or Elko? No there is not. We'll move to Agenda Item No. 11, do we have a motion to—I take that back Mr. Gallagher. We don't need to close the session because there's no—

Gallagher: No items for discussion.

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Savage: No items for discussion. We'll move on to Agenda Item No. 12 for adjournment, is there a motion to adjourn?

Martin: So moved.

Knecht: Second.

Savage: Second, all in favor, aye. [ayes around] Thank you everyone, have a good day.

[end of meeting]



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Representative