Minutes of Nevada Department of Transportation
Board of Directors Construction Working Group Meeting
June 8, 2015

Chairman Len Savage	Dennis Gallagher	Tracy Larkin-Thomason (Las Vegas)
Controller Ron Knecht	Thor Dyson (Reno)	Mario Gomez (Las Vegas)
Frank Martin (Las Vegas)	Mary Martini (Las Vegas)	Megan Sizelove
Kevin Lee (Elko)	Steven Lani	Lisa Schettler
Reid Kaiser	Jeff Freeman	Teresa Schlaffer
John Terry	Sharon Foerschler	Paul Frost
Darin Tedford	Bill Hoffman	Bill Wellman

Savage: Good afternoon everyone. Welcome to the Construction Work Group meeting for June 8, 2015, and the earliest one we've might have had in quite a while, which is nice. We'll get out of here before the afternoon, I hope, mid-afternoon. Anyway, welcome everybody here in Reno, and in Las Vegas, as well as Elko, Nevada. I saw Kevin and I see Member Martin, Tracy and Mary in Vegas.

Tedford: And Mario.

Savage: And Mario. Thank you for attending. So let's get started with any public comment here in Carson City. Is there any public comment in Carson City? Las Vegas, any public comment?

Martin: None here, sir.

Savage: How about Elko?

Lee: None here, thanks.

Savage: Okay. Thank you. Moving on to Agenda Item No. 3, any general comments that anyone would like to discuss regarding the Construction Working Group? I have one -- couple questions. Last meeting, we had discussed about an internal Steering Committee being assembled for the review of contract pre-qualifications, contractor pre-qualifications. And I didn't know if that had been initiated or not for reviews. We had gone through the contractor pre-qualifications quite a bit and we understand everything is -- nothing is ever perfect, but we thought there might be some work involved with them. I'm just wondering if there was an internal Steering Committee assigned to that prequalification.

Kaiser: I have not pursued that yet and I did put that on Item 7-BB, Contractor Prequalification. And I have that as an Agenda item for the September meeting.

Savage: Okay. Perfect.

Kaiser: So we'll…

Savage: Perfect.

Kaiser: …get into that and address it then.

Savage: Thank you, Reid. And the other question I had was the status on the -- from Sean and his people on the Safe and Connect. We talked about that at the last T-Board meeting. And has there been any progress on that Safe and Connect message?

Kaiser: Reid Kaiser for the record. None that I am aware of.

Savage: Okay.

Kaiser: Sean, I believe, is probably working on that, but I can't speak for Sean.

Savage: Okay.

Kaiser: So I will get with Sean, and would you like to have something on that in September…

Savage: Yes…

Kaiser: …an update?

Savage: …as a follow-up, because…

Kaiser: We can do that.

Savage: …I thought it was quite clear at the T-Board level that a lot of movement, a lot of passion, a lot of new engagement on the University Nevada Vegas, as well as University Nevada Reno. I want to make sure that we keep the momentum (inaudible).

Kaiser: I think I did see that slogan already on some of our presentations…

Savage: Nice.

Kaiser: ...somewhere. So I have to believe that it is being used.

Savage: Good. Any other comments or questions that we might have here in Carson City (inaudible)?

Foerschler: Sharon Foerschler for the record. I'd like to introduce Steven Lani. He's been selected as the new Assistant Chief of Construction over Districts 2 and 3. His official start date is June 22nd, but I asked him to be here so we could introduce him to the Board.

Savage: Well, congratulations, Steven. And are you also continuing to work on the 395 project?

Lani: As long as necessary to transition, yes, sir.

Savage: Good. Welcome aboard.

Lani: Thank you.

Savage: Thank you. Any other comments here in Carson City? Las Vegas, Member Martin, any comments?

Martin: No, sir. Good here, sir. Thank you.

Savage: Elko, Kevin?

Lee: No. Thanks.

Savage: Okay. With that being said, we'll move on to Agenda Item No. 4. Let's see. All the Board members have had a chance to review the meeting minutes of March 9, 2015, and if there's any corrections, deletions or additions or comments.

Knecht: Move for approval.

Martin: Second.

Savage: Member Controller Knecht moves to approve with a second by Member Martin. All in favor say aye.

Group: Aye.

Savage: Minutes approved. Moving to Agenda Item No. 5, Discussion on the process of using Alternative Design/Alternate Bid in NDOT construction, as well as design-build contracts. And this is for discussion only. Mr. Kaiser.

Kaiser: Reid Kaiser. Darin Tedford, this will be his item and he will make a presentation on it.

Tedford: Thank you, Reid, and Member Savage. I have a presentation what we did for Boulder City Bypass Phase 1. We can talk about how that relates to design-build contracts and what we do with the contracts for our (inaudible).

Martin: $600,000.

Tedford: So the process that we use as an equivalency factor and alternate bidding is encouraged by our federal partners. And we use a software analysis -- FHWA software to do lifecycle cost analysis. And that analysis looks at not only the construction cost of a project, but we can look at future maintenance costs. So in the interest of developing this lifecycle equivalency factor for Boulder City Bypass Phase 1, we developed two different pavement types and compared them.

So our two pavement sections are shown here. These equivalent pavement sections were developed for this Phase 1. And you can imagine that going south on 95 and coming from Arizona on 93, the traffic is actually different from Phase 2, which is the longer portion that RTC is administering right now. But for the traffic on Phase 1 running from Henderson down to the interchange at 95, these sections were developed. And we can discuss -- I'll go through and discuss the nature of these being equivalent.

They're both designed for 35 years. What we considered to be equivalent was at the end of that 35-year period the pavements are not either or both ready for complete reconstruction. We're basically saying that they're designed for 35 years. That's mainly the traffic numbers that we put into the design, and they give us the thicknesses of whatever material we're using. But then as far as the rehab goes, and I'll show you the rehab schedule, but as far as the rehab goes we're saying that at the end of that 35 years, both pavements are in similar condition. Talk about the ride of the pavement and the cracking or the other distresses, concrete will have slightly different distresses besides cracking than asphalt pavement would. But in general, they're in similar condition.

And so if you're doing lifecycle cost analysis, depending on how you're doing it, you might go to the end of an analysis period and say this pavement has some salvage value here or not. For comparing these two pavements, we said, since they both have similar condition and they're not --

neither is scheduled for reconstruction, then the salvage value is basically equivalent. So what you'll see in any numbers we have here doesn't have salvage value because it cancels each other out.

Okay. So the sections that we have and the rehab in the future gets brought back to a present value. That also includes user costs. And so we're doing user cost calculations for any vehicle that's traveling down the road that gets impacted by either the initial construction or the rehab in the future. So depending on the type of rehab and how long it takes, there's going to be an impact to maybe one group of users if it's concrete pavement more so than asphalt, or vice versa.

Like I said, we're using FHWA real cost software. So between the rehab and the user cost, we would bring those back to a net present value with our discount rate. And our discount rate is that which is suggested by White House Circular, and it has a recommendation for two different discount rates. And we discussed this in a previous Board meeting. And we're using the real discount rate, and that is what's recommended for use when we're comparing options. In other words, to be cost effective. And if that's cut off from your presentation, it's probably from my fancy scrolling, but I can give you the -- any more details that you're interested in.

And so, for example, we're looking at this list of real discount rates. There's a number here that's the 2016 number. What we're using as a policy, and we went through this with our accounting division, and I believe with the FHWA -- our local FHWA at the time -- is we're using the past 10-year average. So we take this list of all of the numbers. This is from -- this is what's on the website right now, and it has from 1979 all the way through 2015. And we use the -- for this particular job, we use the last 10 years. So starting in '13, we used the '12 through three numbers average.

Knecht: Question on that, Darin.

Tedford: Mm-hmm.

Knecht: I used to reference White House OMB Circular A-93-A.

Tedford: Okay.

Knecht: Was that replaced by A-94-A, or do they have different coverage, or do you...

Tedford: I'd have to check. I've only ever seen the reference to 94, so -- but I'll check on that.

Knecht: Okay. Can you e-mail a link or a copy of A-94-A?

Tedford: Yep, definitely.

Knecht: Thanks.

Tedford: I'll do that. So these are the numbers. You take this average and this is a number that comes out to 2.8. Sometimes, depending on the rounding it'll be two places, but we're using the average for when we're doing this analysis. As far as the actual engineer's estimate, the cost of each initial design and of the rehab, we use the engineer's estimate numbers. And so in this analysis, we just use the cost of materials and construction, which were unique. So we used -- you saw the structural sections from the top of the pavement down to the bottom of the concrete section, down to the bottom of the asphalt section. We took in to account that those two sections weren't the same thickness and that some (inaudible) quantities would add on to the bottom of the concrete section, so that's included too. So we're using the same amount of quantities for the comparison, as far as the thickness of the structural section. And then as far as costs for the other materials, things that would go regardless, those aren't in our numbers.

So when you look at the numbers that got us to our equivalency factor, they're not the total contract costs that was bid on. It's not $8 million. So using -- this being the case, we have our numbers and we can see the numbers that we get on the bottom of the slide. On the top are two intervals for concrete rehab. And this goes along with our standard, what we have factored into the rehabilitation of our pavements whether they're asphalt or concrete. We make a new concrete section, we plan on going back at 20 years, doing some rehabilitation; plan on going back in 30 years, doing some rehabilitation as you can see listed here. So we applied that because that's what we would normally expect for a concrete construction project. And we have our total cost there, and then when we take that total cost and use our discount rate, bring it back to a net present value, that's the number that you see there, the $561,000.

And then on the asphalt section, you can see different intervals. These are our standard intervals for rehabilitation at 10, 20, and 30 years, what we would do for rehabilitation. And this is the interstate. We have different

intervals for rehabilitation depending on its interstate or other categories of lower volume roads. But you can see our total estimates. And, again, this is just the -- it's not the traffic control that would be similar. The number of working days is factored in and the user costs, but here's the cost of the materials to do this rehabilitation. That's the total cost, $7 million and then brought back to the net present value of $4.1 million [almost] for the asphalt. And the user costs, since this isn't in the middle of Las Vegas, the user costs are not very high. On a project like this, whether it's asphalt or concrete, you're always going to have a lane open, typically, so the delays are small in comparison to something (inaudible) traffic or actual stop conditions with a flagger.

So then you take your costs for the -- from the net present value for the asphalt. So you have the rehab cost and user cost, and you're going to go one way or the other. So the asphalt being larger in this case, you take out the concrete costs and you arrive at the lifecycle equivalency factor. And that's the -- and you remember this from the Board meeting, but we had our two contracts for bidding purposes and for keeping everything in order. So we took our equivalency factor and applied it to the asphalt bid, which was Contract 3579, and compared it to the low bid of 3580, and we recommended the lower bid for approval to the Board.

Basically, we can apply that to any job in the future. We've had the discussion and John has said it a few times for when we would apply this, and we would look at if the -- if it's in a concrete area where we would put concrete, typically, we're going to put concrete in our urban areas because we don't want to go in and do rehab more often. So the benefit of concrete is there. We still want to look at budget and compare so we can use this equivalency factor to make a maybe more accurate or fair comparison between the two. As far as putting it on design-build projects, we've done that once. On I-80 we did that in the terms of the design-build language in the RFP and in the process. And we said to the contractor, "If you're going to give us an asphalt section because of the future of maintenance costs and the impact to the traffic on that heavily traveled corridor, then we're going to add a dollar amount to your price that you give us. And then that's going to get factored into the rating of your proposals versus the other proposers." So we did that in that regard and we ended up with concrete section there. And we're using this application, I think, with the blessing of the feds and realizing that there's this balance between our initial cost, and what we have in our bank account, and what we're going to spend on rehab in the future.

That's what I have prepared. We can answer any other questions that you might have.

Savage: Darin, thank you very much. That was a very thorough, calculated presentation, and very informative. I mean a lot of time and effort. I know it was very thorough. I know I appreciate it, and I'm sure the Controller and Member Martin appreciate it. But any questions or comments, Controller?

Knecht: I have one. This model, like any other model, I presume, accommodates sensitivity analysis. So if you got key variables that you're not sure of, or that might be somehow controversial, you can run out two scenarios or many more for that matter. I presume to say, what's the sensitivity of the ultimate result to determine what the sensitivity of the ultimate result is to that variable or some combination of variables? As long as -- well, pretty much everything is an exogenous input into the model so you can do that.

We were talking a little bit ago on the discount rate that, for example, that's really important and controversial in PERS calculations in terms of the sufficiency of the funding, that sort of thing.

Tedford: Right.

Knecht: And right now, our PERS Board is using higher ones in the country at 8%, vastly different than the 2.8. The A-93 Circular I referred to actually used a -- mandated a 10% real. What I think would be useful in the future is to have a sensitivity between 2.8 and 10 or something like that. Or maybe even a third intermediate point, because that value can swing the result hugely from one thing to the other, so that we know how robust any decision is with regard to that and, like I said, any other variable that you use. So that would be my main comment at the moment. It would be helpful to me, and much appreciated to get the additional information sensitivity analysis. Thank you, Mr. Chairman.

Savage: Thank you, Mr. Controller. Very well said and I thank you for your input, because that's a language that's above my head. I'm glad you and Darin are on the same page.

Knecht: You have to be a nerd to do this stuff.

Savage: And I'm very thankful. Thank you, Mr. Controller. Member Martin, anybody down south have any comments or questions?

Martin: I'm with you, Len. The language is way above my head. I just looked at it real simple. We spent almost $4 million for concrete -- more for concrete. And so for me I'd have taken the asphalt by hands down. But I guess it pencils out in a lifetime far beyond what you, I or Member Knecht will ever see.

Knecht: Well, I plan to live a while.

Savage: Me too, Member Martin.

Martin: Well, I've got a few years on both of you, okay.

Savage: I just had one question from the construction side of things as far as the bidding of the contractors. And maybe the Department has gone back and reviewed what they can do better, or the pros and cons of the last project. Are the contractors able, realistically, to bid both concepts on the same day?

Tedford: I mean maybe a contractor could answer. But as far as our approach was we didn't restrict a contractor from doing that. But I think -- I'm not the one to speak for a contractor, but we allowed them to bid either and I think they would pick what they wanted to bid and focus on that, because that was probably the most effective. But I don't know beyond that.

Savage: And I'd like to hear -- I see Bill in the -- if you're able to speak on this, and maybe you're not. And that's fine. I know in our vertical world, it's very difficult to bid different concepts at the same time at two o'clock on bid day. And I'd like to hear from Bill if you have any input or any thoughts on future work for NDOT on these different concepts.

Wellman: Absolutely. Bill Wellman with Las Vegas Paving. Obviously, this was a challenging project for us, too, as being the low bidder but not being the low bidder. And so a little bit disappointed. But I think as Darin just said, there was four contractors. Each of us picked one or the other, two and two, because it is very difficult. With your system to bid it, not saying we couldn't do it, but the resources it needs to do it, subcontractors who are using for what on subcontracting keeping them separate. There's just a variety of things that makes it very, very difficult.

So hearing the analysis of why over lifecycle, I agree. Our organization understands it and agrees. Our comment would be is if it's better for concrete, then use concrete. You guys do engineer's estimates, which I think we'll hear about on the next item, and how they play into our world --

or how they match up with what we actually bid. But just pick one of those and live with it as we do on a lot of the design-build stuff anymore. The options go away of asphalt versus concrete. And it makes it -- and you're going to get a better price as long as we know what it is you're wanting on every project. And I think we demonstrated that at today's Transportation Board meeting, as you said something was the low bid project. We're the guys, we're the local guys. We know it. We take advantage of those things and give the taxpayer the best price as we can, because we want to be the low bid.

So, again, same thing as if -- and I guess my one question would be, in your analysis, Darin, you had 11 inches of concrete and 7 inches of pavement. And, obviously, the section is different below that. But if they're equal, they can't be equal because of the maintenance costs in them. So in other words, could it have been 8 inches of asphalt, or 9 inches, or 30 inches of base, rather than 23 inches of base, is what I think I seen, to make that lifecycle cost equal overall and then maybe bid something like that. So just the equivalent, they can't be equivalent if the disparity between the two.

Savage: Thank you.

Terry: John Terry, Assistant Director. Most projects, they run this on almost every new construction project. Most projects, the spread is far, and we just bid one. I don't think -- we're not talking about going to every contract to have alternate bids. This was one contract where it was close, within the sensitivity of your numbers you're talking in there, and they ran their analysis and it was that close. And that's why we chose to do it. I don't think -- I don't know what percentage. It's a very small percentage of contracts that we're talking about going out both ways. Only when they're close.

Savage: Mm-hmm.

Terry: I guess is the simple answer to how we're proceeding forward. There's pressure from industry and others to allow them to compete with each other. And I think most of the time we're just going to do the compete is just going to be with his group running the analysis and telling us which one to do. But I can see us moving forward on some cases where they're close enough, we will compete them again since we have that method.

Wellman: Again, if I can, Bill Wellman with Las Vegas Paving. If you do that then put that in the bid as a contingency. If it's an asphalt, it's as adder or a subtraction. So we're actually bidding as much as we can of the same bid as possible.

Terry: That's a definite problem.

Wellman: We would like to work with you on that if we can, and if industry can work with you on that, and we do have those opportunities (inaudible). Because this one, kind of, caught us all by surprise, I guess.

Tedford: Are you saying as one contract?

Wellman: As one contract. Add alternates (inaudible)...

Terry: In other words, bid asphalt and then it'd be (inaudible).

Wellman: The road section would change from one or the other.

Terry: But you still have to prepare two on one day in that case.

Savage: Yeah, exactly.

Wellman: Not necessarily. It is and it's not. We're not doing two complete independent bids, okay. Traffic controls, excavations, those type of things can be managed separately, especially on self-performed work.

Terry: Okay.

Tedford: And it was partially an administration issue, I think, that we resolved by doing two contracts because of the technicalities of having bid items that were or weren't going to be used or bid on -- or that was part of the issue. Tracy is here, too, if you want to add to that; the reason that we did two contracts maybe.

Larkin: No, you're absolutely correct on that. Tracy Larkin, Deputy Director NDOT. It was exactly that. They couldn't -- there was a glitch in the system as far as the items, so that's why they did two separate contracts that way.

Schlaffer: (Inaudible) the system limitations, but we are in our next phase of our e-bidding system, we are looking to, as an alternative, bidding at this within the system. So we're working towards what Mr. Wellman is suggesting.

Martini: Chairman Savage, may I ask a question, please?

Savage: Yes.

Martini: Mary Martini, District Engineer for District 1. In a contract -- normal contract where we would only have one alternative, we're very sensitive when the difference between the low bidder and the second low bidder is -- becomes smaller than the amount of change orders that may be added to the contract. So if there is a $5 million difference between one and two, and we end up adding through change orders or claims $6 million, obviously we're very sensitive. What my question is in this situation, with the ratio between concrete and asphalt and because the two apparent low bidders, one in asphalt, one in concrete were different, does that factor -- was that used only for the bid, or is it something we also need to do to -- in consideration of any additions that might go on the current contract?

Kaiser: I didn't quite understand what the question was.

Tedford: Mary, are you saying that we basically have two low bidders but they were different bid? We didn't have the estimates compare between the two?

Martini: Correct. So back to my previous example. If the low bidder is $5 million under the second low bidder, when we start looking at changes we're going to get -- become very sensitive when the overall bottom line cost becomes greater than what the second lowest bid came in at. Now we have a situation where the difference between the low bidder and the apparent low bidder that was awarded the contract is not at strictly a dollar basis. It becomes a factor. So in other words, how much change is there that we can potentially add to the low bidder before it becomes unfair to the second low bidder? It's not just a direct sum. It's not 1+1=2. Is that factor applied?

Knecht: Mary, this is Ron Knecht, and let me try as somebody who's done a lot of work in this area, not so much in transportation, but in related areas. What John Terry said was really important that most of the time what you're dealing with, with two different technologies or two different approaches, is you have a different cost structure. You have a lower initial cost and a higher subsequent maintenance cost. If you think of a power plant situation, choosing between a nuclear power plant and a coal-fired power plant, the nuclear plant has the higher capital cost but has a lower operating cost over 30 years. The coal plant has the lower initial cost and a higher operating cost. The problem that you're asking about is entirely analogous and it goes

something like this; when you're looking at two different technologies, you are foreclosed, just as you said, from comparing based only on the engineer estimates and asking the question, gee, is this within the margin of what we might expect in the way of change orders.

The problem in the real world is that's the way it is. If you choose the coal plant, you're now stuck with buying coal for 30 years and you got some estimates of what coal is going to cost you but, in fact, 10 years out what it actually costs you is something very different from what you estimated. Same way with the nuclear project. You got not just the nuclear fuel and enrichment services, but you get to the end of 30 years and you find out, oh my gosh, we've got decommissioning costs that we didn't anticipate, and that sort of thing. And when you have two different technologies, when you have two different approaches to the same problem it becomes difficult to fit it into that template of let's compare this to the engineer's estimate and see exactly how much change we would need, and be sure thereby that we're being fair to people.

I think what John also said was very important, which is most of the time when you're looking at two different -- two competing technologies for a particular solution or project, most of the time it isn't really close and so you don't have to get into this problem. You pick the one that's obviously better in almost all cases and you go with that, and then you can bring in the check that you're talking about with the engineer's estimate and the change orders. But when it is close, then it's a really good idea to bid it for both technologies so that you see what you get. Because your engineer's estimate, as we've been finding out on the Transportation Board, is just an estimate and what you're actually going to incur in the way of first cost. Even just first cost is different, let alone the subsequent ongoing maintenance cost and operations cost. I don't know if that helps. That's my take on it.

Martini: I appreciate your explanation. And, of course, we're struggling at this point in time since the current contractor is proposing many changes and several which may add significant dollars. So I think it's something we're going to struggle with over the next few months. But I don't want to take up the time of the Working Group in going into the details. We'll take it offline. Thank you.

Savage: Thank you, Mary. Thank you, Controller Knecht. Mr. Terry, I think you said it the best. This is not something we're going to get into, maybe do it internally before the project (inaudible). So I think we'll close on that issue and move on to Agenda item No. 6. No, I'm sorry. Yes, Agenda Item No. 6.

Kaiser: Okay. Reid Kaiser. Paul Frost will give an explanation to the group on how the BRAT or Bid Review Analysis Team operates. Paul.

Frost: Thanks, Reid. Paul Frost for the record (inaudible). I think you guys have this in your Board package, but I made a few extra copies if anybody would like to see it.

Kaiser: And if I might say something real quick. Why this came up is there were some questions, I believe, at a previous Transportation Board meeting about unbalanced bidding. And this is the process the Department has elected to use at this time to review bids by the contractor to determine whether the unbalancing of a contract might sway the final price once the contract is over.

Frost: So I made a limited number of copies. If somebody…

Savage: Here's an extra copy if anybody needs one.

Frost: I believe that you have that in the packet.

Martini: Is this information available to Las Vegas?

Frost: Sorry about that, Mary. I can send this to you afterwards. But what it is -- I'll describe it enough that -- so you'll get the idea of it. It's just our BRAT (inaudible) and then a copy of a -- just a sample price sensitivity analysis. This particular one was from the Carson (inaudible)…

Martini: The Board packet has some for 95. Is that what your -- is that a good example?

Frost: It's the same document.

Martini: Okay. Thank you.

Frost: So, yeah, thanks for having me here. This is…

Savage: Welcome, Paul.

Frost

...a subject that's near and dear to my heart, and we have a lot of discussion at our BRAT meetings about unbalanced bids and cost estimates and so on. So it's -- where it starts is spending federal money. There's a CFR that requires these bids to be evaluated for irregularities, and to basically make sure that we're awarding to a reasonable bid proposal. Some key definitions are labeled in this procedure's memo. A mathematically unbalanced bid, it's important to know that definition. That just means the unit bid price that the proposer had, is substantially different than our engineer's estimate. But it's just a -- it does not affect the order of the low bid, whereas a materially unbalanced bid; if we were to correct a quantity or apply their unit bid price, it would actually flip the bidders. I probably didn't say that very well, but I think -- if you're comfortable with that definition I'll move on.

So the BRAT, the Bid Review Analysis Team, we go through and look at all the proposals on every contract and we compare the lowest apparent bidder, the second low apparent bidder, as well as the engineer's estimate. And we use this spreadsheet that is in the Board package as a tool to evaluate whether or not we might have a problem. We start by looking at all the items that we call significant, and that would be any item over $50,000, and then we look at how close our engineer's estimate is to it. And if it's less than 75% or over 150% of engineer's estimate it's flagged and put on this sheet. Then we compare that low bid unit, that line item with the second low bid. And we do some sensitivity analysis and that's what these columns in yellow are here. And that -- these show you the changes that would have to occur for the second low bidder to become the apparent low. And so the lower those numbers are the more sensitive it is. If you have a number that's a single digit it's definitely something worth talking about. Many of these end up being hundreds of percent where we're not going to revise our contract to add 100% of (inaudible), 200% of another material. It's those small items that maybe you're a little more sensitive if we overran, if we think we might overrun, or if there's reasons those quantities might go up. Those are the ones we really talk about.

We go through quite a process to establish our cost estimate. And it's certainly not perfect, and you guys see them every month. I mean, we're on average, we are 6% higher than the low bidder on our contracts over the last five years. So we're not far out, but for some of those high and low and sometimes even 20%. Personally, I think if we're in that 10% range we're doing really well, considering what we're trying to do.

So we go through and we look at each item. We look at -- just any item. We have another tool that has a database of all the bidders' proposals over the last -- well, we got it for all of our contracts back when, but electronically, we've had it available for, I think for the last four or five years. So we have low bid and all the other bidders. Unit costs on everything they proposed on every contract that we have.

So we have that accessible to us. And we look at where in the state are we -- what's our historic bid price for that area in the state. Is it a large quantity or a small quantity? How it's trending. Has it gone up like -- we were chasing oil there for a while pretty substantially. So we can filter all of our results and come up with more recent -- the best information we can.

So we look at all these things and that's where we establish our engineer's estimate. And there's always weird ones. There's always items that we don't have good history. I'll go through some of the reasons why I think the contractors proposed different numbers in situations. But just -- the only reason I belabor that is because I just want you guys to be assured that we do really take these cost estimates seriously, and we try to get the best numbers that we can.

So after that, the BRAT meets and we go through each of these items and we look at the low bids, look at all the bidders and see an indication that we might have missed something. We have low unit costs and everybody has the high unit costs, we go back to that spec and make sure that we're understanding is our spec clear, did we make a mistake on a quantity, that we might get a change order or an overrun. The reason for that high cost. And we talk about it a lot at BRAT, and we talk about -- if we kind of suspect there might be a reason, if it's really far off, sometimes we'll contact the contractor and ask them, to kind of make sure we're on the same page on the specification. Make sure they really understand the work that we're expecting.

You guys brought up a great example of that last month. Talking about Carson Freeway. This one printed out on the last page of Dust Control. We had 59,000, low bidder had 5,000, the next apparent low bidder had 500,000. So quite a spread there, and that was a great question. I am impressed you guys catch that and look at that. That was a good topic.

So on this particular case we'd sent the contractor a letter and said, we noticed your dust control is very low. It's a very important thing, especially

with description, okay. And they had responded back to us that, in fact, they are comfortable with our spec, they know what they need to do, we're on the same page. And they put their dollars and various other items.

So with that follow up, if necessary, or sometimes we'll follow-up (inaudible) or sometimes we'll follow up with the ERE and say, we noticed an anomaly in the BRAT, you might need to keep a close eye on the quantities (inaudible) overrun or under. And then at the end of all that analysis we make a recommendation to the front office as to whether, reject all bids, go with low bidder, or if there's a -- we haven't actually sent one back for materially unbalanced (inaudible) bidders. At least in the time I've -- to my knowledge NDOT has not done that. I think it's going to happen someday. It just depends, obviously, if you have a very close low bid and an apparent low, and they're just minimal dollars apart, these percent change to flip the bids goes down pretty dramatically. And so there's a lot of bid items that if there's a error or something we missed it could flip the bid. I think we'll see it someday. But --

Savage: You will.

Frost: ...so far. I keep (inaudible).

Savage: They try to outsmart themselves sometimes (inaudible).

Kaiser: Reid Kaiser for the record. What we typically do is we have seen something like this in the past where a division has said, hey, we messed up on our quantity. We just went out and re-advertised the project, gave the contractors another square shot at it since we messed up an item and started over again.

Savage: The right thing to do.

Wellman: And if I can. Bill Wellman, Las Vegas Paving. And that would be our concern from industry is we bid the job in good faith based on the quantities that you have given us. It's not (inaudible) some project, and thus if it was to flip just because you, you being NDOT, chose to change the quantity or found an error subsequent to that, we would certainly have issues with that. I don't think it's ever happened before. As Reid said, going back, re-bidding it would be like the only answer if you would.

Foerschler: Just an example of what we sent him on this particular contract.

Wellman: But at the same time, we're still concerned that that happens on something that is minor, because everybody's numbers are exposed at that particular time.

Frost: And there definitely is a line that we wouldn't want to cross. I mean if we added 100 feet of guardrail and it flipped the bid on a $40 million job, that is not what we'd be talking about. We're looking for the major (inaudible), transposed numbers, a million yards instead of a hundred thousand. We do a fair amount of QA/QC, but invariably there's always something that gets in there. I think hopefully -- I'd like to think we're lessening those errors, but…

Savage: And you can just -- looking from the outside in, I know Mr. Wellman has a good point, but I do have faith in the Department. I mean it's all about the trust to the contractor. We have to guarantee that the contractors and the consultants can trust the Department. And that's why in some many ways you internally review, upside down the different numbers and it's a work in progress. I mean we could always get better, but I'm thankful for the transparency that this Board has with the public and the Department. It takes everyone's cooperation and big-picture look, to really get better at what we're all doing, because there's never going to be a perfect way in the construction world. Never. And so I thank everyone at this point right now. Your presentation has gone very well and I want to continue it because it's very informative to myself and Member Martin and Controller Knecht. It's your day, every day, and I know it's a lot of work, so I appreciate it. And, Bill, I appreciate your input, as well. So continue on (inaudible).

Knecht: I would like to piggyback on to one thing you said…

Savage: Yes, sir.

Knecht: …I think is real important here. Government agency being ran by human beings, it's possible to make mistakes, okay. And in a certain sense that's what you're talking about, is the possibility of a mistake. The other half of it is you would like to be assured that there's a fair process. If we make a mistake, we make a mistake and we get to go back and correct that, but you want to make sure that you're dealing with fair process and not just a fair process, but one that doesn't waste your time by putting your through the hoops more than once, unless it's absolutely necessary. So I think what -- Len, what you said in a certain sense captures that, that it's not that we don't make mistakes, and if we make mistakes we have to go back and correct

because we have that duty to the taxpayers and the public interest. But assuming we got things correct, we have to then assure the public, we have to assure the bidders that it's a fair process. And I think you appreciate that, too. I think that's the difference here in the possibility of error and the possibility of actually having to go back and redo one of these someday. Someday a -- perish the thought -- someday a mistake will slip through, we'll get to the end and say, oops, we made a mistake. We have to redo it. But in the meantime, everybody gets reassured that it's a fair and competent process.

Savage: Exactly. Well said. Thank you.

Terry: John Terry, Assistant Director. Have we ever taken into account during the BRAT process our statistics for yield? And by yield I mean when we do seven inches of asphalt it's not exactly seven inches of asphalt, and we track how much it goes. The contractor tends to, because he doesn't ever want to put less than seven inches and have to take something out, tends to run a little bit over. And we keep statistics on that, I assume, through the Construction Division of what we're running. Have we ever taken that in to account in the BRAT reviews?

Frost: We have discussed it. It's kind of like Mary's question earlier about how do you foresee a change order…

Terry: Well, hers is even harder because you don't know what's going to happen, but we do keep statistics on how the yields run on certain contracts.

Frost: We do. We are aware of it, but the short answer is we do not factor that in, when we're looking at the BRAT. We look at this is our contract, this is our best estimate of quantities, and our…

Terry: Nor do we take into assumption anything other than what we put in the plans for shrink/swell?

Frost: Correct. Yeah, a very common one, too. Skip to that. (Inaudible) just -- when you're looking at material, the density of the aggregate…

Terry: Yeah, same thing.

Frost: …plays into account many, many times. And so we designate a potential pit for use and we know what the density is and we know what we think we're going to get. But if a contractor uses a different pit, his weights change, we

pay actual tons delivered by tickets so we know sometimes it's going to vary. And we've made a conscious decision at the BRAT to…

Terry: I don't know what else you could do (inaudible) ask.

Frost: …not consider that. Yeah. Yeah, exactly. If we were to start considering it then we just -- we would have to say this quantity is…

Terry: Okay.

Frost: …going to be based on these assumptions. So some other reasons -- there's good reasons. I've had some conversation with contractors of why they may want to unbalance a bid here and there, and there's some really good reasons. And I appreciate the honest feedback I felt I've got from some of these guys. The worst reason for an unbalanced bid is a quantity error. And that'd be from putting the plans together that's the ones that hurt the most, I guess. If we know we have a wrong quantity, we're going to take out 800 feet of guardrail or whatever the case may be, it only makes sense for the contractor to not put a lot of money in that item. Our design accuracy is just limited to the topographical information we have. Borrows is going to be one of our -- borrowing and excavation are usually -- they're big volumes, big dollars. And if we're -- just the accuracy of our mapping is off three inches over a 40-mile job, it adds up quickly.

The way the contractors put their work together, they do a work-based estimate, whereas we do more of a line-item estimate. For example, like a drop inlet; we'll say it takes this much steel, this much concrete, this much excavation, this much backfill. A lot of contractors will look at that and tell you that takes one crew and this piece of equipment, and they compute things in a completely different unit cost. And maybe Billy can elaborate, but at the end of a contract when they're putting it together, it might not correlate, or it might be a situation like the example Sharon gave you, where a contractor takes three or four items, lumps them together, and then just splits the cost. I don't want to say arbitrarily, but they split the cost for whatever reasons they have that we don't quite get to know. So there's definitely some of that. There's interesting things about cash flow about -- I always thought a contractor would want to maximize mobilization and get paid upfront everything they can. There's a lot of good reasons sometimes they don't, just profit reports and long-term planning and everything, and income that sometimes maybe that's not the case.

Our historical data is based on -- we can filter it, but -- I didn't bring one. Sometimes we'll have seven or eight proposers on a job and the range -- I just saw one yesterday -- the range goes from -- on this one it goes from like $500 million to $1 million. So same job, double the cost. It all goes into our estimate and we try to figure that out, we try to compare it to just what the low bidders -- the successful bidders have had. Keeping in mind if there's any unbalanced bids in the low bids that throws off -- it throws off everything, because if you bid a penny a ton for one material, then that cost is in there somewhere else. And it maybe artificially increases the low bid unit price on those items. So it's quite a little art, I guess, to come up with these estimates. And you see sometimes we, in the notes, we'll just say, yeah, didn't see that one coming, or we just don't agree with it. It doesn't mean it's a bad contract and it's bad that we accept it, it's just something we definitely want to be aware of, of controlling the field, making sure we don't have an error in our specs or our plans, and then generally we'll -- we have a long history of accepting unbalanced bids. I don't see that necessarily changing, but I do -- just looking forward, we've had some thoughts about how we can maybe straighten them out a little bit.

They're really not a problem, I guess, from my point of view unless you have a change order in the field. Well, let me qualify that. That's one problem. If you have an error in the field and we have to overrun/underrun, that can cost taxpayers' money, and that can be an issue. There is concern with very low unit bid prices that the Department's going to really get the work done that we expect to get done. I mean sometimes it might be additional resources like inspecting, bid penny a ton, maybe it's that our inspectors have to really watch that and make sure that they're putting down all the material that we've asked for. It does -- unbalanced bids will lend itself to that type of problem. We've been going back and looking at just our cost estimates and our change orders. Some will say unbalanced bids really just are not a problem at all. We've had very, I guess I would say limited documentations of where they have been a problem. I see them potentially being a problem for sure, but just how truly big of a problem is it.

We're working with our construction group to find out some of this more historical data and then we're going to present that to our front office with recommendations of do we want to maybe look at bracketing unit bid prices, or at least maybe asking for some clarification to be assured that a bid price really is reasonable. I mean sometimes they're very valid if the contractor

has s stockpile of material, if they have extra barrier rail. There's many reasons why it could be a great -- just a very reasonable price and we're just getting a great price. As you guys talked about it today at the 3A contract that LVP is right there doing a job (inaudible) being competitive on the one we just did.

Kaiser: Reid Kaiser, Assistant Director of Operations. One thing I'd like to say. One area where the Department is struggling with unbalanced bidding is in chip seals and some of our maintenance applications. What we're finding is some contractors will put all their money in the traffic control and actually bid some of the actual products like the emulsion or asphalt in the chips or something like that, at a penny. And so what Director Malfabon has requested we do is that we go back and look at those projects two, three, four years down the road, and see if we're not getting the life out of them. And approach it that way so we are -- we have requested that the district engineers to go back and look at some of those projects where there was some unbalanced bidding, say in a chip seal or a slurry seal or something, and see what kind of effect it is getting in the field in performance. And if it is that is, then that's something that we need to go back and look at, because there's -- it really hurts morale in the field when they see those penny things go down and then they're not getting what they feel is a product that we should be getting. So that's one thing that Director Malfabon does have us looking into.

Knecht: One other question. I think you made a good point when you talked about the idiosyncratic reasons, the special company-specific reasons that somebody might have a low cost for something. If you've got a stock of guardrail, a few thousand feet or something; however, you made that mistake and ended up with it, or bulk commodity, same way. But the second thought that I had about that is probably true with bulk commodity, but especially with manufactured product like the guardrail, shouldn't there be a secondary market where they could sell that to another contractor for another project, or is it just typically so heavy, so bulky to transport that it isn't worth selling? You're stuck with a sunk cost and you either use it or it sits there. Is that the situation?

Frost: I'm sure there's some of both. I would suspect that -- like Mr. Wellman's contract right there that he has, if they have some pre-cast rail they're not going to take it away. They're going to hold on to it and be able to try to

effectively optimize their trucking costs and be able to pass that savings on to the taxpayer. Plus, they've got to get the job, of course…

Knecht: Yeah.

Frost: …so they want to be low bid. But, yeah, I don't know if they'll -- the selling it out, if that's a…

Knecht: I don't want to look a gift horse in the eye -- or in the mouth or whatever, but sometimes you need to. But I can see that it happens that people have a special reason why they can deliver either manufactured or bulk, the stuff, and install it much cheaper.

Frost: Yes. And maybe there's a middle ground there that -- I mean a penny a ton, I think you can't build something for a penny a ton, no matter if you got the material free (inaudible)…

Knecht: You can't deliver it.

Frost Exactly. You can't pay the fuel. So there is a certain value that -- whether it's secondary market or whatever, there is something there and maybe that's where that idea of if we see bids that are obviously unbalanced, maybe we ask the contractor how can you honestly pay for that at this. And if they can provide an answer that seems reasonable and acceptable, we continue. If we don't, we have the option to reject the bid to be as irregular.

Dyson: Thor Dyson, District Engineer. I've heard many voices from the field, lots of my staff have spoken to me. And for the most part out in the field, like Assistant Director Kaiser had stated, it's a morale buster in the field, the unbalanced bidding. And it can go both ways. The item can be bid at by the contractor at a super-expensive exorbitant amount. And if that's the case, then the inspector is going to fight to get the quantity that's supposed to be there. So if the open-graded asphalt is a really high-dollar, high-bid amount per ton, to get that three-quarter-inch open grade is a fight, and it's a fight the entire time they're placing open-grade. Or vice versa. If the item is bid at a penny a ton or a very small contract amount, the inspector could fight to the point where, no, I don't want that much material, I want less.

So we've seen it in all kinds of items; flagger which (inaudible) safety control. We've seen it with plant mix. We've seen it with guardrail. This particular one on this contract here for the Carson Freeway, not just dust control but temporary pollution control. The contractor that won this bid

has very low amounts in there, and there's some high stakes here with EPA and NDEP and potential fines. And it's going to be a battle. They'll tell you what you want to hear at the beginning of the job and at the BRAT -- the letters from the BRAT Committee, but in the field is where the battle will really be fought and what the taxpayer will really end up with.

Savage: Okay. So thank you, Mr. Dyson. Any other comments, or are you finished with your presentation?

Frost: That is the material I wanted to go over with, but…

Savage: Okay.

Frost: …offer any -- of course, any questions or…

Savage: And I appreciate the dialogue with everybody. I think it's very important to try to get better. One of the questions I have; has the Department rejected any bids through BRAT?

Frost: Yes, we have. There's…

Savage: So the Board -- we never see it at our level?

Frost: Right. Correct.

Savage: It gets kicked out before that?

Frost: Correct. If it's -- right. Well, the action on the course (inaudible) over $5 million.

Savage: Yes.

Frost: So if it's under it would -- eventually when it gets awarded, (inaudible) see it either by action or (inaudible).

Savage: Okay.

Frost: But if it's rejected before that and we re-advertise, you would not see it.

Savage: And this BRAT review has been in place since 2012; is that correct?

Frost: Oh, much longer than that. It's kind of, I want to say ebbed and flowed a little bit. It's probably been around for…

Kaiser: Reid Kaiser. I bet it's been around for 15 years.

Frost: Yeah.

Savage: Okay.

Kaiser: It's been a long time.

Frost And then we did it for a while and there was some issues and kind of maybe fell a little bit by the wayside. I think it's in 2012, Susan asked me and Jeff Shapiro, who is the chief construction -- you guys know Jeff -- chief construction engineer at the time -- to look over these procedures and take a closer look, and make sure we're really doing what we're required to do, not only by the Code of Federal Regulations, but also there's concerns like Thor had brought that we want to just -- we want to give a better product to our RE and just a better product in general to -- when we're done.

Savage: And, Paul, how many people work with you on the BRAT? I'm not talking about other people like the chief road design engineer or the -- how many people work under your domain?

Frost: Our division generally is like the project coordinaire for most projects that we put out at the state. So they kind of all come through -- most of them come through our division. And we have our staff of road designers (inaudible) about 60. And…

Savage: Sixty?

Frost: Sixty. And so out of that we'll have our principle manager. He's the one who really -- we have two of them. They're the two folks that really kind of go through this and look at the cost estimate, and they're definitely involved in the BRAT. They write the comments on the end, between them and the design squad working on it. So any given project…

Savage: Mm-hmm.

Frost: …probably has three or four design staff that are intimately involved in…

Savage: Okay. Okay.

Frost: …into it and they continue through the BRAT process to the end.

Savage: Okay. One other question; how often do the feds update the BRAT criteria and how involved are they?

Frost: I haven't seen any federal update, like the Code of Federal Regulations. It's nice to see our federal partners have been kind of -- since this -- 2012, they have been more and more involved in the BRAT.

Savage: Mm-hmm.

Frost: Attend it pretty regularly now on federally funded projects.

Savage: And my last question is on the one penny per ton, and I think Mr. Kaiser and Thor really emphasized the morale in the field. Does that penny per ton get charged on change orders as well? Do they get the good, bad, and the ugly?

Frost: They do. There was an example, it just comes to mind all the time. On 95, we had a surface issue with our design -- or our existing topography and it turned out the contractor needed to provide about 25,000 cubic yards of additional material. And they bid a penny a ton…

Savage: And that's what it is.

Frost: …and they built 25,000 yards for $250 bucks or whatever that turns out to be.

Savage: That's what I was saying. So we hold them accountable for whatever they stipulate at the time of bid. We hold that price because they elected to bid a penny a ton.

Frost: And there's a threshold. If we overrun or underrun, it's 125%. Yeah. So we can go up to 125% of planned quantity. After that the contractor is entitled to a renegotiation.

Kaiser: Reid Kaiser, Assistant Director. There's also a dollar amount associated with that. So you can go to 300%. If they bid at a penny, they're never going to reach the dollar threshold…

Savage: Right.

Kaiser: …to go renegotiate.

Savage: Right. Correct. Okay. That's all I had, Mr. Frost. Anything from Las Vegas?

Martini: One question, Paul. Mary Martini, District Engineer. Did I hear you say that NDOT's rejected bids because of unbalanced bids, or I know we've

done it on a number of other reasons, but the criteria for unbalanced bids, have we rejected on that?

Frost: It's been a -- I will say a large factor. There's always been something else along with it like just a wrong quantity or an unclear (inaudible). And I think it's only happened a couple of times that I'm aware of (inaudible).

Martini: Okay.

Frost: I will just speak to the last five years (inaudible) BRAT, I think we've rejected (inaudible).

Martini: Okay. And obviously we've all seen lots of areas where the contractor has done it to play games with the contract. But there is a legitimate reason. I saw a contract where the trucking item came in at the minimal amount they can't put zero on, and as it turned out they had a better mousetrap. They intended to move the material via a conveyor belt as opposed to trucking it. So they didn't intend to use trucking, so they didn't put the money there. So there's also legitimate reasons for the unbalanced bids, although we don't run across them that often. Thank you.

Savage: Member Martin, any comments or questions?

Martin: Not really. I do remember one that was rejected. It seems like I remember maybe in the last year getting a phone call from Rudy about one where we put it out to rebid. And I can't remember if it was an imbalanced bid or an unbalanced bid or it was some -- it almost seems to me like it was going through the BRAT process and decided to put it out for rebid, because it was turned upside down. It was while…

Savage: Okay.

Martin: …Mr. Knecht was not a member of the Board. Like seven -- I think it was six or eight months ago.

Knecht: Thank you, Mr. Chairman. I just had one observation based on this item and the previous item for both top management and the engineers, especially for the top management. When it gets down to the particulars; choosing one bid versus another, supervising the execution of the contract, that sort of thing, we've got some really good tools that you've described here today. We're got some good processes and procedures. We assure fairness. It's gets very precise, very detailed, very well-documented. And you know that

you're counting those pennies really closely and not wasting anything, and that's great. When you step back to the conceptual design phase, when you step back to the choice of technology, et cetera, I think one of the things that's been highlighted here today is there are a lot of decisions you make at that level. And, John, I fully understand your point that a lot of times it isn't close. But there are a lot of decisions you make before you have this kind of detailed information and control information and they tend to drive the costs, they tend to drive the acceptability or the quality of what it is we produce. And I guess my question to top management and engineers would be, we're really good at counting the things and monitoring the things we can count. How good are we and what do we do to focus on the things that aren't as amenable to precise quantification and good measurement to make sure that we make really good decisions at the conceptual design, and technology choice, and other elements like that, before we get to counting tons, and pricing guardrail, and that sort of thing? Any maybe that's not something you have a real good quick in your vest pocket answer for, but I think it might be something worth talking about in a future meeting; how is it that we assure really good decisions, cost-effective decisions, service-effective decisions at that level, because they matter.

Kaiser: Reid Kaiser. Go ahead.

Terry: John Terry, Assistant Director. Maybe I can give you a couple of examples. I mean scope (inaudible) has always been a problem on…

Knecht: Yeah.

Terry: …design projects. But the designer or his team, really, cannot change the budget of a project without asking and getting the scope and the budget changed. So there is a process that has to be approval up through the Director for major scope changes on a project, and major budget changes on a project. So I know that doesn't completely answer your question, but there are procedures in place that you cannot just arbitrarily increase the cost or the scope of a project without going through a formal process that the top management gets to approve it before you move forward. So there are those types of processes. We could, at some other time, get into more detail of what those are, but those are in place so that. And even with that we struggle with it. If you look at what a project was at 30% and what it actually goes out to bid out, sometimes they're an awful lot different for a lot

of reasons. But there are procedures in place that you can't just arbitrarily increase the scope and size of a project.

Knecht: No, and I get that. And that's important. Again, that's a downstream aspect of the thing. And I'm looking more at the upstream aspects of our planning and decision making and the choices we make there. How do we assure really good performances and good choices at the upstream end where it's a lot more subjective and it's less amenable to checking by basically looking at a database of history of bids on this or that aggregate or whatever?

Savage: And I'd like to say something, Mr. Controller. And I really value your perspective, because over the last four years, what I've seen, it's about communication, and it's about people.

Knecht: Yeah.

Savage: And I think the Department's done a good job and we've gotten better, because headquarters used to be a white ivory tower, didn't communicate with the districts and there was a lot of breakdown.

Knecht: Yeah.

Savage: There was a lot of breakdown. And I can actually say and feel good that the upper brass is speaking with the medium brass and the lower brass, and I think the communication is going in different directions, which is healthy for the taxpayer…

Knecht: Oh yeah.

Savage: …to get to where I think you were concerned about. And it's something that we have to stay on top of. What I think, communication is going in a lot of different directions and that's healthy and beneficial for the betterment.

Knecht: It's very beneficial because the top brass…

Savage: Yes.

Knecht: …needs that feedback for the next project…

Savage: Exactly.

Knecht: …to make a better decision.

Savage: Exactly. And it's a work in progress. (Inaudible) it's a work in progress and it's been (inaudible), from my seat, and it has to continue like that, Mr. Controller. So I appreciate it very much.

Frost: And there are quite few procedures in place at NDOT to help do that. We go through project management. They do a cost risk assessment, where they look at all the kind of conceptual ideas and evaluate their risk, evaluate how it goes. We have a scoping section in our design division it goes through, and we try to look at a project in the early stages and say is this really the project we want to do, and is this the type of interchange we want; what are these elements that are going to be needed, sound walls, drainage. All those things are kicked around on a very conceptual and alternative base…

Savage: Yeah.

Frost: …evaluation.

Knecht: We had a really good example of that about two hours ago here, when we were talking about Project NEON. And Member Skancke and the Governor emphasized, before I could, that gee, here at the conceptual design phase and we were looking at the possibility of automated vehicle control. Instead of waiting and designing a bunch of lanes and controls and so forth and then getting to the end and say, oh, we forgot to include various kinds of automated vehicle control and other different options, and now we have to put that as an add-on or something, they said, let's be looking at that right now from the get-go and see if we can incorporate a lot of that into it. And that would be the kind of good scoping decisions that you're talking about.

Martini: Mary Martini, District Engineer. If I could address your -- one of your items, Mr. Controller, as an example. One of the things that happens in a DOT is that the work that normally gets generated trains the contractors in the area to do it that way, which reduces their price, which means those techniques and those products become more competitive which then becomes a cycle. So to compare Nevada to a previous place I was at, where I was at before, almost every bridge was precast concrete. To the point that there were very few contractors that would do it any other way because they didn't know how, they didn't have the equipment, et cetera. So the prices for precast concrete were very good, but for everything else they were very bad. But you compare those same unit costs to Nevada, where we do very, very few precast concrete and the techniques around other types of construction,

casting plates and steel, et cetera, they tend to be more cost-effective because the contractors have been trained to deliver on that.

So the large concept, even if there was a desire to change and go with a different product, there's still a learning curve in order to get the right contractor, the right products, the right equipment in order to deliver on those. Thank you.

Savage: Thank you, Mary. Okay. If there are no other questions or comments, we'll -- thank you, Mr. Frost and all the people that work with you in the department. You've got a job every day, I can tell you that.

Frost: Thank you.

Savage: Appreciate all your time.

Frost: Yeah.

Savage: Let's move on to Agenda Item No. 7.

Kaiser: 7-A will be Megan.

Sizelove: Thank you. I'm excited to have another opportunity to provide an update on the e-Documentation project. Just as a recap since it's been a few months since we've met, electronic documentation, that's our opportunity as a department to go paperless, in the contract -- or in the construction world. Specifically, we're utilizing a project -- or a software called Field Manager to document all of our construction management activities. I'm proud to say we have 10 contracts, 5 in the north and 5 in the south, that are currently loaded into the software, 8 of which we're actively paying against. So we're making progress. We've made over $7 million worth of payments through that software, so that just relates to the quantity or the amount of work that we actually have going on. And then, let's see, we're rolling out Field Manager Read only to the contractors and working on purchasing iPads for the field inspectors to utilize. And so far we've gotten great feedback from all the field users. So this is our opportunity to get it out there to them, and start to get feedback, and start fine-tuning our processes.

Savage: Good. Thank you.

Sizelove: We're rolling along.

Savage: And good feedback from the REs?

Sizelove: Yes. Yeah.

Savage: Okay.

Sizelove: I don't know if you want to add anything from an RE's perspective.

Lani: (Inaudible). Steve Lani, just a resident engineer. Our first contract, the $42 million Carson Freeway project was just recently loaded, and so far it appears to be -- we haven't actually made any payments against the contract yet to date, but we've been able to work on the setup process and we're working back through with our inspectors. So, so far so good.

Savage: Good, good. Thank you, Megan. Thank you, Steven. Agenda Item…

Kaiser: Okay. This is Reid Kaiser, Assistant Director of Operations. Item 7-B, CWG Check List. I kind of messed up your packet here. 7-B -- 7-E(b) should be ahead of 7-B, so what I would like to do is go down to 7-B(b), each item there. And what I will do in the future is I'll put this item and then behind it I'll put each one of those items 1 through 7 or whichever it might be, just the information pertaining to that item.

Savage: That sounds good.

Kaiser: Okay. That makes (inaudible). So Item No. 1 is Contractor Prequalification. We'll discuss that in September. The Construction Agreements, if you go back to 7-B, there was six agreements in the last quarter the Construction Division entered into. There's no contract or augmentation Oracle Administration in this list. This is just agreements through the Construction Division for like their radiation exposure monitoring for their nuclear gauges that they use in the field, things like that. Black Eagle was for an expert witness. They were used for the Meadowood Mall project. Biological Environmental Consulting, they're used for tortoise monitoring in the Las Vegas Valley. HDR Engineering did the -- another contract for the same thing, tortoise monitoring in the Clark County area.

Knecht: That's a slow business, isn't it?

Kaiser: They don't go very fast. Paint them orange and chase them. Landauer, I guess that's the -- all the -- when you're using a nuclear gauge, you have to wear a little monitor.

Savage: Yeah.

Kaiser: That's just -- that's what that contract is about. And then Atkins, they're going to be training all of our construction crews on this new scheduling software that we acquired. Now, next quarter when we do present this list, you're going to have a whole slew of contract augmentations, like a consultant augmentation on our construction crews. So do you guys have any questions over those six contracts?

Martin: I have one.

Savage: Member Martin.

Martin: Reid, Black Eagle Consulting, you said they were on the Meadowood Mall, which is Meadow Valley, right?

Kaiser: Correct.

Martin: Okay. Weren't they the original tester, as well?

Kaiser: They were the original geotechnical engineer that designed the foundations for the bridges on that project. So they didn't really test, they did the geotechnical design or the shaft design, the foundation design for the bridges.

Martin: Okay. I thought for some reason or another that they -- I remembered seeing their name involved in the testing or the determination or something.

Kaiser: Well, since they were the engineer of record, they would get this CSL result from Terracon Engineering, and then they would comment on those results.

Martin: Okay.

Kaiser: So that's probably what you remember seeing.

Martin: Yeah. Okay. I was just wondering. Thank you.

Savage: Thank you, Mr. Kaiser. I know at today's Board meeting we had discussed, at one point, about the different engineering firms and consultants. I would like to see, if it's possible, for you and Sharon and staff to go back and summarize a list of names, businesses -- the pool that we utilize here at NDOT. Maybe the last -- I know the last five years have been challenging because we've done a lot of that work internally. If we can go back the last 10 years...

Kaiser: Mm-hmm.

Savage: ...and look at the different categories, the amounts allocated, and the timelines for those different services. Specifically on the engineering firms.

Kaiser: Do you want us to approach with the roadway design or the project management group also, because we could probably get that information? It may be fairly long.

Savage: Because what I'm -- yeah, and...

Kaiser: Because they'll even do...

Savage: ...they'll have to work together because my whole goal here is to really get an executive summary of the selection process, and the reasons we do what we do to select consultants, okay.

Kaiser: Mm-hmm.

Savage: That's my concern, because we've done that with the contractors. We've talked a little bit about consultants in the past, and I just want to revisit it to ensure that we're on the right page.

Kaiser: Okay. Now, the process that we use to choose a construction crew augmentation or a full administration, I believe, is a little different than what they use in project management to select their project design groups. But is that something you'd like to see is both groups? We can do it.

Savage: Yeah, the process. I think we need to look at the process...

Kaiser: Okay.

Savage: ...from our perspective...

Kaiser: Okay. We can do that.

Savage: ...(inaudible) group and construction.

Kaiser: Okay.

Dyson: Thor Dyson, District Engineer. We use the process to choose consultants to help us with design-build procurement or CMAR procurement.

Savage: Mm-hmm.

Dyson: Paul uses consultants to do design for design-bid-build jobs. I will use consultants through the construction office, who will assist and help us get consultants for contract administration, contact augmentation for administration. So there's different ways of going about it. We can get all of that for you.

Savage: And I'm just looking at it, because I know the last three or four years we've done a lot of that internally and rightfully so.

Kaiser: Mm-hmm.

Savage: I think that's good. And you're controlling costs. And now I know the workload is picking up. I just want to look at a history to see where we've gone, who we've utilized, and what page we're on. We're on first base, second base. And you guys do a great job, but I just want to look at the history in moving forward as to what might be out there.

Kaiser: Okay.

Savage: That's the goal.

Kaiser: So what I'll do is I'll get a hold of the project management, and that's one project -- or one division. I think our admin services can go back 10 years with that one division number and get every agreement that they entered into. So we'll get a list of that and also for the augmentation, which is the construction division, we'll do the same thing.

Savage: Yeah.

Hoffman: A quick question though. Bill Hoffman for the record -- or Chairman. Sorry. You wanted a list of consultants but in certain categories; architectural, roadway service. Is that the categories you talked about?

Savage: Yeah, and it's -- I'm mostly interested in the construction side, okay, the architects, the contract augmentation. Like, we had those -- what triggered this was the three that we had today at the T-Board meeting...

Hoffman: Right. Right.

Savage: ...when we had three people, I think it was Wood Rodgers, Lumos and maybe HDR. I can't...

Kaiser: Mm-hmm.

Savage: ...remember the third. But how many people are in that pool for NDOT to utilize, and how do we go about selecting those people and evaluating for the best value, like we've talked about...

Hoffman: Mm-hmm.

Savage: ...moving forward.

Hoffman: Okay. Because there's different procurement types, too. So...

Savage: Yeah, I know it's really complex and I...

Hoffman I'm thinking maybe to give you a full picture of what's going on. We certainly will give you the list that you ask for, but maybe start from square one and maybe explain the consultant procurement process...

Savage: I think that'd be a good idea.

Hoffman: ...depending on what area we're -- okay. Okay.

Savage: That'd be a good idea. Something we can work on. And it's not going to be resolved in one meeting.

Hoffman: Sure.

Savage: It's going to be an education, I know for myself, to try to understand like we have done on the contractors' side...

Hoffman: Mm-hmm.

Savage: ...or the construction side. It's consultants and construction on what this group has been put together for, so it's a work in progress and I think it has to continue on (inaudible).

Hoffman: Okay.

Foerschler: This is Sharon Foerschler for the record.

Savage: Yes, Sharon.

Foerschler: Just keep in mind when we present this information the process has changed over the course of time, due to our workload, as well. On the construction side, we used to have an on-call list. So we'd go out with prequalifications for any consulting firm that wanted to get on our list. Then we would go through the request for proposal, and we'd go through and we'd bank all the

proposals. Years past, and I have been in the construction office for 15 years, we might have a list that 20 consultants put in for and we say, okay, over the next year or two we're going to have a need for 10 consulting firms to provide the services we need, so we would then shortlist that 10 people. And then that process from there, we'd go down the list and we'd just rotate based on dollar value and need so every consultant had a fair shot. That has now morphed to today, where any project that we need a consultant to go out for a request for proposal. So you might have 4 consultants put in for one particular agreement or you could have 10, but we don't have a list that we go off anymore that says, okay, we have 20 that are prequalified. We don't go through that process anymore.

Savage: Which…

Foerschler: At least from our side things have changed over the course of time, and through federal regulations of how we can procure consultants for federal projects. So the data is going to be a little bit skewed from our perspective when we present it to you. So I just want to give you a heads-up.

Savage: But that's good education. See, I don't know that. Why has it changed, because of workload, because of the feds…

Kaiser: Feds.

Savage: …when we used to do it this way.

Foerschler: Blame it on the feds.

Kaiser: I think it was.

Savage: But in all seriousness, we don't know that, so we're just trying to understand how it's done, why it's done this way today. And from an outside perspective, you'll get our input, I mean like we have done it at every CWG.

Hoffman: Right.

Savage: So I think it's all good.

Hoffman: So if we start from square one and kind of describe from a very high level, we can zero in on as many of the details as you want. But we better start high enough so…

Savage: Yes.

Hoffman: …you understand the entire process.

Savage: Yes.

Hoffman: Right.

Savage: I think that's a good idea, Bill.

Hoffman: Yeah, okay.

Kaiser: It sounds like…

Savage: And it's going to take several meetings, too.

Kaiser: Sounds like Bill wants to give a presentation next meeting.

Hoffman: Do it?

Kaiser: No.

Hoffman: Reid will prepare all the information and I'll give the presentation.

Kaiser: Actually, Sharon will.

Hoffman: That was the easy part.

Bush: (Inaudible).

Savage: Come on up, Anita.

Bush: So this is Anita Bush. And so it seems to be a question was regarding our on-call architects. So this process -- we are still doing the on-call which we don't use with the federal money, but with state money we do have on-call agreements. And I did forward Reid the past 10 years for all the on-call (inaudible) that we have in architecture and...

Savage: Well, it's not just architecture.

Bush: Yeah, I understand. But our process is going to be a little different than theirs, too. So I'm just saying. (Inaudible)…

Hoffman: But see -- and that's -- again for the record, Bill Hoffman. That's what I'm saying, we should…

Bush: Yeah.

Hoffman: ...raise this up to a level where we start very...

Terry: Very.

Hoffman: ...I mean very simply, put it in very simple terms, and then we start collecting here's what architecture does, this supports stormwater, and then give them a full picture of the consultant procurement process and why we're using those processes, so...

Savage: I agree. 40,000 (inaudible) level work done.

Hoffman: Okay.

Savage: Thank you.

Hoffman: Thank you.

Savage: Mr. Kaiser, back to your agenda.

Kaiser: Okay. Construction Agreements, we covered that. I see Tracy is gone. She was our NDOT DBE process update, so can that wait until September?

Savage: Yes.

Kaiser: Okay. Change Orders on CMAR Projects, that's under Attachment 7-B, the very last page. There was one change order on our CMAR projects this last quarter, and that was out at the Carlin Project. There was a metal gate that NDOT was to procure and give to the contractor, and apparently we never procured it to give to the contractor. So we changed that contract from a working day project to a milestone project since essentially, this gate was going to cut off -- or make a modification to allow bikes onto a road to get by the project. And we approached the contractor to install this eight months after the working days had expired. So we just wrote a change order and made it a milestone project.

Savage: Okay. And on that same point, the CMAR while we're on that. (Inaudible) we talked about at the T-Board was AB 43 affecting CMAR...

Kaiser: Mm-hmm.

Savage: ...construction. So I would think the Department has reached out with industry, and discussed the changes, and how it's going to affect -- was it 408 or...

Kaiser: I'll let John Terry (inaudible) that.

Terry: 43 was pretty simple. All that affected was the procurement phase of design-build in CMAR. Because we had gotten a public information request during the proposal period, which could really mess up the proposal because like we talked earlier, we're very, very confidential during the ones -- during the procurement period, and they were asking for procurement documents, procurement documents even from other firms for -- during the public information request. Basically, a hole in the law that we won. I don't know how else to describe it, and industry supported that.

Savage: Okay. So it was pretty minimal? Okay. I didn't know how involved it was. Thank you. Go ahead.

Kaiser: Okay. Item No. 5, as-builts. That was a very heavy discussion item at the previous Construction Working Group meeting. And what I did with that item is I polled the districts, and the feedback I got is that the districts want to keep the as-built process under their control. So they want to have the REs continue to control the as-built procedure and not give that to the contractors.

Savage: That was the feedback you got?

Kaiser: That's the feedback I got.

Savage: Okay.

Martin: Hey, I got a question about that, Reid. How does that impact our closeout? I mean your REs and your crews are -- every time I question something about a job getting closed out, there's something that's waiting to be done. They need to do the book or they need to do this, they need to do that. I appreciate them being dedicated to their job and whatnot, but at a certain point in time management's got to step in and say, hey, we got to get these contracts closed out and we're still waiting on as-builts on 15 jobs. It's ridiculous to continue to load the REs and the crews up with the as-built requirement when you can hand that off. Everybody wants to keep everything and sometimes it just doesn't work well. I question it when it comes to this closeout process, Reid.

Kaiser: Okay. Megan, you kind of, supervise this whole closeout. Is the as-builts usually one of the holdups, or is that usually not one of the issues?

Sizelove: It typically has not been an issue in the past…

Kaiser: Okay.

Sizelove: …that it's holding up our process.

Dyson: Member Martin, Thor Dyson, District Engineer. Typically, a resident engineer, early in the job, will assign an individual to update the plans, to do the as-builts as the job is going along. So when the job ends there's very little to do. And like Megan Sizelove just stated, it's not really the impediment to closing out the job.

Freeman: Jeff Freeman, Assistant Construction Engineer. I'd like to throw in that I believe we had an instance or two where as-builts -- I shouldn't say hindered the closeout. We closed out the project administratively with the contractor and then got the as-builts later from the RE. It won't hinder the administrative closeout process to the contractor. We can still close that door and close out a contract. We don't need the as-builts in our hand. Now, we're going to harass the RE and make sure we get them because they're vital for the next project. Paul's going to need them. But we can still close out a project. So we don't have to keep the contract open waiting for as-builts, if that ever happens. I think it's happened once that I can recall.

Savage: Okay. And I'm kind of on the same page as Member Martin, because in our world -- and we wear different hats, on the construction side we're responsible for the as-builts. We come to the Department, and I think Frank says it well. I mean we're taking more and more on sometimes where we have more and more to do and cannot be delegated and hold the contractor responsible. I mean it seems very simple to people like myself and Member Martin, that do it every day. And we're just trying to help the Department. You guys have gone down to the REs, they've said that. I think we need to keep an open mind on how this -- because if they get more and more on their plate, hey, we've got to hand it off. That's something that we expect to be done by the contractor. I think we need to keep an open mind with that, because I'm on…

Martin: Mr. Chairman?

Savage: Yes.

Martin: I'm sorry, I didn't mean to cut you off. Go ahead, sir.

Savage: I'm on the same page as you. Go ahead.

Martin: Yeah. I just went through this schedule. There are 25 projects on this schedule that is under -- or that is included in our packet where as-builts are needed. 25. Now, I didn't count the total number of projects, but I'm looking at one page here, it's very easily 60% of the projects that's listed on the one page, where the as-builts are needed.

Savage: Okay. Member Martin, Megan waving her hand here wanting to speak.

Sizelove: I'm trying not to jump in my seat too much. Megan Sizelove for the record. Often times we don't collect the as-builts until a member from our office goes to the crews to pick up the project. And so that's part of our pick-up process. So once we (inaudible) a request from the construction crew, at that point in time (inaudible) pick up all of their books as well as the as-builts. And so it's not uncommon for a construction crew to contact us and notify us that once we start that process, that the as-builts are (inaudible) keep them with the book (inaudible) go pick it up with everything else.

Hoffman: So on that list, Bill Hoffman for the record. How many of those projects are being held up by not having as-builts?

Sizelove: Zero.

Hoffman: None? Okay. All right.

Martin: Here's the deal. It's not important how many of them is being held up. All those pieces have to fit together in order to get a project closed out, whether you've got one item holding it up or you've got six items. If you don't start cutting them down, you end up with a whole forest of trees that are half-sawed down. And that's what we have on this list right now. I don't know how old some of these jobs are, because you -- I don't see anything on here right off the top of my head that tells me -- yeah, we've got them going back to October of '14, of '12, et cetera. So, yeah, all I'm saying -- and this is exactly what the Chairman said too -- we are -- in this group, we're supposed to be looking at what it takes to hand stuff off to make our job easier to get these projects closed out faster. That's been a focus of this group from the time it was -- first came into being, was the closeout.

And I -- we can go through and hit on several other points here, but every time we want to do something like take away the pay requests or do this or do that, everybody says oh no, no, no, we can't do that. The problem is, is

you keep doing it. What we're headed towards here is you just keep doing things the same old way, just expecting different results. And the different results, from the size of this list, it's three pages long. The different results ain't happening. And I...

Foerschler: Sharon Foeschler for the record. I just want to reiterate that as-builts don't hold up closeout for us to release a contractor, and release the (inaudible). It's an internal process, not an external process for closeout.

Savage: Okay. Let's continue with this Agenda item and then we'll get into project closeout here on Agenda Item No. 9.

Kaiser: Okay. NDOT Partnering Program. Lisa.

Schettler: Okay.

Kaiser: I'm going to move you up a little bit.

Schettler: Yeah, I thought you were going to save the best for last.

Savage: Here you go, you're on.

Schettler: Okay. So we have our dispute resolution team training scheduled. And what we did was we brought on board the Dispute Resolution Board Foundation. It's an international nonprofit organization. It's used by many other states to do their training. And so in June, we're going to have -- well, this month we're going to have training that's geared towards potential resolution team members, which are members that do not have financial ties with the contractor or the Department, at least for that particular project that they're going to serve on. And so, the training is just how do you serve on as a dispute resolution team member, what's your role and authority, what are your obligations -- things like that, so we can get a pool of people to call on as we have projects beginning to serve on our dispute resolution team. And those teams will be involved in a project from the onset, so they'll have a meeting with the contractor and NDOT. At the beginning of a meeting, they'll come out on a regular basis to keep up on the issues and the progress of the project. So if they're called upon to make a recommendation about a dispute, they will have a background with the project.

So we (inaudible) -- we're holding this training in June, because we have a couple of projects that are starting right now that are going to use these teams, such as Cason City Freeway and Boulder City Bypass and

(inaudible) project in Las Vegas. We're going to -- we have the DRBF agreement. It will allow us to utilize them to use this training in all three districts for the next -- up to four times for it. So now, and then during winter shutdown for the next 10 years. So we can get a good pool of people trained (inaudible) Nevada specifications and understanding the way NDOT does business. And then in July, we have the same organization doing training. This training will be geared toward contractor staff, and NDOT staff, and other stakeholders, how do you successfully utilize the dispute resolution team; how do you prepare your position papers; when do you want to call on them, at what point; you steer from the partnering process to calling on the dispute resolution team to make a recommendation. So we're prioritizing the July training for people who have projects, and having (inaudible) again the same training will be offered during winter shutdown for the next three years so that we can offer it to everybody who is (inaudible) involved in the process.

So we have that ball rolling. We're still finalizing the specifications for that process and the third-party agreement that will be signed by the three dispute resolution team members, and the contractor, and NDOT on each individual project. And we're still vetting that, those two documents. We have our Steering Committee. Our first meeting is scheduled for July 16th. And just as a reminder, the mission for the Steering Committee is to address the partnering process for projects, the dispute resolution process, and also we want to address internal partnering. So as you were alluding to before, the process of how the divisions work together in the Department and whatnot. And we do have a -- we are also -- this is just not an NDOT Steering Committee. We're involving people from industry. We have up north here a member of the AGC -- well, we have three members of the AGC North (inaudible) contractors and (inaudible) AGC. And then we're also working with Shawn Stewart from AGC Las Vegas to identify some individuals to kind of make it an even team there, so we get good industry input as well as internal input on these issues.

And it's not on the Agenda, but I just wanted to mention that we had our last Nevada AGC meeting May 29th. We're scheduling in July another AGC Las Vegas meeting, so we're continuing to meet regularly with the contractors, subcontractors, AGC members, consultants go to that meeting and a few NDOT people apprised of what's going on and being (inaudible) concerns they might have. And last -- in April at the Transportation Board meeting, we handed out awards for partnering for the Excellence in Partnering NDOT

program. But I also wanted to mention that there's an organization called the International Partnering Institute, and they had an awards ceremony and Carlin Tunnels was recognized there. So Carlin Tunnels also won an International Partnering Institute Award.

Savage: Nice.

Schettler: So I just thought I'd give them some recognition that they're doing some really good work. And that's all I have, so any questions?

Savage: Well, thank you, Lisa. It's vitally important, as we know, we're trying to reduce our overall legal costs by this partnering initiative. And I just -- like Sean Sever has done on the public outreach, I think it's vitally important for you to sell, sell, sell the best we can internally and externally. One of the questions I have is on the DRTs. Have you consulted or spoken with internal legal as to any advice by selecting these DRTs?

Schettler: We've had them -- we've worked with legal before on some projects where we've had DRTs and we developed controlling documents and whatnot. Jeff may be able to speak to that more in the past. They will be vetting all of our specifications, and our agreement, and looking at the process. I don't know if we've spoken to them as far as claims versus using DRTs and things like that.

Kaiser: Reid Kaiser, Assistant Director of Operations. Where the Attorney General's office usually gets involved is when we send the controlling document to the contractor, the contractor will send it to their legal counsel, he'll take a look at it and he won't like it. So at that point, their attorney will get together with our attorney, and create a controlling document.

Savage: Okay. Okay.

Kaiser: I don't think there's a process issue involved that they need to get involved with in regards to the specs. I think it's just the -- we can't agree usually on the controlling document.

Savage: No, my whole point was just any internal advice that they can give you...

Schettler: Right.

Savage: ...for the selection of these different DRT individuals.

Kaiser: The biggest advice that we've been given, the construction crews, is sometimes in the past when the dispute review team is being set up on a contract, there will be an agreement at the beginning of the contract with NDOT and the contractor that...

Savage: Mm-hmm.

Kaiser: ...they're going to get along and they're not going to need the dispute review team, which in our past history that's not the case. So right now, we're really stressing to the construction crews whether they like the contractor or not, whether they get along with them great or not, get the dispute review team going, get them fired up, get everybody hired, get the controlling document complete and follow the procedure.

Savage: Exactly. Okay. Thank you, Mr. Kaiser and thank you, Lisa. Yes, Mr. Wellman.

Wellman: If I can, Bill Wellman, Las Vegas Paving. Is industry going to have a real opportunity to work and vet some of the concerns that I think we're probably going to have, as Reid just said, we're not going to like it, before you go too deep into the weeds of this thing? We talk about it at our industry group, liaison group and I believe we have a meeting next week. And obviously we voice our concerns about who and how and what. Instead of creating a group of people that are DTR, these are supposed to be independent; one for us, one for you guys. You select who you want, they decide who the third one is as the chair. To be open and transparent, no different than hiring an attorney I guess, lack of a better way to do it, other than somebody that understands our part of the industry clearly. That's what we want. These things are -- these people are very expensive. We've used them a lot, not here in Nevada, but in California. We've used them a little bit down in Southern Nevada with SNWA. They had them on all of their stuff. They can help you with that and how they got -- went away from it, called a project neutral. Made it a little bit more simple and simplistic, because even with a DRT it does cause or having a potential cause for problems.

So writing the rule and regulations, unfortunately they're likely one-sided for NDOT. And that's not -- in my mind, that's not the point of a DRT. It's supposed to be about the project, and what you're looking for, and how we select. So hopefully we're not getting our hands tied and saying, okay, you're willing to hire from this group of people.

Schettler: No, we're not doing that.

Wellman: Okay. So...

Kaiser: And we'll -- my direction was to send out the specs to AGC north and south, just so you guys do have an opportunity to review the specs.

Wellman: Okay.

Kaiser: And I know you had requested -- we'll work through that, but that was the plan.

Wellman: Okay.

Kaiser: So if you haven't seen it yet, let me know and we'll (inaudible).

Wellman: I haven't seen it.

Kaiser: Okay. Okay.

Schettler: We're still vetting it internally, and then we'll send it out. And for this upcoming training, because we haven't finalized it, the dispute resolution (inaudible) the draft specs that we're working through. And the candidates that are signing up for it, a lot of them have years as former contractors, others are retired from public agencies. So I hope we're getting a good group, a list of candidates that can represent those guys on the committee and (inaudible). And we are putting a cap on the costs they're allowed to charge per meeting and things like that, to kind of control the expenses and to ensure that we're getting a reasonable (inaudible).

Wellman: And maybe for this group -- again, Bill Wellman. Again, we talked about it in our working group. Is that proposed to be a line item (inaudible) account item (inaudible) in the future?

Schettler: The way we're doing it right now, or the way we're proposing it is -- I'm not sure what you call the item. They call them 736 items. So it's not in the bid proposal. It's not part of the bid, but depending on the working days, the price of the contract, how complicated it might be to the stakeholders, we're trying to come up with a reasonable dollar amount to put into our -- programmed into our estimate. And then it'll be cost (inaudible) 50/50. So the team members will invoice contractor, the contractor will invoice (inaudible) half of the cost.

Knecht: Mm-hmm.

Savage: So it's not part of the bid?

Kaiser: No, what it is…

Savage: I'm confused.

Kaiser: …the 736 item, what that is that's a cost the engineering side of the house puts into the estimate to cover our costs associated with (inaudible) work.

Savage: In-house costs?

Kaiser: In-house costs. Right. So the contractor gets billed $100,000 for partnering and we have a 736 item, isn't that right, Paul? A 736 item associated with that, then they'll charge that $50,000 to that item. It's just so accounting-wise we'll be covered, we'll have that in our estimate.

Savage: So is that $50,000 in their bid to begin with?

Foerschler: Sharon Foerschler for the record. The contractor does not bid on 736 items.

Kaiser: No.

Foerschler: It's an internal mechanism that's charged to the contractor, the contractor never sees those line items in his bid.

Savage: Right. I…

Foerschler: It's a mechanism for us to pay that invoice.

Kaiser: So that's Bill's point, is you never have an opportunity to know what dollar amount is put into your bid…

Savage: Right.

Kaiser: …to cover that then. Is that what you're saying?

Savage: Yes.

Wellman: Bill Wellman again. My concern is, is that if that becomes a competitive line item for us as a contractor. In other words, if you as NDOT put in $50,000, and then our cost (inaudible), what do we put in? Do we have to put in $5,000 or do we need to put in $50,000? That can sway a proposal a lot more like the misbalancing that we were talking about earlier. It takes

the competitive nature out of it, because I can bid $1,000 bucks and say I'm not going to worry about a DRT. I'm not going to spend any more on a DRT, because everybody has to agree on both sides to use it. We're not going to use it. So we talked about that in our industry meeting, that should be a line item that is used as needed, and that way it's not one-sided.

Kaiser: (Inaudible) account item put $100,000 for (inaudible) account. We put our partnering cost.

Wellman: Partnering cost and -- which include DRT.

Kaiser: Okay.

Wellman: And it's drawn from there and, yes, the contractor then pays the invoices and then bill back at cost to that item as -- from both sides.

Savage: Because...

Wellman: That way it keeps it fair.

Kaiser: Right.

Savage: It keeps it fair.

Kaiser: I see what you're saying.

Savage: We've got to have the contractors buy in.

Kaiser: Yeah.

Savage: We don't expect something for nothing. They need to be paid for it. They have to be part of the equation.

Kaiser: Yeah.

Savage: Or else it's not going to work. Something to think about.

Kaiser: We can add it.

Savage: Okay. Thank you, Lisa. Item No. 7, I think we can scratch out.

Kaiser: You can scratch that one. And Item 7-C is just some -- the agenda and notes from an AGC meeting we had March 3rd. That was our Industry Liaison Meeting. That was the only meeting (inaudible) I believe it had the minutes

in there also. So that's the only meeting I went to the last (inaudible) AGC. Okay.

Savage: Okay. Thank you, Mr. Kaiser.

Kaiser: Yeah.

Savage: Will that close Agenda Item No. 7?

Kaiser: That closes it.

Savage: Let's move to Agenda Item No. 8.

Kaiser: 5-year Plan. John.

Terry: I'll keep it quick except maybe give -- again, John Terry, Assistant Director -- give Member Knecht maybe a little bit of history here. So even though we have the STIP, which really is the legal formal document (inaudible) FHWA and others of what projects we're doing, we keep the 5-year Plan with projects and their various categories. And it is overbooked almost intentionally. It's really what we use to make sure we have enough work ready to go out to use up all the money that's available in the various categories. We base it upon the federal fiscal year, which is September 1st. And that being said, you can't really go until September 1st, because the feds have their kind of (inaudible) where we pretty much have to have everything done in August. So this year, we're pretty close to getting out everything we said we'd get out in federal fiscal year '15. I believe we have SR 160 Phase 1 down in Clark County to still get out and one overlay (inaudible). One of our bigger I-80 overlays left to get out. And other than that we're pretty close to getting out our major (inaudible) for this year. And then that's somewhat by intention. We don't like to push them up against that federal deadline just in case something happens. So really, our emphasis now is federal fiscal year '16, and our program as it's listed in there, and we're working on all of those.

We have no choice but to assume the federal funding will continue at the levels it's continued at in the past, because we don't know any better than that. I don't think anybody does. And then I will point out that really 16 is pretty solid. 17 is okay, but 18, 19 20 in there, they've got a lot of placeholders in there. We made a recent presentation to the Board, kind of a confusing presentation about why we were using Decision Lens and what we're doing. And we are prioritizing some of our projects farther out.

Maybe to address your question earlier about why do we do what projects and what's management's input. This program isn't going to make these decisions for us. It just is a database that helps you rate projects and give you another look at them. And so, we're in the process of going through that. I hope to have some more on that in the near future and make some decisions, which I'm sure we'll reveal to our Board and filling out the years there in the 5-year Plan, especially in the capacity projects, some of the bigger projects we're doing.

The other real big category projects we do are our 3R projects. We complete those every three years, so we're going to go out next year again for another whole round (inaudible). So everything that's shown this year and everything that's shown in '16 is pretty solid and is ranked and (inaudible) against each other. But what's beyond that, since we go out and re-rate them again, they may fall off or whatever, and then we'll fill out those projects from there, and so that team will go out and compete. And then we have the various other categories, some of which have been added somewhat recently like pedestrian safety and that. So with that, if I can answer any questions about either how we produce the 5-year plan or any specific questions on it, I'll take those.

Knecht: That was helpful to me. Thank you. If I think of a question I'll ask.

Savage: You're very helpful, Mr. Terry. I just have some questions. Are these numbers we're seeing all costs (inaudible)? Is this a thousand percent of the cost?

Terry: Typically, I would say the costs that are in here are our (inaudible) for construction. (Inaudible) percent.

Savage: (Inaudible)?

Terry: No, because (inaudible) already (inaudible). But I (inaudible) get out (inaudible) and you'll see a lot of (inaudible) million dollars (inaudible) are not solid yet. So they get better the closer you get. But we have the best engineer's estimate we have at the time, with what are our typical add-ons, the construction administration, contingency, et cetera. So that's kind of the all-in number for construction.

Savage: And then on Page 6 of 8 with the stormwater projects. I know recently with the legislation (inaudible) additional staff (inaudible), is that going to

involve any additional dollars for the construction projects other than what we see here?

Terry: Well…

Savage: The Clean Water Act.

Terry: …I'll give you two things. Stormwater is a part of almost every project we do.

Savage: Yeah.

Terry: I mean that's included in the project. In other words, we do break it out with temporary pollution control and bid items, but that's in every project. These are specific stormwater projects…

Savage: Right.

Terry: …kind of the entire project is stormwater. And I don't know if Bill has any more to add. In the original ones were mostly our yards and our wash pads, et cetera. But these are almost entirely are or are entirely state money stormwater specific projects.

Savage: Right. And I understand that. But my question is due to the recent legislature and the additional funding that we have for the Department, do you foresee other work in what we have for 2015 and 2016, just short-term?

Hoffman: For the record, Bill Hoffman. Yes, I do. I see more than what you see on the stormwater projects list. These are just to upgrade our maintenance facilities. There's a lot more to this entire program than just upgrading maintenance facilities. But, in order to have the projects worked on by the various team members, and having everyone contribute to meeting the time and deadlines for these, we agreed to put them on this list, so that all of NDOT could track which projects we're working on for which years; which projects to do we need to have ready first and then stepwise after that.

Savage: Okay. So that clarifies my question. This is internal use.

Hoffman: Yes, these are all maintenance facilities. Yes, sir.

Savage: And there's going to be additional funds for the Clean Water Act possibly.

Hoffman: We submitted a budget amendment to the legislature to be approved by the Joint Budget Committee, and that included the 59 positions…

Savage: Yeah.

Hoffman: ...and budget necessary both in equipment, and tools, and things like that, to help those 59 people perform their work. Other than that, we're pretty much having to pick and choose which projects we're going to do in order to be compliant with the EPA.

Savage: So we're going to walk before we run?

Hoffman: Yes.

Savage: Get internal numbers quantified and...

Hoffman: Right. Biggest bang for the buck really, in terms of the consent decree and EPA.

Savage: Yes.

Hoffman: So we're trying to structure it to hit the big heavy areas first.

Savage: Okay.

Terry: I will say -- again, John Terry. You brought up the Clean Water Act and the new rulemaking that came out from FHWA -- or from the EPA on that. We're still evaluating that. That's sort of related to stormwater and sort of not. That's a big deal and that could increase the costs we pay on certain of our construction projects. Absolutely. And could delay our environmental process on new projects. And, frankly, we're still evaluating as I think AASHTO is nationally, the impacts of that new -- which we knew was coming -- the EPA Clean Water Act interpretation. So we may have more on that later after we really -- I think it came out last week or the week before. So I don't know if you're aware, Member Fransway has been referencing this clean water and essentially the rules just came through. And from what I heard him describe and what I read in there, he was right. That's what's happening is they are ruling more waters of the United States by tributary, et cetera, than were previously listed, and it will have an impact in this department. It's just not a stormwater impact, it's an impact to lots of projects. And we may present some more on this once we kind of absorb it.

Savage: Get our arms around it, yeah.

Terry: Yeah.

Savage: Okay. Thank you, John. Thank you, Bill.

Knecht: Everything is navigable.

Terry: What's that?

Knecht: Everything is navigable.

Terry: Yeah, well dry washes are now navigable.

Savage: Mr. Kaiser, were you going to say something?

Kaiser: No.

Savage: You're good? Okay. Thank you, Mr. Terry. Thank you, Mr. Hoffman. And so we have -- let's move to Agenda Item No. 9, Briefing on Status of Projects under Construction.

Kaiser: Project Closeout Status; as you can see, I think we have, I think about 39 projects that will be are -- that are on this list. Are there any questions associated with any these projects? We did close out 14 projects in the last quarter, so we have been working hard now that the eDocumentation is out in the field and active on closing out projects. So hopefully, the trend of a high number of projects will continue.

Savage: I had a couple of questions, just to get this thing started. Item 9-A on Page 2, Contract 3558. I thought that was completed.

Tedford: Last I heard, they still have bid item work that they're working on. That's Mount Rose Highway.

Dyson: Thor Dyson, District Engineer. It's substantially 99% complete, just a couple of minor items. There will be no delay in traffic, no impediment to tourists going up to Tahoe, but the project is -- as far as the work activity, it's 99% complete with the contractor still having to come back and address a couple items.

Savage: Okay. Thanks. So right, just minor items. Contract 3435, Page 3. There was a deadline that the contractor was supposed to respond to by 5/22/2015. Did they respond?

Foerschler: Sharon Foerschler for the record. No.

Savage: Thank you. The next question I had -- I guess not a question, but a comment on Item 9-C, get a quick evaluation of the 14 different projects and comparing the engineer's estimate versus the project cost, just out of curiosity. And out of $132 million worth of work, the Delta was only $1 million. And I thought that was pretty impressive.

Kaiser: That's good.

Savage: That's darn good.

Kaiser: That's really good, yeah.

Savage: I see that. I thought I would just share that. I know you guys know that, ladies and gentlemen, but again I think it's good work.

Kaiser: Thank you.

Savage: I want to compliment NDOT.

Kaiser: No, we owe it to the guys in the field watching the numbers, like the guys in this room.

Savage: Mr. Controller or Member Martin, anything?

Knecht: Nothing there. Thank you.

Martin: No, sir, not here.

Kaiser: Okay. I sense that your frustration about the as-builts earlier is -- do you guys want to address that? I mean I think that -- if that was a point of concern to us, we would happily give that to the contractors, but...

Dyson: Yeah. Thor Dyson, District Engineer. I mean I'm not going to (inaudible) all my (inaudible) on it. If that needs to go to the contractors, that's okay. We're happy to do it, but we're happy to give it up, as well. I mean it doesn't really matter.

Savage: No, we'll just hear from an outside perspective. And I think that's why this is so valuable to these types of roundtable discussions. From a business man's perspective, from the Controller's perspective, and Member Martin, hey, it's good. It's good dialogue. Keep an open mind, maybe it's going to change in three months. Maybe it's going to change in six months. Maybe it won't change, but we just have to be satisfied. And that's all we're saying.

Dyson: It's kind of like the contractor payments once a month versus twice a month. For me at the district level, it doesn't matter. But the same with as-builts, if you want to try it out and have a job or two that the contractor does the as-builts, I have no objection to that. It's not a control thing for us. It's not a problem for us, but it's not -- it's certainly not a control thing.

Savage: No, no. It's about being (inaudible) think that keep an open mind at this stage and we'll see how it goes if you do it for one you should do it for all. I don't know. Maybe do a trial. I don't know.

Martini: Well, actually, if you'd like -- Mary Martini, District Engineer --we'd like to take on one or two projects where we put it into the special provisions for the contractors to give us a draft as-builts, which we will check and, of course, still have control over, but I'd like to give it a try. So we'd be happy to volunteer.

Savage: So just would be for future work, not work in progress, right?

Kaiser: Yeah.

Savage: I don't want to make a…

Martini: That's what I'm suggesting. We could always make it part of the work we already have going, but then we'd have to change-order it. It'd be better to just put it in the specs.

Savage: That's what I -- we don't want a change order (inaudible).

Knecht: Have a new category, Board-Driven Change Orders.

Savage: Don't need that. Any other comments or questions on Agenda…

Hoffman: We already have a category -- we already have a category like that, Controller.

Savage: Yeah.

Hoffman: I'm teasing. I'm teasing. We don't. We don't.

Savage: Any other items…

Martini: Chairman Savage? I realize this is Construction Working Group, and so since I'm in the mode of volunteering, there seems to be a couple of questions, one of which was yours regarding the homeless. And I can have

somebody prepare some information, maybe it'd be better for the Board. We won't make it everything you ever wanted to know about homeless and didn't ask, but we -- I think that what we face might be of interest to understand that the 240,000 for a two-year period is actually only a minimal amount of what we put into dealing with homeless issues. So if you'd like, I could put a three or four-slide presentation together for the future, if you wish.

Savage: Yes. Since that is not an Agenda item for the CWG. I know we discussed that the T-Board level, and that's something that you can speak with Reid Kaiser offline to see whether or not that might work. I'm just following the advice of my counsel here, Mary.

Martini: No, I understand that. I thought we were at the point where we were looking at additional -- or new items. Excuse me.

Savage: No, we're still on Agenda Item No. 9. Any other comments or questions or Agenda Item No. 9?

Kaiser: 9-D is Active Contracts. Was there any questions on that one?

Martin: Reid, I've got a question. When I look at the completed or the closeout document, which I think is 9-A, you've got projects listed here where it says, for an example, 3566 Nev-Cal Investors Inc., you've got construction ongoing. I've noticed that in a couple of those, are you putting them on this -- what I thought was construction contract closeout status. I've noticed that there's a few of them that says construction's ongoing, yet they're on this closeout list. Is that standard or do you reach a certain point where you put them on there?

Foerschler: Sharon Foerschler for the record. They may close out (inaudible) 85% complete. And that's our way to start tracking them that we're getting close to closeout and contract complete -- construction complete, I should say.

Martin: You said at 35% or…

Foerschler: 85%. 8-5.

Martin: Okay. Thank you.

Foerschler: You're welcome.

Savage: I had a question on 9-D, Mr. Kaiser. Contract 3516 and Contract 3525, the comments indicate utility delay. And we've talked about this in the past with the different utility providers. Has that gotten any better or is that about the same? I know we talked about it about a year ago with the cooperation of the utility providers.

Kaiser: Now, I'm going to defer that to the district engineers. I haven't seen an influx of change orders for utilities across my desk in the last six months. Maybe one of the district engineers or they could all speak to their district if that is an issue for them.

Dyson: Well, I can -- Thor Dyson, District Engineer for District 2. We had some utility conflicts on Mr. Steve Lani's previous Carson City job, and we went through those issues. I think some of that was within the plans, and with NDOT that rested with NDOT getting the job out. And I know Steve can speak to that some more. But recently, no. To answer your question, recently have not had utility issues on current NDOT projects.

Savage: Okay. Well, that's fair because the $284,000 for the utility delay on the Contract 3515 (inaudible).

Dyson: Was that...

Kaiser: That was Lani's job.

Dyson: Yeah. Maybe you want to address that, Steve.

Lani: For the record, Steven Lani, District Engineer. 3516-R was the Carson City Freeway Phase 2-B-2. That delay occurred very, very early on in the project, and that was basically a utility conflict with current work with multiple utilities in the construction of this kind of bridge. We were aware that early on the change order surfaced near the end once we finalized the actual delays in the negotiations. It was substantial. The contractor was impacted significantly during the impacts. This could have been a lot worse. We initially estimated a half-million-dollar impact...

Savage: Okay.

Lani: ...restaging, rephrasing, re-sequencing and items where we were able to get the costs and time delays down.

Savage: Okay.

Dyson: If I remember correctly, it was through no fault of the contractor.

Lani: Correct.

Savage: Right. Okay. So…

Lee: In District 3, just to answer your question. Other than the one at Dunphy which was -- ended up being some, say, close to between $40,000 and $80,000 all the others have been just minor; dealt with very closely with the RE and dealt in-house. Other than that, that's it.

Savage: Thank you, Kevin. One other question is on Job 3564, Kingsbury Grade, the Q&D CMAR. Again, I thought that was done.

Foerschler: Sharon Foerschler for the record. That was done, although TRPA would not let us out of the permit, and so we did some additional work at the intersection of 207 and U.S. 50. And that was just done in the last month.

Savage: Okay. That's all I have.

Martini: This is Mary Martini, District Engineer. And I apologize. We've got some interference down here, some noise, so it's making it very difficult to hear you. But if the question was regarding utilities, it depends on the project, obviously, for the 3Rs and our paving projects. We don't get in to those. But our large projects have run into utility delays, and we may be expecting some difficulty on I-11, based on the number of corridors for four different utilities through there. The design-build projects, Design-Build South had quite a bit around the railroad in utilities, which John Terry can speak to. So it really depends on the size of the project and whether it's a large reconstruct, or if it's something else.

Savage: Okay. Thank you, Mary. And can you please explain the graph on 9-D, Page 2 of 2?

Foerschler: Sharon Foerschler for the record.

Savage: I was too tired. I couldn't understand that.

Foerschler: Yeah, this is…

Hoffman: I didn't get it either, so thank you for asking.

Foerschler: We'd be happy to delete it. It's a left over from previous administration that wanted to provide this to you. But this basically shows how much we paid to the contractor for each pay cycle. For each…

Savage: Oh, it's how much you paid…

Foerschler: Each month I should say, not each pay cycle, per month. So if you follow along the bottom, that'll tell you what day we made the payment and then the graph is supposed to represent how many dollars made the contractor (inaudible).

Kaiser: So the title above was just a carryover, I think, from the previous page.

Savage: Okay.

Foerschler; And it is every two weeks, but the page shows (inaudible).

Hoffman: Hence the higher numbers during the summer.

Unidentified Male: (Inaudible).

Unidentified Male: Correct.

Hoffman: Okay.

Foerschler: That would tend to the be trend, yes. If it's confusing, we're happy to drop it. If you'd rather see it another way we're happy to show it.

Savage: If it's worth it for some people, that's fine. I just -- I wasn't catching it. So maybe it's beneficial to others then. Keep it if it is. It's fine by me.

Dyson: Well, we're all about reducing paperwork.

Savage: Okay. We'll take that off.

Knecht: It's a graph.

Savage: One less page.

Knecht: It's a graph.

Savage: Anything else on Agenda Item No. 9? Okay. We'll move on to Agenda Item No. 10. Is there any public comment in Carson City or Las Vegas or Elko?

Martin None here, sir.

Savage: Okay. Thank you.

Lee: None in Elko. Thanks.

Savage: Thanks, Kevin. Okay. At this time, I'll take a motion to move to the closed session, and I have a question. Do we have to come back after the closed session to (inaudible)?

Gallagher: The meeting will reconvene here and on the public record.

Savage: Okay. So we have to come back after the closed session?

Gallagher: Yes. But you can certainly advise the public and everybody else that the plan is as soon as we come out of private session, we will go into public session for the sole purpose of adjourning the meeting.

Savage: Very well said, Mr. Gallagher. (Inaudible) the same words.

Knecht: So moved.

Savage: Is there a second to close the session?

Martin: Second.

Savage: Thank you. Session closed at this time.

(Closed Session begins)

Savage: Mr. Gallagher?

Gallagher: Why doesn't the Chair entertain a motion to go back into public session and then immediately thereafter entertain another motion to adjourn?

Savage: Okay. Do we have a motion to go back into session?

Knecht: So moved.

Martin: Second.

Savage: Okay. Let's go back online to public session.

Knecht: I was waiting for you, Frank.

Martin: I'm sorry, I'm slow on the draw.

Savage: Okay. We're back in public session. Agenda Item No. 12 for adjournment. I'll take a motion for adjournment.

Martin: So moved, Mr. Chairman.

Savage: Second?

Knecht: Second.

Savage: Second. All in favor say aye.

Group: Aye.

Savage: The meeting is closed. Thank you, everyone.

Representative