

Transcript of Nevada Department of Transportation
Board of Directors Meeting
January 11, 2016

Governor Brian Sandoval
Lieutenant Governor Mark Hutchison
Controller Ron Knecht
Frank Martin
Tom Skancke
Len Savage
BJ AlMBERG
Rudy Malfabon
Bill Hoffman
Dennis Gallagher

Sandoval: Good morning everyone, I will call the Department of Transportation Board of Directors Meeting to order. Happy new year everyone. I trust you had a restful and safe holiday. I'm glad to be back, I don't know about all of you guys. I'm eager to get to work. Let's commence with Agenda Item No. 1, Presentation of Retirement Plaques to 25+ year employees.

Malfabon: Thank you Governor and good morning Board Members. What I'm going to do is, go through the retirement plaques and then the awards and then we'll do the photo ops.

We have quite a few retirements, once again, so I'll go through the list. Those that are present will be welcome to come up at the appropriate time to take a photo opportunity with the Board Members. John Kohot is the Highway Maintenance Supervisor 1, at Immigrant Pass in Elko, 29 years of service. Paul Saucedo, who has appeared before the Board many times to present right-of-way items, retired as the Chief of the Right-of-Way Division, 29 years of service. Kal Boni, the Highway Maintenance Manager in Tonopah, for District 1, 32 years of service. Laura Marden, Equipment Operator Instructor in Winnemucca, 31 years of service. George Klockzien, Professional Engineer in Carson City, 25 years of service. Daniel Wortman, IT Professional 3, in our IT Section, 30 years of service. Sydnie Platt Schlachta, our Transportation Planner Analyst 3, Planning Roadway Systems, 25 years of service. Todd Devito, IT Manager 3, in Carson City, 25 years of service. Michael Heit, IT Professional 4 in Information Technology here in Carson City, 25 years of service. With all of those folks the best in their retirement.

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Governor, I wanted to mention that we certainly see quite a large percentage of retirees in the Department. Hence, you'll see some requests, while we are filling some of these vacancies, at the Board of Examiners, to bring some of these folks back to either train new people or to perform a service for us for a short period of time. I just wanted to give you a heads up about those requests.

Sandoval: I don't want to distract from these folks and their service. So, we'll have that conversation at the Board of Examiners.

Malfabon: So, as I said, we'll have those folks come up. Just to get a sense of how many are present, will those folks rise if they're present? Hello. So, only one person. We're going to move to—we're going to do the awards, so that it wasn't so disruptive and then we'll do the pictures.

If I may, I'll continue on with the presentation of awards. I wanted to start out with one that's recognized by the American Association of State Highway and Transportation Officials. What they do is they track meritorious service, in Department of Transportation and we have two gentleman from NDOT that were recognized for 25 years of service. Casey Connor, Ken Mammen. We'll have them come up and get their pins and their certificates during this portion, once we have the photo opportunities.

Continuing on with the awards. We have many, as you can see before me. First one was the American Public Works Association, 2015 Project of the Year for the Environmental Category, for State Route 207, Reconstruction and Water Quality Improvement. We received this award from American Public Works Association recently. The project improved water quality by constructing and improving water quality basins and stabilizing road shoulders. In addition, successful public outreach efforts and an innovative traffic control plan help reduce congestion time from three years to one. By addressing water quality, aesthetic and safety improvements, the project will continue to significantly improve the health of Lake Tahoe for decades to come. I know that this Board is very aware that water quality is important to the Department of Transportation, as we've really beefed up that program. Not only just in response to the EPA, but just to be in compliance with the Clean Water Act.

The next award winning project was the F Street Underpass. That was selected by the American Public Works Association as the 2015 Project of the Year, Transportation Category, \$10M-\$20M. This was a collaboration with the City of Las Vegas, it was important to the community there to reopen the F Street

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connection, more directly underneath the freeway, Interstate 15. The project reconnected historic west side with downtown Las Vegas, reestablishing the vital social, culture, economic link for local businesses, residents and visitors. One of the great aspects of this project was the aesthetics that were incorporated in the bridges, that harken back to the west side's history. Had some murals of Civil Rights and community leaders included in that.

The next one was Public Relations Society of America, Nevada Chapter, the 2015 Pinnacle Awards. This was joint with Director Wright and the Office of Traffic Safety, thank you for being here Director Wright, from the Department of Public Safety. So, we were awarded the Pinnacle Awards for partnering efforts in the Zero Fatalities campaign. We've reported to the Board previously that we have great success in getting people to recognize this brand, this Zero Fatalities campaign and to understand the goals of the campaign. The 2015 Best of Show Pinnacle Award in the Tools and Techniques Category for Social Media Videos and Posts about Bicycle Safety. The videos and posts brought awareness about safe roadway behaviors among drivers and cyclists on Nevada roadways. It's also a good opportunity to present some of the new laws, like giving bicyclists enough space. The three foot law that was recently enacted.

Another First Place for the 2015 Pinnacle Award went to Zero Fatalities, Nevada Rider Chalkboard online video about motorcycle safety.

I don't know if we have that video, but we do have one for the Silver Telly Award. This one was very touching. The Telly Award, it honors the very best film and video productions across the nation and we are proud to be awarded the highest honor, the Silver Telly on the online video category for Jayme's Story. The video tells the heartbreaking story of a tragic car crash that killed Jayme—from the perspective of both from the victim's mother and the distracted driver. If we could show that video. [video plays] Very touching video and we're grateful for Jayme's mother putting her time into that, especially with Jayme's son and it's very emotional. We can't control other driver's behavior but we can control our own behavior. Unfortunately, we see in Nevada, we had about 321, I think fatalities in 2015, which is an increase of about 30 more than the previous year. So we do have a challenge ahead of us, but if we can take personal responsibility of our driving habits, we can hopefully drive those numbers down.

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I'm going to go ahead, if the Board could come up front and we'll start taking photo opportunities. First with the retirements, I noticed that Betty Green was in the audience. So, Betty, we didn't—how many years do you have?

Green: 30.

Malfabon: I wanted to mention one that I—we didn't get in the write up but Janelle Thomas and Tony [inaudible], District 2, were recently awarded the Blue Ribbon Award by Lake Tahoe South Shore Chamber of Commerce in recognition from the South Shore businesses and it was recognizing them for their [inaudible] Tahoe South Shore. What they do is, a lot of the coordination of permits, working with business owners, anything that affects our highways in that area, they work directly with the business owners. If you could, Janelle and Tony? It was a quite prestigious to get recognized by the Chamber of Commerce. I think we always have and are supportive of the businesses.

[Photos Taken]

Malfabon: I think that concludes the awards. Thank you. We're very proud of our staff and the agencies we coordinate with to present award winning programs such as what we covered.

Governor, I do have a request to take one item out of order at the appropriate time. It would flow better if we take the USA Parkway Award and present that to the Board, that's Item No. 18, present it before Item No. 6, which is Approval of Contracts over \$5,000,000. With that, I can proceed with the Director's Report.

Sandoval: Please proceed.

Malfabon: Thank you Governor. The Special Session was held recently, December 16th through 19th to discuss tax incentives, workforce development issues and the Faraday Future economic impacts in Southern Nevada. What NDOT is looking at is \$48M in transportation improvements. There were other infrastructure improvements that are necessary, but they don't involve NDOT.

The four items we're looking at proceeding with to support the Apex Industrial Center and Faraday Future, specifically, are the reconstruction of the I-15 and US-93 interchange, which is also referred to as the Garnet Interchange; widening of US-93 for five miles north of that interchange; and, constructing a single left turn

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flyover into the Industrial Center from northbound US-93; and realigning the frontage road which runs on the north side of I-15 there, State Route 604.

What we're going to proceed with is issuing an RFP for environmental clearances, preliminary engineering work. We anticipate that the best means of developing this project would be delivery through the design-build process, would be the quickest method of delivery. It's what we've used in other economic development projects in order to beat a schedule. The next slide will show you a map of the area and the Concept Car, the FF01 Concept Car. It's an electric, autonomous vehicle that will be produced there.

Governor, the New Nevada that you're building and leading the charge on is very exciting for the Department of Transportation to have this type of technology, manufactured here in the State. We have Tesla, we have Switch, we have a lot going for our State under the New Nevada initiatives. So, thank you for your leadership in that.

You can see on the map, the yellow area kind of running from the upper part of that graphic is where the widening takes place. Then there's the left turn flyover about three miles up from the interchange. Realigning the frontage road is that hash line. There's the interchange as well that are depicted on that map. A lot of work to do but we're definitely set up well and we have good success in delivering these types of projects rapidly through a design-build process.

A little bit on federal funding. I reported last month that the FAST Act was signed on December 4th. One of the things that happened subsequently was the approval of the Omnibus Appropriations Bill by Congress at the end of December. One of the things contained in that bill had to do with earmarks and unused earmarks. We actually have expended our earmarks to the point that more than 10% has been expended. One of the measures included in that Appropriations Bill was to allow states that have remaining earmarks that were less than 10% spent, to use them on other projects within a 50-mile vicinity of the original project.

We were concerned initially that Congress was going to take all this money in and then redistribute it. We've always made sure that we use our earmarks, even some projects that are on the way, such as the Laughlin Bridge where Clark County is looking at a new bridge over the Colorado River, we still work with our partners to expend earmarks appropriately so they weren't at risk of being lost.

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It won't have a major effect on NDOT or our partners because we've expended most of the earmarks to the point where they're over 10%, has been used. It's not going to be affected by that, but as I said, we were looking at a negative and now it's turned into something that's more flexible. We still have those projects on the books that we're working with our partner agencies. The earmarks, as you know, went away and SAFETEA-LU was probably the last bill that had the earmarks. It was August of 2005. That gives you a sense of, it's been over 10 years since those earmarks were sitting around.

Governor, thank you for addressing the group of participants at this Automated Vehicle Policy Workshop. There were over 120 attendees. Director Wright was there from the Department of Public Safety. We had representatives from the Department of Motor Vehicles. The Governor's Office had staff there. It was done in concert with the organization of the State DOTs, AASHTO and their counterpart with the DMVs across the nation, AAMVA. The important thing was to get with the manufacturers, with insurance companies, with the data sectors to talk about what policies need to be put in place, not to over regulate or to stifle this emerging technology but to work with the stakeholders in this area to make sure we can set a path forward and support the implementation of this technology in our transportation system across the nation.

It was a lot of good discussion. More to be summarized that will be presented to the Board. This actually just keeps the conversation going and I'm sure that there will be other venues later this year, but we're going to continue the discussion with the same partners. It was very timely, right before CES, so a lot of those companies were in town and very engaged in the conversation.

Last Friday, US DOT Secretary Foxx who was actually in town, in Las Vegas for CES, touring some of the new technologies related to transportation, was able to address a group of local transportation leaders and business leaders. There you see Rossi Ralenkotter from the Las Vegas Convention and Visitors Authority, Mayor Goodman, Congresswoman Dina Titus had assembled this group. Working with the RTC of Southern Nevada and several County Commissioners were present. There you see Chris Giunchigliani.

A lot of the conversation was about local leadership on transportation issues. I know that Tina Quigley from the RTC of Southern Nevada has led the charge, along with Rossi and a large group of stakeholders to develop a Transportation Investment Plan, a TIBP. That's what you might have read in the newspaper that

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includes some solutions such as a light rail system. Secretary Foxx was formerly the Mayor of Charlotte, North Carolina. He had implemented successfully a light rail system in that City. We were asking him how he was able to achieve that. Definitely heavy in the business stakeholders supportive of such a major investment is very important.

The other aspect that was presented was the Maryland Parkway Coalition. On Maryland Parkway, obviously you have the University of Nevada, Las Vegas campus. You have a great opportunity for development of a transit project along that corridor and Chris Giunchigliani, County Commissioner was presenting about that. Obviously NDOT will be a continuous role as a partner in those discussions of what transportation improvements are needed to support tourism. Steve Hill, the Executive Director of the Governor's Office of Economic Development was present at this meeting. Very good conversation and discussion and definitely more to come on that issue of development of the business plan improvements and other improvements in the valley, in Las Vegas.

A little bit about some NEON updates. The design-build team has mobilized 50 staff to the project offices. They're developing their first design packages which will be reviewed and approved by NDOT before construction begins. Currently, there's what we call potholing or utility location. We want to confirm the utility locations before they do a lot of the subsurface work so we don't hit any utilities. That's commencing through March of this year. The groundbreaking event, as I mentioned last month is tentatively set for April 7th at Symphony Park.

You'll see a lot of the construction work start in the Spring. The staff have mentioned that I-15 closures are not really anticipated until 2018, so there is such a large footprint and width for the project that the design-builder will construct a lot of the stuff on the outside where we are acquiring property and demolishing that property. They're going to do a lot on the outside and then concentrate on the I-15 Corridor later.

This gives you the timeline for the project. We're continuing with design and demolition and then we'll go to the local streets on the outside and US-95 and I-15 ramp rating. Then, hit the main line and continue with the flyover at the end of the project.

Recently, you might have seen in the media, Douglas County concerns with the traffic signal. They would like to have a traffic signal at Airport Road and US-395. The staff and I met with the County Manager and Public Works staff and

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talked about a project that NDOT had been developing for a right turn offset to improve site distance for people that were on that Airport Road that were making turns out of there, at a T-intersection.

We were pleased that the Douglas County representatives were supportive of looking at the feasibility of a roundabout at that location. It will change the nature of the road but it's more something that I think is more fitting of that corridor. As you get more development and you want lower speeds and people to be safe as they traverse across that area of development. A roundabout makes more sense. We're pleased to lead the public outreach in that. We know that initially, such as in Spring Creek, up near Elko, people didn't like the idea but once it was put in, they loved it. We're hopefully going to achieve the same success with that concept. We'll defer the other project that was going to use safety funds and look at developing the roundabout project at that intersection.

On the Spaghetti Bowl in Reno, the Traffic Study commenced. You had approved the contract last month. As a reminder, we'll have the interim improvements identified midway through that study, so later this year. The proposals for the charrette, sort of a brainstorming event for Spaghetti Bowl improvements. Specifically, those are due today so we'll have a provider selected soon to provide those services. We're going to work in partnership with the RTC of Washoe County on the implementation of that charrette.

Last week we had a video conference with the US EPA to go over our comments on the draft consent decree. It is a legal document and legal negotiations that are ongoing so we don't have details yet but the final, final is due very soon. Thank you Governor, for your staff that have been putting in a lot of time and working directly with the US EPA and helping us to achieve an end that we can all live with.

No settlements expected at the Board of Examiners Meeting. In the future, we'll probably have some, but not this month. Should be an easier meeting for NDOT at the Board of Examiners.

Any questions from the Board?

Sandoval: Thank you Rudy. Just backing up a bit, on the Faraday Future and the widening of the 93, is that, when you talk about the scheduling, you're trying to time that obviously with the anticipated opening of the factory itself, correct?

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Malfabon: We're trying to Governor and Board Members. What we're doing is, the design-build process will be the most rapid to deliver those improvements. We anticipate using federal funds for this so what we're going to do is front the State funds through a method that has been very successful for us. Then we're using future federal funds by fronting the money with the State funds. We anticipate that the improvements, some of them—it's a very straightforward project, so we're hopeful that they will align well with the construction of the manufacturing site as well. We still have more information as far as what's anticipated for the manufacturer, what their schedule is, but we're hopeful that we'll have the majority of the improvements on their way on their schedule as well.

Sandoval: Well, at least according to them, they want to be producing vehicles within two years, or at about two years. That would be a lot more commercial traffic, I would assume if they're in full production within two years. Again, I know this takes time as well but hopefully we can align each of those.

I also wanted to thank you and everyone else involved in that automated vehicle policy workshop. The feedback that I got was tremendous. I had the opportunity to meet with a representative from Mercedes and discussed with him its autonomous or mostly autonomous vehicle and also road in the Delphi Autonomous Vehicle and took that time to ask them, what is it in terms of infrastructure, what do we need to do to anticipate all these changes coming in transportation. I thought it was really interesting, with regard to the Delphi that striping is very important to them and those little dots on the road are not helpful. I learned that. Then, they had little antennas at the traffic signals that were put up there temporarily that allowed the car to see better. It could see—obviously it has the cameras and the radars and things to see in front of it but with those up there, it lets it see in front better. The technology is still developing but as I thought through it, I thought and as cars continue to advance, that could be helpful, if those are reasonably priced in terms of our safety efforts for crosswalks and intersections.

Delphi is supposed to be reaching out in that regard. I know that's probably a piece of the Automated Vehicle Policy Workshop, but having talked to some other entities that are developing this technology, they are really looking for a state and a community and a city to take the lead on this. I see a really good opportunity for us to take a national, if not international leadership role in doing that. I see all this construction that's going on with RTC in Southern Nevada as well as our Project NEON and even up here. I want to stay in continuous

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communication with those manufacturers and developers to see what we can do along the way. Also, to have them test here. If they test here, maybe someday they'll build here. Really, I see an opportunity for a technology cluster of the future to be building that now.

That's not to say that we haven't done anything up until now. I know that Daimler was very complementary of what we've done. Mercedes and all of those. Credit goes to NDOT, credit goes to DMV, credit goes to Department of Public Safety. Everyone that's been involved in making those things happen because we really do have the attention of companies from all over the world. Thank you for that.

Malfabon: Thank you Governor. I want to also give a shout out to Member Skancke. I think that you Governor and Member Skancke brought it up. I didn't mean to get you when you're coughing.

Sandoval: Choking him up, all right.

Malfabon: It was really your direction that led us along this path and I wanted to also thank Tracy Larkin-Thomason and she's back in DC attending the Transportation Research Board. Tracy and Sondra Rosenberg in Planning, really did a great job at coordinating and it was a very successful workshop. We will continue being engaged in that nationally and bring a lot of that stuff back home.

Sandoval: Do you want me to keep talking Tom, until your throat—

Skancke: I hope this isn't my last day. Thank you Governor. I thought that Conference, the workshop was outstanding, Rudy. Your team and Tracy, who led that, the feedback that I got while I was there was, one, that Nevada is ready. Two, that there really hasn't been a state that's done what we've done. Three, the leadership of your office, Governor and GOED and all that we're doing around attracting this industry, we're ahead of the game. We achieved our goal from what we talked about last summer which was putting this together and having it done. I was very encouraged. I thought the information was very well prepared and presented. At the end Governor, we did some minor workshops, broke down in to four or five different working groups. Some of the feedback that came from those working groups and how Nevada could move forward I thought was very enlightening and educational.

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From homeland security issues to parking issues to insurance issues and how we deal with all of that, if we could get a couple of cities to pass ordinances, I think the next step would be if we could get a couple of cities to pass ordinances, to send another message, that we're prepared to go. Whether it was Las Vegas or Reno or both or Carson City, where that testing could occur in a market, I think that would really help us continue to put this on a fast track for our State. Well done, thank you.

Sandoval: Thank you Tom. Rudy, I don't know if you're aware of this, you likely are, but I was told that there is a national competition for a federal grant. Apparently Denver has received a grant for autonomous vehicles, but there's a national competition for another grant that only one city will be selected. I think Ms. Quigley, yeah—I would hope that we're trying for that. I see a lot of nodding so that's good news. There's a great opportunity here. We did well by being the first State in the nation to adopt the regulations for the testing of autonomous vehicles. Now, it will be interesting. I think 10 years from now this is going to be normal. People aren't going to be looking at autonomous vehicles and kind of squinting their eyes and wondering if that's real. It is real.

I don't know if you watched TV last night, but I saw a commercial for Volkswagen. It was a gentleman with his teenage daughter in the car and she was asking to be dropped off before the front of the school. Something or another car pulled out in front of them and the Volkswagen stopped—I'm not doing a commercial for Volkswagen by the way, I'm just trying to—but the car stopped and right when it stopped she jumped out and said, thanks dad. Again, this is something that is being marketed right now. Having looked at that Mercedes vehicle and seeing the amount of technology that is included in that car and having ridden in that Delphi vehicle and their equipment, their technology will be inserted in other vehicles.

You couldn't tell you were in—the other autonomous vehicles I've ridden in they've had laptops and equipment all over the place. This one had a screen and that was it and a button. You would not have known that you were in a vehicle that had the potential to be completely autonomous. You've all read as well that Tesla has programmed it's vehicles for an upgrade for autonomous driving. I spoke with a Tesla dealer in Las Vegas and that's something you can use right now as well. So, it's here.

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As I said, the point I'm making is there is an opportunity for us, we just have to go out and get it. I know that means a lot of work for the staff and for others, but it really can put our State in the vanguard in terms of this new technology. Mr. Controller.

Knecht: Thank you Governor. Now that he's recovered, I have to say, I'm sure we'll get to Member Skancke in a minute or later on. I'm going to miss you Tom, it's been a pleasure sitting next to you.

Skancke: I hope I go through it.

Knecht: And always an adventure.

Skancke: I'm not leaving the Board, I thought I was going to die there for a second.

Knecht: Governor, I need to ask a couple of questions in two different areas. The first is on the Faraday facility. Like you and everybody in this room and everybody in this State, I hope and I look forward to a great success on this project and all aspects of it. One of the tough parts of being a Board Member is you have to do the due diligence and ask the tough questions that no one wants to think about. I guess, Rudy, my question to you is, if the Faraday project doesn't work out, what happens to the project as you described it here and what happens to the funding? I'll just leave it open so you can answer the whole issue there.

Malfabon: One of the things that I didn't mention was the scope of work, the majority of it, the widening of US-93 and the interchange reconstruction were anticipated by the Department, even before we found out about Faraday. We actually had submitted a Tiger Grant Application because of the importance of the Industrial Center as an employment center in Southern Nevada but also just what we saw when I-15 has had some issues and had the flooding closures, we saw that US-93 was very important to widen.

These improvements are needed regardless of even the announcement of Faraday to move into that area, but even more so now that they have announced that they are going to build a manufacturing plant there in the Industrial Center.

Knecht: Governor and Rudy, I'm glad we've got that on the record. Thank you. By the way, as someone who drove that stretch of the 93 a few times last year, I certainly agree that the washout indicated that we needed to do something there.

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Turning to the 395 Project in Douglas County. The signal at Airport Road. Looking at the last two items there, feasibility of a roundabout which you mentioned, isn't always welcomed beforehand, was in another case after the fact. You're going to have outreach efforts going with the County. Tell me please, that somehow we will get a thorough hearing—give the public a thorough hearing and a full opportunity to weigh in on the desirability of a roundabout and what they think. Tell me what your process is on that.

Malfabon: We anticipate that we'll have some public informational meetings to discuss it. Present some of the success stories we've seen in implementing roundabouts in other areas where perhaps the community didn't understand how to navigate through them. We want to address the safety issue and roundabouts can do that on roads that are typically a higher speed than your typical in a developed area. We think it's a good solution and we're looking forward to having that type of outreach with the public and taking their comments. We'll develop the project collaboratively but we're going to be taking the lead on that.

Some of the challenges that we have to look at are: is there right-of-way that's needed. I think that there's a wetland that could be impacted, so environmental issues. Definitely public concerns about roundabouts in general can be addressed through better education and showing them that they can work.

Knecht: Let me follow-up on that by pointing out that the roundabout on the north side of Lake Tahoe, with which you're familiar, has involved a lower overall speed limit than what it used to be, pretty much on that entire stretch of road and certainly as you approach the roundabout from either direction. The speed limit, if I recall right, on 395 through Douglas, having driven it many times is 65 in that area. Do we anticipate lowering the overall speed limit and the overall regime there if we go with a roundabout?

Malfabon: That's something that will be studied, but I anticipate that as you come into the roundabout, we will have to lower the speeds. It won't result in an appreciable delay to traffic and it will be more commensurate to that infrastructure. We think that it will be an improvement to safety.

Knecht: Thank you Rudy and thank you Governor.

Malfabon: Governor, if I may, I wanted to add that we did recently find out that there is under the FAST Act, there is a new grant program about \$60M a year available to states that they will be selected. I think it's 5-10 entities that will be selected. It's

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a 50/50 cost sharing program. Part of it is safety and environmental improvements but accelerating the deployment of vehicle to vehicle, vehicle to infrastructure and autonomous vehicles and other technology is one of the areas that Secretary of Transportation will select and develop program criteria. They have about six months to develop those criteria for that grant program and we'll stay on top of that.

Sandoval: All right, thank you. Any questions from Southern Nevada?

Martin: Rudy, last month you mentioned that there was going to be a presentation done to the RTC up there on the Spaghetti Bowl. You mentioned that you were going to get the Board Members a copy of that presentation. I haven't received anything yet, has it been published? What's the status of that?

Malfabon: We did present some information to the RTC last month. Unfortunately, I was on tap for the Special Session so I didn't attend personally. We will give you any presentation that was provided, Member Martin, and other Board Members.

Martin: Okay, just trying to keep abreast of what's happening with your Spaghetti Bowl up there. That's all I'm trying to do.

Sandoval: Any other questions on the Director's Report? Mr. Almberg.

Almberg: Yeah, Rudy, I just want to commend our NDOT staff. We have gotten lots of snow over in Ely, the east part of the State this last week. I, myself, probably have close to two feet at my house. Myself and my family spent a lot of time on the highways, by the time I get home today, I'll probably have 1,000 miles in this weekend. The roads have always been clear and passable. I commend the job that they spend lots of hours out there in the middle of the night. So, thank you.

Malfabon: Thank you Member Almberg. I'm pleased that you recognize that. I've noticed that myself in driving around here. We've had a lot of snow and we're grateful for that, for the water and the skiers and tourism, but they've been doing a great job in maintenance of handling the weather.

Sandoval: BJ, I'm glad you brought that up. I agree. Even on, I think it was Christmas Eve, there was a tremendous effort out there to make sure folks got home safely to their families. It's great news for us in terms of the drought, but on the other hand, it means a lot of additional responsibility for the Department. They were out there and doing an extraordinary job.

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DPS, as long as you're here, Chief as well, I know there were many accidents out there and they handled those real well too.

Malfabon: Any other questions or comments? Mr. Skancke.

Skancke: Thank you Governor. I just had a couple of follow-up things and a couple of questions. I think last month, Rudy, I made a request and just wanted to kind of get an idea and a timeline for the backlog of what the engineers have in their backlog for projects. If we could do that in February, that would be great.

I wanted to also follow-up with you on the conversation from last month and a couple of months ago on the cost of the federal program. I know that might take a couple of months, but I'm just kind of reminding myself and reminding you that if we could again, February or March, if I could at least get a timeline, just knowing where we kind of are and what the federal program costs us to administer.

I had a question on the 580 charrette. I did notice that there's an RFP out for that. Could you explain to me what—and I'm full support of as much public outreach as we can possibly do. Having been through the Spaghetti Bowl here in Reno, now two months in a row, it definitely needs a little assistance, to put it mildly. What is the charrette designed to do and what's the difference between that and what the—

Malfabon: The traffic study.

Skancke: Yeah, the current study that's going on. What's the difference between those two and why are we doing two separate things?

Malfabon: The charrette was more intended of identifying, here's the issues that we're facing. We know that we've got high volumes and we have the safety issues with crashes at that location. It's partially to educate, here's what we have today, what do we need in the future. It was going to be accomplished more rapidly to get some ideas thrown out on the table. The traffic study, initially, there's a lot more effort into crunching numbers. About nine months in, we'll have some interim improvements that could be recommended based on those traffic projections. It was a way to keep the traffic study on schedule but have some more thought and brainstorming ideas on the table very quickly. That's why we wanted to do a charrette and get all the stakeholders in the same room and talk about it.

Skancke: Okay. That's not going to slow the process or the project down, you're just asking for additional community input?

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Malfabon: Exactly. In fact, we didn't want to slow down the traffic study at all, so that's why we kept this separate.

Skanske: Okay. Then I had two other final things. One was, at the end of this last year, were there—I don't remember when this happens, if it's July or if it's December, but were there any additional funds that NDOT was eligible for, what's the word, is it rescissions? So, leftover funds from other states? I forget the technical term for that. Is that July?

Malfabon: Yes, there's a—the August redistribution is one of those and then there's, basically at the very end, there's a redistribution of uncommitted federal funds. The last day funds they call that. We typically have not—we've gotten our share. I think we had about \$11M last year. Our financial management staff have been doing a great job of managing the federal funds. Making sure that we do things, as I mentioned, advance construct, where we front the money so that we make up any difference with State funds but then we pay ourselves back out of the next year's federal funds to get full reimbursement that's eligible.

Those opportunities are coming up but we're seeing that a lot of other states are getting very good at getting their programs out to their—probably learning our secrets. We're doing pretty well with those two opportunities; August redistribution and last day funds.

Skanske: Thank you. Finally, Governor, I just wanted to go back to autonomous vehicles for a second. I toured the Local Motors Micro Factory in Knoxville, Tennessee last month. Local Motors, which is also in Southern Nevada, they are looking at a fully autonomous, fully electric vehicle as well that will be a reusable vehicle. Because it's 3D printed, it's primarily plastics and man-made materials, at the end of two or three years, if you don't like your car, you just take it back, they burn it down, melt it down and they rebuild you a new car.

It's green, right, so it's green, it's electric, it's autonomous. It's a 21st century vehicle. They'd like to locate a micro factory here in Nevada. They've got one in Knoxville. It's an amazing facility that should be lead certified. They'd like to build one here. I think that what you've done with the automobile industry and getting them to be more competitive to come here, more and more people in the manufacturing and in the tech part of vehicles are really looking at Nevada as a serious place of doing that type of manufacturing.

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Audi is coming out in 2016 with a fully autonomous, fully electric vehicle as well. As you know, with Mercedes, in Europe right now, they're almost fully autonomous and the systems are in place. That technology is moving very quickly. We've got a lot of interest in our State for that particular industry. That's all I had, thank you very much.

Sandoval: Thank you Tom. Just one last issue that perhaps we can talk about it next month are the electric highways. That is another infrastructure investment that we are making that is really catching the attention of the automobile industry. It would be nice to get an update of how we're doing on the 95 and the 80 and what the plans are for the 50 and the 93 and some of the other highways in the State.

Malfabon: Very good Governor, we will.

Sandoval: Thank you. Any other questions with regard to Agenda Item No. 3, the Director's Report? All right. Let's move to Agenda Item No. 4, Public Comment. I have the sign-in sheet in front of me and I have a few individuals that have indicated that they'd like to provide public comment to the Board. The first two are Mr. Frehner and Mr. Jorgenson?

Frehner: Mr. Governor, Members of the Board. On Project 3389, NDOT hired an expert—

Sandoval: Will you identify yourself first sir?

Frehner: I'm sorry. My name is Greg Frehner. I am representing Becho, Inc., as well as my company, Frehner Project Controls. On Project 3389, NDOT hired a third-party expert, as CSL expert to evaluate a claim which I put together in regard to the delays and damages incurred on that project. When the report came back, it was kept from us. We were told that the report came back and said that my claim had no merit.

Then, apparently this report was accidentally emailed to ACC, four months after the fact and the report came back and said, this is NDOT's own expert. It says, in summary, the opinion of the reviewer is that the number of CSL tests were misinterpreted which resulted in contract delays and subcontractor suspensions. Test results with the exceptions of shafts N4 and N14 cannot be attributed to the subcontractor's lack of quality, controls, means or methods. That means all but two tests were NDOT's fault. We were told that the expert said there was no merit to our claim. This came from the Director Rudy Malfabon, from Reid Kaiser and as well from Pierre Gezelin. This report was stamped as being

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confidential, attorney/client privilege not to be released. It was agreed upon by NDOT that this would be a joint—this expert, the report would be shared, it would be a means of settlement and it was kept from us, it was concealed from us. Not only that, it was misinterpreted or misrepresented. We were told numerous times that he came back and gave us nothing.

Now, there's been a settlement that's taken place, we were told by ACC that the settlement—they were forced to sign it because they were told by Mr. Kaiser and Mr. Malfabon that if they didn't sign it, they would pull the change order. It's unfortunate that I have to stand here and address this in this meeting. I don't like this. I don't think it's professional. I've been left without a choice.

Everything I'm telling you is very well documented. There's not one thing I've said that is not completely covered in every form of documentation. Not only that, but the—one of the Directors or Board Members assisted throughout this. There are several emails here which I'll give to you, which implied assurance that this wouldn't happen, from one of the Directors—or, one of the Board Members, I'm not going to name him by name. I'll just go ahead and leave this with you to evaluate.

What I'm asking is that this be reevaluated here. Becho's total damages were \$3.5M. They're willing to settle for \$1.6M and given the fact that this report was concealed—I mean, this is not a matter of opinion. It's dated right here, it was concealed by the Attorney General's Office. It was meant to be shared. It was agreed upon that this would be the means of settling this claim. We were told that this expert came back and said that it had no merit. How many times, and that's documented.

This is just not right. Again, it's unfortunate that I have to be here to address this like this. I'm sorry that I have to be here to do this. I shouldn't. This needs to be reopened. The facts are the facts. My client has been severely damaged by this. In reality, he's entitled to \$3.5M. But they were willing to settle for less than that, originally and they're willing to settle for less than that now if there can be a prompt resolution on it. Given the fact that everything is so well documented, I am asking that Mr. Governor and the Board, that you will consider this. That we can have another meeting as soon as possible, certainly this week at the very latest, to see if this can be resolved and see if we can avoid litigation on this thing.

Sandoval: Thank you Mr. Frehner.

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Frehner: [crosstalk] Thank you.

Sandoval: Mr. Jorgenson, will you identify yourself?

Jorgenson: Randy Jorgenson. Thank you Mr. Governor and the Board. Our damages at this point are \$1,622,787.40. That is what Becho is requesting at this point. Damages, as Greg has said is over \$3.5M. He's pretty much gone over everything else that I have to go over.

Frehner: [inaudible] 21 days were delayed on this project because of this. And we had to divide it up into three minutes, so I put a summary sheet there, but this project was delayed because of all the—the expert agrees with us. NDOT's own expert said, I was right and yet I was told I was wrong. Can we please—

Sandoval: We can't take this up on this agenda, Mr. Frehner, but there will be a follow-up.

Frehner: [crosstalk] Thank you very much Governor and Board.

Sandoval: I also have Mr. Pavlakis.

Pavlakis: I'm just here on another matter.

Sandoval: So, you don't wish to speak? Is there anyone else in Carson City that would like to provide public comment to the Board? Is there anyone present in Las Vegas who would like to provide public comment to the Board?

Hutchison: No one here Governor.

Sandoval: Thank you. We'll move to Agenda Item No. 5, which are the proposed December 14, 2015 Board Meeting Minutes. Have the Members had an opportunity to review the minutes? I have two very slight changes at Page 26, at the top it says, lessor, LESSOR, if you would change that to lesser, LESSER. On Page 33, in the middle, I hope I didn't jinx is, should say 'it'. Those are my only changes. Board Members, any other changes? Mr. Controller.

Knecht: Governor, I'm going to dispense with any changes, but just a quick comment. At Page 8, I asked for additional information on the Cost Benefit Analysis and so forth, and Bill Hoffman came and gave me a really good briefing in my office on that. We're going to have a follow-up with the workbook to pursue those details. Thank you Bill, thank you NDOT and with that, I'm ready to move approval with your corrections.

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Sandoval: Controller has moved for approval with the corrections I noted, is there a second?

Skancke: Second.

Sandoval: Second by Member Skancke. Any questions or discussion? All in favor say aye. [ayes around] Oppose, no. That motion passes unanimously. Rudy, is this where you wanted to bring up Agenda Item 18?

Malfabon: Yes. Thank you Governor. We'd like to bring up Item No. 18, Review and Ratify the Selection of the Design-Build Contractor for the USA Parkway Project. Pedro Rodriguez will present this item to the Board.

Rodriguez: Good morning Governor, good morning Members of the Transportation Board. For the record, Pedro Rodriguez, Project Manager of the USA Parkway Project. Today I'm here to present on the review and ratification of the selection of the design-build contract for this project.

As we discussed at the last Transportation Board Meeting, proposals were evaluated to determine the best value team. The procurement process followed NRS and our Pioneer Program Guidelines. The 10-day protest period has ended and no protests were submitted. A stipend of \$100,000 we paid to each unsuccessful proposer. Also mentioned at last Transportation Board Meeting, it was announced that Ames was the highest ranking score proposer.

The Department has since successfully negotiated a contract with the design-build contractor. The price for the bid, which is the same as the proposal bid price came out at \$75.9M. All proposal commitments were captured and were included in the Board Members packet.

It's anticipated that the substantial completion will occur by Fall 2017, which is approximately 125 days before NDOT's allowable completion date.

We anticipate issuing a Notice to Proceed, pursuant to Board's approval, January 12th and expect to have groundbreaking in the Spring.

Approval of the ratification of the design-build contractor will be requested at the next Agenda Item. With that, I'd like to open it up to any questions.

Sandoval: Thank you. When you mentioned that it will be substantially completed at 125 days sooner than what NDOT thought, will that be a contractual requirement?

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Rodriguez: Correct Governor. That's included in the contract. Their substantial completion deadline will be that 125 days prior to our initial December 31st deadline.

Sandoval: And, can you go through a little bit more detail, isn't it anticipated that you're going to or the contractor, Ames, is going to fix that first portion that's already built and get that up to standards. That will be substantially completed by a certain time. Then other pieces will be phased as well.

Rodriguez: Yes. So, the project is predominately broken up into three work areas. The first work area is within the first six miles off of I-80, which is the paved section. This work area is the area where the contractor will make improvements, safety improvements, things of that nature. The next work area is, in that sense what is the unpaved area, which is the next about 13 miles. Part of that is 4 miles is graded and the rest is all virgin area. This is work area two. The last portion of the work area is located at the intersection there, where the contractor has commitments to install a roundabout.

The first work area which is the paved work area will begin in April and estimated to be completed about August 2016, this year. The next work area is anticipated to begin March 2017. Excuse me, July 2015 through August 2016. The last area, the intersection there is anticipated to be from March 2017 through completion of 2017.

Sandoval: All right. I can't tell by this map and I don't recall where that roundabout will be in that adjacent land, is that BLM land or is that private property?

Rodriguez: The roundabout at the intersection with the future connection of USA Parkway and US-50 is adjacent to private parcels. Just north of there, everything in green here is BLM land.

Sandoval: So the red is private property.

Rodriguez: Right here is private property.

Sandoval: Okay. Then, going back to the top at the Patrick, at the exit, the commencement where this will be. Are we confident that that intersection in connection to the 80 is sufficient to handle all the vehicle traffic that is there?

Rodriguez: It's substantial to account for the traffic included within our traffic study at opening day.

Sandoval: Okay, but when was opening day?

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- Rodriguez: Opening day was anticipated to be at the completion of this project.
- Sandoval: Oh, I get it. What I don't want to happen, obviously is for that to be obsolete the moment it opens because of the amount of development that's going on out there. Is there something that we should be anticipating there with regard to traffic?
- Rodriguez: Correct. The Department's currently looking into what improvements would be necessary at that interchange to account for the traffic.
- Sandoval: And, in full disclosure, having been out at Tesla recently, it's concern is that if there's one—not long ago there was a truck that tipped over because there's a bit of a sharp curve there. If there's a blockage there, it can really create an issue for all the different businesses that are up there. I just want to make sure that's in our contemplation.
- Rodriguez: We're aware of it, yes.
- Sandoval: And then finally for me is, the IT infrastructure in those, that is not a part of this bid, correct?
- Rodriguez: The IT infrastructure?
- Sandoval: Laying down cable, you know, fiber.
- Rodriguez: Oh, the fiber optic. The fiber optic improvement installations are not a part of this contract right now, correct.
- Sandoval: But are we working on making sure that that fiber is laid contemporaneously with the construction of this freeway or this highway so we don't build it and then dig it up again to lay cable.
- Rodriguez: Correct, yes we are.
- Sandoval: Okay. Questions from other Board Members? I'll go with Mr. Skancke and then Member—the Controller.
- Skancke: Thank you Governor. Pedro, on the roundabout, and I don't want to get into engineering and design but what's the anticipated number of truck trips that we're looking at for that roundabout at that location?
- Rodriguez: I don't have the exact number for you but what I can tell you, it's approximately 20% truck movement south to east.

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Skancke: So, we're anticipating that most of the truck movement is going to go to the 80, not the 50.

Rodriguez: No, heading south from USA Parkway to 50.

Skancke: Okay, but of 100% of the truck traffic coming out of TRIC, we're anticipating that the majority of that is going to go to the 80 and minority percent is going to go the 50, is that correct?

Rodriguez: The study accounts for all truck movement, whether it be this movement or that movement.

Skancke: Okay. So, I guess here's my concern. I'm aware of at least a few million square feet more that's going to be in that center than what's there today. I share the same concern that the Governor has which is, are we anticipating the next six year growth or eight month growth after this starts? Are we prepared for the next three years of economic development that's going to occur in this Center so that we're not putting it in and then coming back and saying, oops we missed that, it's actually going to be 20,000 truck trips in a roundabout. My experience is, roundabouts only hold a certain amount of traffic. Is that like a temporary or is that the permanent?

Rodriguez: It's the permanent. That's a good question Member Skancke. At the time our traffic study was put together, we had discussions with the different counties as well as the stakeholders. When we met with the tri-center area, the growth of their businesses was accounted for into that traffic study. We had the same concern.

The traffic study that was prepared accounted for, not just opening date, but future projections as well. We anticipated in essence a Tesla coming in and more.

Skancke: Okay. And then, I'm going to back to the Governor's question up there at Patrick. You said the Department is currently in the process of reviewing alternatives, if I got that correct, or future. How did you put that?

Rodriguez: The Department is in the process of identifying the needs at that interchange.

Skancke: When do you think the Department will have those identified and is that identification process going to hold this up? [pause] Oh, good.

Terry: John Terry, Assistant Director for Engineering. We have looked mostly at the Patrick interchange in terms of the back-up and the safety concerns for, I would

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call it the eastbound to northbound movement and are looking at, we did not want to make that interchange part of this design-build project because that added in other complications in terms of federal, Interstate 80, that got a lot of other things involved. We are looking at these at that interchange separate from this. Our initial emphasis on looking at that interchange has been from a safety perspective. The backing up of trucks on to Interstate 80 and looking at an auxiliary lane and the intersection of the ramp and USA Parkway. We intentionally did not make it part of this project and have looked at it separately and we are addressing that interchange. I do not know a specific date, nor a specific project of when that's going to go but we're looking at it separately to deal with that.

Skancke: Makes sense, thank you John. Thank you Governor.

Sandoval: Mr. Controller.

Knecht: Thank you Governor. In order to be really brief I'm going to reference the fact that the minutes show that I asked questions last time on the relationship of this project to the I-11 project and to the State Freight Plan and got very good answers. I was very satisfied with that. I also asked detailed questions about the selection process for the contractor here and the waiting of technical versus cost matters. I got satisfactory answers on that. I'm not going to rehearse all that again today, but stand on that. I'll just say that in addition to the development of TRIC and the Tesla Project and all the good things that are going on out there, I view this as a really essential part of our transportation network. I'll almost say that it's overdue.

We have a big challenge here in Nevada. We have a lot of area. With a small population in that area and population centers here and there. This, I think, is one of the most important links and I'm very enthusiastic about it. As I understand it, the action item here is to approve—ratify the selection of the team and approve the design-build contract. Governor, when you think it's appropriate, I'll make a motion to do that.

Sandoval: Thank you Mr. Controller. I think there were other questions. I'm going to go to Member Savage, but why don't we do that and then I'll go back to another question. Member Savage.

Savage: Mr. Rodriguez, I thank you and your team. I know there's been a valiant effort here this last month, since the last meeting. I commend the entire NDOT staff to resolve this conformed contract with Ames. It's a good day. It's a big day for the

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Department. The Board Members are right, it's a lifeline to the New Nevada. This USA Parkway is going to make a statement.

The schedule and the strings that you've made within the contract, as far as the early completion, tying that down to August 2017 is vitally important. That's a good thing.

I did have two questions. Because the information that you and staff compiled within the Board Packet was very thorough. I appreciate that very, very much. I'm not trying to micromanage, I just have two quick questions. On Item 22, Page 5 of 11 in Attachment 2, regarding the design approach of the roadway. There's a clarification regarding the design-builder's proposal revise the roadway geometry as compared to their reference design to minimize excavation and embankment quantities. If you could expand on that a bit to clarify in my mind what that revision was.

Rodriguez: Yes, Member Savage. As part of the proposals that came in from Ames, bear with me. As part of the proposal that was submitted by Ames, there were reference—their design that was submitted in there was different from the reference design that the Department had prepared. We are reiterating this clarification that any shifts to the alignment from the reference design, that would require any other permits or additional geotechnical work, all those risks lie with the contractor. That's all that was. We're capturing, basically that commitment there.

Savage: Thank you Mr. Rodriguez. That again is the benefit of the delivery of the design-build project the Department has selected on this project. That's a good thing. Thanks for clarifying that. Very briefly, Item 23, again, it gets into the geotechnical discussion. Throughout the paragraphs, it looks like the burden of risks is placed on the contractor. I think you're very clear with that. It's very thorough. The only question I had was at the top paragraph, it says accordingly that the design-builder shall be responsible for geotechnical risk, except for conditions failing within the definition of differing site conditions. Because I know in the documents, the contractors were responsible for the different drilling and geotechnical inspections. Please define for me the differing site conditions clause.

Terry: Again, John Terry, Assistant Director of Engineering. Differing site conditions has been pretty well established in contract law and heavy highway construction over numerous years. Nothing we can do in a design-build contract can override

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that but I'll give you my simple version of it. It is we did geotechnical explorations out there. We provided them all to the contractor. Nothing they did can change that but if the conditions turn out between the various borings to be dramatically different than the information that was provided, then it may fall under the differing site conditions clause, but in all engineering contracts and while we can move geotechnical risk to them in terms of what they do, we cannot move that differing site conditions clause. It falls under contract law.

Savage: Okay. That's clear Mr. Terry. I appreciate that, because in the following paragraphs it does very clearly state that, it has the full risk—the contractor, design-builder, has the full risk and responsibility for its design of the project, that will furnish the design of the project, regardless of the fact that aspects of the referenced design have been provided. Design-build contractor, prior to the effective date, he alone accepts any cost and schedule risk associated with the results of design-builders geotechnical investigations. I think the Department has done a very good job. I'm in support of the project and I thank you for your diligence. Thank you Mr. Governor.

Sandoval: Any questions from other Members? Southern Nevada, any questions?

Martin: No questions here sir, it is a very well defined package. Rudy, you and your staff need to be complimented on that. Pedro, outstanding job, as far as I'm concerned.

Rodriguez: Thank you.

Sandoval: No, it is well done. I want to follow-up on Member Savage's question because we do have a history of claims from Ames. I want to make sure that everybody is coming in to this with their eyes wide open. We have a very aggressive schedule here. I don't want to be talking two years from now about a claim and disputes about who was responsible for what and soil conditions and the things that Member Savage has referenced. You feel good about that, Mr. Terry, Mr. Rodriguez?

Rodriguez: We feel good about this.

Sandoval: Okay. The other question I had is, there's a bit of a safety valve on the north part of the project, because if USA Parkway were to have an issue, there's still that Patrick exit where you can redirect traffic. Is there going to be another small alternative on the southern end, in the event there was a problem at the roundabout? So, in other words, if something happened, would the traffic just

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continue to back-up the USA Parkway? If there was a truck accident, the truck turned over, would there be another way for, to redirect traffic or would it just back-up that USA Parkway?

Rodriguez: Currently, there's no connection in this direction to I-80 other than 50, but then there's US-95A—

Sandoval: No, I'm just talking to get off the USA Parkway to go, to get on the 50. If in the event there was a problem, there's a traffic problem then. Do you see where I'm going Mr. Terry? I see you nodding your head. The reason I bring that up is, it just happened to be the day that I was at TRIC. There was a truck that was turned over on the USA Parkway on the 80. They had redirected the traffic to the Patrick exit so commerce was able to continue. Assuming worst case scenario, if there was some type of a truck turnover there at the southern end of the USA Parkway, where it terminates at the 50, is there any other way to redirect traffic?

Terry: Again, John Terry, Assistant Director of Engineering. It is a four-lane facility. Based upon their design, it is a four-lane median divided facility. That being said, a truck turnover that would block all four lanes would be rather unlikely, but you are correct. If there was something that blocked USA Parkway entirely, there would be no other way but to go back to I-80.

Sandoval: Yeah. And I'm not trying to create this doomsday scenario. I'm just trying to anticipate issues. The other thing I'd like to remind everyone, but probably this audience doesn't need reminding; this is the highest rated project that we have had since I've sat on this. An exponentially stronger project than what I've seen. 9:1 as Member Savage just reminded me and just to build off what the Controller had said, given what Mr. Skancke said in the addition of several million square feet that's anticipated in the very near future, my understanding of what I read in the press is once this project, this road project is finished, there's going to be a third phase of TRIC in that highlands property section, which will invite several new, very large tenants. There's a lot going on out there. This project is really going to be meaningful. And we haven't even mentioned the future I-11, which will possibly connect there as well.

When you see this, we're looking at this now, but when this actually opens up, it really is going to be a game changer for this region and for this State. I'm excited about it. As I said, I don't want to get into the micromanaging either, it just happened to be that day, there was that accident there. That's what prompted my questions. I am fully supportive of the project. I'm very pleased with the way

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this negotiation and this contracting has been handled so that we avoid claims in the future. That's all I have to say. Mr. Controller, did you have a comment?

Knecht: I wanted to follow-up on your concern, Governor, and on Mr. Terry's and Pedro's answers and thank you for the good job. I've come through 50 at a time when an accident closed off at least both lanes in the direction I was coming toward Carson City and found that, while it wasn't a great deal, there were side streets, surface streets, that were brought into service to get around the accident. This is coming out at Opal Avenue, I think, or Opal Road, whatever it is. Aren't there some side streets there that might be in the extreme circumstances that the Governor's talking about and that you're talking about, that might be pressed into service, to at least alleviate the problem?

Rodriguez: There are County dirt roads within that area that will ultimately access entrances on USA Parkway, like Mackey. They are dirt roads. Access can be provided typically in the reroutes on state routes.

Knecht: So, if we have enough circumstances with a foot of snow and an overturn blocking four lanes then things might go bad? Governor, I think this is a really important project, I'm really happy about it. I'll move to ratify the selection and approve the contract.

Sandoval: Okay. Not yet. Member Skancke has some comments.

Knecht: Oh, okay.

Sandoval: Last thing and again, I'm sure you guys have contemplated this, but there are a lot of wild horses out there. Is that contemplated as part of this project?

Rodriguez: Correct. Yes, it is Governor. We will be putting up, basically wildlife fences along USA Parkway, which will tie into the wildlife fencing that went in along US-50. Fencing will go in for a majority part of the route.

Sandoval: Great, thank you. Member Skancke.

Skancke: Thank you Governor. We're going to build a horse bridge. That's next month's agenda. [laughter] I just have a couple of comments. First of all, I think this is very well done. I appreciate your tenacity to make sure that we've got this right. Under the New Nevada, kind of headline, I actually have some concerns about awarding contracts to people and contractors and engineers and groups that have had claims against the State. I just want to put something on the record.

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I'm new here. This is my second year. So, I don't know, Mr. Gallagher, if I'm allowed to say this, so stop me if I'm not, but we have a limited amount of resources and a limited amount of funds. We've got to get these bid documents as close as possible to the amount of what the project is going to be, for all the issues that this Board has just brought up. I don't know if we can do this, but if there are any claims going forward on projects, I would like to request that those claims and those complaints come before this Board before the staff approves them. I think it's important for us as a Board and I'm not trying to micromanage the Department, but we don't have a lot of dollars. This is not 1980 when the fuel tax was generating what the fuel tax needed to be generating. The buying power of the \$0.184 fuel tax in this country today is about \$0.08. The projects are bigger and the revenue is less. If we're going to do \$70M projects and \$1.5B projects and \$400M projects, then we come back six months after the project is done and there's a \$12M, \$15M, \$22M claim. Now the project is \$100M and we've obligated those funds for another project.

I would say before the Department actually approves a claim, I would like to have that group or a justification come back to this Board, not an approval of the claim. I would like that group to have to come before this Board and explain to us why that claim was submitted. I'm not picking on this contractor. It just happens to be that it's this project. I think that's across the Board. I don't know if we can do that but I certainly would like to figure out a way that we have more interaction. At the end of the day, this Board is responsible to the taxpayers for the actions that we take and we're the ones that are responsible for awarding these contracts. I think it's important for us to be the ones to review claimants at the end of the day.

I'm happy to support this. I will tell you, I came here today with the intention of not supporting it because I just cannot consciously continue to see these types of things occur. I'm in support of the project. I'm going to support the motion that has been proposed, but I want to figure out a way to reduce the impacts on the this organization financially and send a message that if you're going to bid a document, bid it and live by your bid. It's just that simple. If you can't, then don't bid it. And, don't do business here. This is a State that wants to do good business and we want good contractors. We cannot continue to have this type of activity.

That's my soap box speech, thank you.

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Sandoval: Thank you Member Skancke. Before I take a motion, are there any other questions or comments with regard to Agenda Item No. 18? Anything else Mr. Rodriguez?

Rodriguez: My understanding is that request for approval of the contract will be made at the next Agenda Item.

Sandoval: Say that again Mr. Rodriguez.

Rodriguez: Request for approval of this Agenda Item, it will be made at the next Agenda Item.

Sandoval: In other words, Mr. Gallagher, let's make sure I have this straight.

Gallagher: The approval of the contract, I believe is Item No. 6 that relates to this particular item. The Board would entertain approval for the contract under Item 6. 7, excuse me.

Sandoval: So, would it be premature to approve—

Gallagher: 6, excuse me.

Sandoval: All right, so 6. Is it premature to approve this Agenda Item until we've approved No. 6? This is to approve the contract, correct?

Gallagher: The selection process.

Sandoval: Correct.

Malfabon: Then the contract is under Item 7. 6, I'm sorry. So, this is to review and ratify the selection of the design-build contractor for USA Parkway. Then the actual contract approval. So, that's the selection. The contract approval is under Item 6.

Sandoval: Well then I can go ahead and take a motion on this Agenda Item.

Malfabon: Yes.

Sandoval: Mr. Controller, do you wish to make a motion?

Knecht: Thank you Governor and I'm sure somebody will correct me if I get it wrong, but the motion would be to ratify the selection of the design-build contracting team and we'll defer approving the contract until the next item, right?

Sandoval: And that would be the team of Ames Construction, Inc., correct?

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Knecht: Yes sir. So, I move that.

Sandoval: Okay, Controller has moved, is there a second?

Savage: Second.

Sandoval: Second by Member Savage. Any questions or discussions on the motion? All in favor say aye. [ayes around] Oppose, no. That motion passes unanimously. Let's go to Agenda Item No. 6.

Nellis: Thank you Governor, Members of the Board. For the record, Assistant Director, Robert Nellis. There is one contract under Agenda Item No. 6 on Page 3 of 10 for the Board's consideration. This project is located on Interstate 80, almost a mile east of East Battle Mountain Interchange and State Route 304. The project is for coal milling, rubberizing and placing stress relief, leveling course dense grade and open graded plant mix. There were five bids on this project. The Director recommends award to Road and Highway Builders, in the amount of \$11,696,696. Governor, that concludes Agenda Item No. 6. Assistant Director Terry is prepared to answer any questions the Board may have regarding this project.

Sandoval: I have no questions. Board Members? Mr. Almberg.

Almberg: Thank you Governor. As we look at the bid tab here, do we have any type of guidelines or standards of how we are determining whether this is a significantly unbalanced bid. I don't have a problem with the bid in general. It's within engineer's estimate, I am going to support it. But, just as I am reviewing the spreadsheet that was prepared here, there's some items in here that are marked, that are not unbalanced where I feel that they are unbalanced. As a note, line item for your Traffic Control Supervisor, engineer's estimate was \$900 a day, low bid was \$1,000 a day, second bidder was \$1.00 a day. Yet, it marks it as non-significantly unbalanced. Then, you go up a couple other rows above. We've got a type one aggregate base, engineer's estimate is \$45, low bid is \$40, the second bid is \$43.04, yet that is marked as substantially unbalanced. So, I don't understand the logic involved in when we're reporting it as balanced or unbalanced.

Terry: Again, John Terry, Assistant Director for Engineering. I guess in your first statement are there guidelines or are there rules as to what we do. I'd say there are more guidelines—the BRAT Committee is a very important Committee and

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they evaluate these bids based upon these guidelines of what's unbalanced. Their recommendation to the Director's Office and our recommendation is to award it. I guess, in terms of the \$1.00 bid, that was the second bidder on Item, Traffic Control Supervisor. I think perhaps it would've been more concerning if that was the low bidder was that one. We considered that second one unbalanced. As we have had a discussion with this Board before, we don't necessarily throw out bids or not award bids because of apparent unbalancing. We do check all quantities again on items that seem to have unbalanced bids to see if they have the potential for flipping the bid if there were an error.

All I can say is, it's a process. Your questions are very much the type of questions we ask ourselves internally when we look at these. In looking at this one, we recommend awarding to the low bidder, which is usually the case because we didn't find the issues with the bid that significant. I will say, in a bid like this, where the two bids are very close, it doesn't take much to overturn the bid. That's why the analysis can be very important.

I don't know if I answered your question, but it's a process.

Almberg: You did answer my question. I totally agree with you. If it was the low bidder was the \$1.00 a day, I would've been very concerned about it. I've been looking at some—there's some other money somewhere else that's probably unbalanced. I just, you know, as I go through type one, when we're only \$3.00 different, I just don't know why that would be labeled as unbalanced. So, just my confusion. It isn't going to change my award of this bid or anything else. I'm just trying to help understand what's going on here.

Terry: Again, just a follow-up to your kind of follow-up question. It's because, even though they're only \$3.00 different, a bid this close with a quantity that high, it had the potential to overturning the bid and why it was labeled that way.

Almberg: No more, thank you Governor.

Sandoval: Thank you. Any other questions with regard to Agenda Item No. 6? If there are none, the Chair will accept a motion for approval of Contract 3604, as described in Agenda Item No. 6.

Almberg: I'll make that motion Governor.

Sandoval: Mr. Almberg has moved for approval, is there a second?

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Hutchison: Second.

Sandoval: Second by the Lieutenant Governor. Any questions or discussion? All in favor say aye. [ayes around] Oppose, no. That motion passes unanimously. Let's move to Agenda Item No. 7. Mr. Nellis.

Nellis: Thank you Governor. There are three agreements under Agenda Item No. 7 that can be found on Page 3 of 31 for the Board's consideration. Item No. 1 is with Ames Construction for the USA Parkway design-build project in the amount of \$75,923,220 to construct and extend current roadway from US-50 to Interstate 80.

The second item is Amendment No. 2, with Kimley Horn and Associates. This is to increase authority by \$500,000 and extend the termination date to 06/30/2017 for increased work load that requires consultant support and to meet deadlines associated with various project and programs, including the evaluation identification of operational and ITS solutions to the vicinity of Interstate 80, I-580 and US-395 Spaghetti Bowl. And, updating the statewide ITP architecture to meet federal requirements and maintain federal funding flexibility.

Finally, Item No. 3 is with Diversified Consulting Services in the amount of \$15.2M for construction and engineering services for augmentation of crew 915 for Project NEON design-build.

Governor, that concludes Agenda Item No. 7. Our Chief Traffic Operations Engineer, Denise Inda is here to answer questions regarding Kimley Horn. Assistant Director Reid Kaiser is available for questions regarding Diversified Consulting Services.

Sandoval: Questions from Board Members? Member Savage then Member Almberg.

Savage: Thank you Governor. Just briefly Robert, Line Item No. 1, the end date should reflect August 2017 rather than December 2017.

Malfabon: Oh, I can respond to that. We typically have the end date for the—since this is an agreement, it doesn't relate to the construction, or the completion—substantial completion, pardon me, of construction. It's the expiration of the contract, the agreement. That's why sometimes you see some extension.

Savage: Okay, because that August 2017 date is a very important date in my mind.

Malfabon: Yes, exactly. It's not related. It doesn't restrict us to that construction completion.

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Savage: Thank you Rudy, thank you Robert, thank you Governor.

Sandoval: Mr. Almberg.

Almberg: Thank you Governor. My question comes back to what Member Skancke just mentioned last time we were talking about this project. His concern about any claims and I just want clarification, is that claims or change orders that you're concerned about?

Skancke: In my mind, if it's a legitimate change order, then I think that's appropriate. I mean, if the Department has a change order, that's appropriate. But, if there's a claim on the back end, for whatever reason, and some of those things are—again, I'm not picking on anybody, I just want to make sure that we understand that there is that limited amount of resources. I understand that sometimes there has to be a claim. Change orders do occur. I think, in my mind, if there's a claim, I think this Board should have to have an opportunity to talk to those people about what the claim really is.

Almberg: Thank you for that. I just wanted to understand—make sure, because I would never expect a project never to have some type of a change order or something involved, but I just wanted to clarify what your concern was. Thank you.

Sandoval: Any questions from Southern Nevada?

Hutchison: Yes Governor.

Sandoval: Please proceed.

Hutchison: Let me just understand the reason for the request for the amendment under Item No. 2. It's a 100% increase that we are considering here from \$500,000 original contract to a \$500,000 amendment. It looks like that's—I'm just wondering, what has changed? I've read a couple of different rationales for this in the supporting papers. The original contract is March '15, you get an amendment, which was a no cost amendment, come September '15. Four months later, now we're being asked to consider 100% increase in an amendment over the cost of the original contract. I'm just trying to understand, what's the reason for that? What I'm reading in the materials, as I look at the back-up, it says, as a result of vacancies within the Division and a combined increased workload, there is a need for additional work from the consultants.

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Is this a result of increased tasks that have been assigned to this project and has resulted in additional workload? Or, is this just really a matter of NDOT vacancies and lack of staff?

Kaiser: Reid Kaiser, Assistant Director of Operations, for the record. Lieutenant Governor, this group is currently working on numerous projects for us. With the shortage of staff, we wouldn't meet the deadlines that we've put on ourselves and some of the items that they're going to be working on are, they're preparing ideas outside the Spaghetti Bowl to help traffic flow, to get people around the Spaghetti Bowl. They're coming up with ideas for the charrette that staff could not come up with. They're also working on the infrastructure of NEON. They're looking at what the design-builder has designed and proposed for this area and will see how it will affect infrastructure of the ITS devices around the Las Vegas Spaghetti Bowl. We just don't have the staff in that section to deal with all these things.

They're also working on the design of the ITS infrastructure from Nellis out to Apex. Again, we just don't have the staff to prepare all that information.

Hutchison: Thank you very much for that explanation. I guess, really the crux of my question and what I'd like to have commented on, is this something that we're going to see on a go forward basis where NDOT just doesn't have the staff. We have an original contract that's approved. We anticipate a fairly defined amount of work. Then, just because of the ongoing shortages of staff, we're going to continue to see these kind of extensions. This is a \$500,000 contract and a \$500,000 amendment. If that's the case, I'm wondering if this is just a matter of, do we need to be focused on recruiting and hiring within NDOT, as difficult as that may be. I know that we're losing folks to the private sector as the economy picks up. Is that the real issue here? Or, is it just a matter of, this is a unique situation where there was just increased workload that the staff could not otherwise complete, even if there was the staff that was available. So, is it really kind of a chronic ongoing lack of staff problem or is this a matter of, look we just didn't have staff with the expertise or the experience that was necessary for these tasks?

Kaiser: What we would like to do is, if time would allow is submit an RFP to get it on the street to allow other firms to compete for this work. So, if we don't have the staff at NDOT to handle these types of projects when they come about is, we will submit an RFP. When we have to meet certain deadlines, we believe this is the quickest and most efficient way to get the work out on the street is to extend the current agreement.

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Sandoval: If I may barge in, I think what the Lieutenant Governor is asking is, is your staff currently sufficient or are we just in an upcycle now that we need to temporarily handle that, but as things calm down, you have sufficient staff to handle responsibilities as we move forward?

Kaiser: Well, for the Traffic Operations Division, Rudy might want to chime in here, I don't want to overstep my bounds here.

Malfabon: I think it's a little bit of both, if I may. It's a combination of both factors. Being short staffed but also not having that expertise in house. We're trying to kill two birds with one stone, I think with the amendment. We definitely need help from our service providers and the engineering industry to deliver our programs.

Sandoval: Does that satisfy you Mr. Lieutenant Governor?

Hutchison: It does. Thank you Governor. Just wanted to have maybe a follow-up. If in the future, we feel like this is going to be an ongoing challenge, we may want to talk about how we're going to solve that broadly instead of just maybe taking this piece by piece over two or three years and seeing these over and over again. You've addressed the issue and appreciate the time.

Sandoval: Other questions? Mr. Controller.

Knecht: Well, Governor, Members Savage, Almberg, Skancke, the Lieutenant Governor and yourself have asked all the important questions as far as I'm concerned and reduced the information we need. I'm prepared to move approval of all three contracts. So moved.

Sandoval: Before I accept the motion, any other questions from Board Members with regard to Agenda Item No. 7? I will note that no one has asked about the Ames contract, but I think we have asked every possible question that could be asked on that. Just to recognize that there is a record with regard to that one.

The Controller has moved for approval of the contracts described in Agenda Item No. 7. Is there a second?

Almberg: I'll second that.

Sandoval: Second by Member Almberg. Any questions or discussion on the motion? Hearing none, all in favor please say aye. [ayes around] Oppose, no. That motion passes unanimously. Let's move to Agenda Item No. 8. Mr. Nellis.

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Nellis: Thank you Governor. There are three attachments that can be found under Agenda Item No. 8 for the Board's information. Beginning with Attachment A, there are two contracts on Page 4 of 19. The first project is located on Interstate 15 northbound at Sloan Truck Inspection Station in Clark County to rehabilitate and repave a truck inspection station, upgrade check station signs and lighting and construct a tortoise fence. There are four bids and the Director awarded the contract to Las Vegas Paving Corporation in the amount of \$904,953.

The second project is also on Interstate 15, from the Union Pacific Railroad spur at Nellis to north of the Apex Interchange in Clark County to install ITS infrastructure. There were three bids on the project and the Director awarded the contract to Fast Track Electric in the amount of \$1,812,321.10.

We'd be happy to answer any questions the Board may have regarding Attachment A, before turning to Attachment B, Governor.

Sandoval: Questions from Board Members? All right, please proceed.

Nellis: There are 44 executed agreements under Attachment B that can be found on Pages 8-12 of 19 for the Board's information. Items 1-13 are acquisitions for Project NEON. 14-18 are cooperative and facility agreements. Items 19-22 are interlocal agreements and leases. Finally, Items 23-44 are right-of way access and service provider agreements.

With that Governor, we'd be happy to answer any questions on Attachment B before proceeding to Attachment C.

Sandoval: I did have a question on A. Will you remind me why that's informational and the Board doesn't vote on that, given the amounts involved?

Nellis: Let's see, I think I have in here Governor, a summary of the approved matrix.

Sandoval: Maybe that's more a question for Rudy.

Malfabon: Yes, it was previously determined by the Board that at that level, you would defer to award by the Director. I think it was under \$5,000,000 for smaller construction projects and then \$5,000,000 and above, that the Board would make that determination to award.

Sandoval: Okay. All right. Please proceed with C.

Nellis: No questions on B, Governor? Okay.

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Sandoval: Member Savage has a question.

Savage: Thank you Governor. Briefly, Mr. Nellis, Line Items 25 and 26, there was a time extension on 25, without any additional dollars, as well as 26, a time extension without any dollars. I know I brought this up in the past, but it's always nice to see, if there are additional dollars required, they go hand-in-hand with the time extension. My question is, are there any dollar adds for Line Items 25 and 26?

Terry: Again, John Terry, Assistant Director for Engineering. There are no additional dollars in this request, nor do we anticipate any follow-up additional dollars. These are basically because projects were broken out and phased and therefore it took longer to deliver. We need the consultant, in terms of 25, assisting with engineering during construction, which we always have, but we had to extend the date because we broke out the project into multiple phases and delayed it. Therefore, we need to extend the agreements.

Savage: So that validates my concern. Thank you Mr. Terry. It is Department's policy that dollars do go hand-in-hand with time extensions at the time of the extension, is that correct?

Terry: Yes.

Savage: Okay. Thank you Mr. Terry, thank you Governor.

Sandoval: Please continue Mr. Nellis.

Nellis: Thank you Governor. There is one eminent domain settlement under Attachment C that can be found on Page 4 of 19 for the Board's information. This settlement provides for \$807,000 to be paid to Loch Lomond Trust for three properties on Loch Lomond way in Las Vegas for Project NEON. With that Governor, that concludes the items under Attachment—or, I'm sorry, Agenda Item No. 8. Mr. Gallagher can answer any questions regarding this settlement.

Sandoval: Any questions from Board Members with regard to Agenda Item No. 8? Thank you Mr. Nellis.

Nellis: Thank you sir.

Sandoval: Let's move to Agenda Item No. 9, why don't we take all of these.

Malfabon: Governor, if I may. Yes, there was 9, 10, 11, 12 and 13 are all inter-related public auctions. So, if I may, I'll address those together.

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Item No. 9 is per disposal of property on the northwest corner of Highway 50 and US-395. The land is appraised at a value of \$790,000. We're proposing to put it up for public auction.

Same for Item 10. The property is located at North Lompa Lane, north of Dori Way, in Carson City. The property is appraised at \$110,000 and we're requesting to proceed with public auction.

Item No. 11 is for property along a portion of North Lompa Lane and Carmine Street, in Carson City.

Terry: Can I interrupt on No. 11? There's a mistake in the summary. The 4.91 acres is correct, but 4.91 acres is not 21,000 square feet. It is 213,879 square feet. So, if I could just get that correction included within this one. Thank you.

Malfabon: Thank you John. The fair market value is appraised at \$30,000 for that parcel.

Item No. 12 is for disposal of NDOT right-of-way at Interstate 580 and US-395, east of Emerson Drive in Carson City. That parcel is appraised at \$40,000 fair market value.

The last of the requests for public auction is located at the northeast corner of North Carson Street and Arrowhead Drive with an appraised value of \$770,000.

These, we're requesting that the Board can take action on 9, 10, 11, 12 and 13 at one time.

Sandoval: Any questions from Board Members on Agenda Items No. 9-13?

Martin: I have one Governor. On Agenda Item No. 10, the same, Mr. Terry spoke of 11 having the acreage right but the square footage wrong. Agenda Item No. 10 has got that same—there's 3.4 acres and that's certainly more than 14,705 square feet.

Terry: Again, John Terry. I would propose just deleting the square footage and approving the Agenda Item based on the acreage, so that we can move forward.

Martin: Okay.

Malfabon: Good catch.

Sandoval: Thanks Frank. Any other questions or comments? The Chair will accept a motion then to approve the public auctions described in Agenda Items 9-13 with the corrections as noted during testimony.

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Martin: So moved.

Hutchison: Second.

Sandoval: Member Martin has moved for approval. Is that a second by Lieutenant Governor?

Hutchison: It is.

Sandoval: All right, any discussions or questions on the motion? All in favor say aye. [ayes around] Oppose, no. That motion passes unanimously. Let's move to Agenda Item No. 14, Resolution of Abandonment. Nos. 14 and 15.

Malfabon: Thank you Governor. 14 is for disposal of NDOT right-of-way located at US-50 at Lake Tahoe Golf Course Drive in Carson City. 0.92 acres. This is abandoning an easement. We don't own the property, we just abandon our easement interest. Similarly, Item No. 15 is for abandoning an easement for disposal of NDOT right-of-way parcel of land off North Durango Drive in the City of Las Vegas. There is a correction on this memo as well and I would ask that right-of-way staff do a better job at proof reading these documents before incorporation into the packet. It says, in the first paragraph of the summary, the parcel is currently right-of-way for US-95, not IR-15, but it is 0.79 acres of easement interest that we are abandoning and we request Board approval.

Sandoval: So what are you substituting, I'm sorry, I didn't hear Rudy.

Malfabon: I'm sorry Governor, so it says, the parcel is currently right-of-way for IR-15, it's actually US-95. This Durango Interchange is next to US-95 in Las Vegas, not I-15. But the other information is correct in the memo.

Sandoval: Are you saying in the second sentence?

Malfabon: Third sentence of the summary paragraph, where it says—the final sentence of that paragraph in the summary for Item 15, it says, the parcel is currently right-of-way for—

Sandoval: Oh, I'm with you now.

Malfabon: Yeah, it should be US-95.

Sandoval: I was looking at the resolution itself. The resolution is correct.

Malfabon: Oh, I'm sorry, yes.

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Sandoval: All right. Board Members, any questions with regard to the resolutions described in Agenda Items 14 and 15? If there are none, the Chair will accept a motion for approval of the resolutions in Agenda Items 14 and 15.

Skanske: So moved.

Sandoval: Member Skanske has moved, is there a second?

Savage: Second.

Sandoval: Second my Member Savage, any questions or discussion on the motion? Hearing none, all in favor say aye. [ayes around] Oppose, no. That motion passes unanimously. Let's move to Agenda Item 16, Direct Sale.

Malfabon: Thank you Governor and Board Members. This property is located just south of the intersection of US-50 and US-395, which will be the site of a future interchange for the termination of the Carson Freeway at US-395. What happened previously was, a previous Director approved the construction in the future of a decorative block wall that would run on the northerly and easterly property boundaries of the Comstock RV Property. We've been in discussions with the owners of the subject property and came to a determination that it was in the best interest of the Department to take the expense of the future block wall and just work on a tradeoff of property that was no longer determined to be of use to the Department. It was a win-win situation with the owners, the Lepires, I wanted to thank them and their Attorney, Mr. Pavlakis and their deliberations and coordination with NDOT to arrive at a good resolution. We abandon, basically trade our property interests to them.

As you can see on the attachments, on the aerial photograph, they are currently using part of that property for some of their trailers and RV storage. We felt that it was in the best interest of all parties if they continued to have a business purpose for the property that was no longer useful to the Department. And, it's a win-win, as I stated earlier.

We're requesting Board approval for the direct sale, basically a tradeoff of, we don't have to build a block wall. We'll record that against—if they ever sell this property, it's recorded against the parcel and we don't have to build that wall in the future and they obtain good use of the property for their business purpose.

Sandoval: Thank you Rudy, we like win-wins. We don't get many of those. I have no questions. Mr. Controller.

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- Knecht: I have no questions but I want to second everything Rudy said. Thanks to Mr. Pavlakis and the Lepires. This is a win-win. I'll move to approve it.
- Sandoval: The Controller has moved to approve the direct sale described in Agenda Item No. 16, is there a second?
- Skanche: Second.
- Sandoval: Second by Member Skanche, any questions or discussion on the motion? Hearing none, all in favor say aye. [ayes around] Oppose, no. That motion passes unanimously. Thank you.
- Malfabon: Thank you. We'll move on to Item 17 which is the—
- Sandoval: I was going to skip that one. [laughter] We need a little levity for this meeting, Mr. Lieutenant Governor. You didn't ask for my vote, so. [laughter]
- Hutchison: I failed at my lobbying efforts Governor.
- Martin: He didn't lobby me either.
- Hutchison: I'll let you all vote your consciences. [laughter]
- Sandoval: All right, go ahead Rudy.
- Malfabon: Thank you Governor. Pursuant to NRS 408.106, Paragraph 4, the Governor shall serve as the Chairman of the Board and the Members of the Board shall elect annually a Vice Chairman and historically the Lieutenant Governor has served, in a very good capacity as the Vice Chairman of the Transportation Board. We wish to continue that and offer this for Board action.
- Sandoval: Any speeches Mr. Lieutenant Governor?
- Hutchison: As I said, I'll let you vote your consciences, but I will remind you all that I have your addresses and home phone numbers. [laughter]
- Sandoval: I will say, I'm very supportive of this Agenda Item. I believe that the Lieutenant Governor has served admirably on this Board. I would be very proud to have him serve as the Vice Chairman of this Board. Mr. Controller.
- Hutchison: Thank you Governor. It's been an honor to serve on this Board with you and other members. It'd be an honor to continue to serve, thank you.

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Knecht: I so move your, Governor and by having our names, addresses and contact information, I presume you're not going to sue us, right?

Hutchison: No, but you will be getting campaign material.

Sandoval: The Controller has moved to elect the Lieutenant Governor to serve as the State Transportation Board Vice Chairman, is there a second?

Martin: Second.

Skancke: I'll second, only if I don't get any campaign material, how is that?

Sandoval: I'm going to give that one to Mr. Martin who is in Las Vegas. [laughter] So, check your mailbox, Mr. Skancke. Any questions or discussion on the motion? Hearing none, all in favor say aye. [ayes around]

Hutchison: Governor, I'm going to abstain from that vote.

Sandoval: All right. The motion passes unanimously. If you would mark the Lieutenant Governor as having abstained from the vote. Congratulations Mr. Lieutenant Governor.

Hutchison: Thank you very much Governor.

Sandoval: Let's move to Agenda Item No. 18, Review and Ratify the Selection—oh, we did that one, sorry. 19, Amendments and Administrative Modifications to the STIP.

Malfabon: Mr. Coy Peacock is in Las Vegas to present this item to the Board.

Peacock: For the record, Coy Peacock with Program Development under the Planning Division. I'm pleased to present the amendments and modifications to the Statewide Transportation Improvement Program. I'd also to give a brief update on our electronic STIP status.

Amendments are triggered when there's an air quality issue, if there's a project added or deleted, if there's a significant increase of over \$5M or over 40% of the overall project cost. Administrative modifications are triggered when there's less than \$5M or less than 40%. A project is moved from one fiscal year to the next and there's a change in the fund source. I'd also like to note that on Page 3, the very first project under the amendments, Attachment A, there is the Douglas County US-50 Cave Rock/Spooner Water Quality and Erosion Control Project. This particular project has only increased \$2M, but one of the things we like to do

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is, we like to take advantage of actions. We can do any action underneath an amendment. Rather than do these singularly as an administrative modification and amendment, we go ahead and add them all into an amendment.

I'd like to give a brief update on the status of the electronic STIP. We've been working with the MPOs. We've received, at no additional cost, from Eco Interactive a long range element that the MPOs and NDOT will utilize to do their 20-year plans or their regional transportation programs. We did training with the locals here in Las Vegas. It was very well received. We showed them the public site and now they have access to the secure site. They're actually entering the projects. It goes directly to the MPOs for their approval. Then it's submitted to us and then to FHWA and FTA for approval. That's minimized the duplication of effort.

Our staff at NDOT that does the betterments, those are the projects that are done by the District staff. They're actually going to be entering the projects directly, so that minimizes duplication of effort on our part.

Last but not least, we actually had a peer review with Minnesota. I believe there was a gentleman included from Wyoming. We did a webinar and basically showed them the same thing that we showed to the Clark County staff, as far as the secure site and how that overall process works. They're looking at the possibility of utilizing this system as well.

That's all I have Governor. If you have any questions, I'd be more than happy to answer them.

Sandoval: Questions from Board Members? All right, very clear. If there are no questions, is there any further presentation?

Peacock: That is all I have Governor.

Sandoval: All right. The Chair will accept a motion to approve the amendments and administrative modifications to the FFY 2016-2019 STIP.

Martin: So moved.

Skanccke: So moved.

Sandoval: Member Martin has moved, Member Skanccke has seconded the motion. Any questions or discussion? Hearing none, all in favor say aye. [ayes around]

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Oppose, no. That motion passes unanimously. Let's move to Agenda Item No. 20, Old Business.

Malfabon: Thank you Governor. We have the standing items of the Report of Outside Counsel Costs on Open Matters and the Monthly Litigation Report. Our Chief Deputy Attorney General Dennis Gallagher, from the Attorney General's Office is prepared to answer any of your questions on Item A and B.

The Fatality Report, dated December 28th is attached. Unfortunately, as I mentioned, we have quite a challenge with driving down fatalities in our State and we hope to do better in 2016. Any questions?

Sandoval: Questions from Board Members, with regards...

Hutchison: Governor?

Sandoval: Mr. Lieutenant Governor and then the Controller.

Hutchison: Thank you. Mr. Gallagher, I just want to make sure that I'm reading the chart, as I always ask about each month, clearly, when it comes to outside counsel, the outside counsel attachment, I didn't see any new cases that were commenced since the last meeting, is that correct?

Gallagher: For the record, Dennis Gallagher, Counsel for the Board. Lieutenant Governor, that is correct.

Hutchison: Because that would be—those new cases would be in a different color, as they have been in the past, we're still doing it that way, right?

Gallagher: Yes sir.

Hutchison: Great. Thank you very much. And then I just would note that, I don't know if we anticipate additional condemnation proceedings. I assume we will have them giving the extent of our projects that we've been discussing over the last several meetings. If we could just, in the future, Mr. Gallagher, as I've discussed with you before, just understand whether or not the Attorney General's Office will be handling those or if those will be handled by outside counsel and what criteria we're going to use in the future to select outside counsel. I don't need to have a discussion about that at this meeting because there's no new cases that have come before us. I just wanted to give you a heads up as you've heard me in the past discuss that subject. Thank you.

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Sandoval: Mr. Controller.

Knecht: Thank you Governor. I want to follow-up on that same matter. Specifically, I see that Laura Fitzsimmons Esquire has three lines in Attachment A. One which has been condemnation line which has been through three amendments and then there's the risk management analysis for NEON. On the second page, another Project NEON eminent domain actions and the NEON projects are over \$2M. How much of the \$2.7M in the condemnation litigation consultation actions remains to go? That started out at \$300,000 and has ballooned up to \$2.7M over the few years. I'm sure a lot of that has been spent. I'm just wondering, how much remains to be spent?

Gallagher: For the record, Dennis Gallagher, Counsel to the Board. If you'll go to the right hand column, you'll note, that's contract authority remaining. Under this particular agreement, there's just under \$470,000 remaining as of the date of the report.

Knecht: Then on the Project NEON Risk Management, \$708,000 and on the next page, \$485,000 also remaining?

Gallagher: For the record, Dennis Gallagher. I would like to point out to the Board that the risk management analysis contract that Ms. Fitzsimmons has not charged at all. These are funds that are paid to subcontractors. As she has characterized it in the past, NDOT is her pro bono work. At least under this agreement.

Knecht: Okay, thank you for that clarification Mr. Gallagher.

Hutchison: Governor, this is Mark Hutchison.

Sandoval: Yes, please proceed.

Hutchison: Can I just follow-up on that? Mr. Gallagher, can you just—I don't understand that comment about NDOT being her pro bono project. I just don't understand that comment, can you explain that again?

Gallagher: For the record, Dennis Gallagher. Lieutenant Governor, under this particular agreement, Ms. Fitzsimmons has spent time and provided legal services to the Department, but at her election, she has not billed for any of her time and all the amounts that have been expended under that particular contract go to contractors who are providing risk analysis services, as well as software to the Department.

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Hutchison: If I could follow-up on that Governor. The \$900,000, \$310,000, \$250,000, those are all to what, consultants? Those are not invoices that have been paid to Ms. Fitzsimmons?

Gallagher: Those are reimbursements to Ms. Fitzsimmons for consultant fees she's incurred pursuant to this particular agreement.

Hutchison: So there's been like \$1,460,000 in consulting fees that Ms. Fitzsimmons' counsel has retained on behalf of NDOT and that reflects simply reimbursements, pass-through costs, nothing that Ms. Fitzsimmons has billed.

Gallagher: That is correct.

Hutchison: Okay. If we go up to the condemnation litigation that is the first cell that the Controller was talking about, is that \$2.7M that she's billed NDOT?

Gallagher: Yes, but it also includes other consultants, other lawyers that she's engaged. I believe that first contract is primarily related to the Boulder City Bypass Project. The third contract is related to Project NEON.

Hutchison: Okay, the Boulder City Project, yeah that's the one, that first cell that we're looking at, that she's involved in. Okay. Thank you, that clarifies my questions. Thank you Governor.

Sandoval: Thank you Mr. Lieutenant Governor, the Controller has a follow-up.

Knecht: Yeah, thank you Governor and thank you Lieutenant Governor. Mr. Gallagher, when a lawyer manages the risk management analysis through contractors but doesn't bill us for any services rendered, do we have a contractual relationship with that person? What are our liabilities and how do we assure that the duties are done if we don't have a contract or if we're not paying her?

Gallagher: For the record, Dennis Gallagher. There is a written contract to provide these services. I believe the contract is set to expire either the end of last year or perhaps the end of this month. That contract will probably be dropping off. The Department will continue to deal, or will start to deal directly with the risk management consultants.

Knecht: That last part is very helpful. I don't want to be in any way ungrateful for the services rendered and the bills withheld, but it is good to know that our liabilities and our contracting position and so forth, our rights under the contract will be clarified. Thank you Governor.

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Gallagher: Excuse me, Mr. Controller. For purposes of disclosure, under this contract, on a number of occasions, I requested that the Department be billed and I believe the Director had made similar comments to Ms. Fitzsimmons. She chose otherwise and indicated she was not going to invoice the State for her time, under this agreement, understanding that she has the other two agreements.

Hutchison: Governor?

Sandoval: Yes, Mr. Lieutenant Governor.

Hutchison: I don't want to get too geeky on all this stuff but one of the reasons we may want to have Ms. Fitzsimmons and maybe she's been thinking about this is, often times you retain experts or consultants for risk analysis through counsel so that the attorney-work product doctrine can apply and those discussions can remain confidential and that work product can remain confidential. If it's being run through a lawyers firm and the contracts are being run through the lawyers firm, there are legal protections that would attach that would not otherwise attach if NDOT was to contract directly with those experts or those consultants. We ought to take a look at that on a case by case basis. It's not a good thing, it's not a bad thing whether she is contracting with these consultants. The question is, what do we want to accomplish? If we want to accomplish some privileged communications and protections so we can have frank and candid discussions about our risk analysis, it makes sense to go through counsel. If it's something other than that, that we can do this directly, then we can certainly do it that way. We got to understand what our goals are before we decide what we're going to do in a future situation. Thank you.

Sandoval: Any comments Mr. Gallagher?

Gallagher: The Lieutenant Governor identified why the contract was arranged with counsel, so that the work product would be privileged. The project is winding up, there may not be a need for any ongoing outside counsel in this role. However, should it be determined that the Department has future needs, we would contract with counsel in order for the work product to be privileged.

Sandoval: All right, thank you. Any other questions with regard to Agenda Item No. 20? We'll move to Agenda Item 21, Public Comment. Is there any member of the public here in Carson City that would like to provide comment to the Board? Hearing none, I'll move to Las Vegas. Anyone present for public comment in Las Vegas?

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Hutchison: No one here Governor.

Sandoval: Agenda Item No. 22, Adjournment. Is there a motion to Adjourn?

Skanche: So moved.

Sandoval: Member Skanche has moved. We're actually early, compared to the last few months. [laughter] Did I hear a second by Member Savage?

Savage: Yes, you did Governor, thank you.

Sandoval: All in favor, say aye. [ayes around] Motion passes unanimously. This meeting is adjourned. Thank you ladies and gentlemen.



Secretary to Board



Preparer of Minutes