

Minutes of Nevada Department of Transportation  
Board of Directors Construction Working Group Meeting  
December 9, 2013

Chairman Len Savage  
Controller Kim Wallin  
Frank Martin  
Dennis Gallagher  
Bill Hoffman  
Rick Nelson  
Tracy Larkin-Thomason  
Sharon Foerschler  
Paul Schneider  
Jeff Shapiro  
Kevin Lee (Elko)  
Denise Inda  
Mary Martini  
Jeff Freeman  
Anita Bush  
Thor Dyson  
Reid Kaiser

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Savage: I'd like to call the December 9, 2013 NDOT's Construction Working Group Meeting to order. Can you hear us in Las Vegas?

Larkin: Yes, we can.

Savage: And is Member Martin in attendance? Tracy, is Member Martin in attendance?

Tracy: Yes, he is.

Martin: Yes, I am.

Savage: Hello, Member Martin. Thank you. And Elko, Kevin, can you hear us up in Elko?

Kevin: Yes, I can hear you just fine. Thanks.

Savage: Thank you, Kevin. So, with that, let's get started. Agenda Item No. 2 is public comment. And I notice a lot of contractors here today. I thank you for coming. And we do have a specific Agenda item, which is No. 6, regarding the bimonthly and monthly payment status. And I would imagine that you're here to probably speak on behalf of that issue. So I would like to

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take the Agenda Item out of order and move this to the front of the list here, if that's possible.

Gallagher: Absolutely, you may move items out of order with concurrence of your fellow Board Members.

Savage: Thank you, Mr. Gallagher. And, again, we'd like to recognize the contractors here today to speak on this Agenda Item No. 6, regarding bimonthly and monthly payments. So I think, at this time, I'd like to hear from individuals from the community. If you could so kindly speak and try to keep your comments to three minutes, It would be appreciated.

Madole: John Madole with the Associated General Contractors here in Reno. And I'll keep my comments very brief. But I think the proposal to pay monthly rather than twice a month puts a particular hardship on people in the highway construction business, where you have huge investments in oil -- particularly in things where you have to turn the cash around pretty fast. Also it creates a hardship on subcontractors and particularly the minority contractors that you were talking about trying to help are disadvantaged -- I guess is the proper term.

So I'd just like to say, I know a lot of people that are in our association and others made written comments, which I think have been shared with all of you. And there are contractors here that can probably address it more specifically than I can. But I'd just like to say, we are absolutely supportive of continuing paying twice a month. Thank you.

Savage: Thank you Mr. Madole.

Hiatt: I'm Scott Hiatt (ph) with A&K Earth Movers. And I did provide a written comment in there. And I think that maybe some of it was education. In the summer time, when we lay asphalt on the roads, the cost of oil is a huge, huge number. And it's gotten really a lot huger over the years. But we can lay almost \$200,000 worth of oil in a day. And we might pave ten days in a row. And that's a \$2 million figure. And the oil companies will not allow us to carry lines of credit, well, beyond \$2 million. I've had them actually call me and want payment, right, for me to get another load of (unintelligible) oil.

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So we would either have to shut the job the down or dig into more borrowing -- more than \$2 million lines of credits. And so we're definitely dead against changing the two-week pay cycle. Thank you.

Savage: Thank you, Scott.

Linderman: Kevin Linderman with Q & D Construction, Vice President of Engineering. My comments are that extending the payment terms to a full month versus biweekly is a huge detriment to our company. To reiterate some of the comments before, the oil companies have calls of up, you know, sometimes down to seven days. Like Scott said, we pay quite a bit oil out in front. Then we get paid based on that cutoff that follows another month after that. So we could be six weeks out on oil that we bought prior to ever paying for it, and sometimes have to pay for it before.

Also DBE Contractors -- that is one field that DBEs -- we can get commitment from, is the oil industry. A lot of times, they do not have the lines of credit that allow them to pay on seven days already. Having them go out further in a month would be extremely detrimental to them. We don't believe that many of the people that we deal with in that field will be able to withstand that kind of credit and allow us to purchase the amount of oil that we can from them.

We like to pay on time. And just as much as everybody else, we pride ourselves on that. Getting money to the oil contractors in seven days isn't a choice. If you don't pay for it, you don't get it, and it stops the job. So Q & D is opposed to the move to go to a once-a-month payment.

Savage: Thank you, Kevin.

Markwell: Mark Markwell, SNC Construction. Not to be repetitive, but I echo the gentlemen's comments. The only other thing I would add is that not only do the oil companies not give you, you know, any credit after you, you know, hit a certain amount, they actually take it right out of your bank account. So they have a direct line into your bank account. And they take it right out within, you know, five to ten days, depending on where you are in the credit.

The other thing is, it's been mentioned, is with respect to the subcontractors and the DBEs -- I mean, they're the ones who -- we're paying as soon as we get paid. And if their payment's delayed, it's going to hamper them and the

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competitive nature of the business. It's the entry to -- the barriers to entry is very high in the construction industry. It requires a lot of capital. And these types of things will really hamper the competitive nature of that. So one of the things that we like to do is help out some of those smaller subcontractors and the DBEs and help pay them even before we pay. If this, NDOT pays twice a month -- or once a month, rather -- it would deter us from being able to do that. We support the current plan right now. Thank you.

Savage: Thank you, Mark.

Kuzmaul: My name's Kelly Kuzmaul, Granite Construction. These gentlemen have all addressed the same issues that we have at Granite Construction. We really focus on paying the DBEs early, if we can do so, as well. The oil credits is very big in our industry, so we -- not to be repetitive -- but we're going to oppose the once-a-month payment as well, so...

Savage: Thank you, Kelly.

Grock: My name is Mike Grock. I'm with MKD Construction. I'm president of MKD Construction. I founded the company with my father back in 1999. It's been very challenging times, as you all know, from 2007 up to 2013. We are a general engineering firm. We like to prime the jobs. We're a prime contractor (unintelligible) we've done a lot of subcontracting. And we've done a fair amount of NDOT work.

In the infancy of the company, '99 on to about 2007, we did some fairly good-sized jobs, and it really helped us tremendously to have the bimonthly payment. It really, really helped us out as a small business and a small business owner to be able to fund the job properly, cash flow the job properly and pay your bills, you know? That's -- business works really well when you can pay your bills. It works well for everyone: not only the big guys, but also the small individuals, the smaller contractors.

So I'd like to continue to work for NDOT. I have a long history with NDOT as the company does also, MKD Construction. So I'd like you to certainly consider keeping the bimonthly payment approach. It's very pro-business-friendly if you'd do that. So that's all I have to say right now. Thank you.

Savage: Thank you, Mike. Anybody else here in Carson City? How about Elko, Nevada?

Kevin: None here, thanks.

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Savage: Las Vegas?

Martin: None here, sir.

Savage: Okay, thank you, Member Martin. I thank, again, the contractors for taking the time. There's several letters -- I believe there's 47 letters of record that were in our package and will be part of public record as well. And at this time I would like to have staff discuss their recommendation on Agenda Item No. 6.

Nelson: Thank you, Chairman Savage. For the record, my name's Rick Nelson. You may recall, about a year ago November, this idea of moving towards a monthly payment came up. And that was largely in response to a cash-flow issue that we were experiencing about a year ago. There was some analysis that was done that looked at the Department's cash flow and determined that there -- if we went to a monthly contractor pay cycle, that there was an opportunity smooth out NDOT's cash flow from beginning to the end of the month.

In order to evaluate that a bit more thoroughly, we put together a team here at NDOT to take a look at all the different elements that would come up if we were to move towards a monthly pay cycle. Staff has done that, and they've completed their report. I'd like to go ahead and turn it over to Sharon, who led that effort here over the last year.

Savage: Thank you, Mr. Nelson. Sharon.

Foerschler: I'm Sharon Foerschler, for the record. As Mr. Nelson stated, we put together a team, internally, to look at the impacts to NDOT if we were to go to a monthly payment cycle. Jeff Freeman (ph) was part of the group. We did a couple -- and everything's in the report for you guys to peruse -- as Mr. Nelson stated, the idea of going to monthly payments was based on our cash flow back in 2012. In analyzing the information to date now, that seems to have stabilized a little bit. So, in my opinion, and in the team's opinion, the fluctuation to NDOT's cash flow isn't as volatile as it was back then.

Some of the impacts that we're going to see from the industry and that the team was very concerned about, number one, was the cash flow and the ability for the contractors and subcontractors, material suppliers, et cetera, to kind of force their hand to carry our cash-flow problem for them, if we will. Per CFR, we're -- contractors are required to pay their employees weekly, by

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the Davis-Bacon Act. So there's a cash-flow issue with making payroll for the contractors. There's the material procurement, primarily the oil. There's also some concern that we may increase project costs so that the contractors can adequately fund their projects as they begin work with NDOT by going to a monthly pay cycle.

The reality is and, as I think everybody in this room knows, day one, when you're awarded a contract, you're starting to incur costs that you're not going to realize until you actually start doing the work for NDOT, so, therefore, your entity. The potential to have possibly 60 days of cash flow before they receive a payment is going to be very detrimental, we feel, to having these contractors be successful.

We have a big outreach for DBE and subcontractors firms -- excuse me, I'm getting ahead of myself. I'm getting nervous. I feel like I'm in the hot seat.

But, anyway, we've got some real concerns with our smaller subcontractors and our DBE firms being able to perform work in a positive manner for NDOT. And it's the team's feeling that, in going to monthly contractor payments, that's going to even increase their difficulties that much more.

Basically our recommendation, the team's, I want to say -- not NDOT's recommendation -- is we stick with biweekly contractor payments.

We were asked to look at another aspect of going to contractor invoicing as opposed to NDOT basing payment on our tracking of quantities. We do have some federal guidelines that say NDOT will track quantities. We don't think it's necessarily detrimental to have the contractor submit an invoice. But we're still going to need to document our quantities and payment for our federal guidelines.

A side note: I think you're probably aware that the Department is currently in the phasing portion of electronic documentation. We're looking to go live next year. And I think a lot of these issues with time and resource allocation on NDOT's part and preparing contractor payments is going to be streamlined considerably with our electronic documentation process. And part of that platform includes a screen for the contractors to go in and see, at any point in time, what we're putting in the system for payment.

One thing we did look at as a cost savings for the Department to go to monthly contractor payment insofar as resource allocation and the work that

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our employees put forth. In researching that, the team determined that there wouldn't be a huge cost-savings, if you will. The crews will still go through every two weeks and cap their quantities. To do it once a month would be a little cumbersome and, I think, we believe too much would get lost in the process. So the actual time savings would be our people inputting the system into our financial system to process the payment. We estimated, and it's just a rough estimate, it's about \$67,000 a year is what the Department would save in employees salaries, if you will and freeing up the resources of those employees to do other tasks.

Savage: Thank you, Sharon. Can you touch on a couple of items in the packet. And I want to thank yourself, Jeff, Megan, Felicia and, I believe, Gizachew (ph)...

Foerschler: Gizachew.

Savage: ...all participated in the NDOT group. And I thank you, Mr. Nelson, for putting this together. But can you speak on the outreach efforts in the survey with the other DOTs, as well as the cash-flow graphs, I believe that Felicia had put together?

Foerschler: Yes, I can.

Savage: Thank you, Sharon.

Foerschler: Sharon Foerschler, for the record. Mr. Shapiro put together a survey that we sent out to all the DOTs to get a feeling from them on their frequency for contractor payment and also whether they based that payment on invoicing or DOT documentation. We had 37 responses out of all the states that we requested information. 57 percent of them pay more frequently than monthly. Some pay biweekly. Some pay weekly. Some pay at the request of the contractor. Some pay based on a dollar threshold of when they cut that check. So it was a real mixed bag of how they pay.

43 percent of the states say they pay monthly, but with the caveats that if the contractor were to request more frequent payment based on cash outflow, that sort of thing. 97 percent of the states prepare their own documentation and they do not have the contractor invoice. 3 percent of the states, the contractor submits an invoice and then they work with the DOT to rectify those quantities, if you will, (unintelligible) to balance those quantities.

Savage: Reconcile, yeah, uh-huh.

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- Foerschler: (Unintelligible) on the contractors survey.
- Savage: The contractors survey, if you could touch on that a little bit, please?
- Foerschler: Yes. We initially started out making phone calls to gather this information, and through the guidance of Mr. Nelson, decided it was probably a better outreach if we went across the platform. Through our contractor bulletin, we sent out two weeks in a row, asking for their responses. We set up an NDOT construction-specific email for them to submit their comments. We also met with Jeff Freeman, sat down with John Madole, with AGC, for them to get the word out. We talked about it at our quarterly AGC meetings, requesting their feedback. We got 47 responses. It's good to note, though, there were 43 companies represented in those 47 responses. We had a couple of firms submit more than one response.
- I've got some information I can pass around to you. We had 11 prime contractors respond. Ten were against, one was for. We had 26 subcontractors. Of those subcontractors, nine were DBEs. 23 are against it, nine -- I'm sorry, three were for it. We had four suppliers, all were against it. And we had two consulting firms, one being a DBE, and they were also against the -- going to the monthly payments.
- Savage: Very good, Sharon. And, lastly, is Felicia in attendance today?
- Foerschler: Felicia's not here, but Jin Soo is supposed to be to explain the graphs.
- Hoffman: Should I go find, Gizachew (ph)?
- Savage: Or maybe Mr. Nelson can just -- or Sharon can briefly discuss the two graphs that the Department had worked on during this review? If you feel comfortable.
- Foerschler: The two graphs represent what happens with -- in regards to cash flow -- with biweekly, and the second graph is with a monthly contractor payment. And this is looking at one month -- a one-month type of cash flow, or a one-month time period, I should say. So you can see the beginning balance. We have twice a month NDOT -- or I should say biweekly processes employee payroll...
- Savage: Mm-hmm.



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Foerschler: ...which includes not just NDOT, but DMV, DPS, and there's a few other smaller state agencies. Twice a month we get DMV deposits. The middle of the month is the smaller deposit. The end of the month includes -- sorry -  
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Nelson: Is it okay if I jump in, Sharon?

Foerschler: Yes, please do.

Nelson: Okay. For the record, Rick Nelson. What the two graphs depict are the -- the spot cash flow -- the balance in the highway fund, if you will, for each day during this typical month, if you will. This data doesn't represent a particular month, because, you know, there are variations in the money that comes in and flows out of the highway fund. Again, I wish Felicia were here to talk about it, but she's at the IFC to help support Rudy with the Project NEON item.

But what it shows is, as we march through the month, there are a whole series of payments that come out of the highway fund. And the length of the bar on the graph represents the amount within the highway fund. So, as we pay miscellaneous expenses; as we make a typical contractor pay, which runs between \$10 and \$12 million a month through the course of the summer; again, miscellaneous expenses; we have payroll that comes out. Payroll is fairly stable at about \$9.5 million a cycle.

And then there's reimbursements that come in. There's the federal reimbursement that occurs a few days after we make our contractor pay. So there's DMV deposits, and so on. So you can sort of track the spot balance in the highway fund as we go through the month, where the first chart shows two contractor pays during the month, and the second chart, which just shows the single contractor pay.

Now, interestingly enough, you know, what happens is, the beginning and the ending month balances were going to be the same, regardless of what pay cycle we select -- whether it's a monthly pay or biweekly pay. The beginning and the ending balances should be the same. It's where the daily cash balance is that it becomes impacted.

You can see in the second chart that the -- those bars are much smoother. There's fewer dips that occur in there. Now, what's -- I guess what's important to remember is, as an agency, we've made some commitments to

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keep at least \$90 million in the highway fund. And you noticed, yourself, Chairman Savage, that in the biweekly pay cycle, there's about a \$25 million dip from the max to the minimum. Now, if we keep that monthly, you know, that beginning balance or the ending balance at \$90 million, there's enough reserve within the highway fund to absorb those dips as they march their way through.

We had a lot of discussion about this and, sort of, the collective believe we were in a very unique situation back in November, at the end of last year, with the high amount of state-funded projects that we had underway. Of course state-funded reimbursements of the gas tax and those revenues only come in once a month. And so the Department's carrying that balance for those state-funded contractors throughout the course of the month. And that's -- that's sort of why we see that big dip, was because of the amount of state-funded projects that we had out there.

We think that's a fairly unique situation, not likely to happen again. So, you know, when we look at this double dip, if you will, in the highway fund -- assuming we start out with a suitable amount of money in the highway fund, we can absorb those double dips without the kinds of problems that we saw last year.

Savage: Thank you Mr. Nelson.

Nelson: And I wish Felicia were here to be able to explain that in more financially relevant terms.

Hoffman: She would have explained it the same way. You did good. I think they get the... So, for the record, Bill Hoffman. But really the charts just show the difference between biweekly and monthly. And Rick explained it perfectly. The monthly smoothes out those fluctuations. The amount of the cash balance is at 90 or above regularly. We don't see ourselves dipping down as far as we did last year in November.

Savage: Absolutely. Thank you Mr. Hoffman.

Hoffman: Sure.

Savage: Thank you Mr. Nelson. And then, Felicia, for the record, we thank you. The graphs were very informative. And I think at this time, if there's any other further comment or discussion from anybody at staff, I'd like to go to

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Las Vegas and Member Martin and see if there's any comment or discussion (unintelligible).

Wallin: Staff, thank you very much for working on this project. It's nice having the analysis done that, you know, we request. My feeling on this, after looking at the little bit of savings that we would have -- right, I think you said \$67,000 so that's not a whole lot of money, all right, in the scheme of things -- and the fact that we have another issue that hasn't even been brought up, that this old statewide accounting system might not even be able to be reprogrammed to pay on a monthly basis, right, and not to mention the cost because you guys don't have programmers here and you'd have to rely on our staff to do that -- so that's a whole other issue that we haven't even thought about -- and then, also based on my understanding of what the contractor's issues are, after talking to them and hearing what they had to say here today and reading their letters and comments, I do not feel that we should switch to a monthly payout schedule.

A couple of reasons: Lack of cost savings. The other thing, I think it would be reducing our competition, all right, that only a few contractors would be able to afford to do work for Nevada. We're not just talking about DBEs, but the regular contractors as well. And I don't really feel that our cash-flow problem should be their problem, all right? When we dipped last time, I don't think that our cash-flow problem -- we shouldn't have to finance on their backs, right? So my feeling is, is let's keep it where it is with the biweekly payments at this point in time.

Savage: Thank you, Madam Controller. Member Martin, Las Vegas.

Martin: Len, I think my position's been pretty well stated in the previous -- in the previous meetings, so I'll let it stand at that.

Savage: Okay. So my only comment would be -- from my point of view would be I'm very content that this group and NDOT staff have taken the time and the energy to pursue this option of a monthly payment. And I think it's an exercise that has exposed some good things. And I believe that the contractor community has seen difficult times in the last, I think, since December of '08. And I thank them for their attendance today. And I believe they're instrumental in the process of this Department. And I believe that the Department depends on good contractors, solvent contractors. And I don't believe anyone expects anyone to be the bank.

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We have to put the roads in. Times have been challenging. And I thank you all for attending. And I'm ready to call for a motion to continue -- or a motion to follow with the staff recommendations as: Number one, continue with biweekly payments. Number two, do not move toward contractor invoicing at this time and continue to prepare the source-payment documents at this time.

Wallin: I'll make that motion.

Savage: It's a motion made by Madam Controller

Martin: Second.

Savage: and by Member Martin. All in favor?

Group: Aye.

Savage: Opposed? Motion passes. Thank you everyone. Mr. Gallagher.

Gallagher: Mr. Chairman, for purposes of clarity, for the record, I think your vote would be a recommendation to the full Board as a matter of policy. And I think it was directed to this Committee to look into and make a recommendation back to the full Board. And I think that's what staff will do next month.

Savage: Yes, we have a quarterly CWG report to the TBoard. So I thank you Mr. Gallagher. And, I believe, Mr. Nelson, you can put that on the Agenda to pass to the TBoard. Thank you.

Nelson: We'll certainly do that.

Savage: Thank you. We will...

Unidentified Male: Thank you.

Savage: Thank you, everyone. We will move on to Agenda -- back to Agenda Item No. 4, approval of the meeting minutes from the past two meetings, May 13, 2013, as well as August 12, 2013. Have all the members had a chance to review the minutes?

Nelson: Mr. Chairman, for the record, Rick Nelson. There's two sets of minutes to be approved at this meeting. You may recall, at the last Construction Working Group meeting, there were some issues trying to capture corrections to the May 13 minutes. We neglected to put page numbers on

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those minutes, so it was very difficult to mention the corrections that needed to be made. That's why the May minutes are here.

I would also like to bring to the attention of the CWG that, for the August 12 meeting, there were issues with the recording that occurred at the first -- very first 15 minutes of the CWG meeting, and we were unable to capture the transcript for the first 15 minutes.

Now, on my copy of the minutes, there's a note that says the initial 15 minutes of the recording of the proceedings of the Construction Working Group meeting were missing due to file corruptions. As a result, these minutes with a partial discussion of Agenda Item 4. It's my understanding that that note isn't necessarily on everybody's set of the minutes. But, that note does appear on the minutes of August 12. I apologize for the first missing 15 minutes.

Savage: Thank you, Mr. Nelson. So, at this time, have the members had a chance to review the meeting minutes from May 13, 2013 as well as August 12, 2013? And are there any additions, deletions or comments?

Wallin: Can we vote on them one at a time, because I wasn't present at the August meeting, so it'd be hard for me to vote to say it's okay.

Savage: Thank you for bringing that up, Madam Controller. So at this time we will just discuss the May 13, 2013 meeting minutes. Member Martin, have you had a chance to review?

Martin: Yes, sir. And I move for approval -- without the first 15 minutes.

Savage: No, excuse me. This is -- this is for May 13, 2013, where there were not corrupted meeting notes.

Martin: I'm sorry. I was still on August 12. My apologies, sir.

Savage: So your motion is for approval of the May 13 meeting?

Martin: Yes, sir.

Savage: I'll second that motion. All in favor?

Group: Aye.

Savage: Opposed? We'll move to approve the meeting minutes of August 12, 2013. Has everyone had a chance to review the meeting minutes and are there any

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comments? I'll take a motion to approve the meeting minutes of August 12, 2013.

Martin: Move to approval, minus the 15 minutes.

Savage: Thank you, Member Martin. Is there a second?

Wallin: I second.

Savage: Thank you, Madam Controller. All in favor, say Aye.

Group: Aye.

Wallin: And I abstain.

Savage: And the minutes passed. We'll move to Agenda Item No. 5. And that has to do with a report on the actual and estimated cost to self perform the Freeway Service Patrol activities in District 2.

Nelson: For the record, Rick Nelson. This topic of the Freeway Service Patrol was debated during the Transportation Board meeting. And, during that meeting, I had reported that NDOT had self-performed these Freeway Service Patrol activities in District 2 for a period of, I think it was, about two months, while we were in between contracts. During the Transportation Board meeting, we reported that we spent about \$90 an hour self-performing that activity. And there was some additional discussion about the variation in what it cost us to self-perform that activity versus what the contractor had bid.

We've gone back and we've recaptured these -- or not recaptured but reanalyzed these costs. And we also looked at the cost, if we were to design a Freeway Service Patrol program with the appropriate staff level, with the appropriate equipment, what costs those might be. And I'd like to turn it over to Denise Inda, who's been running the Freeway Service Patrol program, to discuss those costs.

Inda: So you all -- included in the packet, was the summary from two months' worth of the pilot program. And the third sheet was a breakdown of the costs. And, as Rick Nelson explained, we were -- we put together the pilot project using available resources that we had within the Department at that point in time. And so, I think, as Controller Wallin questioned at the Board meeting, you know: Why were we using employees that are a step 10 and a

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certain grade? And it's because those were the available employees who had the minimum level of skills and then some to do this job.

And we had the same situation with vehicles. We could only use vehicles that we already had that would be available to be redirected for the pilot program. And that did increase our costs more than we had originally estimated. And, as Rick said, we spent, for April and May, the hourly cost was \$97.53. Our original estimate had been just below \$69. So it was a little bit more.

We did go back and take a look. And Mike Stair with the Equipment Division had his staff go do a little bit of additional investigation -- go back and review, what, in a perfect world, if we were starting the program from scratch, we were requesting the right level of staff, the right level of full-time positions, you know, through the whole legislative process, and then the corresponding vehicles to do that job -- so sort of right-sizing the program. And those costs were indeed lower.

And the -- I'm sorry, let me flip to the right page here -- and so, instead of using, you know, what we would do is we would use a much -- a lower level of employee -- if we -- service worker 3, which is about, you know, depending on their steps, between \$15.65 and \$22.80 an hour. And that is lower than the average that we -- that we used of a Grade 33 with a variety of steps in there. You know the average of our actual pilot program was \$27.00 an hour. So that would bring the hourly wage down significantly because the biggest portion -- the biggest cost of this program is because of the hours -- the employee hours.

We also, instead of using the existing fleet service trucks that Equipment Division utilizes, we looked at using a three-quarter ton cargo van, which is comparable to what the program is using -- the service-provider program is using. And so that brought down the cost as well. So we, I think, Controller Wallin's question was, at the last meeting is, if we could do this less expensively in-house, why, you know, should we be looking at -- why would we outsource this as it is?

And we looked at all of this and the results from Mike Stair in the Equipment Division's analysis show that the vehicle cost per hour at the lowest step would be \$53.23 an hour and at the highest step would be \$64.10 an hour. And that's actually fairly competitive with the programs that we're paying right now. Right now, today, we're paying EUR (ph)

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Towing in Reno, \$61.50 an hour. So, even though there's value to performing the program in-house, by going out with our RFP and soliciting bids, we were able to put a program in place that's pretty competitive with what we could do in-house.

And we -- the situation -- the issue is that even though we could, with a perfectly designed program, we could do it for slightly less, but we can't do that right now. It would take, you know, you would have to go through the process. Wait until the next legislative session. Put in -- work through the -- the director would have to work through all the right processes, up through the governor -- getting approval from the governor for these new positions, new vehicles, those kinds of things. So it would -- we couldn't -- we couldn't do it in a timely fashion.

But I think it is worth noting that, after having done these -- having done the pilot program and the analysis about a right-sized program, we're right on the money. It's -- so I think we're in a good place with that. I don't know if you have any additional questions about those numbers or those figures. I'm happy to go over the parts that I have. And then, Mike Stairs is here with us today, and he could perhaps provide more information about the Equipment Division perspective.

We also have -- because the -- we have -- the new programs have been in place since October 1, I could provide some feedback or an update on the existing outsource programs both in Las Vegas and in Reno, if you're interested in that.

Savage: Very interested.

Wallin: Yes, definitely. I'd like hear that.

Savage: I'd like to hear that as well.

Inda: So both programs have been up and running in Reno and Las Vegas since October 1. In Reno, we have two vans and Las Vegas we have six vans. The schedules and the routes are strategically designed for the specific location to make sure that we're providing FSP services during the peak volumes on those specific routes.

If you remember months and months ago when we first started talking about Freeway Services Patrol, we did some analysis to find out where the highest volumes are, where the highest crashes are. And we adjusted and modified



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the hours and the routes accordingly. So the program that we see today, particularly in Reno, is different than the program that Samaritania had in place, say, a year ago or that.

We do -- now, one of the reasons that the Reno program had grown significantly was to accommodate significant construction that was going on. We had the I-80 design build. And prior to that we had the U.S. 395, I-580 Spaghetti Bowl to Moana project. And we -- what we have done in the past and what we have the ability to do in the future is to adjust the hours and the routes to provide extra service or additional service in the areas of a large construction project, where the work zone is likely to increase congestion and increase issues.

So we have the ability to put that program where it might be needed. But after those programs are complete in Northern Nevada, and so a scaled-back version of a schedule and hours is appropriate.

Both programs are moving forward very nicely. The folks in my staff spent, and still are spending a significant amount of time working with both of the districts and the services provider. Essentially, we're working with Highway Patrol, both the operation centers in Reno and in Las Vegas, the NDOT maintenance personnel in each of the districts, as well as the Equipment Division. And we started by having bimonthly coordination meetings. And now that the program has been in place for a little while, we've stepped that back to monthly meetings. But we've -- we've been able to address issues and concerns that have come up to make the program function as smoothly as it can and provide the best service for all of the involved parties.

We have some new performance evaluation that's going on, because we want to make sure that the program is effective, essentially. We want to make sure that the money that we're paying the service provider is really providing benefit to the public. So what they've come up with is this concept that -- and it's based on the concept that most of the time, the incident or the assist is going to be very quick and fast. It's going to be a stranded or minorly damaged vehicle in the travel lane or on the side of the road. And it's going to take the Freeway Service Patrol very little time to help them and get them on their way. And so we're looking at, really, the bulk of the assists to last less than 30 minutes.

Now, the Freeway Service Patrol will be out there, particularly in the Reno area. And they will be assisting on major incidents, where they're providing

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assistance to Highway Patrol and to NDOT and other emergency responders out there. But the bulk of the responses are really quick, short responses. And so we're monitoring that number. And what we're looking at is -- and I'm going to read this so I can say it -- we're tracking their performance by analyzing the number of the min -- excuse me -- mitigations per van hours for each route. And so what we're trying to determine, look at, is how many assists or mitigation they perform each hour.

The pilot project, when we were using staffing and vehicle from the Equipment Division, was providing just under one mitigation per hour, it was about 0.9. And we felt, because we were working so closely with the Equipment Division as well as the district and their staff, we felt that was pretty effective and was an improvement over the previous program. And so that's kind of our baseline is that 0.9. And we're really -- we're pleased that, as we're evaluating both the Reno and Las Vegas programs, that they're both performing at or above that base level that the pilot program was performing at.

And so what we're doing is we're monitoring those numbers. We're looking at those numbers. We're evaluating where the outliers are occurring. We're finding out why. We're working to make sure that the response guidelines and protocols are appropriate, so that we can keep seeing those numbers increase.

And then the other thing that's slightly different in Las Vegas is we've just introduced the IRV program, which is Incident Response Vehicle Program. And that's going to address the larger crashes and incidents. And so that's only been in place for two weeks. So we've developed a program where the IRV team -- the service-provider team -- is working very closely with the District 1 maintenance personnel.

And when situations arise, they're both looking at the situation, responding and evaluating them. And once we have a significant event or two, we're going to be able to revise the processes we've set up as we get a better idea of where their value is, where they can provide the most service and not have any duplication of effort. So we're working on IRV, but we haven't had any major progress with that yet, because it's so new and fresh.

But we are pleased with the results of the programs -- the FSP programs in Reno and in Sparks. And if -- I don't know if you -- I don't want to talk too long. I would -- I'd rather, if you guys have any specific questions, and you,

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too, Member Martin, in Las Vegas -- if you have any specific questions, I'll let you point me in the right direction.

Savage: Thank you, Denise. I'll take any questions or comments from members.

Martin: I have two. Of the \$90-plus an hour that you said it cost us to run the program ourselves, could the members of this group get an itemized breakdown of that cost? In other words, what the multipliers were, how much was the equipment, how much was payroll, how much was overtime, et cetera, et cetera.

Inda: Member Martin, have you seen the sheet in the attachment of today's packet?

Martin: I'm working at a disadvantage, ma'am, because for some reason or another, I was not able to. I was able to access the Board package and all the attachments, meaning the stuff on the pay and so on, but I was not able to access the actual Agenda and get it downloaded to my iPad. So I am working at a disadvantage.

Inda: Okay. Well, I -- and I don't know how you would like to handle this. There is some data and some information that was included in the packet today. I think addressed perhaps some of your (unintelligible) It doesn't show a breakdown of regular time worked.

Martin: Okay. Mary is going to -- Mary is going to -- I have my IT guys working on it. I don't know what's going on. Mary's going to go print me out a copy of it.

Inda: Excellent.

Martin: Because I couldn't -- I couldn't get to it in any way, shape or form for some reason. I got everything else. I just couldn't get to that piece.

And then the second thing is, when -- I heard you say something about when we have our Freeway Service Patrol vendor respond to an incident, we're also going to have somebody from NDOT respond as well? Did I hear that or did I misunderstand?

Inda: I may not have phrased that actually correctly. When there is a large -- when there is a large incident on the road, it's very standard for Highway Patrol to call for NDOT assist. If they're off -- if there are (unintelligible)

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type of work of that need to be done as (unintelligible) to the large incident or, say, something that happens commonly is you might have a large truck and trailer that crashes and it spills the contents of the trailer across the road or wherever it might be. And so a lot of times, it's the NDOT personnel respond to those kinds of situations to provide cleanup. And so what -- so that's very -- it's standard procedure for certain kinds of situations for Highway Patrol to request support and assistance from NDOT, because we work so closely with them and help them -- they help us.

So we're not duplicating effort. We're making sure that we're evaluating when those kinds of requests for assistance are made. We're looking at the kind of work that needs to be done and making sure that the process that we've set up really fit the kinds of situations that are going on.

So, yes, we're having NDOT respond when they're requested. But that's nothing new.

Martin: Okay. I understand now.

Savage: Thank you Member Martin. Madam Controller.

Wallin: Yeah, I just -- I guess my question here, and I think this is where I was having the difficulty, was the original numbers of it costing about \$97.53 per hour or something like that. And we only did it from April and May actual costs, but then we're saying supplies. We're saying it's \$5,000 per year divided by 260 days. So, and that said it was actual costs, but we didn't do it for a whole year. So I'm confused about how we decided to use that number.

Inda: Let me explain. And I'll say some things and, Mike, if you need to step in for anything, that's fine. When we originally -- when we put an estimate together for a pilot program, we estimated that it would cost about \$5,000 per year for supplies. And so if you take that \$5,000 per year and break it -- and divide it by 260 days, which is the number of (unintelligible) in a year, you get \$19.23 per -- per day.

Wallin: Right.

Inda: And so, perhaps, when that -- maybe the wording on that is not as clear as it could be. Actual cost is maybe not what it should have been. So we estimated that it was going to be \$19.23 per day. After the deadline for this meeting -- for the documents for this meeting -- we did do a final analysis of

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the program from April through the end of the program in Reno, which was September 26. The actual cost per day for supply expense was \$40.57, just for your information. And once we did that final estimate, or the final evaluation of the actual costs, the cost for the program in Reno was \$83.37.

And so it dropped slightly. And the variance essentially is based on the two big numbers in the costs are the number of miles driven each day and then the payroll for the drivers driving those vehicles. And what we saw is the -- as you can see on the documents you have -- the total hourly labor rate, which was an average of the four drivers was \$40.68. In our final analysis, that number dropped to \$35 an hour. And, really, that just -- essentially it's because we had the -- out of the existing employees that we were using, it happened that the -- I believe that it happened that the lower step employees worked a little bit more than the higher step employees during that timeframe.

So it wasn't -- it was just because we had a person with less steps who worked more hours than other people. It, you know, that was the fluctuation. It was the same pool of folks. It just happened that during different months, they worked different hours on the Freeway Service Patrol program. So the -- but our final costs -- our final hourly cost was \$83.37.

Wallin: Okay. You know, and I appreciate the other schedule that you did, that what if you were to design your own Freeway Service Patrol, start from scratch and stuff. That schedule is great. It's really easy to follow and understand. But when I try to compare it to the schedule that we have for what we did in the pilot, it's like mixing apples and hand grenades, I guess. That's how extreme it is. You know, I mean, I can't -- I can't cross-reference it at all.

Savage: The base, yeah...

Wallin: The base, yeah. Because like in the -- if we were to design our own, you've got -- your supply includes, supplies, uniforms, two hours per day supervision 25 percent of the time. And that's all lumped up here. So I think this is kind of broken out a little bit better than the other one. It just makes more sense. You know, it'd be nice, as we ask for comparisons and stuff, to make them the same.

Inda: Mm-hmm.

Wallin: It's easier for doing analytical work. It's an accountant thing, I guess.

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- Inda: No, I think that's certainly a reasonable request. We -- I think the challenge was that we've been working with this data for a while now, and it didn't all stem from our division. And so we didn't always have direct access to the numbers. And so maybe we didn't know how to manipulate it and put it in format that was the easiest to read.
- Wallin: Okay. Okay. And then something, Member Savage, that I would like to have going forward -- because Denise mentioned that they have new performance measures and that they're evaluating. I'd like to see something on a quarterly basis to see if we're still in that \$60 an hour scope and what they're doing. Because I know that, before, and this is why we had the whole problem with the Freeway Service Patrol is that it started out and it was about this much an hour, and pretty soon it crept up to about \$120 an hour.
- Well, it did, it grew. Because remember we started questioning the numbers and how much it was and stuff and the amount that we were spending. And part of it was they were going outside of their area; am I right? That was a big thing that was happening and stuff. But I would like to have a quarterly report on their performance.
- Inda: Absolutely. I think we can do that. Now, keep in mind the hourly rate is going to be the same for every hour that a person is out there in the vehicle associated with the Freeway Service Patrol or with the IRV, the service provider will charge NDOT a certain rate. So the rate will not change. The value -- the numbers that we can look at are the number of assists.
- Wallin: Right.
- Inda: Oh, I see what you're getting. You were looking at the cost per assist.
- Wallin: Yes. Mm-hmm.
- Inda: That's what you were referring to, not the cost per hour.
- Wallin: Yeah, the cost per assist. So you're -- you've got that, because you said that in the pilot it was 0.9 incidents per hour.
- Inda: Right.
- Wallin: All right. And so, we want to make sure that we're still within that 0.9 or below...

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Inda: Actually above.

Wallin: Above, rather. 0.9 or above.

Inda: Right.

Wallin: You know, that all of a sudden it's not costing us more per assist.

Inda: Per assist, yes.

Wallin: Because that's what had happened.

Savage: And I think -- thank you Madam Controller. And I think this is a classic example of the cost-benefit analysis of what the Controller has spoken so many times about at the TBoard level. This FSP program, which I thank you Denise and Rick, has been a good example of what the Department can do to ensure that our vendor is giving us and our state taxpayers the right service for the right value. That's all we're doing here. And I think this is just a little exercise that I compliment your staff, Denise and Rick, and everyone involved, because now we're on top of it.

If this vendor were to get out of their box and fail at what they're doing, we call the bullpen and NDOT can step in and take care of business. And that's very satisfying, I believe, because times are difficult. And we know that we can perform this service if need be. So I thank you and I think we look at quarterly reports and we keep moving forward.

Any other comments or questions from anyone here at staff, administration?

I just had one question for maintenance. Were the -- are the odometers read on a daily basis when we did the FSP service in house?

Stair: Yes. Mike Stair with the Equipment Division with NDOT. The odometers or the mileage is tracked at the fueling station each time we fuel, which is daily, it will then be recorded for every vehicle.

Savage: Thank you, Mike.

Stair: Only because of the amount of usage that we have. Otherwise, if it took two days before we need to fill up, then we would be collecting it every other day.

Savage: Very good. I was just interested on the base data. Thank you, Mike.

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Stair: You're welcome.

Savage: So that'll close Agenda Item No. 5. And that was a discussion only. We'll move to Agenda Item No. 7, discussion of change orders.

Nelson: For the record, Rick Nelson. During the September 9 Transportation Board meeting, the topic of change orders came up during the discussion of the agreement and contract approval matrix. It was during that full Transportation Board meeting that it was suggested that we take up change orders at the Construction Working Group, which we've done here today.

I guess, from a very high level point of view, construction change orders have not gone to the Transportation Board for information or approval. That said, there was a couple of projects that were delivered using an alternative delivery method design build. And the way that those contracts were paid was against a -- using a purchase voucher. And the actual contract with the contractor was through what we call an agreement. It was through an agreement. And so what happened on those projects were -- there were change orders, there were increases to the contract amount. Those increases exceeded the agreement amount with its contingencies. And so we had to bring that agreement back to the Transportation Board for approval.

And so I think that's where maybe some of the confusion about change orders going through the Transportation Board stemmed from. That said, what I'd like to do is take a little bit of time and have Jeff Shapiro go through the change-order process with just a little bit of detail -- enough to hopefully provide some assurances that there's enough procedural safeguards in place to assure the Construction Working Group that this change-order process isn't something that occurs without a lot of thought or concern. So, with that, Jeff, why don't you go ahead and explain the process a little bit about how we get to a change order.

Shapiro: Okay. Thanks Rick. Jeff Shapiro, Chief Construction Engineer, for the record. We did provide a memo to the Construction Working Group with some attachments, basically copies of our internal procedures and policies and the construction manual documents and federal regulations as well.

But basically how this works is our contracts, our conventional contracts, now -- when we say change orders, I'm referring to a conventional contract - - it allows us to make changes within the limits of the contract. And the intent here is to address issues that we encounter -- might be encountered on



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the field in a timely manner to avoid delays or impacts of traveling public. And, you know, typically, as I know the Working Group knows, is our projects are linear in nature. They can be as long as ten miles in length. I believe the Board approved a contract this morning that's a traffic signal retrofit-type project, multiple locations throughout a district. There's a lot of different areas out there. Every one of our projects have the traveling public driving through our work zones. So it's really important to be able to address issues.

As hard as we try to address everything in the plans, we run into things out there every once in awhile. And it's really important to try to address these issues quickly to avoid delays as well as impacts to the traveling public when we have lanes closed.

The way the change-order process works on our conventional projects, there's two basic mechanisms. One's a letter of authorization, which allows the resident engineer to take care of minor incidental issues with some limitations, less than \$10,000 per occurrence. And a typical example of these type of issues, if they run across a drop inlet that's damaged and needs repair, that isn't in the plan set, which can happen, they can use this mechanism to fix and repair -- restore the drainage the way it's supposed to work.

It's not uncommon on our projects, after the plans have been advertised and the contract awarded, between when the design is final and when they get out there, say a guardrail got hit. And we don't know who hit it and it's a safety issue that we need to fix. Our contractor is right there. We could use this mechanism to help fix that type of an issue. But, like I said, there are limitations. You cannot change specifications with a letter of authorization. This is just to repair or take care of minor issues.

If you have to do something other than that, then the change-order process, which is detailed in the construction manual as well as in our standard specifications, is used. And before proceeding with the actual change, there is a -- you know, basically anyone can request a change -- but there is a process that involves the resident engineer, the district engineer, headquarters, the designers, whether it's traffic, structures, whatever. Headquarters, we're involved. We're discussing this as to whether NDOT wants to make the change or not. On a federal aid job, FHWA would be

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involved in that process. A lot of conversations go on with staff behind the scenes to make sure if it's the right direction to go.

And then once, if it's agreed that we need to make this change to address whatever it is, then the resident engineer will contact the contractor and start negotiating, preparing the change order. So that, you know, the checks and balances are there when we're discussing the change, within the limits of the contract, again. And then, once we start negotiating with the contractor with the change, and the resident engineer prepares the change order, there's another series of checks and balances.

Once the change order is prepared and signed -- the contractor signs it; the resident engineer signs it; the district engineers have to sign it again; technical divisions, whether it's design or materials division or structures, they're involved with endorsing the change order -- the change order doesn't come into effect until it's actually executed, which is the director -- actually it's the assistant director of operations, Mr. Nelson, here. And, of course, on a federal aid project, somebody must sign off for the federal aid participation. And on a full-oversight project, that would be literally FHWA, the division office would have to sign off on the change order.

That's basically how the process works, per se. We are looking at ways to make this a little bit more transparent as far as the information that's out there. In my humble opinion, our system's a tad bit cumbersome because of the paper-based nature of it. We're trying to develop methods to do a little bit better job of reporting it from a programmatically standpoint -- programmatic standpoint, excuse me, which would include things like dashboards. You know we have various types of change orders, putting those on a dashboard type submittal so we can look for trends and publish that.

And we certainly -- we're working on the tools right now. They're not ready to show the Working Group. But, personally, I think it would be a good idea, once we have those tools, to start making them part of this Agenda in our conversations on the projects. But I firmly believe that if we do have something that's significant in nature, that we could also bring those up at these meetings as part of when we talk about the active -- we actually do discuss these type of issues when we're talking about our active construction projects, as they're going. But we probably could do a better job of explaining some of the changes that are occurring out there right now, so.

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With that, I don't know if anybody in the Working Group has any questions. I'd be more than happy to try to answer them.

Savage: Member Martin.

Martin: No, sir. I -- you and I have talked before about this Jeff, and the timeframes that it takes. And that's always a concern, because a little bit ago, I heard from staff talking about how sensitive they were to how quickly the contractors got paid, yada yada yada, and then the change orders take extended periods of times to get issued. So we've talked about that before. I just wish there was, as you said, a simpler way to get this stuff expedited.

Shapiro: Yes, Member Martin. One thing that I didn't explain as part of my presentation, but it's addressed in the memo, we do have a prior approval process that gives the resident engineer internal authorization (unintelligible) if it's time sensitive, so to speak. And there are certain limitations to that based on the size of the project. For example, a project of \$5 million or less, the resident engineer can authorize. Not necessarily pay for it, but at least authorize (unintelligible) for at \$25,000 is their limit, whereas anything over that, district engineer has up to a \$50,000 on that type of project. Anything bigger than that, the numbers change to \$50,000 and \$100,000, I believe, is what I put in here.

But anyways, the payment -- the whole process on trying to review these and get them executed in a timely manner is a concern to us, too. And we are looking at ways to try to streamline that. One of the things we started last winter was the actual change order class my assistants and I put together. And up until this point, I don't think NDOT had ever given a change order class resident engineer. You know, so we went out there and we literally talked about what our expectations are, how to, you know given them some pointers and hopefully some help on how to write change orders. So hopefully some of this training and doing a little bit more outreach with the folks out in the field will help have the orders processed and executed in little more timely manner, so we can pay the contractors for extra work that we direct.

Martin: Yes, sir. That's -- I think that's what our entire desire to examine this process, just so that they do get paid in a timely manner, and that the paperwork gets issued in a timely manner.

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- Wallin: I thought that -- it's been awhile, but I thought that what the reasons those -- that we talked about was when (unintelligible) going over the approval process. What part's been approved that they don't approve. And I (unintelligible) that was some concern that change orders to not go to (unintelligible). And, you know, you look at some of these that are over budget here, significant, you know. Here's one, it's \$1.375 million over budget.
- Shapiro: Mm-hmm. Mm-hmm.
- Wallin: The Board probably didn't say anything about that. And so, I guess, I think that was some of our concern about when we have significant change orders or that maybe the Board should know about.
- Shapiro: Mm-hmm.
- Wallin: And then, also, you sent all this material out, which was great. So I have a couple other questions on the supplemental agreements, right?
- Shapiro: Mm-hmm.
- Wallin: What process is that? Does the Board approve those or not -- supplemental agreements?
- Shapiro: Madam Controller, Jeff Shapiro, for the record. Supplemental agreements are very rare. And they are only really issued when we do work outside of the contract or the terms of the contract. And I'm only aware of one. We actually had to do one down in Las Vegas as part of the U.S. 95 widening, when we had an injunction against us with the Sierra Club. They shut the widening part down. And we still had to do some drainage work. We issued a supplemental agreement to address that drainage work. And that did get signed -- supplemental agreements, long story short, do get signed by the Transportation Board and the Governor. But they're very rare.
- Wallin: Okay. And then, you know, reading in here, because it talked about liquidated damages and stuff -- now, who does the authorization and makes the determination that a contractor owes for liquidated damages, or that we owe? What's the process there? And does the Board know about those things either?
- Shapiro: Madam Controller, Jeff Shapiro, again. The contracts already include clauses for liquidated damages, whether it's time or substandard materials.

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They vary -- they're project specific and they vary between projects. But basically the resident engineer is responsible for the project, successful completion of the project. They are the point of contact with the contractor. They're the ones that make the determination on whether or not to assign liquidated damages. We encourage them to discuss that with the -- their district engineer, their supervisors, as well as the headquarters, the front office, because when you are -- we are -- basically when we assess liquidated damages, we are withholding monies that are due the contractor for various items of work.

And that can be a sensitive issue with our contractors. And, in some cases, it can actuallyacerbate the problem that's out there. So we want to make sure everybody's in agreement that assessing liquidated damages are the proper thing to do, when we have to go there. But that's basically the process. The resident engineers, the project manager can pull that trigger, so to speak.

Wallin: So it'd be the resident engineer and the project manager. Okay. And then with district...

Shapiro: District conference, yes, ma'am, and front-office conference, too, because they can -- liquidated damages can, to be quite frank, generate some nasty phone calls.

Wallin: Can -- are there any times when you would have the resident engineer, the project manager and district saying, yes, there's liquidated damages that are due and just and front office says, no, forget it?

Shapiro: There have been occasions where the director's office and the construction office, myself included, have advised against assessing liquidated damages. Yes, ma'am.

Wallin: And what's the signature track on there? Who's -- do they all sign off, even...

Shapiro: There -- we really don't have an approval process, per se, where people must sign off on that. But the -- since the payments go through our office as well, we are involved in the process, including assessing the liquidated damages. But there are cases where we have -- say, the chief construction engineer may advise against it or for it. And if the director's office -- you know, the director's office is the ultimate authority on all these issues. They are the

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engineer in the contract. The resident engineer is their point of contact in the field, but the engineer, the director is the ultimate authority. And really it's their decision whether or not to assess damages.

Wallin: Okay.

Savage: Thank you, Madam Controller. Along those same lines, Mr. Shapiro, first of all, I want to thank you for the information you provided. There was a lot of reading there, a lot of detailed reading. And I think what this is all about is streamlining, getting more efficient, making a tighter system so it's not -- it's like the close-out process. I mean, we went from x-number to x-number and we've made a jump of about ten per month...

Shapiro: Mm-hmm.

Savage: ...improving. And I think that -- as a Department, I think we need to look at this change-order process. I mean, there's 21 different categories to categorize a change order. Do there need to be 21? That was 1999, you know?

Shapiro: Mm-hmm.

Savage: Regarding -- and it's a good measuring stick, don't get me wrong. But how detailed do you need to really get? That's the question that I think we need to look at as Department. The question I have for -- and Madam Controller had alluded to this -- as far as sign-off of change orders, you have the contractor, the RE, the district engineer, and the chief construction engineer, and then the director's office.

Shapiro: Correct.

Savage: That's the policy.

Shapiro: Yes, sir.

Savage: And is that followed 100 percent of the time?

Shapiro: I will say, no, Chairman Savage. The only exceptions where it's not followed -- there are cases where the headquarters will negotiate a change order directly with the contractor. This is when an issue has been escalated to our level and basically because of a dispute at the project level. And I -- the chief construction engineer will negotiate the change order with the contractor. And, in those situations, the construction office does not ask the

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district to sign off on them for a variety of issues. But it's -- I guess, I don't believe, sir, to force somebody to sign something when they didn't -- when there was a dispute at the project level. They escalated it to us, at the headquarters level. And we just happen to have a difference of opinion as to how to address the issue.

Savage: So, prior to that timing of a signature, there would be several discussions with lower management and headquarters...

Shapiro: Yes, sir.

Savage: ...as to where that -- where that change order may be going, why, what, how, debate. And it goes both ways, I would imagine.

Shapiro: Well basically, sir, it's -- the two parties have come to an impasse at the project level. And they've kicked the matter upstairs, so to speak, and asked for help to try to resolve it. And sometimes, like I said, there's a, you know, sometimes there's a change of opinion.

Now, there is one other situation where we have executed change orders unilaterally, where the contractor is refusing to sign them.

Savage: Yeah.

Shapiro: We try to avoid those, because, you know, we're trying to resolve an issue with the contractor. And, if you don't have the contractor's signature, it doesn't resolve the issue in their eyes. But, we're, you know, that does happen occasionally, but we try not to do that. That's a last resort.

Savage: And as long as that communication with the contractor, the district and the REs, with headquarters, I think it's very important that everybody is heard. I know you do that. The last question I have, and I'm not real...

Martini: Excuse me.

Savage: Go ahead.

Martini: This is Mary Martini, District Engineer in Las Vegas. I was just going to add a comment to the question. The primary reason that there's an escalation ladder is not necessarily always due to disagreement between the levels. You have also an increasing level of authority and discretion. So a resident engineer has to make decisions within the specifications and within program limits. And they don't have -- they have a limited amount of

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discretion. Then, when it comes to the district, we've got a little bit more discretion. We can take mitigating measures into consideration and perhaps make a different decision. And then on up the chain, so, as you go to each level, there's more items that can be considered, and then, of course, the negotiation with the contractor. So that escalation process is a positive usually, not a negative.

Savage: Thank you, Mary. One other question for Mr. Shapiro -- and this may be taken up as a future Agenda item, I'm not sure -- but Attachment H, under Project Management Procedures, if you could just touch on that. And I wasn't aware that there was different routing on some of these change orders for the PPP delivery system.

Shapiro: Okay. Mm-hmm.

Savage: If you could just briefly touch on that, Mr. Shapiro, and maybe to discuss at a future meeting, but let's see what we can talk it.

Shapiro: Chairman Savage, I'll try. And, by the way, I wanted to support Mary in her comments regarding escalation. It's not a -- escalation of an issue is not a bad thing. It's a mechanism to resolve a problem -- or not -- an issue out there. So we don't look at it as a bad thing either. It's a good way to resolve issues.

As far as the Project Management Procedures go, these really -- they're tailored for a couple different things, it's my understanding. One is, during the design process in change management, trying to manage the design as it goes down the road and the scope creep and all that stuff that can happen during design, but this is also how they approach our non-conventional projects per se: the design build, design build, operate, finance maintain. I don't believe the CMARs follow this path, but they could. I guess they would, because that would be a non-conventional process as well. But one of the key factors with the design-build projects is -- well, on our bid-build projects -- sorry to jump around here -- we have division one laid out in great detail in the standard specifications, which talks about changes and differing site conditions and those type of issues.

Because that's tailored towards a bid-build unit price type competitive bid contract, it doesn't -- that division one doesn't apply to design-build projects, which is more of a qualification, best-value type contracting system. So they rewrite the terms of changes in differing sites to tailor to the design



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build. So it is slightly a little bit different, which is why they have different procedures, per se. But there's no reason why we couldn't look into making that a little bit more cohesive so everybody understands what we're doing, so to speak.

Savage: So that goes back to the question again as far as sign off. What and who is required to sign off on a change order through this delivery system?

Shapiro: Well through the -- it's my understanding, Chairman Savage, that design-builds are all agreements. So anything that changes the agreement, comes in front of the Board -- amends the agreement.

Hoffman: So, this is Bill Hoffman, Deputy Director. The only difference with change orders on alternative delivery would be that project management, our Project Management Division, acts as the Construction Division for headquarters design-bid-build projects. So the players are just a little bit different in terms of how the change order comes in. But the signatory process is -- should be the same. I mean, it should follow the same steps. It comes in through a little different mechanism, through project management, because they understand -- they understand the project and how it's put together and how the pay system works. It's not the conventional bid item quantity amount in a design-build project. It's based on schedule and milestone payments and other things, not necessarily more complicated, but different from the design-bid-build process. So it just comes in through a different division. So the initial -- let me step back a little bit.

Savage: No, I think -- I think, you're...

Hoffman: You understand? Well, the piece that I was missing is, there's still a resident engineer, and the district is still involved and they're overseeing, you know, progress of work, milestones, and those sorts of things. So it would still be initiated through the district. But, when it comes into headquarters, it goes in through Project Management instead of the Construction Division, for that first look or that first evaluation: Is this even reasonable?

Savage: Then it goes to the director's office?

Hoffman: Yes.

Savage: Okay.

Hoffman: Yes.

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Savage: Thank you, Mr. Hoffman.

Hoffman: Sure.

Savage: That's all I have, unless there's any other comments or questions.

Nelson: To, for the record, Rick Nelson. To sort of circle back on comments from the Controller, um, the comment about does the Board know about change orders and what about the budget. You know, for every contract that's executed, we establish the agreement estimate, which is basically the budget. So it's not just the engineer's estimate, but there are contingencies and other elements that go into the agreement estimate.

Savage: Mm-hmm.

Nelson: I don't exactly know where to go with -- in making the Board aware when the budget is exceeded. I do know that in our -- one of our standing items, which talks about the status of contracts...

Savage: It's exposed at that point.

Nelson: ...I do know we talk about that. And when we get to that item, we prepared an Agenda memo for that, that sort of highlights the fact that we have projects that may have issues with budget or may have issues with large change orders. I guess the question I would have: Does that seem a reasonable approach to make the Board or the Construction Working Group aware when we're having large change orders or issues with the budget? Or if there's an expectation that maybe there's a more aggressive reporting scheme somehow, when we exceed that agreement estimate?

Savage: Well, personally, I think it's section, the next Agenda item, that it's very detailed with engineer's estimate, amount of the change orders, and then you have the overage or the underage on the final percentage as to what the contract came in at. It's very transparent, I believe. And, if we could make it 11" by 17", I might be able to read it without my wife's glasses. But that might help. But I do believe that it's very informative. And I think the information's there. I'm just speaking on my own now. I can't speak for everyone else.

Shapiro: Chairman Savage, there's an extra active contract the staff is throwing in there. (Unintelligible) know that the items listed in red, we also have yellow, too, are the items that we're concerned about going over budget and

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whatnot. One thing I would like to add on what Mr. Nelson said is the agreement estimate is also referred to as the programmed amount. And that is the amount on federal aid projects that we literally request FHWA's approval. And we can't exceed that amount without passing on -- asking their approval to exceed. Oh, Madam Controller, here's one for you.

Wallin: On the iPad, I can (unintelligible).

Shapiro: Chairman Savage.

Savage: Oh, yes. I have my wife's (unintelligible) here, just in case. Aren't those nice? Those may come out here pretty soon. Anyway, Madam Controller or Member Martin, do you have any more comments on the change order Agenda item?

Martin: No, sir.

Savage: Madam Controller?

Wallin: I'm good, thanks.

Savage: Okay. Thank you, Mr. Shapiro, Mr. Nelson, for sharing. I appreciate it. Moving on to Agenda Item No. 8, old business.

Nelson: During the last, for the record, Rick Nelson. During the last Construction Working Group meeting, we unveiled the Working Group task list. One of the comments was that we include numbers on those tasks so that they could be easily identified. What we included in the Board packet for this meeting is the complete list of all the items. During the last CWG meeting, we closed a lot of these items out. But they're still reported in this list. So, with your indulgence, I'd like to just take a quick run through each of these items.

Savage: Sounds good, Mr. Nelson.

Nelson: So, Item No. 1 was a question that was posed to our legal counsel regarding residency requirements. This question did come back -- go back quite a ways and it revolves around a contract that one of the counties issued for architectural services, I think, that had a residency requirement on it. So...

Gallagher: For the record, Dennis Gallagher. And Mr. Nelson's recollection, I believe, is correct, that it did stem from a county project. First of all, everybody understands that, if there's any federal dollars involved, it's not a possibility. So that brings us down to state-funded projects only. We have reviewed the

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state statutes and don't believe that NDOT is authorized to add that type of requirement or make it a factor in evaluating the award of a contract without legislative direction. We did not go back and look at various county ordinances to see if they had that ability or not, partially because, if we concluded they didn't, we didn't want to be in that position, frankly.

So, that being said, if that is something the Board would like to pursue, I think it could certainly be added to the Department of Transportation's legislative requests for the upcoming session, rapidly approaching us, sooner than we think.

Savage: Mr. Gallagher, do you know if 338 has that provision?

Gallagher: We looked at 338, 335, we looked at all the state procurement statutes and could find no basis for it.

Savage: So that might be a bigger or higher level than us here at NDOT or 338.

Gallagher: 338 would apply to all public works projects, yes.

Savage: Right. Well, I think he answered my question. I brought it up originally. I just didn't (unintelligible) if there was a delivery system there that was a legal system. But it sounds like it's not at this stage in the game.

Gallagher: If NDOT were to pursue it without statutory authority, I think you could open up the Department to challenge.

Savage: Thank you, Mr. Gallagher.

Gallagher: Yes, sir.

Savage: Next item, Mr. Nelson.

Nelson: Okay, Item No. 2 dealt with payments to prime contractors being posted on the Internet. This item came up as a request -- well, it wasn't necessarily a request, but it was an idea that stemmed from discussions that were being conducted on subcontractors and a subcontractor's ability to know when the prime has been paid, so when they can expect payment from the prime. This was -- these payments that we make to prime contractors had been listed internally, and so it was a matter of the appropriate programming in order to post it onto the internet.

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This was accomplished at the beginning of November, when we started posting the payments to the prime contractors on the internet. And I think it was -- it's safe to say that it was fairly well received by all the prime contractors. I understand we did have a few questions about where to find it on the internet. But now that that hurdle's been done, beginning the first of December, I'm no longer sending out the hard copy of summary of all the payments that had been made. So there's a substantial staff time savings in posting it to the Internet.

I guess it should be noted that anyone can look at the payments that are being made to the primes, once you're -- once you successfully drill down through all the layers of webpage that we have. But you can see each of those pay documents. And what it is, is it's a listing of every contract item and how much has been paid on each of those contract items. That was publicized in the contractor bulletin, which is Attachment B to this section.

Savage: So the status, it has been deployed as of December 1.

Nelson: It's been deployed as of November -- the beginning of November. Just beginning -- the beginning of December, we're not stapling up each one of these hard copies and mailing them to each of the contractors.

Savage: And has NDOT and the consultant looked at the security level on this?

Foerschler: It goes though our e-bidding portal. I'm sorry, Sharon Foerschler, for the record. So if you go out to NDOT's website and you go in and look at particular contracts in our e-bidding portal, which is very secure, that's where you find these documents.

Nelson: No, no, no. I hate to disagree, Sharon. This -- it's not associated with the e-bidding portal. It's out there -- it's part of contractor bidding. Contracts, you put in a contract number. All the contract documents come up. And there's a folder out there called: Contract A Reports. So there's no security associated with it. Anyone can go look up any contract and look at any of those pay reports.

Savage: No, I'm not -- I'm not -- my question, Mr. Nelson, is not about the transparency -- I compliment the Department for the transparency purpose. It's the hackers or the security people out there that would hack a contractor's payment and make it a major issue. That's the -- that's where I was going with that. Has that security level been looked at?

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Shapiro: Well, if I may, Chairman Savage, Jeff Shapiro, for the record. The actual payment is made by the Controller's office, per say. And this document is generated after, it's my understanding, that's been processed.

Savage: Okay.

Shapiro: It's just -- it's literally just a scan -- well, they reprogrammed it, but it's literally a PDF scan of what we call the final balance report. We're just not printing them out and sending them in the mail anymore. That's all it is.

Savage: So this is just a report.

Shapiro: This is just a report. Yes, sir.

Nelson: It's on the backend of the whole process.

Shapiro: Yes.

Nelson: Not the front end.

Savage: Got you.

Wallin: You know, you might want to think about some security on that. Several state websites had gotten, we'll say, hacked, when they started doing the checkbook online. So these crooks were able to go and find out when a contractor was going to be paid and they started -- they picked out some big contractors, right? And they went and -- West Virginia got hit big time, okay?

And what happened is, because the checkbook online and being able to see these payments, they could start determining when they were going to happen. And they went and, we'll say, one of the companies was Deloitte, and they formed a company called Deloitte. They left off the two ts, one was only one t. They went to, I think, Georgia had really easy to open up corporation laws or something like that, opened up the corporation, got a bank account in some little town in Minnesota, went to a local bank, opened up the bank account, and then were able to go to the controller's office in West Virginia and go and say, "Oh, we want to change where our payment's going." Because they had all this information, and knew all this stuff, they changed all this information. Millions got stolen.

What a lot of sites have done now is they actually, if you want to go and look at things online, you have to go through the security. It's almost like a

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credit check type thing that kind of keeps things from doing that. So you might want to check to do that, just because the more information you put out there, the easier it is for the crooks to steal Yeah, and so I'm visualizing this as well, if we can...

Nelson: We'll have our security folks take a look at that and explore that. You know, we do pay everybody every other month, routinely, so...

Savage: Every other week.

Nelson: Biweekly, I'm sorry.

Wallin: What did I miss today.

Nelson: Excuse me. I apologize. I stand corrected.

Savage: Everybody was in awe.

Nelson: That's why it got so quiet all of a sudden, right?

Savage: How about Item No. 3?

Nelson: Distribute the minutes of the Resident Engineer meeting. That was done at the August 12 meeting. So that item will be retired.

Item No. 4, the Federal Highway Administration's program review on project closeout and inactive fund management. That report was made at the last Construction Working Group meeting. So this item is done and will be retired.

Item No. 5, FHWA DBE process review. That's still underway. Our civil rights officer has been working with federal highway administration to resolve and agree on recommendations. It's my understanding that process is still underway. And we expect the final report to be issued soon. When that happens, we'll distribute it to the Construction Working Group for review.

Savage: Mr. Nelson, I have a question on that. How does this differ from what we discussed today?

Nelson: Could you help me out a little bit? I'm not making the connection. I was there, honest.

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- Savage: We had an Agenda item on the DBE of the 6.98 percent. So that 6.98 percent is our goal as a Department for DBE participation. And how does this item no. 5 relate to that Agenda item?
- Nelson: Well, maybe Mr. Schneider from FHWA can talk about the process review process, which is different than the actual conduct of the disparity stuff.
- Hoffman: Right, so Chairman Savage, Bill Hoffman, for the record. What this -- what I'm reading here is process review of the DBE good faith effort. So that is a contractor who is trying to reach a goal for that project. What we talked about this morning was the program goal of 6.98 percent. That's an annual goal -- program goal. But on a project-by-project basis, there is a good faith effort. If a contractor cannot meet whatever that goal is, whether it's 10, 8, 4, whatever it is for that project...
- Savage: Mm-hmm.
- Hoffman: ...if they cannot meet whatever goal we've set ahead of time, then they have to go through a good faith effort to show that they did everything they could to meet that project goal, but couldn't.
- Savage: Okay. Thank you, Mr. Hoffman.
- Hoffman: Does that -- did I get that right, Paul?
- Schneider: Yes.
- Hoffman: Let the record show that Paul Schneider his head, yes.
- Schneider: Yep. Just to be a little bit more clear. Paul Schneider, for the record, Federal Highway Administration. You established -- what we were doing this morning is establishing a future goal. This program review is just a (unintelligible) how NDOT's accomplishing certain portions of the program, just to make sure that they're processes and procedures are in accordance with federal regulations. So in January-February timeframe, we'll complete that review of these -- this review of a couple of portions of the DBE program and we'll send it over to the director's office. And they'll distribute it as appropriate.
- Savage: And that's what Yvonne and yourself are working together on.
- Schneider: Correct.



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Savage: Thank you.

Nelson: Okay, Item No. 6, distribute the resident engineer survey results. Over the last year, we've been conducting a series of surveys with resident engineer and industry on how we deliver our program and how we administer our program. During the August 12 CWG meeting, we distributed those survey results. And so this item will be retired.

Item No. 7, monthly contractor pay. We discussed that today. We'll include the discussions in the annual report, for the biannual report to the Transportation Board for January.

Savage: On that Item there, No. 7. How often, again, is the contractor liaison meeting? Is it quarterly?

Nelson: Quarterly. And we have one coming up this Thursday? This week or next week.

Savage: So that review of that particular meeting will be incorporated in the next CWG?

Nelson: That's correct.

Savage: Okay. Thank you, Mr. Nelson.

Nelson: Item No. 8, response to the question on consultant audits. That was correspondence between Mr. Hoffman and the Controller. That email was part of the August 12 CWG package. And so, we'll close this item out.

Item No. 9, report on contract overpayments. On November 13, we had met with Mr. Savage and went over the detail associated with the contract overpayments. And we'd like to consider this item closed for now.

Savage: Just a correction there, Mr. Nelson. Also in attendance at that meeting were the Director as well as the Deputy Director, Mr. Hoffman.

Nelson: Okay.

Item No. 10, we did distribute the civil rights power point in the August 12 meeting.

And Item No. 11, contract change orders. That was discussed during this CWG meeting.

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And Item No. 12, discuss Freeway Service Patrol, self perform. Cross that. We (unintelligible) at this meeting as well.

So that exhausts our task list.

Martin: Chairman Savage?

Savage: Yes, Member Martin.

Martin: The meeting that happened on November 13 about the contractor overpayment. Can you give me a brief breakdown on what occurred there? In other words, what did you arrive at? This is Item No. 9.

Shapiro: Member Martin, this is Jeff Shapiro, Chief Construction Engineer, for the record. We discussed, basically we went over the final balance reports for two projects showing where the quantities are returned to the Department, so to speak, and how we addressed the overpayments. And there's copies of the invoices in there. I would be more than happy to try to schedule a time to come down to Las Vegas and show you the same documents that we discussed with Chairman Savage, if you like. And same thing with Madam Controller, too, if you'd like to go over this.

You know, it's unfortunate that we made those overpayments. It's kind of embarrassing to an engineer. We're supposed to be good with numbers. And we overpaid the contractor. And it's a little bit embarrassing. But we are taking steps to try to address that. With our electronic documentation system that we're testing right now, it'll -- there are some positive controls in there that literally won't let you overpay up to certain thresholds. So things like that, I believe, will help address this type of issue -- at least catch it before it becomes a \$600,000 bill, so.

Martin: Refresh my memory, Jeff. This was the situation where there was a third-party consultant that had -- is that the same one that I'm remembering? The third-party consultant that approved the overpayment on two, I think it was on two different occasions? Or am I thinking about a different circumstance?

Shapiro: There were several projects Member Martin, that were on the list when I tried to present over the phone back in August. One of them was, the consultant had two projects, abutting projects, two different contract numbers. And they actually paid for some work on the wrong project. And we had to take that money back and then apply it to next -- to the other

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project. So there was an issue there. It showed a negative on one. And the net was zero. It was a negative on one contract, overpayment, and a positive on the other contract.

Savage: Mr. Shapiro?

Martin: Okay.

Savage: I would suggest, if you could make time to meet individually with both Member Martin and Madam Controller (unintelligible) beneficial.

Shapiro: We can do that. Yes, sir.

Martin: Thank you.

Savage: Thank you, Member Martin. Madam Controller?

Wallin: I'm good.

Savage: Let's move on to Agenda Item 8(b).

Nelson: For the record, Rick Nelson. 8(b) is the documents to support the discussion on 8(a). 8(b) is the contractor bulletin that talks about the contractor payments on the Web. So that was notification that contractor bulletin is the notification that we provided to the industry so they can go obtain those contractor pay documents -- the summary of their contractor pay off of the internet.

Savage: These contractor bulletins go out monthly?

Shapiro: Chairman Savage, Jeff Shapiro, for the record. It's my understanding, anytime we have any announcement to make basically. But it's probably weekly, if there's something to talk about, you know, if we're advertising projects or whatever.

Savage: Mr. Gallagher, would it be fair to request that these bulletins also be mailed individually to the CWG members?

Gallagher: It certainly would be appropriate.

Hoffman: I can handle that, Mr. Savage. This is Bill Hoffman.

Savage: Thank you, Mr. Gallagher and Mr. Hoffman.

Hoffman: Sure.

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Gallagher: (Unintelligible) the public record. And should John Q. Citizen request them, they should receive these documents.

Savage: Thank you. That'll close out Agenda Item No. 8. We'll move to Agenda Item No. 9.

Nelson: For the record, Rick Nelson. Agenda Item No. 9 are the briefing on the status of construction projects. It's a routine briefing -- a standing item on the Agenda. What we're proposing to do is include a Board Memo, if you will, that talks about the analysis of each of the reports that are included. Right now, we're currently tracking the closeout of 49 projects. We continue to hold monthly meetings. I think they're very productive on project closeouts.

And so Attachment A shows the detail of all 49 projects that we're tracking for closeout. Now, some of these projects that end up on this list haven't yet been completed. We start tracking them as they near completion. So the detail there is listed. I'd also like to point out, during the reporting period, which is from the August meeting until the end of November, that we closed out a total of 5 projects, which brings our total projects closed in 2013 to 29. Now, it's likely we'll have one or two projects that will be closed out between now and the end of the year. So that, when we report to the full Transportation Board, that number probably will be higher than 29, we hope.

Wallin: Can I ask a question? On the closeouts, let's see, first one, 3389, it's saying, "working on (unintelligible), working with contractor to resolve issues, construction (unintelligible), that's it, construction complete. I was just wondering why we say construction's complete?

And then we have another one, where it's 3518, 3536.

Nelson: Madam Controller, are you on the closeout stamps?

Wallin: Yeah, the one with the blue stripes. The very first one on Attachment (unintelligible)

Nelson: (unintelligible)

Wallin: Well, 3389 on the (unintelligible) Yeah, next page. Yeah. 3389, it's got -- at the very top, construction on development. (unintelligible)

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- Shapiro: That, Madam Controller, Jeff Shapiro. That construction ongoing is kind of a typo. Are we still in the plan establishment period? I believe we're still in establishment (unintelligible).
- Wallin: Okay.
- Shapiro: But literally there's no real -- other than that, no real (unintelligible) going on. They're just closing out the contract, so to speak.
- Wallin: Okay. And what about, we get down -- further down on that same page, down 3518 and 3536. Again, it says construction ongoing, but we have a completion date of February (unintelligible) August.
- Shapiro: A similar situation to (unintelligible) that we're in plan establishment period. We should probably -- we can look at that comment. I understand why that might be confusing. We'll take a look at those comments.
- Hoffman: If I could (unintelligible). Just explain what (unintelligible). Why is the project substantially complete and there establishment and how that carries over?
- Wallin: Well, it says construction complete. There's a date. That you got others where you say construction ongoing, but there's no date that construction's complete. I can understand that.
- Shapiro: I apologize. The Deputy Director is correct. I should explain what that means. Plan establishment period -- if we have a project where we have landscaping, and we're literally planting plants. Or now, I believe, (unintelligible) doing erosion control measures, soil stabilization, where we're seeding the ground and watering it. There's a certain time period for contractors. And the contractor's being paid to maintain this to make sure everything is growing. It can be from a year to -- actually, I think, in (unintelligible) they're trying to (unintelligible) period. So we're trying to address that. That's a long period of time.
- Wallin: Okay.
- Shapiro: That's what plan establishment period (unintelligible).
- Hoffman: And, really, it's a warranty (unintelligible).
- Shapiro: It's similar to a warranty, yes...

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- Hoffman: It's a guarantee that the contract meets the plants that he (unintelligible) put in, needs to -- they need to kick off and...
- Wallin: Okay. That's all. Thank you.
- Nelson: So, of those five contracts that have been closed out over the last (unintelligible) detail is listed as Attachment B2. (unintelligible) a report, the summary on b1.
- Shapiro: We had a, Jeff Shapiro, for the record. We had a math error on the and we didn't identify it until late on Friday after the document had been published. So I did -- we did revise that. I have new documents here, but I (unintelligible) 11" by 17" just putting out there, so I'm assuming you guys, or, I'm sorry, the Construction Working Group was forwarded the revised documents. It only applied to the yellow areas, the project...
- Savage: (unintelligible) attach b1 for the record?
- Nelson: B1. If there's any further questions about the project -- progress being made on closing out.
- Savage: I'm sorry. Before we go to Attachment B1, I had a question on Attachment A, for the construction closeout. The one right at the top. I know it's contract (unintelligible) 329, major dollar contract. But I'm looking at some of the timelines. Construction completed in '08, accepted in '09. Are we getting (unintelligible) to wrapping that up?
- Shapiro: Yes, Chairman Savage, actually we have. Quantity sent to the contractor 10/22. This is one of the projects where we had one of the old payments on, that we collected money back and the contractor had actually requested us to try to pay this contract with another contract that they had, 3361, where there was monies due, to try to minimize the overpayment. I thought this one had been closed out, because I know we sent them the final numbers and they agreed with it. So, I'll have to check. But it -- one of the reasons -- it's been ready to go for quite awhile. It's just that the contractor's request (unintelligible) it until we paid on the other contract.
- Foerschler: If I may, (unintelligible) that got paid off last week. (Unintelligible) that contract, that final payment and resent (unintelligible).
- Savage: Along those same lines, if you could follow up with some documentation, the contract with payment individually.

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- Shapiro: Mm-hmm.
- Savage: The package that you're delivering to Member Martin...
- Shapiro: We can discuss that. Sure.
- Savage: ...and Madam Controller, you might discuss that same one. That would be helpful. That's all I have, Mr. Nelson, on Attachment, ready for project closeout. We can move to Attachment B the closed project.
- Martin: Len, I got one, I've got two questions really.  
On 3433...
- Savage: Which attachment?
- Martin: You're thinking that there's going to be a change-order request for \$2.4 million? And it's only a \$3.6 million contract from what I see. Is that correct?
- Savage: Which attachment are you on, for clarification purposes?
- Martin: I'm actually on the cover sheet for item no. 9, down middle of the page. It says contract 3433, U.S. 50 Cave Rock to Spooner. And you'll find that on Page, Attachment A2, I think it is. And up in the upper right-hand corner, it says, that you're expecting a change order for \$2.4 million on a \$3.6 million project. Can you help me understand that one?
- Shapiro: Member Martin, Jeff Shapiro, Chief Construction Engineer. I apologize. I don't mean to laugh. It's just my boss said, go ahead, Jeff. So, that is a differing site condition matter. Basically we were -- the design called for a certain type of wall system. And, when we got up there, the mountain wouldn't hold up at the cut slope, so we had to come up with a plan B. And it was an expensive fix. But we had to do something so we could get her buttoned up before the snow flied. Other than that, I don't really, you know, there's a lot of detail behind it. We'd be more than happy to discuss it with you in detail. But that's basically the crux of the issue.
- Martin: Okay. How old has this -- how long has this change order been outstanding?
- Shapiro: I'll have to ask Sharon on that one.
- Foerschler: Sharon Foerschler, for the record. It's been executed.

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- Martin: It has been?
- Foerschler: It has been, yes.
- Martin: And it is 2.4?
- Forschler: I believe the change order itself was about a little over \$2 million, and then with some quantities that overran and the contract as well, it brought the value for that work up to \$2.4 million.
- Martin: Okay.
- Shapiro: Member Martin, that was one of those projects where, you know, this is up Tahoe area, limited timeframe as far as work goes. We used a prior approval -- once we identified the problem, we used this prior approval process to initiate the change. We were actually able to pay the contractor through the prior-approval process. And then the change order itself, the execution was more of a formality, once we had everything finalized.
- Martin: Okay. Thank you. And then the last one is -- the last question's on 3409, which is Capriati on the 95 widening. I thought we settled with this guy.
- Shapiro: So did I, Member Martin. Chief Construction Engineer Jeff Shapiro. We settled with Capriati. There's still some issues with a -- with their pile-drilling contractor, Case Pacific, that we're trying to address. And now -- what, the issues that were... Right, okay. I'm being advised maybe some of this would be better in closed session. We do -- at the time, sir, there was an issue regarding the drilled shafts that we were addressing. And we did address that. We now have an issue escalated to our office that's related to the electrical work on the job, which we are about to...
- Martin: Okay. We can talk about that in a minute, because I want to drill down, because that one I'm -- is next door to my house or, you know, in my neighborhood, so...
- Shapiro: Hopefully the lanes are open.
- Martin: Well, they are. That's a good thing.
- Savage: Anything else, Member Martin?
- Martin: No, sir. That's it. Thanks.



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- Savage: Okay, back to Attachment B1. Are there any other questions or comments from members on Attachment B1, construction contract closeouts?
- Nelson: For the record, Rick Nelson. One thing I would like to bring up. Because we will be closing out some projects between now and the end of the month, we make an annual report to the Transportation Board on the projects that have been closed the prior year.
- Savage: Mm-hmm.
- Nelson: What we'd like to do is we'd like to bring this yearly summary to the full Transportation Board in February, if that's at all possible. That'll give us an opportunity to wrap up all the paperwork for projects that close out between now and the end of the year, so we've got a full, accurate report to send to the Transportation Board in February.
- Savage: So, I'm sorry. I was looking at something else. Is your proposal to take the quarterly update in February, rather than January, to the TBoard?
- Nelson: Well, it's -- that's up to you Chairman Savage. If you'd like to take the quarterly update to the full Transportation Board in January, we can prepare that report. It's based on the activities of the Construction Working Group over the last six months. What I was proposing is to take the yearly projects that closed out.
- Savage: I would do it at one time. I would think it would be beneficial to have it at one time, just in February.
- Nelson: That works.
- Hoffman: For the record, Bill Hoffman. That allows the Construction Division and Rick's staff to final everything out through the end of the year. You know, there's a couple of...
- Savage: Holidays, and everything else, you can...
- Hoffman: ...we, yeah. There's several weeks of number crunching, so to speak. So that would actually do them some good. And then we can report on the full year. Is that right? Is that about right?
- Foerschler: Yes, it's right. It's right. You're right.
- Savage: Good idea, Mr. Hoffman. So we'll take it, everything...

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Nelson: Good idea, Mr. Hoffman. I love it.

Savage: ...the update and everything.

Nelson: Okay. We'll take all the reporting to the full Transportation Board in February.

Savage: And, Mr. Nelson, I have a question on the closeout Attachment B. Uh, contract 3438. The contract amount originally bid was \$1,013,762. The amount of work that was totally paid was \$175,000 and it's 100 percent complete.

Wallin: I need to look at this stuff. They changed the numbers.

Shapiro: Chairman Savage, Jeff Shapiro. You need the update. That's...

Savage: Oh, I've got the wrong one.

Wallin: Yeah, look at that one.

Shapiro: ...I apologize for that.

Wallin: These numbers are all...

Shapiro: The \$175,000 is actually the CE costs on the job. We got...

Savage: Okay. I'm sorry.

Shapiro: ...our numbers mixed up.

Savage: Okay.

Wallin: Yeah, the numbers are totally changed.

Shapiro: So it should be, actually, 102 percent. So it's over budget.

Wallin: Well, wait a minute. If you take this and then you have the adjustment of 914, plus 76. So then, but -- oh, because they took this change. I think this one might -- you might want to look at this, because if you look at your original one, and you, when you come over here. In the original one, we've got original amount, \$1, 013,762. And then, changes, \$76,103. And then, you've got, in your original one, a quantity adjustment of a negative \$914,328. I think that's how you would get down to then, total paid as \$175,000. So, I'm confused. Did you really pay \$175,000? Or did you...

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Shapiro: No, Madam Controller, Jeff. If there's any problems with the revised spreadsheet, this is the one that I did, but, personally over the weekend, but...

Wallin: Okay.

Shapiro: ...but the total amount paid is \$1.2 million and change.

Wallin: Okay.

Shapiro: And I do know the agreement estimate, which is the budget, is \$1.2 million. And so we're at 102 percent. The quantity adjustments is basically the difference between the total paid minus the bid. Now, it should -- because I did check the math -- that should work. But, I don't have my calculator with me, so I'm reluctant to check it at this point. But that's what that quantity adjustment is showing. Well, it takes out the change-order stuff, too -- the change-order items too.

Wallin: Okay.

Shapiro: So the math should work.

Shapiro: Okay. Yeah, should be -- yeah. But it's possible. Part of this document is automated, just to let the Working Group members -- and this is something that we're working through -- part of the document is automated based on information that's contained in our system. Part of it is hand entered, because we can't -- even though it's in the system, it's not accessible. And that's where we run into problems, or I should say issues, with inadvertent numbers being in there and people pick -- staff picking the wrong numbers. There's no excuse. We need to have better quality control, no doubt about it.

Wallin: Or at least have places where, okay, when you add things up that's a (unintelligible) instead of a...

Shapiro: It needs to add up, yes. Because there's no excuse -- in a spreadsheet, if it doesn't add up, there's really no excuse.

Wallin: Yeah. Yeah. Okay.

Martini: Could I make a suggestion, please?

Savage: Yes.

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- Martini: Again, this is Mary Martini, District Engineer. This is a comment on behalf of the public and some of the people who read the minutes and listen in on these portions of it. We're very used to using the contract numbers, and so they're very meaningful to us. But without the name of the projects, sometimes that information gets lost on the consumer. Thank you.
- Savage: Thank you, Mary. So we'll be sure to state the contract number as well as the description. So one major positive is contract 3478, State Route 722, U./S. 50 to the Churchill/Lander County line. There's a cost savings of over \$700,000.
- Shapiro: An under run, so to speak. Yes, sir. There was actually a value engineering proposal on that particular project, where we changed a -- instead of, correct me if I'm wrong, Sharon -- instead of an overlay, we went with a cold recycle and a chip seal on that project.
- Foerschler: That's correct.
- Shapiro: And that was something the contractor proposed.
- Savage: That's great. Because that's one thing I noticed on -- I don't know where I read it -- but the value engineering percentage was very low.
- Shapiro: Mm-hmm.
- Savage: And it'd be nice to discuss that and sell that to the contractors, while staying within the box of design and specification.
- Shapiro: Mm-hmm.
- Savage: Because I know there's a fine line there. But the cost savings is substantial on this contract. So, thank you, gentlemen.
- Shapiro: Thank you, sir.
- Savage: That's all I have. Madam Controller?
- Wallin: Yeah, that's good.
- Nelson: Okay. So for Attachment C -- Attachment C are the active projects that are being tracked. As I mentioned, we're currently tracking a total of 67 active projects. Some of the highlights are listed in Items 1 through 4 on the briefing memo. Of the 67 projects, we've identified 16 projects that are having budget issues based on the agreement estimate. And those are

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highlighted in red. And Jeff would be happy to answer any questions that you may have about any of those active projects.

Savage: Has this form changed at all?

Shapiro: Not to my knowledge. No, sir.

Nelson: Outside of we made it smaller this time. Do you need two sets of glasses, Chairman?

Savage: Claudia, can you help me out next, please? Thank you. It's just an ego thing on my part.

Shapiro: Next meeting, certainly, we could provide more copies of 11" by 17" if that would help.

Savage: That would be very beneficial. Thank you. I don't have any questions on Attachment C1. Member Martin or Madam Controller?

Wallin: No, I don't.

Martin: None from here, sir.

Savage: Okay, that'll close Agenda Item No. 9. At this time, we'll go to Agenda Item 10 for public comment. Any public here in Carson City?

Nelson: Chairman Savage, if I may, I was remiss. I do have a -- the Construction Division has a new assistant construction engineer overseeing Southern Nevada. And I don't think he's been properly introduced. This is Jeff Freeman. He used to be the partnering program manager. He's now the assistant chief construction engineer along with Sharon, who handles Northern Nevada. And we're in the process of trying to hire a new partnering program manager.

Savage: Well, congratulations, Jeff.

Freeman: Thank you very much.

Savage: And thanks for attending in Carson City today.

Freeman: I just thought I'd show up here.

Wallin: You wanted to cool off.

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- Savage: So, with that being said, Agenda Item No. 10. Is there any public comment here in Carson City? No, for the record. Las Vegas?
- Martin: None here, sir.
- Savage: How about Elko, Nevada.
- Kevin: None, in Elko, thanks.
- Savage: Thank you, Kevin. Thank you, Member Martin. With that being said, I'd like to entertain a motion to go to closed session.
- Wallin: Move to go to closed session.
- Martin: Second.
- Savage: Second by Member Martin. All in favor say aye.
- Group: Aye.
- Savage: Meeting closed.



Representative