

Minutes of Nevada Department of Transportation
Board of Director's Meeting
February 9, 2015

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

Sandoval: Good morning, everyone. I will call this Nevada Department of Transportation Board of Directors meeting to order. We will commence with Agenda Item No. 1, which is the Director's report.

Malfabon: Thank you, Governor and Board members. I wanted to start out with some update on the recent storms. We had to close State Route 342, which is the alternate route up to Virginia City, there by Silver Hill -- Silver City, I'm sorry. But the settlement of the road is visible there in that photograph. We had cracking of the road that was exhibited last week, before the storms hit. So we had settlement issues, concerns. This was right at a sinkhole location where we previously repaired the road. And working with Comstock Mining, we had them -- they offered to do some flattening of slopes, and maintenance forces from NDOT sealed the cracks in the roadway. We closed it yesterday as a precaution, as the rain continued through the night.

So we're watching that closely, with our geotechnical engineers from the lab, and the mining engineers from Comstock Mining, and we'll keep the public advised when that road is going to reopen. We also had some rock fall problems on US 50 due to the rain storms, and we expect to have an emergency contract this week to perform some repairs there at US 50 with stabilizing the slopes there.

I wanted to thank District 2 maintenance forces for their efforts. We had a lot of accidents -- crashes, I'm sorry, with dust storms last week, with all of the winds, in advance of the rain storms. And, they did a great job of

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keeping on all of these activities and serving the public and emergency responders. Next slide, please.

Quick update on federal funding. President Obama released his Federal Fiscal Year '16 Transportation Budget. A significant increase in funding proposed, which he proposes to fund through corporate taxes on business earnings overseas. This is something that was proposed previously. And the other changes on the Grow America Act, which is the multi-year transportation authorization, the President proposes a six-year bill now at \$478 billion, whereas last year he proposed a four-year bill. Obviously, this is up to Congress to deliberate, and Congress is going to be holding their hearings on the next authorization. So it will be up to Congress to determine what policies and funding levels to propose in the final version of the bill. Next slide.

Sandoval: Before you move on...

Malfabon: Yes.

Sandoval: ...Rudy, I was just on the phone with the White House, and so there's a conference call tomorrow, and so I've asked that you participate on that call.

Malfabon: Okay.

Sandoval: There's going to be some explanation, as well as a member of my staff will be on there as well. So, they are supposed to be reaching out to you for scheduling that, and when they do, just let me know what time it is so that I can make sure that someone on my staff is participating as well.

Malfabon: Okay. Thank you, Governor. An update on the session. We had our first two bills heard in the Assembly Transportation Committee, Assembly Bill 21, which would extend bond payments out to 30 years, and also, Assembly Bill 43, which is regarding confidentiality of certain documents in the design-build procurement process and the Construction Manager at Risk procurement process. We're going to work with others that have an interest in confidentiality and transparency, so that we can come to some middle ground and get those actual documents identified in the bill. Then we have, later this week, Senate Bill 23 before the Senate Transportation Committee. It will also give our NDOT overview, along with the RTC of Southern Nevada and RTC Washoe.

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And I am remiss in acknowledging some of the public servants that are in the room today. I wanted to start with, Larry Brown is the commissioner and the chair of the RTC of Southern Nevada, and Mayor Schieve, I hope I pronounced your name correctly, and Councilwoman Jardon from the City of Reno. Are there any other elected representatives?

Fierro: Ray Fierro, Chairman, Lyon County Board of Commissioners.

Malfabon: Thank you, Commissioner. Continuing on--next slide. I wanted to...

Sandoval: Before you move on...

Malfabon: Yes.

Sandoval: Sorry, Rudy. I keep interrupting you. I apologize. But on the legislative session, isn't there a bill that concerns speed limits in the state that is going to be heard in the very near future?

Malfabon: Senator Gustavson has a bill that would allow NDOT to have a speed limit on interstates up to 85 miles per hour. It was something that was introduced the previous session. We have looked at speed studies on certain corridors of I-80, I-15, and there were a couple of areas, I think, where we could increase. It doesn't mandate a speed limit increase, but it does allow NDOT to consider if appropriate. A couple of stretches on I-80, but we want to consider what that does for safety as well. Is it going to be safe?

Sandoval: Well, of course we do. And so I'd be interested in what our testimony was -- or your testimony, NDOT's testimony in previous sessions, and then -- so it sounds to me as that it's enabling legislation, and that the final decision would be up to you or to this Board?

Malfabon: For speed limit?

Sandoval: Yes.

Malfabon: Typically, we would be very cautious about increasing the speed limit to 85 miles per hour. I don't really foresee -- there were stretches, I think, that looked like they could go up to 80, but we want to check with, obviously, other states that have that type of enabling legislation and what it's done to their safety numbers. Particularly for -- our concern would be

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run-off-the-road accidents at that speed and the severity of the crashes and fatalities.

Sandoval: Yeah. And when you say we, who is we? Is it this Board, is it you, or...

Malfabon: It's delegated to the Director of the Department of Transportation, but I would definitely take the lead from the Board on concerns with traffic safety with this issue.

Sandoval: Okay. Member Fransway has a comment.

Fransway: Thank you, Governor. Commissioner and Director, I believe that that bill is SB2.

Malfabon: Yes.

Fransway: And if we do give testimony, please take seriously our goal of zero fatalities, and I will tell you that I had a reader board when I came over this morning, just outside of Lovelock, and it said something like, "Leave early. Drive slower. Live longer." Seems to me that's a contradiction with SB2. So, anyway...

Sandoval: And that was one of our reader boards?

Fransway: Yes.

Sandoval: Ours being the Nevada Department of Transportation.

Malfabon: Yes. We put that as part of our zero fatalities program.

Fransway: And some of those roads that they say are open and may be candidates for speed limit increase, I'll bring your attention to a stretch between Lovelock and Fernley that I have a hard time going by there without seeing an accident. I don't know why. I think that people -- it so open, I think people get mesmerized maybe, by the openness or whatever, but it's got a history of nasty wrecks and fatalities, and if you increase the speed 10 miles an hour, I don't think it's going to be good.

Malfabon: Governor, we'll work with your staff on our testimony, but with respect to last session, we were neutral on the bill but cautionary about the impact on the safety.

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- Sandoval: Well, I'd imagine it would be easy enough to gather the fatality and accident statistics over the past 5 to 10 years, so we could have a better idea of what's going on in those stretches that would be proposed to have that increase. Mr. Controller.
- Knecht: Thank you, Governor. And I heard you ask for the previous testimony. Will that be served on all Board members?
- Malfabon: We have our previous testimony that we could share. We'll email that to Board members from last session's testimony.
- Knecht: Okay. And one additional comment. I had the pleasure of driving out to Elko and back, and down to Yerington, and up to Lovelock and back this weekend, and although the conditions were awful Friday, they were good otherwise, and you all seem to be doing a good job out there, so keep it up.
- Malfabon: Thank you, Mr. Controller. Next slide. I would respectfully request that we bring in the interest of a serious issue of pedestrian safety, to have Item 11, which is the briefing on pedestrian safety efforts and a list of potential safety projects, brought up earlier on the Agenda to--after the approval of the minutes, Governor, if (inaudible).
- Sandoval: No, that's fine. And I can see there's several individuals that have an interest in that. To be respectful of their time, we'll definitely move that up.
- Malfabon: Thank you, Governor.
- Sandoval: We can even move it up after public comment. We'll make it number three.
- Malfabon: That would be great. Okay. Next slide, please. EPA stormwater update. We did have our follow-up meeting on January 13th. It was attended by the Governor's liaison, Nevada Division of Environmental Protection -- Department of Environmental Protection, pardon me. Executives from the Director's office, myself included, and district and headquarter staff. So it was well attended. And US EPA will be sending us a draft document that shows what actions that they're proposing that NDOT has to take in order to be in compliance, along with timelines to meet in that. They have not mentioned fines during these discussions, but we'll see what's in the final draft that they provide to NDOT.

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Next slide is similar to what you saw last month. We're in the first quarter, so we're in the RFP phase for NEON. Next slide. We issued the draft. We received over 300 questions related to the draft, and we're having one-on-one meetings this week with proposers, and we'll respond to those questions. We also had a meeting with our insurance advisor regarding what's called an Owner Controlled Insurance Program or OCIP. We directed them to do a fuller study called a feasibility study of this for Project NEON. In an Owner Controlled Insurance Program, the state would actually carry the insurance for the contractor, the engineering companies working on the design-build team, and the subs. So it is something that's new for the Department, and we feel that a more thorough study is required before we could enact it on Project NEON.

Sandoval: Okay. Before you move on, the Controller has a question.

Knecht: Thank you, Governor. Director, looking back at your Project NEON design-build delivery schedule...

Malfabon: Previous slide, please.

Knecht: Yeah. Thank you. We're at early February, and it looks like the RFP response and evaluation and preferred proposers selected, is going to take something like eight or nine months. For those of us who are new, can you give us a quick explanation to understand why it takes eight months or more for that?

Malfabon: Certainly. So in March, we release the final RFP, and we give them sufficient amount of time to put together their proposals, which require quite a bit of engineering, as well as technical write up of their approach to the project. They're receiving, and they will receive an updated schedule for right-of-way acquisition. So they have to determine what's their best approach to deliver the project. You'll recall last month, I discussed some of the incentives that we're allowing them to earn, based on their establishment of the schedule. So it takes some forethought on the part of the design-build teams to address how they're going to tackle the project and deliver it in a timely manner, with the least amount of disruption to the public, and address a lot of the technical issues.

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They also develop what are called alternative technical concepts. So, maybe they want to be very innovative, and provide a proposal that takes some time for them to propose it to us. If it's acceptable to the Department, we allow it from the teams to propose innovative solutions to deliver the project. So it takes some time. And then once we receive those proposals, I think it's in -- they're due in -- where's John? July? So, they're due in July, and then it takes us a couple of months to review those, determine who has been the team that we feel, based on accommodation of price and technical proposal score combined, 60% price, who we recommend to the Board.

Knecht: Thank you. And that's helpful to me because what's not apparent on the face of that page is the engineering and technical alternatives work that you mentioned. So something substantive is going on there, and we are pushing the ball down the court.

Malfabon: Yes.

Knecht: Thank you, Governor.

Malfabon: Okay. Next slide, please. So in terms of the right-of-way acquisition, the Transportation Board will be receiving several requests for condemnation in the coming months. Condemnation actions are when we cannot come to terms with the property owner. We provided -- in following the Uniform Relocation Act, which is the federal requirements for acquiring private property for a project, if we follow that, come to an assessment of the value, and appraisal, and all of the other additional costs associated with that, such as relocation. If we can't come to terms with an owner, then it comes to the Board to enter into condemnation action, and we go through the court process to determine what's the fair value to the property owner.

But we will, during that time, even with condemnation actions from the Board, we still continue to try to pursue settlements with property owners, and sometimes even to the point of being in a trial and reaching a settlement during trial. But we do our best to be fair in this process, to provide a fair offer for the highest and best use of the property, and then the owner has the ability to reject that offer. In that event, then we do require condemnation action and go to court. And if there's a legal settlement, that goes to the Board of Examiners for their consideration and approval. Next slide.

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We're working on an interlocal agreement with the City of Las Vegas to include a bridge over the railroad tracks there. The city will cover the construction costs and acquire the right-of-way for that additional scope of work in the project. And, since it involves federal funds in the future years, the Federal Highway Administration and the RTC of Southern Nevada are involved in those discussions, so that if agreements need to be amended with RTC's agreement with NDOT related to another project that was anticipating use of those funds, we will make those amendments in those interlocal agreements as appropriate, and satisfy all the requirements of the Federal Highway Administration.

But, I wanted to make the point that the city is covering those additional costs. We will have to update our project financing plan for Project NEON to add that additional scope, and the value of that work, and how it's going to be paid for. We have a business community outreach event, and I wanted to thank Commissioner Brown for the assistance of Tina Quigley and others at RTC as they've worked with NDOT to put on this community outreach event for businesses on February 11th. We'll have a separate one focused on Disadvantaged Business Enterprises, which is a minority of women-owned firms under the federal US DOT program. So we have one specific for NEON, but this is -- in general, NDOT has been doing more outreach in Southern Nevada, with some of the local minority firms and women-owned firms. Next slide.

An update on Interstate 11, Boulder City Bypass. The recommendation to award will be presented under Item 5 today. And the Board of Commissioners for the RTC of Southern Nevada expects to award their phase two design-build project later this week. And NDOT is requesting proposals for construction management support for our project. Next slide. An update on USA Parkway. The Statement of Qualifications is due February 27th from the design-build teams. This is basically, the prequalification process. So, we'll short list three to five teams by April 13th after review of those qualifications, and then the project is on schedule. Next slide.

The operational audit, we did reach out to various accounting firms, did make a minor change regarding the budget for the operational audit, but that's negotiable based on the actual scope that we negotiate with the

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selected firm. So it was reissued as a request for proposal, and proposals are due March 17th. The firms that we contacted indicated that with the clarification that they've received, that they will submit proposals. Next slide.

And then on recent settlements, no settlements expected at the Board of Examiners meeting this week. We hope to have some in future months, as we negotiate settlements on Project NEON acquisitions. Regarding the construction claim on Meadowood Interchange, this was a Meadow Valley Contractors Incorporated project in Reno that went over the time allotted, to construct the project. We did an audit of the Meadow Valley Contractors Incorporated books using a forensic accountant, and we'll have an internal meeting with NDOT, the AG's office, and our outside counsel, and the district staff that were involved in the project, later this week to go over those findings of that audit. Next slide.

That concludes the Director's report. And Governor, did you say before public comment that we would...

Sandoval: No.

Malfabon: Or just after public comment, okay. Thank you.

Sandoval: Are there any questions from Board members with regard to the Director's report?

Martin: Yes, sir, I have one.

Sandoval: Okay. Mr. Martin, please proceed.

Martin: Rudy, could you have Reid give me a call after you guys have sat down and reviewed this Meadowood deal? I seem to find myself embroiled in this morass, and I need to -- I want to be kept up to date. Okay?

Malfabon: Yes, Member Martin. We will certainly do that. Reid Kaiser will contact you after we have that internal meeting. And I know that Greg Frainer has been calling you a lot. He's the person employed by Meadow Valley, a claims consultant, and we'll have counsel...

Martin: Yes, have counsel available.

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- Malfabon: Okay.
- Martin: Thank you.
- Malfabon: Okay. Any other questions, Governor?
- Sandoval: I see no questions. We'll move to Agenda Item No. 2, public comment. I'll first ask if there is any public comment from Las Vegas.
- Male: None here, sir.
- Sandoval: Thank you. Public comment from Carson City? Commissioner.
- Fierro: For the record, Ray Fierro, Chairman, Lyon County Board of Commissioners, also Chairman of the Carson Area Metropolitan Planning Organization. I come here today to bring attention to an unsafe condition in Lyon County regarding US Highway 50, and more specifically the intersection of Fortune Drive. Our highway has been called one of the deadliest highways in Northern Nevada. As a commissioner representing over 52,000 people, I'm concerned about this intersection. NDOT has conducted a traffic study. They did it back in June of 2012. We're concerned that that traffic study didn't -- the timing was ill conceived because school was just getting out of session.
- We had a public meeting last year in June. We had public testimony from our fire chief, our sheriff, school board members, county manager, Carson-Tahoe Hospital. We all have requested that NDOT install this light. NDOT has already required the developer to do improvements on the intersection. Today, we have four posts with no arms, no signals, and the response that we get from NDOT is, "The light's not warranted." So, June 11, 2014, Mason Valley News, "NDOT says no traffic signal at Fortune Drive." RGJ up in Reno, "Reversal. NDOT now says signal needed on deadly road."
- If we're told that a signal must meet warrants and we accept that, that's great. If NDOT says that to another community, we're all on the same playing field. But when you reverse a decision, that's when we're going to come here and we're going to say, "Why aren't you reversing the decision on our intersection?" I also have minutes from our Campo meeting and a resolution that was unanimously passed by Campo, asking for that light to be installed. I appreciate the time that you've given me today. Thank you.

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- Sandoval: Thank you, Commissioner. And may I have copies?
- Fierro: I'll give them to you right now.
- Sandoval: All right.
- Fierro: Thank you.
- Sandoval: Thank you.
- Fransway: Governor?
- Sandoval: Yes, Member Fransway.
- Fransway: Would it perhaps be possible to address this issue on a future Agenda, when we can have everything in our packets, and have the ability, if we need to, to take some kind of action?
- Sandoval: Agreed. And you're anticipating at least one of my questions on Agenda Item No. 11, is there's -- the Department has predetermined the preferences for safety projects in the state, and I don't know how that list was compiled, and it obviously didn't consider this project on Highway 50 because it's not on there. So I'm real curious to see how those rankings occurred...
- Malfabon: We'll address that, Governor.
- Sandoval: ...and if there are others, and how it was scored, et cetera, and where this Highway 50 situation in Lyon County fits in with all of that. Because basically, this is money that's been -- that you said that we have available, and if this is going to exhaust all of that money, there may not be money left for Lyon County if it's as critical of a need as the Commissioner has stated to the Board. So I'll wait until we get to that agenda item, but Member Fransway, I completely agree with you.
- Fransway: Thank you, Governor.
- Sandoval: Yeah. Member Skancke.
- Skancke: Thank you. And, I can wait for this until the next -- until that item, but my instincts tell me that we're going to run in, Rudy, to the same thing that we ran into last year, which is there's going to be some leftover dollars at the end of the year because we always find projects -- the money is not all used

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for a project and we can move things around, right. So, maybe what we can do is take a look at an assessment of what might be coming, say, in the next six to eight months, and I think you guys, internally from a financial point of view and cash flow point of view, can take a look at what might be coming. And, I think the Board could probably, without micromanaging that, but might be able to help where some of those dollars could go for these type of safety programs.

Additionally, this is my soapbox speech. This is precisely the reason why we need the Federal Government and Congress to act on additional funding for surface transportation projects. We're out of dough, and the public needs to do something about that. So, whether it's a safety project or an interchange or a signal or a stop sign, states need more money, and Nevada specifically, needs more money. So, whether it's legislative action or it's Congress, we -- this is precisely the reason why we need to act on additional funding. And so, I'm happy to work with you any way I can to help identify where those dollars are. But, I think there's probably a larger list than what's here right now, and we should probably do a quick evaluation of what that entire list is across the state, not just a few million dollars.

Sandoval: Any further public comments in Carson City? I'll close public comment, and we'll move immediately to Agenda Item No. 11, which is the briefing on pedestrian safety efforts and list of potential safety projects.

Malfabon: Thank you, Governor, for allowing this important item to be brought forward earlier in the Agenda. I'd like to thank you, Governor and your staff, for the leadership on the issue of pedestrian safety, and also thank Ryan Sheltra for the time meeting with me a few weeks ago to show me his concerns on site. Not only did we walk around the location on site, but he also took me up on his roof so I could get a bird's eye view of, kind of, the lay of the land, see the curves of the road, some of the speed issues, and really see his concerns personally.

A few weeks ago, I directed NDOT staff to do our typical analysis called a Traffic Signal Warrant Analysis. So we had staff go out there, take traffic counts, review the crash history at this location, and it did not meet the traffic signal warrant that are from the Manual Uniform Traffic Control Devices, MUTCD, which is a federal document. But it was unacceptable to rely solely on that guidance. I felt that it was my engineering judgment that

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a traffic signal -- after reviewing the site and reviewing some of the things that you'll see graphically depicted in Ryan's video, that based on my engineering judgment, a traffic signal is needed. And that's not only based on the physical characteristics of the road and the speed that people are traveling in their cars along that route, but also just the complete disregard for pedestrians in the crosswalk by those vehicles, by those motorists, putting pedestrian's lives at risk.

And I initially thought that advanced warning would do the job there, but as you'll see from the surveillance video that Ryan is going to show, there just - - even with law enforcement being present there and having a presence several days, the motorists were still ignoring the pedestrian flashers and placing pedestrian lives at risk. So at this point, before I get into some of the more detailed discussion, I wanted Ryan Sheltra, the general manager of the Bonanza Casino to come up and show a very graphic video. And I wanted to warn those in the audience and those observing on the internet, that this is very graphic. You'll see images that are more graphic than what was shown at the Reno City Council meeting a few weeks ago. So, Ryan if you...

Sandoval:

Before you do that, Mr. Sheltra, I've got some comments. So, we definitely want to hear from you. I guess my question is this, Rudy, is this all happened in the last few weeks. This concern, and my understanding from Mr. Sheltra, has been -- the Department has been aware of it for years. And why is it that it took years to finally get to this point and have a change of mind, and then suddenly say in an engineering judgment, we need to do this when, my understanding is, Mr. Sheltra has been trying to work with the Department for a very long time to get to this. And I -- correct me if I'm wrong, this Board wasn't aware of this longstanding issue either, and I didn't become aware of it until I opened the newspaper and saw it for myself. And then I asked my staff to call Mr. Sheltra to see what was going on.

We talk about highway safety every day -- I mean, every meeting, and this has been a longstanding problem. And I don't know if there's a better explanation than suddenly it appeared in the Gazette Journal, and has been brought to the attention by Mr. Sheltra and some of our representatives from the city council, what changed. But why wasn't -- why didn't we know about this years ago when it was brought to our attention then?

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Malfabon: Governor, in response, there was a letter that Mr. Sheltra provided to me, that was written to a previous director in 2006. I had not seen that letter before. I was just like you. My first knowledge of this was when Mr. Sheltra showed the video at the city council meeting. I immediately got with staff in District 2, in Reno, and here in headquarters and asked, "What contact has been made by Mr. Sheltra requesting a signal?" They were not aware of that. The District 2 staff eventually did find a copy of this letter from 2006 that Ryan had already given to me. But that's what I was able to determine was that it was written to a previous director in 2006 and no action was taken, and I was unaware of it.

Sandoval: Yeah. I just -- with Commissioner here from Lyon County, it sounds like -- I'm not saying it is, but it just sounds like there are some safety projects out there, if they don't fit within the manual in terms of where traffic lights go, we suddenly say no, and that's it, and don't take any input. And in the meantime, people get hurt and people get killed. And, I'm glad we're going to take care -- I mean more than -- glad is not the right word, but it's important that we listen and take action immediately, particularly in a dangerous situation like this. But, Mr. Sheltra will be coming out, and so I'm going to ask him the same thing in terms of what the history has been in this case, because I don't think years have gone by without communication from him, with regard to what was going on there on North Virginia Street.

So, in any event, I want to get to the truth here, and I also want to make sure that we know how we came with this ranking of safety projects across the state, to make sure that we haven't missed out perhaps on something that is a longstanding safety issue as well in other parts of Nevada. So Mr. Sheltra.

Sheltra: Governor Sandoval, thank you very much for the opportunity to be here; Lieutenant Governor Hutchison, one of my bosses in another role, the Board, thank you. Director Malfabon, thank you for the invitation. Video. So, I've been working for 15 years to try to make change up at a very dangerous intersection, and over the years I've trained my surveillance cameras. I've got four different cameras that record this intersection 24/7. I want to take you through just a few examples. I have many--I have 10 years of history on this intersection.

One of the things you're going to see early on in this video, there are 40,000 people in the north valleys and RTC, the main bus transit system, rolls right

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through here. So all of the pedestrians that rely on public transit, this is the main bus stop, this one and one across the street serving North Reno, which creates a lot of pedestrian traffic crossing a very busy and fast -- what used to be a rural highway, which is now more of an urban road.

Reno Police Department has called this road the most dangerous road in Northern Nevada. They've categorized three of them, three problem areas. This is one. I want you to notice the flashers are on, it's broad daylight, cars still flying through. What's ironic on this one, even the bus rolls through the crosswalk with the pedestrian still in it. Twelve people have died on this road, five people have died right in front of my casino in this crosswalk since I've been employed at the Bonanza.

Here's an elderly couple pulling out of my parking lot. It's not just pedestrians. You've got the sun right in your face as you pull out on an elevated incline. These two folks -- this is right after the New Year. These two folks -- could you pause that for a sec, please. Both of those individuals were transported by REMSA. They could not see with the sun in their face and the cars coming from the left. They just -- they didn't have ample time. And aerial maps don't show this, and I really appreciate Director Malfabon came up, gave me an hour and a half of his time. We walked every piece of my property that is relevant. He literally stood with me in this intersection as we looked at the sun and to the left, and saw exactly what that elderly couple just saw.

This next accident is a teenage boy. Flashers are on, it's lit, he's hit. If you look at the rear panel of the car, you can see the flashers reflecting in the left panel up there. What's just disgusting about this video to me is four cars see this, one stops. The car that hits him takes off, very callous. It's a teen -- it's just a teenage boy. Flashers were on. He's in the crosswalk. They're just not stopping. This is Cold Springs seventh grade middle school teacher, Norman Waller. It's a rainy light, flashers are also on. Watch the circle. This is one of my older cameras, not as good of video as I have today. He's hit at a high rate of speed. The car that hits and kills him -- if you'll notice, a second car comes right away. If he's not hit and killed by the first car, he would've been killed by the second car. Cars are flying through there.

Pause for a sec here. This fourth one, this is the most recent fatality we've had up there. This is Vincent Yao. This is about 4:50 in the morning. What

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I want -- ask the Board to pay attention on this video, Vincent is in the crosswalk for 21 seconds, 21 seconds. At a high rate of speed, at 60 miles an hour, 21 seconds, he's hit in the fifth lane. That car was four-tenths of a mile away when he stepped into the crosswalk. I showed Director Malfabon what four-tenths of a mile looked like coming down off the freeway down North Virginia Street. It is highly likely, when this gentleman stepped in the crosswalk, that he saw nothing because of the bend of the road, the speed of the cars, the distance of that car. He stepped into a five-lane road, the four lanes with the middle, and it was pure black.

Now, someone has been made in the media that he didn't hit the flashers. He didn't. Vincent Yao didn't have 100% of his mental faculties. He was a good man. He was a caring man. It was a great -- he was in the crosswalk. He did, in my belief, everything he could do to be safe. There was no cars in the road. Like I said, he probably saw nothing. This is tough to watch. Please. 21 seconds. Watch the second car.

I have a couple of follow-up videos. Since this is where my presentation ended for the city council, we've kept the cameras rolling, and I've got a few more videos right at the end here I'd like to show you. Can you please pause here? The afternoon I presented to the Reno City Council, Mayor Schieve, Councilwoman Jardon, the entire council was very supportive and immediately called to action what was in their power, and they instructed our PD to immediately take action on our intersection, and they did. And Chief Pitts responded, and the next morning I had the head of traffic for RPD, Sergeant Joe Robinson, up placing, I don't know what they're called, the trailers, the warning trailers with the lights. And he placed one south of the Bonanza, he placed one north of the Bonanza, and they were flashing, "Please slow down, pedestrian crossing." Those trailers are still there today.

So he had just finished placing them. This is 7:30 in the morning. Go ahead and play it. It's the morning traffic. There is -- he has -- you don't see his police car in view. I see it from another camera. His police car is in view on the high side. Watch his hand, as soon as he hits the button. Count the cars. So I have a fully uniformed Reno Police Officer with his squad car in view of the cars, traffic trailers flashing, 10 cars fly through. The flashers are going off right now. The overriding theme that's just over and over here,

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is the flashers are not stopping traffic. With the warning lights and a uniformed police officer, and cars aren't stopping for him.

Every day, my cameras catch three, four, half a dozen more. Here's another one. This is just about a week and a half ago. Watch the gentleman hit the flashers. You'll see them flashing. Count the cars as he's trying to go through. He's right in the middle. It's not like these cars don't see him. Again, the flashers, they're not stopping traffic, and I've got to think it's just the high rate of speed on this road, which is coming off of 395. I just have one more video to show you. This one is -- I had NDOT in my lot finishing the traffic warrant. It was ironic, so I wanted to include this. Lights flashing, again, the warning trailers are on each side. Watch the top screen. He's pulling the car counter off, and you'll watch a pedestrian go through and nearly get hit.

I want to thank you. That concludes the video presentation. I want to thank the Governor and Director Malfabon. I would very much like to say, Director Malfabon has responded immediately. I have been working on this problem for 15 years, and I never ran into a roadblock with him. He's been a breath of fresh air. But Governor, your intervention has changed everything here. It started at council level, and I appreciate their support, but without your direct intervention, I don't know that we're here today, and the whole team has pulled together, and I'm very, very appreciative on behalf of myself and our property.

Sandoval: Thank you, Mr. Sheltra, and I apologize. I can't even articulate how sick to my stomach I am, that this has happened, and that it has taken 15 years you say?

Sheltra: Yes, sir.

Sandoval: Fifteen years to get something done. And, as you say, the video says it all. And for those families that have been affected by these tragedies, I really appreciate your never giving up on this. And, I want to get to the bottom of what this communication stream was, because it can't happen again. We can't have people be killed like this, for no good reason, none. We could've had a light in there years ago. And I don't understand why this department hadn't responded. Why this department didn't bring it to the attention of this Board. Why I have to pick it up and learn about it on the front page of the

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newspaper. Why my staff has to call you directly and ask you to come in or speak with us so we can know exactly what's going on, and then we have to call over here to the department to get action.

And so, this is one of those days where I cannot tell you the depth of my disappointment here, in terms of what has happened. And I knew Vincent, and for that to happen, it didn't have to happen. And so, I don't know what it's going to -- we are going to fix that, period. And we are going to do it as soon as we possibly can. We are going to put it on the fast track. I know I'm only one vote, but I hope I can speak for the rest of this Board. But, this is going to be done immediately, and we are going -- and that's why I want to know a ranking for what is going on, not only in these projects that have been identified, but also a survey done throughout the state. Because at the end of the day, at least my impression is, and please correct me if I'm wrong, is 15 years have gone by because that project didn't fit neatly within a little book, with a little engineering specification. In the meantime, people died. And it can't happen again, period.

I mean, we preach every month about fatalities, and how we have zero tolerance and zero is our limit, and then we see videos like this, and this department was on notice that it was happening. So, maybe this is a good day in terms of, in the future, we're going to listen to the commissioners, we're going to listen to local government officials and find out exactly what's going on out there. And perhaps sometimes you do have to think out of the box. And everything doesn't fit within a nice manual where it says, you don't have one traffic light so much distance from another. Because as you see, there are slopes, there's light, there are fast speed limits. There are a lot of variables that don't fit within that little, nice, comfortable box of the manual.

So in any event, Mr. Sheltra, what has happened in these past 15 years in terms of communication with the Department and why nothing got done sooner?

Sheltra:

We ran into that box you just described. We first started talking with NDOT back around '99, 2000. The letter of '06 was the one thing that I had in writing, many conversations directly with Scott Magruder -- former employee, Scott Magruder, Scott Rawlings. They were both wonderful. They were trying to guide us through the channels of NDOT. I engaged --

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our government affairs group with McDonald Carano Wilson has been engaged on this for at least a decade. I've got Mike Pawnee and Jim Endres here today. But Mike Pawnee, back literally in '05, '06, might have been with me sooner, we just -- when I sent that letter in '06 asking for a warrant analysis, I never even got a response. I never got a letter back saying no. I never got a phone call. I know they did it. I saw them come out. I saw the strips go.

Back channel, it got back to us through -- I believe it was through Scott Magruder, that we within 1,000 feet of the other light, so it wasn't going to happen. Quite honestly, and I never had a director like Director Malfabon. I can't tell you how impressive or impressed I was with him. I expected -- when he came to meet with us, I thought it would just -- it was just a courtesy meeting, that he was there so he could tell you guys that, yeah, I went out and met with the Bonanza, and my answer is still no, and it wasn't that. He was wonderful. He was very sincere. He spent a lot of time with us.

I wish, perhaps if Director Malfabon would've been the director 10 years ago, a couple of people would still be with us today. I don't know. I don't have an answer for NDOT's lack of action prior to his time at Director. I know we tried, and not just me directly but through our law -- our legal team, I know we tried. So, it was through the frustration of being turned down, I'm sorry, Governor, that I turned the cameras on, because I realized if they're not going to -- if going back channel and writing letters isn't going to work, I'm going to bring a video forward at some point, and that's how we got to this point today and your direct involvement.

Sandoval:

No, and I'm -- thank you for not giving up. And unfortunately, a couple of people had to get hurt and die, again, to get to this point. That can't happen again. And if there are other projects out there that this is happening, we need to know about it, we as a Board. And, I don't want this Board to have to micromanage every little thing, but at the same time, if issues like this are buried within some administrative quagmire and nothing is happening, and then a property owner has to resort to having to take videos to make his or her point, we can't get to that again. So I'm going to quit preaching about this, and I hope the Department appreciates, at least, the depth of my frustration on this.

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But again, all we can do is look forward now, and not have to see another video like that. And I know there are always going to be bad drivers out there who speed and don't pay attention to traffic laws, but if we can take some more protective and safety measures to get this done, then we'll do it. So I have a question or a comment from the Controller, and then from Member Skancke, then Member Fransway.

Knecht:

Thank you, Governor. And I want to second a couple of things that you said, and follow up on some of the details. First of all, the events shown in this video and the situation there are very distressing; second, the history is also very distressing; and third, Mr. Sheltra, thank you for what you're doing on behalf of the public interest, your neighbors, your customers, et cetera. Thank you for sticking with it. You've done a really good public service there.

My follow up on the details, Governor, goes to this. I had about three takeaways from this video; that there were issues of visibility, both with the sun, up the hill, et cetera. There were issues of grade, people coming downhill at high posted rate of speed and high actual rates of speed. And there was what I think is another issue, and that's the frequency and severity of the events, the accidents, as we call them. And my question, Rudy, is this: are any of those issues addressed at all, in the standard, in the book that tells us where and when to put these lights? Does it address things like the frequency of accidents, the visibility, the grade, that sort of thing? Are those factors that are taken into consideration under the current practice? And like the Governor, I don't want to micromanage this, but I would like to understand exactly what our process involves and how we got to this point.

Malfabon:

Mr. Controller, in response, the manual takes in to consideration the frequency of crashes, but you point out exactly what I saw when I met Mr. Sheltra out there, the curves, the speed limit, the trees that he showed me, could obstruct a view as someone is coming downhill. And, just the disregard shown with the video of the Reno Police Officer crossing the crosswalk, showed me that there is other factors. Even though it's not as frequent as demands a traffic signal, I felt that it was absolutely necessary to apply my engineering judgment to those types of factors, and require it.

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To my knowledge, this is the first time that the Department is approving a traffic signal that does not meet traffic signal warrants, but I felt that it was appropriate.

Knecht: One other question on the dollars issue that was previously raised, in your Item 11 report, the second page, if I'm reading this right with my (inaudible), there is a little table here that shows current balance, \$322 million after NEON, desires minimum of statewide (inaudible) we've got \$56 million. And then we're talking about (inaudible) down here, locations where pedestrian safety projects (inaudible) using state funds up to \$10 million. I'm sorry. I thought I had done that. And is that \$10 million cumulatively that could come out of the \$56 million?

Malfabon: Yes.

Knecht: Okay. And so, in addition, we could be looking at more projects like the Lyon County project. We'd have \$46 million more there than the \$10 million for the eight projects here?

Malfabon: No, not necessarily because the point in the write up was that there's still other expenses that come out of that \$56 million, besides capital improvements. What I wanted to do was to show the Board that there is sufficient funds in the highway fund, and primarily, the offset was the fact that, as I reported previously, that the Department received \$11.2 million of obligation authority from other states that didn't spend their obligation authority last fiscal year. So that meant that \$11.2 million more reimbursement is received, which would fund the improvements that we're proposing for Board action.

Knecht: So we've got the money, you have the discretion, we have the discretion, it is now a matter of making sure that we promptly do something about this.

Malfabon: Exactly.

Knecht: Governor, at your pleasure, I'll be happy to offer a motion in support of completing this project and going forward with studies of others, including the Lyon County project, but you tell me if and when that's an appropriate motion.

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Sandoval: And we'll get closer to that. I guess what I also would like, as part of what we consider here in the future, is whether we can move money to actual projects versus how much money we spend on studying safety and buying stickers and that kind of thing, and moving the actual dollars to building safety projects instead of studying it. And so that -- again, that -- I'm not looking for an answer today, but I want to see if there's some discretionary money there. So, we're going to move to Member Skancke.

Skancke: Thank you, Governor. Having worked around this for the better part of 24 years, 25 years, warrant studies are very problematic on many levels. In my experience, often times they are used for a reason for something not to happen. And I think at the end of the day what we have to do, is we have to find a reason why things can happen. At some point in the transportation world, we have to put our people before our policies and the politics. And that's not a smack at the Department or anybody else. We have to prioritize, and when you put people first always, the policy comes afterwards.

Having been involved, again, with lots of these things around signals over the years, these warrant studies are really difficult, and I don't know how we can change the manual, other than to bring these projects to the Board and have the Board use their discretion to prioritize what these are, Governor. But I will tell you in my experience, warrant studies have always been used for reasons why things cannot happen, and I think we have to start finding reasons why things can happen. And, I really think my recommendation is we dig down deep to find additional funding, because I know that there's more than this and there's more than Lyon County. They're all over the state. And I can tell you, Governor, \$10 million is a postage stamp for what the needs really are, and under your direction today of changing this, that we may need to review the warrant process and the manual.

There are special circumstances, and I'd hate to see us use that manual as a reason why something cannot happen. Again, I think it should be incumbent upon us that we should find reasons for things to happen, particularly in these economic times and what we're doing. So, I would support the motion for this project and any other project today that is up for consideration.

Sandoval: We'll go to Member Fransway and then Member Savage.

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Fransway: Thank you, Governor. Likewise, very disturbing video. Governor, you said it best. You said simply, no more. No more injuries, no more fatalities. I think that this Board needs to put that in motion with some sort of a directive to staff. I don't exactly know how that directive would be worded or the language to it, but I don't think it would take us very long to figure it out. We do have the ability to take action on this item today, and the way that absolutely is evident. The public is ready for this, and this Board is ready for this. And so, Governor, with your lead, I am in favor of doing something today that puts teeth into what you said. Thank you.

Sandoval: Thank you, Member Fransway. Member Savage.

Savage: Thank you, Governor. Along with other Board members, Mr. Sheltra, (inaudible) the people and the lives that were lost (inaudible). This is a compassionate Board. As Member Skancke and the Governor have said, Member Fransway, we will (inaudible). I appreciate your perseverance over the years. I know it's the Department's responsibility to act quickly. I understand enforcement is an issue with the speed limit. I was up there yesterday, and demographics present themselves as very challenging and it was very clear. I'm sorry.

So with that being said, I know this is on a fast track project, and I'm sure that you'll cooperate in every which way possible regarding right-of-way, to make this move quickly and expedited for the Department, for the safety and the benefit of our community. Thank you, Governor.

Sandoval: Comments from Southern Nevada?

Hutchison: Governor, thank you very much. This is Mark Hutchison. I can't see on the video there, I assume Mr. Sheltra is still at the podium.

Male: He sat down.

Sheltra: Yes, Lieutenant Governor.

Hutchison: Thank you very much. Thank you for the presentation. Thank you for all that you're doing to bring this to the attention of those who can do something about it. And again, my heart goes out to the families. Let me just -- let me follow up. I want to just address two things. One is, I want to understand NDOT's awareness of this issue. I heard you say that you talked

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with, I think you said a Mr. Magruder, a Mr. Rawlings, and then you had your government affairs folks back in '05 and '06 start this whole process of beginning to try to educate, I think, NDOT about the problem out there. The Governor referred to this kind of maybe as an administrative quagmire that we got caught up in here. But what I want to understand is, what's happened in the last couple of years? Can you give us a little more timeframe in terms of -- because the last that I heard was a written letter in '06. Your government affairs was engaged in '05, '06, but take us forward.

Take us forward in terms of -- I'm not talking about just necessarily written instruments (inaudible) because we can communicate in so many other ways besides writing a formal letter to NDOT. Have there been phone calls, have there been texts, have there been emails, that you have been engaged in personally, or those that you know of, have been engaged in personally, to try to make NDOT aware of this situation. And then I've got some follow up for you, but I'd like to first just understand the communication side of this from you personally or from those that you're aware of, moving us forward beyond 12 years ago.

Sheltra:

Yes, sir. Every major accident, we re-engaged. I can't tell you what a great friend the press can be. Anjeanette Damon didn't write all of the articles, but she's written them all lately, and every single time there was a serious incident up at the Bonanza or somebody was killed, it was hot on the burner, we knew the iron, it was time to strike. So, you're asking 2006 forward. So 2006 we do the warrant study, which I don't believe there's a record of. We asked for it, but talking to Director Malfabon, back, again, before his time, that study has been able to have been found. But I know they did it because I saw the strips up there. So we were told no.

We roll forward, and I cannot recall if in '08 or '09 we engaged. I will tell you we engaged heavily in '12 when Norman Waller, the seventh grade middle school teacher, was run down in our crosswalk and tragically killed in '12. We engaged NDOT again on a full court press. I did this through our government affairs division at McDonald Carano. NDOT did react. We didn't get a light, but they did come in and they installed, I believe, four light poles, two on each side on the west side of Virginia Street, which is why when you look at the video that I just showed of the school teacher being killed, that roadway is very, very dark. When you see Vincent being killed,

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it's lit up. And part of that is because I have better technology with our cameras--and it was raining in the first one, but the second part is because NDOT did respond in '12. We didn't get the light, traffic wasn't slowed down, but they did light the roadway better.

It would've been more helpful to have lights on both sides of the road, but I'm thankful that we did get those western lights. I would like to say, just being an advocate for the entire city of Reno and all of North Reno, not just the Bonanza crossing, North Virginia Street from McCarran Avenue to Panther, the entire section is black. It is very, very dark. I had this discussion with Director Malfabon. There's seven crosswalks in that stretch. The speed limit coming off that freeway is 50. It does slow down to 40 in front of us, but often cars are going much faster. But you've got seven crosswalks, three are protected by a stoplight; one, ours, has flashers that's not effective; and the others have no protection at all, so they're dark, you've got a steep road, and cars going fast. So the entire roadway is very, very dangerous and really needs to be addressed. And Director Malfabon is aware of that, and I believe he's making recommendations to that effect.

So we got the lights in '12. When Mr. Yao was tragically killed and the Governor's office got directly involved, and Director Malfabon, in the last two weeks, honestly, I've seen more action than in the last 15 years. We've had two crosswalks on that corridor repainted, ironically, one the day that Director Malfabon came to see me. I joked with him about that, that the Department was working hard to make it to look good in front of him. New signage has been going up. So I definitely see that NDOT is engaged right now, again, more so in the last 10 days than in the previous 15 years combined.

Hutchison: Thank you very much for that clarification. I want to be even a little bit more granular here if I can. So in '06 you have a warranty study, and it's determined there's not a problem. In '12 you say you become heavily engaged, and you run a full court press with NDOT, and as a result of that there were, what, four lights installed that you just referenced, right?

Sheltra: Yes, sir.

Hutchison: What does that mean; heavily engaged and run a full court press? Does that mean that you just had your government affairs folks go over and start to see

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NDOT? Does it mean you sent emails? Does it mean you went and had personal meetings? What does that mean; full court press, fully engaged, after that tragic accident?

Sheltra: Could I, if it is okay with you, Lieutenant Governor, I've got Mike Pawnee from McDonald Carano here. Could I invite him up to the podium to answer that question directly?

Hutchison: Sure, as long as somebody just then brings me forward from '12 to '15, in terms of where there further full court presses, were there further heavily engagements. I want to understand, because we're kind of talking in generalities here, and it's a very serious issue that the Governor has raised in terms of, what do we need to do with the Board. Do we need to change a policy somewhere, and that's going to depend on how much engagement and how much notice NDOT had. It if was sort of sporadic and people were really not calling attention to this, it's one thing. If it was systemic, repeated instances of heavy engagement, repeatedly contacting NDOT, and we go for years without response, and the public can't get a response from NDOT, then that's a different question we've got to address.

Sheltra: Well, I don't want to mischaracterize that we were calling NDOT on a monthly basis. We did, with every incident, get back in the game with them. I will tell you from the '12 press, it was Scott Magruder, and we had lots of conversations with NDOT employee, Scott Magruder through myself and through Mike Pawnee, with McDonald Carano. I wish now, in hindsight that, like I did in '06, that I would've had a paper trail, so--a binder to hand you guys. I don't. But I can tell you -- I can pull billable hours with my law firm and you're going to see lots of conversations about this.

But again, the answer we always received -- in fact, I'll tell you the answer we always received was, "You don't qualify. You're within 1,000 feet of Parr Boulevard." And the answer -- and it was consistent, I mean, from the middle 2000, up until November, running until Vincent's tragic death. "You're within 1,000 feet of Parr Boulevard. You don't qualify for a light. It will create more accidents to give you a light because you'll have rear end collisions." And I'm not a traffic engineer, but my come back to that was, "Really?" Because if you just time the lights, if you just sync the lights, tell me how it makes it more dangerous than when flashers go off, and they stop un-synced with another light, and you've got cars flying through, and that

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creates the rear ends. If you just sync the lights, why would that make it any rougher.

But it was an absolute, the box, that Board Member Skancke mentioned. The box was hard. I mean, you didn't get through the box. If you didn't qualify, end of discussion.

Hutchison: Let me follow up and just ask this follow-up question. You started saving and recording video.

Sheltra: Yes, sir.

Hutchison: When did you start doing that, and did you show anyone at NDOT those videos and they still said, "You don't qualify"?

Sheltra: I started saving video after -- in about the '06 timeframe. So I've got about 10 years worth. I could go days of video for you gentlemen. NDOT -- no, NDOT had never seen the video. Our conversations with employees, Magruder and Rawlings, I don't recall if we made them aware of the video. I've got to think that I probably did, but I can't tell you that I did. I just -- we never got a director to -- nobody ever picked up the phone like Director Malfabon did and called me back type deal. So, no, NDOT never saw the video until post the Reno City Council meeting.

Hutchison: Well, Governor, I'll defer other questions. I don't want to belabor the point but...

Sandoval: Yeah, the deposition is finished, Lieutenant Governor.

Hutchison: Right. And I've got to be careful not to fall into that mode, and I apologize, Governor. One thing we may want to consider is just -- and again, I'm new in this and maybe it already exists, but it seems that maybe there could be a policy where if there are pedestrian fatalities, or driver fatalities, or serious injuries, and somebody brings to NDOT's attention, we need a signal out there, we need some sort of traffic device out there, and it's denied, that we at least as a Board ought to know about that. But anyway -- and allow for public comment. But I'll go ahead and defer and cut my deposition short. Thanks, Governor.

Sandoval: No, you ask all the questions you want, Mr. Lieutenant Governor. And just as an aside, I'm not looking for an answer today, if a traffic light wasn't

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going to work through all of those years, why wasn't it ever considered to have a pedestrian bridge across North Virginia Street?

Malfabon: I can only suspect that it was a combination of factors, what right-of-way NDOT owned, what we would have to acquire, and the cost of that, versus the volume of pedestrians. I'm not certain, Governor, if ever that was considered at the Department.

Sandoval: All right. Other questions from Board members? Mr. Controller.

Knecht: Thank you, Governor. And I have just one follow up. Rudy, I mentioned the question of what factors are considered in the manual. Mr. Skancke talked even further about that and the role of discretion, and you've got discretion. My question to you would be, is there some way that we can influence the people who maintain and promulgate the manual, to emphasize the discretion and emphasize that the manual should be used as a general guide and not as a reason to say no? Is there something we can do about that, or you can do about that?

Malfabon: The manual is updated periodically, so certainly there's opportunities provided to the Federal Highway Administration.

Knecht: I would appreciate it if you would take those opportunities, and thank you, Mr. Malfabon. Thank you, Governor.

Sandoval: Member Skancke, if you...

Skancke: Thank you, Governor. I have to beat this horse, I'm sorry.

Sandoval: Is your mike on?

Skancke: It is.

Sandoval: Okay.

Skancke: It probably shouldn't be at this point. The warrant manual actually doesn't give anyone any latitude because it's dictated by the Federal Highway Administration, and that's the problem. What happens is, and it's a cultural thing across every transportation agency, someone is always looking to blame someone else why something can't happen. At the local level they blame NDOT, at NDOT they blame Federal Highway Administration, at the

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Federal Highway Administration they go back to the local government. It is a circle of horrible communication. And the culture has to change of why things can't happen as to why things can happen.

So instead of saying, we're going to do a warrant study, all you have to do, in my opinion, is say, it's done. It's that simple. It's just that simple. So instead of finding a reason to do this, why don't we do this and just fix it? But, if we're dictated by the Federal Highway Administration, and then the Federal Highway Administration comes back and just throws it back at somebody else, the problem, Mr. Controller, is that no one wants to make the decision. At the end of the day, someone just needs to say, we're going to do that. And what's happened here is the Governor has said, "We're going to do it." I think what the Board has to do is take a look at all of the other must dos and give the Department the cover to get the job done, to spend the money, to make all of these projects work. That's the only way. Because the manual they have to follow is Federal Highways, and the Federal Highway Manual probably hasn't been updated since 1860.

So until the Federal Government brings the regulations into the 21st Century, we're stuck. So, I appreciate what the Governor is doing to take a leadership role and this Board, and if I were the Director, Rudy, I'm not, thank God, but if I were, I would bring all of these projects to the Board, every last one of them. And let us decide and help you make those decisions to get around the manual. Otherwise, this stuff is going to continue all across the state.

Sandoval: All right. Thank you, Member Skancke. We have a lot to cover. Member Fransway, if you have a comment, I don't want to limit you.

Fransway: Just one short comment. If, in fact, Mr. Skancke is correct with this being mandated by the Federal Highway Administration, I'm suggesting this is a state's rights issue, Governor, and this is protecting our people. And what are they going to do, hold back funding? I doubt it. That's my comment.

Sandoval: Okay. Member Savage.

Savage: Thank you. Very briefly, just a technical question, Governor. Is it actually Wall Street or is it Bailey?

Male: It's Wall Street, sir.

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- Savage: I thought Wall Street was further toward the north.
- Male: It's directly across from the Bonanza.
- Savage: Okay.
- Male: They're two different names.
- Savage: Because I thought that Wall Street was further north into the mobile home park. So I just wanted -- for technical purposes, I want to just clarify before the motion is made that Wall Street is the correct street, and I thought it was...
- Male: What sounds a lot better is Bonanza Crossing...
- Savage: Bonanza Crossing or Bailey, okay. Just a clarification.
- Sandoval: Thank you. Before we move on, I know that the Mayor and the city councilwoman are here. Did you want an opportunity to say anything, Madam Mayor or Madam Councilwoman?
- Schieve: They don't make these for short people. Is it on? Can you hear me? I'll just make this really brief. I know you have a long meeting. But on behalf of the City of Reno, I can't tell you how grateful we are, and truly your comments today certainly hit home. And I would just like to say to Mr. Sheltra, thank you for all your hard work, and honestly, it's truly unfortunate that you have to show a video to really come across so graphically everyone can see the demand for this need. Unfortunately, I truly believe had you not had this video, I'm not so sure people would be taking as seriously today. But again, thank you, Governor Sandoval. Truly, I feel blessed that you represent our state and are listening to us today. Thank you.
- Sandoval: Thank you, Madam Mayor.
- Jardon: Thank you. Councilwoman Jardon for the record. I did want to thank the Governor sincerely, for bringing this to this Board, and bringing it to the issue at hand that needs to be corrected and quickly. I guess my question is this. I understand that it will be expedited, but the process in which to go through the bidding process could take potentially three months to put the light in, and I wonder if that process can be expedited. I think 15 years has been long enough, so I wonder if there is some flexibility in that as well.

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Sandoval: Okay. Mr. Director.

Malfabon: Well, what I propose to do is have a temporary signal, so wooden poles. We might have to work with the property owners if we don't own the right-of-way where the poles would sit. But we want to do everything that we can to get a temporary signal while we get the permanent signal bid out and put in place.

Jardon: Okay. Thank you very much.

Sandoval: Thank you.

Gibson: Thank you, Governor. For the record, Lee Gibson. I'm the Executive Director of the RTC of Washoe County, and I want to thank my Board members, Chairwoman Jardon, and Mayor Hillary Schieve. From the perspective of the RTC, I just wanted to add that we're going to work very cooperatively with Rudy on a couple of initiatives. One, we'll be preparing a complete street master plan for the Reno/Sparks urbanized area. This will be a plan we'll help lay out, specific design solutions that will protect pedestrians, bicyclists, and automobiles. We've had an extremely great amount of success when we have used what are called road diet methodologies. Wells Avenue is the one I like to point to where we've seen a significant, on the order of a 40% reduction, in total accidents in those corridors where these types of design methodologies have been used.

So this metropolitan wide plan will help us set the priorities. This will not be a plan that will just simply set on a shelf. We will be using our preservation program, on the order of \$10-\$15 million, a little bit more actually, per year that we use to help repair our roads in Washoe County. We'll be using those to also put in place pedestrian enhancements so that we can leverage -- I'm sorry, so that we can continue to move forward with improving pedestrian, bicycle, and automobile safety in our region.

We had a great deal of success last year where we actually expedited the local process, put in a crosswalk on Virginia Street near the junkies stores, and to the safety of everyone involved, that awareness just that that initiative generated was something we're very proud of. And I think that's the point I want to really hammer home today. Let's not forget this subject in six months. We're going to be in an aggressive public outreach campaign in our

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complete street master plan. It's important that the engineering be backed by education, enforcement, and also bringing the emergency responders to the table, so that our plans, our programs, our engineering design solutions are comprehensive in scope, and bring all of the community players to the table so that this problem will no longer be a problem, and in fact all of our resources from the RTC's fuel tax, sales tax, our federal funds, the NDOT state and federal funds, all get leveraged to build the type of transportation system we think our citizens in Washoe County deserve. Thank you very much.

Sandoval: Thank you, Director Gibson. Mr. Sheltra, I want to give you the last word, if you want it, if you have any closing comments.

Sheltra: Governor, thank you--Sandoval. I just, from the absolute bottom of my heart, representing the Bonanza, the citizens of North Reno, and our customers, the pedestrians and motorists up there, thank you for directly getting involved to fixing this problem. I want to thank this entire Board. Your support is certainly hitting home. The Reno City Council, their unanimous support, it just -- everybody -- it feels so good right now, after such a long struggle, a long road that we've trudged, that it feels like everything is coming together, and we're finally there. But, sir, without you -- I just -- thank you.

Sandoval: Thank you, Mr. Sheltra. Commissioner.

Fierro: Once again, for the record, Ray Fierro, County Commissioner. I'm sorry, I didn't clarify I wanted to speak at public comment and on this one. Zero fatalities, it's a lofty goal, but I'll tell you what, it's the right goal. What Mr. Sheltra spoke to you today, it's almost déjà vu what's going on with another situation in Lyon County, with a crosswalk at Pike Street and Highway 50, and the stories just mesh together. We don't have the problem like they do. I mean, it's hard to hold yourself together when you see a video like that. But we have a similar situation, crosswalk across the highway. We've come to NDOT, we ask for help. At first there's reluctance, and then we keep pushing and pushing, and we got the one overhead light now, but we still have a problem. And we're a bedroom community, so we have morning commute traffic and the late afternoon commute traffic, and for some reason where that intersection lies, it's just hard to see people, and people are not

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focused on pedestrians. All they're focused about is either getting to work or getting home.

And so, my public works director has contacted NDOT multiple times, and we've requested what's called a rectangular rapid flashing beacon to be installed at that crosswalk, and we've been turned down. And I'm asking you guys to consider that, also. And to Mr. Sheltra, I consider you a hero for not giving up on an issue like this that's this important. Thank you.

Sandoval: Thank you, Commissioner. And just so we have it on the record, if we could follow up with the Commissioner and perhaps put that on a future Agenda because it's not within the items that are identified in Agenda Item No. 11. So what I want to do is this. Given the prominence of what we've just discussed, I'll take this North Virginia project as a separate motion, and then we'll talk about these other items that are also included in Agenda Item No. 11. The Controller has asked to make the motion.

Knecht: Thank you, Governor. And my motion would be to approve the Bonanza Crossing stoplights, including all feasible temporary interim measures that Director Malfabon discussed, as absolutely soon as possible, as expeditiously as possible, and that the Director has the, not only authority, but the direction expressly from this Board to do that as quickly as possible and to get it in place. So I'll -- as you've asked, I won't make the second part of the motion. I'll reserve that for another action. But that would be my motion.

Sandoval: You've heard the motion. Is there a second?

Fransway: Second.

Sandoval: Second by Member Fransway. Any questions or discussion on the motion? My question is, Mr. Director, does this motion and the action taken by the Board today, enable NDOT to commence with the project, and installing the temporary light, and then the installation of the permanent structure?

Malfabon: Yes, Governor.

Sandoval: And what is your estimated timeline to get that all accomplished?

Malfabon: I would have to get with staff, but I've seen in the past that the temporary signals can go up within about three months after looking at design. We're

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assuming availability of power because there is a power line going through there. Hopefully, NV Energy can work with us if there's additional power drop needed for that.

Sandoval: So three months before anything happens. Is there anything else that can be done? I think I saw a photo in the newspaper with one of those trailers parked on the side of the road with cones to warn people to slow down. Can we put -- can we decrease the speed limit through there until the installation of the temporary light and the permanent light?

Malfabon: We will -- I'll have staff directed, so...

Sandoval: Because what is it, 50, right now, 55?

Malfabon: It's 40.

Sandoval: 40? And is it City of Reno that patrols that or NHP?

Malfabon: City of Reno PD.

Sandoval: I mean, we can't tell -- I guess that's up to the mayor to increase enforcement up there.

Schieve: We've already started on that process.

Sandoval: Okay. Whatever measures, mitigation measures, that can be taken to provide more safety and protection to those pedestrians that we can do today, then let's do it. And then, if it takes three months, that sounds like a long time to me. We did better than that in Southern Nevada when we installed the light there, the traffic signal when we had a crosswalk problem there. But in any event, I think the message is clear to staff and anyone else who is involved with this, that we have to move expeditiously.

Malfabon: Yes, Governor.

Sandoval: Okay. So, we've got a motion and a second. Any further discussion? All in favor of the motion say aye.

Group: Aye.

Sandoval: Opposed, no. Motion passes unanimously. Again, thank you, Mr. Sheltra. You are indeed the hero in this matter. Thank you for looking out for the

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people of Washoe County and everyone else. Thank you. All right then, Mr. Director, do you have further presentation on this Agenda?

Malfabon:

Yes. I'll be brief, Governor. But--next slide, please. I wanted to also thank Anjeanette Damon for her articles regarding our process. I read through our manual and saw that we needed to commit state highway funds, the manual that currently looks at federal funds and incorporating safety projects into our preservation projects. I want to do stand alone projects, and I've directed staff to do so using state funds to develop those projects and to reach out to local agencies to identify the locations of those projects. Also, a better tracking system, I've directed staff to develop a tracking system. They currently have one that's based on spreadsheets and it's cumbersome, and I want to have a tracking system so that we can tell, at the executive level and at Board level, what's been proposed, what's recommended, and what's been enacted.

I've also told staff that it's unacceptable to say that -- rely on a local agency as an excuse to not maintain some of the devices that we need to put in. So we will have a maintenance contract to maintain these devices, if a local agency is unable to help us. NDOT does not maintain traffic signals. We typically rely on cities and counties to do so, but that should not be a limitation for installing a traffic signal, or any other devices that will improve safety.

We've already started a project prioritization process. One of the first things that I did as Director was to start us on this path. We've got a contractor that's developing this system with input from the appropriate areas that deliver projects, various projects, of the Department, including safety projects. And then, as Executive Director Lee Gibson mentioned, we support complete street projects when appropriate. We think that we want to study this section on North Virginia to see where we can make some changes, because if we can modify the road, we should be able to have slower speeds through that area.

Also, I will bring forward any traffic signals that staff bring to my attention, that currently have been denied due to not meeting warrants, so that on a future agenda item, the Board will be informed of that and we'll take appropriate action. I'm going to have PD Kaiser come up and give a presentation of the projects that were recommended, realizing that the signal

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at Wall Street and Bailey Drive, was already approved. But PD, if you could address the question of how did we develop these projects and priorities for the projects.

Kaiser:

Okay. PD Kaiser, NDOT Traffic Safety Engineering. The ones that you see -- the projects that you see on the graphic are projects that have been identified in road safety audits that we had completed or safety management plan, specifically Kietzke. The one on Kietzke is a road safety outlet that was followed up by a safety management plan. In some of these projects, the project up at Incline, the design was already underway, and we're really close to having that completed and getting ready to go out to bid. So we wanted to try to -- any of those projects that were originally slated for federal funding and could be done in a short order, we put those on the list, and so you'll see that on both the Northern Nevada and the Southern Nevada locations.

On North Virginia Street, we also had identified three other locations where -- that are more, kind of, related to bus stops. People get off the bus, run across the street to get over because all of the -- if you're going up Virginia Street, most all of the development, until you get up to Parr, is over on the left-hand side or the west side of the roadway. One of the problems is that it is very dark. You've heard that already. Probably over 75% of the pedestrian fatalities in Nevada occur at night, and a lot of those occur in dark areas, as you saw in the video. Most of that occurred at night.

So we really want to bump up the lighting. We want to use a higher wattage of lighting or a higher lighting source at those locations to really light up those crosswalks. I think part of the problem is that sometimes when the pedestrians are wearing dark clothing and it's at night, it's very difficult to discern them, so we really want to do that. We are also looking at using the rapid flashing beacons at those locations where the pedestrian can push the button to activate those. A big concern that we always have, is making sure the pedestrians push the button. We have numerous pedestrian fatalities in the state where they had that available and they didn't use it. So you just lose the effectiveness when that happens. But certainly, we're going to have to have an education campaign to get out the message to the pedestrians when they do that.

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Of course, the traffic signal, we have already talked about that location. These three locations, the ones that have been identified, where we've either had pedestrian crashes or near misses, and so we want to try to address those as quickly as we can. Up on Sun Valley Road, also, there's three locations that we're looking at a similar situation where it's a multilane roadway, speeds are a little higher, and there's crossings. The one at Sixth Street, I think, is also being used by schoolchildren. It has school zone flashers there already, but there's nothing at the crosswalk. And so, it would have a similar -- we're looking at -- wherever we can, we'll try to create a pedestrian refuge, and there's some photos to show what those look like to help them get -- if they can't get all the way across the road, get at least to a refuge area in the middle of the roadway when they can, but using also, the rapid flashing beacons.

Kietzke Lane was the first safety management plan that was done in the State of Nevada. It's about a three and a half mile long corridor, and there's a lot of safety issues that were identified there, as well as ADA issues and that type of thing. So these streets that we have listed here are ones that we've identified to have some type of a treatment. And what we're looking at there, again, are the rapid flashing beacons, the pedestrian activated. Because that road is five lanes, two lanes in each direction with a center turn lane, we want to get those flashers out over the roadway, not over on the side of the roadway. That's one of the problems. They work well down here on Stewart Street, but it's a narrower road. So, we really need to get those flashers up and over the roadway. So that's the plan, as well as getting the higher density -- or higher level intensity of lighting at those locations.

I can't emphasize the lighting enough. It's been a real problem here in the state. I mean, we're in an epidemic situation with pedestrian fatalities right now. I mean, we've got, I think, 10 just in the month of January, and that's probably double what we had last year. So, it's hard to tell what's causing that to happen, but it's out there and so -- but most of those were at night, so we really need to address that with the lighting. And again, the one up at Incline, we had a double fatality up there a couple of years ago. We've identified two crosswalks that will have the pedestrian activated flashers with the higher intensity lighting at those locations, and so that will help quite a bit. You want to go to the next slide?

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By the way, the Northern Nevada ones, the estimate for those is just under \$3 million for those that we just looked at. In Southern Nevada, again, we've picked projects. Up in the upper right-hand corner, we've got three projects that we've already done the studies. We're starting -- some of those are close to being designed, and so we just basically wanted to get those out as soon as we could. Charleston Boulevard -- and actually, the yellow goes all the way over to Nellis. That was our fault for not getting that completely over here. It was all the way over here in the middle.

Charleston Boulevard, if you look at a 10-year history of pedestrian fatalities, there's a lot of them along Charleston. Again, it's a five-lane-section roadway. It's probably got over 40,000 cars a day. Speeds are pushing 50-55, and there's a lot of residential areas along there, and a lot of people crossing all over the place. And so, in that project we're actually looking at controlling the pedestrians, putting fencing down the medians, trying to control where they cross, giving them pedestrian refuges or the Danish offset, which we'll talk about in a minute, as well as the rapid flashing beacons. So, it's got a lot of other issues but -- ADA and that sort of thing, but we're really trying to focus on the pedestrian issues in those projects.

The project at Sun Valley and Boulder Highway, again, there's a lot of pavement out there. It's located where there's the Cannery Casino on one side and a restaurant on the other side, and you just get a lot of pedestrian traffic going back and forth. So that was identified, as well as in previous studies that we've done. Lake Mead is one of the road diet projects that we're going to be doing, one of the first. Lee talked about what they're doing up in Reno. We basically, are applying that concept down here, and to give wider sidewalks, kind of really squeeze the roadway down, control speeds. It's probably -- controlling the character of the roadway is probably -- or changing the character of the roadway is probably one of the most effective speed control things that we can do. So, when you've got a lot of pavement, a lot of lanes, people feel like they need to drive faster, but by squeezing that down, we can control the speeds in that location.

And last but not least, are the two locations out on the Blue Diamond Highway, at the intersection of El Capitan and Fort Apache Road, where traffic signals have met the warrants, and we have had some serious crashes,

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as well as fatalities at those locations, and so those will be included in this project. Can we go to the next slide, please?

Just got some photos of some of the things, the rapid flashing beacons, as you can see. Some, where the road is narrower, is going to be on the side of the roadway. On the wider roadways, we would have the flashing beacons out over the roadway. We get fairly good compliance from drivers with those. Next slide. These are some of -- the upper left-hand corner is the Danish offset where as you go across you can get over to the center. It forces you to look back into the direction that traffic is coming so that you can see the vehicles coming before you step out into the street. Bulb-outs, we also are trying to utilize the bulb-outs. The two photos on the right-hand side, that just kind of squeezes the road down, brings the signing and the flashers out closer to where the vehicles are.

And then the lighting, as you can see in the lower left corner. NDOT now uses the LED lighting. It's the bright, white light. It gives you really good color contrast, so even if people are wearing dark clothing, it makes it a little easier for the drivers to see those people. And then the last five, I had a quick video of the -- oh, this is the complete street project on Lake Mead Boulevard where you can see the sidewalks will go from about 5 feet to 11 feet. There will also be a bike lane, as well as a buffer for the bike lane, and then the two -- the lanes have been narrowed up to 11 foot, and so that's basically, the alternative that we're going to be going with, with that one. Next one.

I thought I had a video, but I don't. So, the video was just to show what the rapid flashing beacons look like. I'm sure most of you have seen those. Any questions?

Sandoval: I do. Will this list exhaust our available funds for other safety projects?

Kaiser: We still have the federal funding that we get, although most of that funding gets obligated or gets programmed in, like, a five-year plan. And so, I mean, we do have some flexibility in moving projects around and so forth. The nice thing about the funding that Mr. Malfabon has offered, is that we can do that without having to follow the federal regulations that always makes projects last longer or takes them longer to get done. With the state funds, we can move a lot faster. And, in response to some of what you've

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heard from the audience today, we're developing a list of projects. Once the word got out that this money was going to be available, we heard from everybody. And so, we are considering a lot of -- the location in Dayton. I've already talked to the Public Works Director on that. That's on our list.

I mean, we've got obviously more projects than we've got money, but now we need to, kind of, really prioritize those projects and decide which ones need to be done quickly.

Sandoval: Well, that's my point. If we approve all of this today, does that exclude everybody else that you've recently -- these projects have come to your attention.

Kaiser: Well, this is about \$10 million worth of projects that you see here, between the \$3 million up here and a little over \$7 million down South.

Malfabon: Governor, I can add to the response. What I directed staff to do was to come up with projects that they were aware of that they could get out quickly, but also to reach out to the local agencies for identification of other projects. What I foresee is that we would make a commitment to an ongoing annual basis of spending money towards pedestrian safety, state funding towards pedestrian safety, so that we didn't have to worry about availability of federal funds, that we would basically control our own destiny with this program.

Sandoval: Okay. Because what I don't want to happen is for us to approve this today and then say, sorry, Commissioner, we can't do anything in Lyon County because there's no money left. So you're telling me right now that there's still going to be a pool of funds available to address other projects that are coming to our attention now, other than the ones that are in our Agenda today.

Malfabon: I want staff to have a project list that they present to the Board annually, that shows the commitment to pedestrian safety, specifically with state funds.

Sandoval: Okay, that's -- but...

Malfabon: There is money...

Sandoval: ...the question is, are we going to still have money to address other safety projects in the state...

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- Malfabon: Yes, Governor.
- Sandoval: ...if and when we approve today?
- Malfabon: Yes, Governor. And that's basically because of that issue with NDOT obtaining other state's obligation authority, federal obligation authority. It gives us more cushion on the state funding side.
- Sandoval: Okay. Other questions? Mr. Controller.
- Knecht: Thank you, Governor. Rudy, if we pass a motion today, to approve this \$10.86 million in eight projects with direction for NDOT to move forward expeditiously as possible, is it possible for you to bring back, next month, an initial survey of other projects, starting with the Lyon County project, and a prioritization, and schedule, and possible action item on those at next month's meeting?
- Malfabon: Yes, Mr. Controller. We will bring at least what we're aware of, what we've heard from local agencies, and also the point about any traffic signal requests that have been previously denied.
- Knecht: Thank you, Rudy. And Governor, is it timely for me to make that motion?
- Sandoval: It is not.
- Knecht: I always ask my chairman.
- Sandoval: So I have a question from Mr. Skancke and then Member Fransway.
- Skancke: Thank you, Governor. Rudy, are these -- the 10 projects that are here, are these projects that are shelf ready to go today, all of the engineering is done, all of the work to get these in the ground and going, is that how these were selected?
- Malfabon: No, those are not ready to go. We've asked staff what they could expedite quickly that were already on their list of improvements that could be delivered and expedited.
- Skancke: Okay. And so, on the Lyon County project, as an example that we were made aware of today, if that were shelf ready, would we be able to find, from another project or some additional funds, an opportunity to move that project, either on this list, or bring it back to us next month for approval?

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Malfabon: It could be possible next month for approval.

Skancke: Okay.

Malfabon: I wanted to mention that some of those projects could be developed very rapidly; the pedestrian refuges, lighting, if there's no additional service needed from NV Energy. But some of those are going to take more time to do the design, like a signal system.

Skancke: Thank you. And then my final suggestion on this type of a matter is, you just said that you'd bring a list to the Board annually. My suggestion would be, is you bring a list to us quarterly...

Malfabon: Okay.

Skancke: ...with an annual review of the success of the program, so that we can measure what we've done, and know what we've invested in as a state. But as involved as this Board is, my suggestion is that we look at these quarterly, and if we have to, we'll do it monthly. But I think on an annual basis, that's too much time in between for us not to see what's happening, and I think for your benefit it would help both sides.

Malfabon: Quarterly is doable.

Skancke: Thank you, Governor.

Sandoval: You're welcome. Member Fransway.

Fransway: Thank you, Governor. Rudy, could you go back to your bullet-point slide there, right there, one, two, three, four, five bullet points.

Malfabon: Four slides back.

Fransway: That one.

Malfabon: Yes.

Fransway: I'm going to suggest that we consider adding one, and that would be -- I believe it would be appropriate for this department to initiate a serious public outreach campaign, designed through the media, to address pedestrian safety statewide. And perhaps Governor Sandoval would be willing to make an appearance in that video to stress the safety to, not only

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the people crossing the crosswalks, but to the people who approach them in a vehicle. So, could I add that?

Sandoval: I don't think it hurts to add that at all.

Malfabon: We actually do that, Governor and Member Fransway. But what I did was concentrate on capital improvements that we could do rapidly, but we can -- in the next month's, we could get into what we're actually doing for public outreach. I just wanted to focus in on projects that we could deliver rapidly. But, we do a lot with the zero fatalities and our partners that are assisting in this effort on pedestrian safety, so we'll address that.

Fransway: And I do feel that it would have a very beneficial impact on the citizens if the Governor would be willing to make a statement, or at least be seen on the video. Thank you.

Sandoval: That may cut both ways, Mr. Fransway. We'll see about that. But we'll rely on the experts for that. Questions or comments from Southern Nevada.

Hutchison: Thank you, Governor. Mr. Malfabon, I just have a follow-up question to your commitment to bring to the Board the projects that have been requested but the signals have been denied. I assume that includes other types of devices as well, whether it be flashers or lighting, that sort of thing, and I'll let you answer that. Let me just follow up with it, and you can kind of answer it all together. In order for this to really, from my view, to be a meaningful experience for the Board, and really for us to really consider policy questions, which really when you create a project list, that's policy. It's competing interests, it's competing projects that have to have allocated to them scarce resources.

It seems that we need to also have an opportunity to hear from known interested parties, like we did today. So you would not just simply bring a list that said, here's the project list, and here's the ones that we denied, and we just don't think that there's a reason for it, or it doesn't fit within the warrant study or whatever it was. It would be very interesting to hear from people like Mr. Sheltra on projects so they can tell us, well, I get it. It may not fit within a manual, but let me show you some videos, or let me tell you what our experience has been. So, it seems like if we're going to be fair for those who have been denied signals, we've got to give them an opportunity

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to be heard before the Board as well. Then the Board can really make some informed decisions, and as I say, make policy decisions based on scarce resource allocation. Is that doable? Is that format doable?

Malfabon: Yes, Lieutenant Governor. And that's exactly what I intended was to review that. We'll definitely reach out to those advocates locally for those projects that are proposed that either were previously denied or not forwarded through a construction phase. So that's my idea is to revisit those that were not enacted, and then see what we can do and, as Member Skancke said, bring those on a quarterly basis to the Board for formal approval.

Hutchison: Wonderful. Well, you're a step ahead of me. I just wanted to make sure we're giving folks an opportunity to be heard, and I appreciate your efforts there. Thank you very much. Thank you, Governor.

Sandoval: Thank you, Mr. Lieutenant Governor. You raise a great point. And I don't know if there's a scoring schedule, but we score these highway projects. For instance, USA Parkway was a 9 to 1, Project NEON is a 2 or 3 to 1 cost benefit ratio. Is there a similar type scoring system that could be beneficial to the Board as we consider these different projects?

Malfabon: That's what we're developing for all types of projects that NDOT delivers, not just the big projects have a benefit costs, but for traffic safety projects have a criteria that are very specific. And then have the opportunity for Board input as well as, obviously, input from executive leadership at the Department, but finally present it to the Board for your approval. But, I want to have a better process for ranking these projects, and it's very thoughtful and considers all these types of factors. Because right now, we don't have that in place other than for the larger projects that have that benefit cost ratio.

Sandoval: And I'd like to see some outreach to the county commissions, just throughout the entire state, the transportation boards, because there may be things that we're not even aware of that -- I want to get the entire universe of projects out there on the state roads. So, making people aware that this Board is going to be going through this process of reviewing proposals. Because what I don't want to happen is perhaps somebody in Lyon County, or Esmeralda, or Mineral, or what have you, if we would have known, we would have made a submission.

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- Malfabon: Yes. We will definitely do more outreach, and I believe that we -- recognizing that this process is changing, that we give everybody that opportunity. It's the fair thing to do and the right thing to do.
- Sandoval: Okay. Member Skancke.
- Skancke: Thank you, Governor. I would just caution when, when we look at analysis and processes and policies, that we don't put something else in place that's worse than the warrant studies so that it slows the process down one more time. We can do all the analysis, but if it's a project that has to be done, please do not put a process or a policy in front of what needs to get done. These are critical projects to the citizens and for our safety, and sometimes you just have to do it. So I'm going to just caution you to be careful. I wouldn't be overly conservative on how you put that together so that it puts us in a spot, Governor, where we're back here again saying, what was the policy that was put in place to stop that from happening.
- Malfabon: We will not do that, Member Skancke. And we definitely -- as we're developing that process that has a better consideration of what criteria to rank project, it did not prevent us from bringing forward this list of projects. I think that we have an opportunity here to improve our process, and definitely it will not slow down bringing those projects to the Board on a quarterly basis.
- Sandoval: Any other questions or comments on this agenda item? Member Skancke:
- Skancke: Governor, I would make a motion to approve the 10 items, is that right, eight items, it's that new math, eight items that are a part of Agenda Item 11, with the caveat that the Department will bring back to us within the next 60 days a list of some other projects that need to be considered. I'm sorry, is it next month? What timeframe did you give us, Rudy? I apologize.
- Malfabon: What I proposed to bring back next month would be the list of other projects that we've heard from local agencies, and also where we're aware that we've either not taken action on a signal request, denied it, such as that, so that the Board is informed about that. So it will be another opportunity for the Board to give direction to the Department on kind of the next phase of projects, and then we'll thereafter do it on a quarterly basis.

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- Skancke: Okay. So, I'll amend my motion then. So, I'll make a motion to approve these eight items, in addition to having the Department come back to the Board at the March meeting with a list of additional projects, and from that point forward, then you'll present to us on a quarterly basis additional projects with an annual -- the year end annual review of the projects that we've approved.
- Malfabon: Yes.
- Sandoval: We have a motion. Is there a second?
- Savage: Second.
- Sandoval: Was that Member Savage? Yes. All right. Thank you. We have a motion and second. Any further discussion or questions on the motion?
- Fransway: Question, Governor.
- Sandoval: Yes, Member Fransway.
- Fransway: Mr. Skancke, does that include the possibility of establishing a media campaign?
- Skancke: To my colleague, if you would like to make that a part of the motion, I'm happy to amend it. I'm not quite certain if we need it.
- Gallagher: Excuse me, Governor. For the record, Dennis Gallagher, counsel for the Board. Board Member Fransway, that's not part of the Agenda. What the Board is being asked to do, is review these eight items.
- Malfabon: And we already have that, and I'll report more on that next month, Member Fransway.
- Fransway: Okay. That will take care of it. Thank you.
- Sandoval: Thank you. We have a motion and a second. Any further questions or discussion? All in favor say aye.
- Group: Aye.
- Sandoval: Opposed, no. The motion passes unanimously. Thank you. So if there are individuals who would like to excuse themselves so you don't have to sit

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through the rest of our Agenda, this would be the appropriate time to do so. Thank you, Mr. Sheltra.

Malfabon: Governor, we could then return to the regular Agenda after everything is settled down here, back to Item 3 and 4.

Sandoval: All right. We'll move to Agenda Items 3 and 4, which is consideration of the December 15, 2014 NDOT Board of Directors meeting minutes, as well as the January 12, 2015. My only change on the January 12th minutes is I must have not hit the microphone, but if you would add just, good morning.

Male: Yes, Governor.

Sandoval: I have no other changes. Board members, any changes to the draft minutes?

Fransway: Governor, is this relative to December 15th, Item 3 or both?

Sandoval: Both.

Fransway: Okay. December 15th, Item No. 3, I would ask for a change at page 34. If we would change my comment in the center of the page where it says, "Okay." So, it's maintenance discrepancy, I'd like to change that to discretion if we could. That's all I have for Item No. 3.

Sandoval: Any other changes? Mr. Controller.

Knecht: Thank you, Governor. And not a change but a question for counsel or for the Chair, whoever wants to field it. As one who was not a member of this Board at the time of the December meeting but was in January, is it appropriate for me to vote on both of them? Because I also wasn't here for the December meeting, and so I can't speak from personal knowledge to the validity. I'm certainly willing to accept them or do whatever, but what's appropriate in this case?

Gallagher: For the record, Dennis Gallagher, counsel for the Board. Mr. Controller, I would recommend that you recuse yourself and do not vote for the December meeting where you were not present, and the same with the Lieutenant Governor. It shouldn't be a problem because we have the remaining members, constitute a quorum.

Knecht: That's what I'll do, Governor, and you can handle that procedurally however.

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- Sandoval: All right. Any other comments with regard to the proposed minutes for December 15, 2014 and January 12, 2015?
- Fransway: Governor, January 12th please.
- Sandoval: Why don't we move on December 15, 2014.
- Fransway: Oh.
- Sandoval: Do you have another change?
- Fransway: No, not in that one.
- Sandoval: Okay. Let's move on Agenda Item No. 3. So is there a motion to approve the proposed minutes for December 15, 2014?
- Skanche: Governor.
- Fransway: And make that motion with the change?
- Sandoval: Yes. So, Member Skanche has moved to approve the minutes of December 15, 2014 with the proposed changes stated by Member Fransway. Is there a second?
- Savage: Second.
- Sandoval: Second by Member Savage. Questions or discussion? This would be the time for the Lieutenant Governor and the Controller to make their disclosure.
- Knecht: Thank you, Mr. Chairman, Governor. I will be abstaining on this vote upon advise of counsel.
- Hutchison: And Governor, this is Mark Hutchison. I will be abstaining as well because I was not present for the meeting.
- Sandoval: All right. Any other further questions or discussion? Hearing none, all in favor say aye.
- Group: Aye.
- Sandoval: Opposed, no. Motion passes unanimously. If you would mark the Lieutenant Governor and the Controller as abstaining due to their not being

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present at the meeting. We'll move to Agenda Item No. 4, January 12, 2015 meeting minutes. Is there a motion for approval?

Male: I move approval with the "good morning" introduction on page one.

Fransway: I have one more suggested change, Governor.

Sandoval: Member Fransway.

Fransway: On page 31, it represents Mr. Jeff Fontaine as Administrative Director of the Nevada Association of Counties. That should be the Executive Director, please.

Skanccke: I'll accept that as a friendly amendment.

Fransway: Thank you.

Sandoval: So we have a motion to approve the minutes of January 12, 2015 with the changes on page 31 and page 1. Is there a second?

Martin: Second.

Sandoval: Second by Member Martin. Any questions or discussion on the motion? All in favor say aye.

Group: Aye.

Sandoval: Opposed, no. Motion passes unanimously. We'll move on to Agenda Item 5, approval of contracts over \$5 million.

Nellis: Thank you, Governor, members of the Board. For the record, Robert Nellis, Assistant Director for Administration. There is one construction contract under Attachment "A" for the Board's consideration, and the project is the Boulder City Bypass, Part 1, Package 3, to construct, realign U.S. 95 -- U.S. 93 main line from Silver Line to Foothills Road, and includes the new interchange at Railroad Pass and Bypass. There are four bids, and the Director recommends award to Fisher Sand and Gravel Company, in the amount of \$82,999,999. And Governor, that concludes the contracts for consideration under this agenda item. Does the Board have any questions for the Department?

Sandoval: Okay. Could you provide a little bit more background on this, please?

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Nellis: Sure. Do you want to take that, John? Assistant Director, John Terry will provide the background.

Terry: Again, Assistant Director John Terry. This is phase one of the Boulder City Bypass. I believe we have presented to this Board, previously, that there is a phase two, that is being done as a design-build contract. As mentioned earlier, that is on the RTC of Southern Nevada's board agenda, I believe, for this Thursday for approval. We have brought to this Board previously that we have a negotiated agreement with the RTC of Southern Nevada about sharing of funding and our participation in their project. This agenda item is for this phase one contract, which is a design-bid-build project administered and done by NDOT.

Might as well, right up front, discuss the lifecycle cost analysis issue, which makes this different than any bid, which we have done previously. The mainline pavement, not all of the pavement on this job, was evaluated by the Department of Transportation for a 35-year pavement design, and we looked at a pavement design for both asphalt and concrete, and looked at, over the 35-year period, the projected maintenance cost of both asphalt and concrete. And, in our analysis, they came out very close, and so we chose to bid the job with both a concrete and an asphalt alternative. And a value of \$3.6 million would be added to the asphalt alternative to accommodate the more expensive 35-year maintenance of the asphalt, as against the concrete and was prorated back to the year of bid.

And that is why, in the selection, you will see the asphalt added \$3.568 million to accommodate for that. That was fully disclosed to the bidders in advance in both the concrete and the asphalt. The asphalt was contract 3579, and the concrete was 3580, and they were bid out that way. Also included in here is a memo of the BRAT Analysis, which we do on every project, where we analyze the bids. We did look through the bids and found that they met the analysis, and staff is recommending award to Fisher Sand and Gravel.

Sandoval: Thank you, Mr. Terry. And just -- have we ever done it this way before? I don't recall, but that doesn't mean that we haven't.

Terry: No, we have not, except we did somewhat like it on a design-build project, which was the I-80 through Reno where there was alternatives for the

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pavement. But no, we have never done this on a design-bid-build. We did research it. Other states have done this. Lifecycle cost analysis for pavement design has been and is becoming more of a proven approach to projects. We have looked at it on other projects, such as the Carson Bypass that's about to go out next month, and found that they weren't even close, so we didn't go to the trouble of bidding it both ways. That one will go out just asphalt.

Sandoval: What do you mean when you say it's not even close?

Terry: Our lab does an analysis of the concrete pavement design and the asphalt pavement design and the 35-year lifecycle, and brings them back in, looks what we estimate it would be to be the asphalt and the concrete. And if asphalt is just so much cheaper, even with the lifecycle cost analysis, we don't bother. So we always do the analysis -- or at least recently we've done the analysis. This is one of the first ones that ever came out close, and we chose to do this. I will mention as well, we have been under, I won't say pressure, but influence by both the concrete pavement and the asphalt pavement industries to do this. And this is considered a fair way to compare the concrete to the asphalt by using a lifecycle cost analysis over the 35-year period.

Sandoval: So if they were close, why didn't we just bid it out as a concrete job?

Terry: Well, I guess, as you can see, they came out very close. Two bidders bid concrete, two bidders bid asphalt. We saw it was going to be competitive. We put that in there for that reason. So, we made the choice to bid -- and frankly, we're looking at other projects in the future to bid in this same manner. So, if they're nowhere close, we don't bother, but in this case, due to the volume of trucks over the 35-year period, it looked like a reasonable analysis on this project to bid it out this way.

Sandoval: And how did the rest of the project get bid, not our project but the RTC piece?

Terry: The RTC piece was design-build, not design-bid-build. So, there was a pavement design in there, and that pavement design was asphalt. Our lab did run that project asphalt versus concrete. They did not come out as close as this one because that does not have the volume of traffic that this stretch

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does because it picks up the 95 traffic, and it would've been quite a substantial lifecycle cost analysis to add to it, and the decision was made to bid that one just asphalt.

I will note, this concrete section does tie to the current concrete section on I-515, that comes out of Henderson.

Sandoval: Okay. Questions from Board members? Mr. Controller and then Member Savage.

Knecht: Thank you, Governor. A couple of quick technical questions. In Attachment "A" we have an \$88.5 million engineers estimate, and I saw elsewhere a reference to \$85 million to \$100 million, but I didn't see the development of the \$88.5 million estimate. With the range of 83 to 92 or 92.5, can you comment somewhat and explain how it is we came to 88.5 and had the good fortune to come in low with the two bids, one of each I might add?

Terry: I'll try to answer your question, and I'll give you a couple of things. One, the \$88,460,000, that is our estimate for the concrete alternative. We did have an engineer's estimate for the asphalt alternative. Our policy that has been in effect for a number of years, is we do not release the exact engineer's estimate, we release a range. And so, the range you talk about is the range that we release to the teams, and we do not give them our exact engineer's estimate. Of course, we know what it is and we put it in the Board packet then, what our actual estimate is. So, we release the range, and we give this Board our actual estimate, and we do not release that actual estimate to the bidders.

Knecht: Fair enough, and that's good practice, but you do release the quantities in the bid package, right?

Terry: Oh, yes. Highway jobs are not really bid like some other -- like vertical construction jobs. We give them all these quantities, they give a price on each of these quantities, and they all add up to the end to who wins. Whereas in vertical construction, they simply -- they would bid \$82 million, and you wouldn't get any kind of break out. This is how highway jobs are bid, and it is the extension on every single item. Just the same, we don't

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give them our exact engineer's estimate, nor our exact price for every one of those items.

Knecht: I noticed that. If I may continue, Governor. In the comparison that developed the LCEF, the lifecycle cost add or whatever you want to call it, the \$3,568,770 for asphalt, you have the NPV, the net present value, for both asphalt and concrete. And I understand everything you said about the closeness and the reason to bring forth both alternatives or to put out for both alternatives and bring them forth. I think that's good practice. As someone who has written and testified on discount rates and net present values, I've got to ask you, what nominal discount rate did you use to get to those present values? Because when it's this close, basically \$83 million to \$83.568 million, et cetera, when it's that close it could make a difference.

Terry: I'm going to have Darin, who is the head of our materials and testing, answer that, and we even have, if need be, a short presentation on how the lifecycle cost analysis was done.

Tedford: Good morning, Governor, members of the Board. My name is Darin Tedford, Chief Materials Engineer. Mr. Controller, we used 2.8 for our factor. Excuse me. The percent that we used for our discount is based on a 30-year treasury bond. That's advice from FHWA, the origin of the desire for using lifecycle cost analysis and this equivalency factor.

Knecht: You used a nominal 2.8%...

Tedford: Correct.

Knecht: ...per year. If you had used a higher rate, then indeed that \$3.6 million differential would have shrunk because you have, basically, \$4.1 million on the asphalt and \$600,000, more or less, \$561,000 on the concrete.

Tedford: I believe if we used a higher rate, that would indicate more inflation -- more interest, I'm sorry. More interest, so yes.

Knecht: More interest, a higher real rate.

Tedford: That's correct.

Knecht: And if you did that, the adder, the 3.6 would have shrunk.

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Tedford: That's correct.

Knecht: Okay. That does give me pause, although I would like to see, at your convenience outside the meeting, I'd like to see that present worth analysis...

Tedford: Absolutely.

Knecht: ...to satisfy my curiosity. The other item I have here is a question about the -- I'm having trouble giving you a page reference, but we've got a memorandum here from Jenny Irely, BRAT Summary Report from 3579 and 3580, and it says that some of the bid items were mathematically unbalanced. The proposal bid prices were evaluated and determined to be acceptable, quantities were verified, and no errors were found. And then we've got four pages of fold out price sensitivity report right behind that, which shows the significantly unbalanced column and the other key columns there for the two concrete alternatives. What's the technical definition, if you will, of significantly unbalanced, and what's the basis for that determination, yes or no, on each item?

Terry: Once again, John Terry, Assistant Director for Engineering. Our BRAT Committee is bid review and analysis, and they go through and review every bid and frankly, almost every bid, at least every significant bid, has these issues, which our BRAT team sees to be unbalanced. And by unbalanced is, they are significantly above or below the range of engineers estimate that we would assume for that specific item, based upon our historical knowledge of those items.

Knecht: Okay.

Terry: Again, as I described to you, highway projects are bid in this matter, that it is the sum total of your price on every item, and I will pay -- and then we pay them on that item price all the way through. They unbalance them. They move prices around. We look very closely at whether we have any quantity bust or perceived bust that they are taking advantage of the system, and we did not see any example of that in this case.

Knecht: Two final questions. The first one is, on the significantly balanced column, I understand what you said about high and low, especially on a logarithmic basis. You come up with a yes or no on each item, but with lots of yeses in

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that column, we end up, apparently, saying there's no significant overall imbalance. Is that a statistical phenomena that once you add up the pluses and minuses, they, kind of, cancel each other out?

Terry: I wouldn't say it's statistically based. I would say it's judgment based, and often we ask the designers to again review that critical quantity to see if there's any competitive advantage that would be gained by that. I wouldn't say it's necessarily statistically based.

Knecht: Okay. So on the question of competitive advantage and whether our engineer's estimate has hit things right or as well as we reasonably can for the process, that may answer my final question which is, why do we compare the two concrete, which are the high and low bids instead of the low concrete and the low asphalt? And I presume that the answer, and you'll tell me if I err, the answer is that you really can't compare quantities there and glean from a comparison of those two bids any information that would help you with feedback for the engineer's estimate.

Terry: Okay. Part of the problem is, when you big the concrete and the asphalt, there are many quantities that are different because of that. It's not just one or two. The BRAT team, in its deliberations and going through the bids, did evaluate one against the other, specifically the low asphalt against the low concrete, and discussed if there were any unbidding that was done. But you're correct in that the form that we provided to the Board, which is the form we do on every contract, specifically addresses the concrete against concrete. But I can tell you, as an attendee of the BRAT meeting, that we did look at the concrete against the apparent low asphalt.

Knecht: Thank you, Mr. Terry. And Governor, thank you. With those answers, I'm going to make a leap of faith, and even though I can see how the Las Vegas Paving Corp., second lowest bid, could with a discount rate adjustment, actually drop down below the concrete option, I'm ready to support the staff recommendation.

Sandoval: All right. Thank you, Mr. Controller. Member Savage.

Savage: Thank you, Governor. And a couple of questions and a comment. First of all, thanks to Mr. Director and Tracy and Jenny, as well as Dennis Gallagher. We had a briefing last Thursday, scrubbed a lot of my questions

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on this issue. But the Governor did bring up a point, and I need a little bit of clarity, as this has not been done before by the Department, this bid delivery.

Terry: That's correct.

Savage: And is there any way moving forward to get clarity on -- I guess what I'm saying is, contractors are not able to bid both because of the complexity of the bid format. So would the Department have an opportunity, moving forward, to say, if we have a base bid with add alternate or a deductive alternate for asphalt. Because in this scenario, we have two people bidding concrete, two bidding asphalt, none of which bid both. And I don't know if there's an opportunity for a different delivery so that we can ensure that, from a Board's perspective, that we're looking at the best value, at the end of the day, on a bid form.

Terry: As you and I'm sure Member Martin are aware, vertical construction often does bid jobs like you described, with a base bid and with bid alternates to add to it, often times to fit a budget. We certainly have not done that, nor have I seen other highway agencies that have done their design-bid-build with additive items to fit a budget, as you described. I'm not saying it couldn't be done. In this case, it would've been extremely difficult because, like I said, so many individual items were affected by this different pavement section.

We will consider it moving forward, but there are issues with trying to do that. We felt this was a fair way to compare one to the other and give a competitive chance for both industries. Well, yeah. I mean, in essence, yes, what he's saying is they could have bid on both, but why would they? They would know which of their two bids win. They would only submit one of them.

Savage: But I think as a contractor on the other side, it's very difficult to bid both during bid time on the same day, because of the different quantities and the different line items.

Terry: Understood.

Savage: Almost physically impossible.

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Terry: Understood.

Savage: So I would really ask the Department to thoroughly investigate the different deliveries moving forward. Second question I have. Is the apparent low bidder, did they satisfy all of the DBE requirements and listings and confirmations of their bid?

Terry: That's not me. Tracy or Rudy?

Malfabon: I will respond to that. So, as part of the analysis, we do confirm, per the code of federal regulations associated with DBE rules, we confirm that through quotes received from the DBE companies listed by Fisher, that they did indeed meet the goal.

Savage: They did? Thank you, Mr. Director. And the last question I have is the warranty on the concrete, if we are to move forward with that. How does the warranty from the concrete differ from the warranty of the asphalt?

Terry: Again, unlike the vertical world, we really don't do warranties. We get the quality that we desire by extensive testing and oversight of our contractors, while we project 35-year life of our concrete, and in this case 35-year of our asphalt design with future overlays. These are not based upon a warranty that get from a contractor in any means for our pavements. We do not get warranties on our pavements from contractors.

Savage: So if cracks were to develop on the concrete, within a certain time period, those cracks will remain without the contractor making good on those cracks?

Terry: I would say that's correct.

Malfabon: Typically, what I've seen, is on concrete pavements, when they develop -- before the project is accepted for maintenance, they're mandated to go out there and repair those cracks. I also wanted to add that it's critical for us to check every joint, so the placement of the dowel bars at each joint of the concrete pavement are checked using specific equipment that we check 100% of the joints. So we make sure that we have the quality of the concrete pavement that we desired and specified.

Savage: Okay. Thank you. That's all I have, Governor.

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Sandoval: Other questions from Board members? Any questions from Southern Nevada?

Male: No, sir.

Sandoval: I have one follow up. Oh, Mr. Lieutenant Governor.

Hutchison: Thank you so much. Just a couple of quick questions. Mr. Terry, so Nevada is doing this for the first time in terms of applying this lifecycle equivalency factor analysis. Do other states do that? Are there other municipalities that do that, or is this something that you see in the industry?

Terry: Yes, it is done throughout the industry. Yes. They can't...

Hutchison: Why haven't we done it in the past if other states, other municipalities have done it as a practice?

Terry: Well, again, our normal practice has been for our materials lab to run the analysis up front and give us, the front office, a decision of which concrete type to do, and we move forward. We have learned from other states and through industry, that this method is available, and we would like to use it here, as well as moving forward in the right applications.

Hutchison: And is that method more prominent among states and municipalities, or is it sort of a minority practice, that there aren't as many states doing this and in fact, many states don't do it? I mean, I'm just trying to understand, I mean, are we among a handful of states doing this, or are most states doing this and we weren't?

Tedford: For the record, Darin Tedford. Lieutenant Governor, I believe that the impact of asphalt prices rising and cement prices being stable or lowering slightly, is bringing more and more projects of this size, significant projects, to have similar bids. So you're going to see -- we're going to see from the industry -- as we were talking about the engineer's estimate and the contractor's bids. We keep track of all of those. We use prices from bids that contractors have submitted to develop our future engineer's estimates, and as we see the asphalt prices going up and cement stabilizing, those costs are becoming more similar.

So, as Mr. Terry said, in the past where we've seen 20-25% difference in the initial cost of these projects, those prices are coming closer together. So, if

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we can use this lifecycle equivalency factor to account for what we're going to pay for in the future for asphalt versus cement -- versus concrete, and save the state some money in the future, that's what we'd like to do. And, I think for as many as we see now from municipalities or other state agencies, you're going to see more because of the price fluctuations.

Hutchison: Okay. And, I'm glad you're up there, Mr. Tedford. I just wanted to follow up with your discussion with the Controller about the discount rate. And I think the conclusion was that if a higher discount rate was used, then the LCEF would be lower, and that could affect who actually won the bid. But I think it's important that you establish for the record why it is that you used the 30-year U.S. Bond rate and is that within industry practice. I mean, is that good, sound economic policy that's being applied to the LCEF analysis?

Tedford: I believe it is. I believe we worked with the previous Controller's office and through our accounting division to establish, or basically concede that we would use that number. It's recommended by the FHWA, and it comes down from economic practice and other national guidance that we use that number, reflective of what we would experience as a difference. A discount rate basically, being the difference between inflation projected into the future and interest rates that would be gathered from the future.

Hutchison: So is it fair to say that this 30-year U.S. Bond rate is not only sound economic practice, but it's also clearly within the industry practice, when you're applying this lifecycle equivalent factor analysis?

Tedford: Yes.

Hutchison: Great. Okay. Thank you very much.

Tedford: You're welcome.

Hutchison: Thank you, Governor.

Sandoval: All right. Thank you. And Mr. Terry, one other question that was prompted by the discussion. Did the bidders who were bidding gravel know that there was going to be a lifecycle equivalency added onto their bid?

Terry: Yes, absolutely. And in fact, if you look in the attachment where we have the second sheet behind the photo, we have almost at the bottom of the page the exact quote that was in it. It was in both the concrete and the asphalt

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alternative, right up front, in the notice to contractors, that you would have this amount added, and it was in both up front. And I will say as well, this project had what we call a mandatory pre-bid meeting. In other words, you can't bid if you don't go to the mandatory meeting, and at that meeting, this number was discussed, as well as revealed.

Sandoval: And the formula for how it was going to be determined was revealed as well?

Terry: I believe we shared that formula with industry, but as far as bidding goes, that formula had -- we just gave them the number in the formal bid documents. In other words, industry knew how we came up with it, but in the formal bid documents, it was simply a number with this description.

Sandoval: Okay. Other questions? Member Fransway.

Fransway: Just one quick question relating to Southern Nevada RTC, and their portion of the project that obviously they're going to melt somehow. If we choose the concrete option, will that have an effect on what the RTC does? It won't. Okay. So if you were...

Sandoval: I guess, just for the record, Ms. Quigley is shaking her head. Why don't you come on up, please.

Terry: I believe I can answer that one. I believe I can. Again, John Terry. We took a specific line between our project and the RTC's project. In fact, we moved the limits so that there's no ramps tying in at that point.

Fransway: Okay.

Terry: And we have accommodated for this, and essentially, there will be a point in the pavement where the concrete ends and the asphalt starts, and we believe either option could have been accommodated and has been.

Fransway: Okay. And so, they are compatible in that regard then?

Terry: Yes, sir.

Fransway: Thank you, Mr. Terry, and thank you.

Sandoval: Other questions? Any further questions from Southern Nevada?

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- Male: No, sir. Thank you.
- Sandoval: Okay. If there are none, Chair will accept a motion.
- Knecht: So moved.
- Sandoval: Controller has moved for approval of Agenda Item No. 5, and that would be for contract number 3580 in the sum of \$82,999,999 for Fisher Sand and Gravel. Is there a second?
- Savage: I'll second.
- Sandoval: Member Savage has seconded the motion. Any questions or discussion on the motion? Hearing none, all those in favor say aye.
- Group: Aye.
- Sandoval: Opposed, no. Motion passes unanimously. We will move on. Are there any further items on Agenda Item No. 5?
- Malfabon: No, sir. That's it.
- Sandoval: All right. Then we'll move to Agenda Item No. 6.
- Nellis: Thank you, Governor. Again, for the record Robert Nellis. There are three agreements under Attachment "A" that can be found on page 3 of 26, for the Board's consideration. The first is in the amount of \$2,400,000. This is for the Traffic Incident Management Coalition that will enhance responder safety, quick clearance, and reliable inner agency communications. And just a quick note on that is that amount of \$2,400,000 is not a lump sum, but is billed hourly so we may not spend that amount.
- And then item number two is in the amount of \$2,113,133. This is to develop preliminary engineering and project management assistance to determine the funding requirements of the proposed expansion on the I-15 and 215 system-to-system interchange. And finally, item number three is amendment number one, to increase authority by \$475,000 for continued legal support regarding the Blue Diamond overpass dispute.
- And Governor, that concludes the agreements for consideration under Agenda Item No. 6. Does the Board have any questions for the Department?

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Sandoval: Questions from Board members? Member Fransway and then Member Savage.

Fransway: Thank you, Governor. Mr. Nellis, I see where item number three is a not to exceed \$755,000; is that correct?

Nellis: That's correct. Is that correct? That's correct, Member Fransway.

Fransway: Thank you.

Sandoval: And just while we're on that one and then I'll go to Member Savage, what's the amount in controversy for that matter?

Gallagher: For the record, Dennis Gallagher, counsel for the Board. This action, the plaintiff is seeking from the State of Nevada over \$40 million.

Sandoval: Member Savage.

Savage: Thank you, Governor. Just two questions, Mr. Nellis, on item number one regarding the traffic incident management agreement. I know we've had this in the past, and it says throughout the document, "The Department has a goal to have these conditions self sustained." And, I didn't know that that goal might be by the Department. This contract goes through 2018, and the way I read that, it was the Department's goal to have this incident group or coalition be self-sustained, and I didn't know what the Department's goal would be for that year.

Nellis: Denise Inda will answer that question, Member Savage.

Inda: Good morning. For the record, Denise Inda, Chief Traffic Operations Engineer. Governor and the Board. to address Member Savage's question, what we meant by sustained was that currently we're going to have some support and assistance for facilitation and management of the program. But that as we develop internal champions within the department, as well as with the other partner agencies, we want this coalition, this effort, to be managed and championed by the public agencies themselves, and we're just not quite there yet.

Savage: All right. Thank you, Ms. Inda. And while you're there, can you provide a couple of examples over the last few years, of what TIM implementation has occurred?

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Ina: Yes, Member Savage. By that, I'm assuming you mean some successful things that have come out of the TIM coalition?

Savage: Exactly.

Ina: Correct. Thank you. We've had a variety of positive things come out of this. The most recent one happened on I-80 where -- and I'm going to look at my note a little here -- it was on I-80, east of Sparks, and we were able to open up the freeway, the interstate, which was completely closed because of a situation where a commercial vehicle, a truck/trailer, had a crash and had closed the road. By working very closely with the county coroner, they allowed the vehicle with the deceased person in it, to be moved out of the travel lanes themselves. It enabled the coroner and the other involved emergency responders to conduct their very thorough and very necessary investigation, while allowing Interstate 80 to be reopened. It shortened it by several hours. And, we all know how much commerce and travel time can be impacted on an interstate with those kinds of things.

We had similar improvements with the coroner down in Clark County when TIM was initiated. It was simply a matter of the highway patrol understanding the right timing to notify the coroner. They didn't want to call the coroner early because they didn't want to keep the coroner waiting, whereas the coroner said, no, call me early, I can put the priorities in place, and that way they could respond in a timely time frame and really get the quick clearance to occur. And opening the roads and getting the incident and all of the people responding to the incident out of the way sooner, it increases safety for a huge amount of people; the responders, everyone who is in that roadway behind that crash, because the longer they're in the roadway, the higher the chance of a secondary incident occurring. So, there's some really big savings safety wise, dollar wise, et cetera. Does that address your questions, Member Savage?

Savage: Yes, it does, Ms. Ina. So, a fact on point, this is about safety.

Ina: Absolutely. That's the primary purpose of this program, is improving safety.

Savage: Thank you very much. That's all I have, Governor.

Sandoval: Mr. Controller.

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Knecht: Thank you, Governor. And Mr. Nellis, one question on the legal item, the third one, and then another question on the second one after that. The question on the legal item is this. We're going from \$280,000, going up by \$475,000 to \$755,000. It doesn't say so expressly here, but my assumption is that essentially we bid this originally assuming we would settle or something that is a limited scope of legal services, and now we get to the event, there's \$40 million at stake, and the people want to litigate. And so, the reason for this extra \$475,000 is, we're going to court. Is that a fair summary?

Gallagher: For the record, Dennis Gallagher, counsel for the Board. That is precisely correct. We are scheduled for a four-week trial. It's on a stacked calendar, which means we may or may not go in April, but it's a very contentious case.

Knecht: Thank you. That's helpful to have on the record. At pages 22 and 23, for the second item, we have an estimate of hours and direct expenses. And what's interesting is that the NDOT man hours were at 9,830, the service provider was down at 7,719, and we ended up at 7,066 even 10% lower there almost. On the other hand, the direct expenses went up from \$474,000 to -- excuse me, we were at \$474,000 with a bunch of things that the bidder added that got us to \$849,000, and we ended up at \$933,000. Can you explain to me how; "A", we got down on the man hours; and how, B, we so far undershot by about 50% or more, nearly 50%, the actual direct expenses?

Terry: Again, John Terry, Assistant Director for Engineering. Because on our cost plus fixed fee agreements, sub-consultants are direct costs. And so, that can be very much affected by if that particular consultant uses sub-consultants for a significant amount of the work, they fall under direct expenses versus man hours of the prime consultant. So we have to compare the two when we negotiate to get to the bottom line. That essentially explains the difference in those two.

Knecht: Just a brief follow up, Governor. I understand and accept that, and it's helpful that you explained it. Where were we on this one -- we came in a little bit higher than the original estimate or 10% higher or something like that.

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- Terry: Yes. And if I could answer that if you go to the very first page. What happens in our system is first, we decide we're going to go out to consultants, and in this case, this is the interchange of I-15 and 215, and we have a lot of traffic analysis and other things have to be done. They submit and request the Director give them a budget fore that. In the time between he signed this and we went through the whole procurement process; frankly, we tweaked the scope and added a little bit to it. Our estimate and their estimate reflects that. These are some things we wanted to do in terms of traffic. When they got done negotiating, they were more than they had gotten approval to, and we went to the Director and had him approve increasing that budget, and that's why it's reflected that way.
- Knecht: Thank you, Mr. Terry, and thank you, Governor.
- Sandoval: Other questions on this agenda item? Any questions from Southern Nevada?
- Hutchison: Yes. Thank you, Governor. I'm going to start with item number three, and Mr. Gallagher, this is probably best addressed by you. A couple of just quick points here. You said that we're scheduled to go to trial in April. This is probably the first setting though, right? So the likelihood of us going to trial in April are probably about zero if it's our first setting.
- Gallagher: That is correct, Lieutenant Governor.
- Hutchison: And so I would expect then, and you would expect, to come back and amend again to provide for additional legal fees. Just trying to keep it real, right? I mean, we're not at the end of the road here, and unless we settle, the likelihood of going to trial in April is nil, which means it's going to extend on probably, in my experience, another year or two. And so, you fully expect that there's going to be additional legal resources required on this case?
- Gallagher: This figure was arrived at looking at anticipated motions following the close of discovery through trial. So hopefully, I will not be back before the Board, but all things are possible. But I hope not, at least not on this case.
- Hutchison: Okay. Can you just give us -- and again, if you want to tell me off line, I'm happy to talk to you off line, Mr. Gallagher. I don't want to compromise any confidentiality or strategy. You just tell me. But can you tell if there's been

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any efforts to settle the case? In other words, has there been any mediation attempts? Have there been any settlement conferences with the judge? Anything in terms of the parties trying to get together? Or do you sense this is a case that the plaintiff is just going to stick and hold fast to the \$40 million figure, and you're going to trial?

Gallagher: Lieutenant Governor, the prayer for relief has been in excess, or the demand has been in excess of \$40 million. This deals with a large piece of property that sits between Las Vegas Boulevard and Interstate 15, just north of, I believe it's Windmill. The developer or property owner bought some property for NDOT that was adjacent to his property giving him, I believe it's a 66-acre parcel. His allegations are breach of contract by NDOT, various torts, inverse condemnation, misrepresentation claims that we've had dismissed out. He has made one overture for a potential settlement of, I believe it was about \$18.5 million on the condition he kept the property.

Sandoval: That's a pretty good deal. Yeah. What is our appraisal on the property?

Gallagher: Well...

Sandoval: I want to make sure I get that. So, I get \$18 million, plus keep the property?

Gallagher: Yeah. So, we're always open to negotiate these settlements, but so far on this matter, there hasn't been a lot of realistic movement, so we have been preparing for trial. Just last week, Mr. Terry and the Director had the privilege of having their depositions taken, and even after that, they didn't authorize any additional funds for settlement.

Hutchison: Okay. Have there been any mediation sessions yet or settlement conferences with the judge?

Gallagher: No, there have not.

Hutchison: Do you anticipate at some point that happening? And I understand it's all strategy, and you may not, as I said, answer that on the record, but just interested to know if there has actually been a third party intervening here to try to inject some reasonableness in the process.

Gallagher: We hope to get there.

Hutchison: Okay. Fair enough.

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Gallagher: And I've got no qualms about discussing that publicly. I would invite the plaintiff and plaintiff's counsel to join us.

Hutchison: In a very public way, we're going to invite them to join un in being reasonable on this case. Mr. Gallagher, thank you. And Governor, I just had a couple of questions on item number one, if I may.

Sandoval: Please proceed.

Hutchison: Thank you very much. And I guess I could kind of sum up my thoughts about -- really all of my questions and try to really expedite my questions on this and that is; it seems like this is an ongoing program, which has already been demonstrated through questions before. The TIM coalition program very helpful, very successful with traffic safety and public safety, and I get the sense that this is sort of a temporary thing, that we're just trying to use consultants to really maybe educate and provide experience for personnel within NDOT. We've got a four-year contract here, \$600,000 a year. And I guess maybe the way to sum up my question, and whoever wants to take it can certainly take it, is this way: why is it a better use of our resources to enter into a four-year, \$2.4 million contract, in order to promote and to manage this TIM coalition effort rather than trying to maybe have a shorter term contract, maybe a two-year contract, and then see if we can do that in house? And does that save money if we did go that route?

Malfabon: I'll respond to that, Governor. Lieutenant Governor, we definitely -- if we get the structure in place and we can take this over on our own, we would do so and we have the means in our contract that allows us to do so.

Hutchison: Short of the four-year contract life?

Malfabon: Yes.

Hutchison: Okay. Great. Then that answers a lot of my questions. And I take it, Mr. Director, that's the direction we head -- that is my sense of the briefing on this.

Malfabon: Yes.

Hutchison: So we've got a four year contract. You're all trying to take this in house. We may bring it in house in a year or two years or three years, just

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depending on how quickly we can get our personnel educated and trained, and up to speed.

Malfabon: Exactly.

Hutchison: Wonderful. Okay. Thank you very much, Mr. Director. Governor, thank you.

Sandoval: And just a follow up on number three. Mr. Gallagher, have we done an appraisal? And again, I don't want to get into any confidential information, but what was the appraisal on that piece of property?

Gallagher: The portion that he bought from NDOT years ago was appraised. Unfortunately Governor, I cannot think of what that appraisal was. I believe it was (inaudible).

Sandoval: Say that again.

Gallagher: I believe it was over \$20 million. (Inaudible). The exact figure escapes me. I should point out too, the...

Sandoval: Just a second. In Southern Nevada, your mic is still on. Thank you. Yeah, would you repeat that, please? Mr. Gallagher.

Gallagher: Governor, I'd like to point out to the Board, in this matter, the state has filed a counter-claim against the land owner for breach of a settlement agreement that had been entered into at the time we sold the property, as well as for attorney's fees.

Sandoval: Board members, any further questions with regard to Agenda Item No. 6? If there are none, the Chair will accept a motion for approval.

Skanche: So moved.

Sandoval: Member Skanche has moved for approval...

Fransway: Second.

Sandoval: ...of the agreements over \$300,000 as identified in Agenda Item No. 6. Member Fransway has seconded the motion. Any questions or discussion? All in favor say aye.

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- Group: Aye.
- Sandoval: Opposed, no. Motion passes unanimously. We'll move on to Agenda Item No. 7, contracts, agreements, and settlements.
- Nellis: Thank you. Again, for the record, Robert Nellis. Governor, there are two attachments under Agenda Item No. 7, for the Board's information. And beginning with Attachment "A", there is one slurry seal contract found on page 4 of 9. The project is located on U.S. 93 in Lincoln County and Valley Fire State Park in Clark County, to micro surface existing roadways. There were two bids, and the Director awarded the contract to Intermountain Slurry Seal Incorporated, in the amount of \$1,538,538. Does the Board have any questions for the Department regarding this contract?
- Sandoval: Let's move on.
- Nellis: Thank you, Governor. There are 27 executed agreements under Attachment B, found on pages 7 through 9 for the Board's information. Items 1 through 5 are cooperative and interlocal agreements; 6 through 10 are acquisitions and appraisal, an event contract and two facility agreements; 14 through 16 are leases and a property sale; and items 17 through 27 are right-of-way access and service provider agreements. And Governor, that concludes all of the items under Agenda Item No. 7. Does the Board have any information for the Department on any of these agreements?
- Sandoval: Board member questions? Member Savage.
- Savage: Thank you, Governor. Mr. Nellis, three questions or comments beginning with item number 23. With the DBE program assistance, who is ACC Inc.?
- Nellis: Tracy Larkin-Thomason, Deputy Director for Southern Nevada will respond.
- Larkin-Thomason: It is Airport Concession Corporation, but because they -- because that's when they started doing -- it's a DBE support system, and we have such a backlog right now that we entered into an agreement with them. They're used by the other certifying agencies. They're very familiar -- other certifying agencies within Nevada, and they're also very familiar with our DBE program and all the federal regulations. But they use the initials now, as opposed to the full name.

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- Savage: So are they a consultant or a man power tool?
- Larkin-Thomason: It's a DBE firm. It's a consultant firm.
- Savage: It's a consultant firm. Okay. Thank you, Tracy. And two other questions on point. Item number 26, for the laundry of \$208,000; was that a bid item? It's a lot of laundry.
- Sandoval: Which one were you on?
- Savage: Item number 26, for the laundry services of \$208,000.
- Sandoval: Yeah. For laundry of laundry, not money, right?
- Malfabon: Governor, to Member Savage, this is a bid.
- Savage: That was low bid?
- Malfabon: Yes, low bid.
- Savage: Okay, low bid. And the last item, for the decorative rock, again, it just stuck out. Why is there an out of state contractor doing decorative rock in downtown Las Vegas?
- Male: We were afraid you might ask that question, Member Savage. I don't think - - do we have an answer to that one? I don't think -- that was just the low bid.
- Malfabon: Yes. This again is the low bid to place decorative rock. In this area, near Washington and I-15, we just completed that F Street project at I-15, so we wanted to make it look nicer in that area, entering into the F Street project, which has a lot of aesthetic built into it. So it was...
- Sandoval: No, we get that part. I think the question is, do we have to take the low bid, or is there a local bidder preference on contracts this small?
- Malfabon: Oh, I see. On contracts this small, this is using the quote process or informal bid process, which is allowed by Nevada Revised Statute, so any projects that are less than \$250,000, we can do a rapid bidding process, just requesting quote from three or more bidders.

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- Sandoval: All right. Again, the question is, are we bound by the low bid, or can we give some consideration to doing this work to a local contractor even if that local contractor is not the low bidder?
- Malfabon: I'll have to look into that with legal, Governor. But typically, we have -- since it's state funded, we can do that. We just have to make sure that the bid documents would state that, and see if that's in line with NRS.
- Savage: So the question -- it's an informal bid, so you go out to three or four different contractors to get the bids, but why not a state contractor? That's my frustration, and I think it's quite evident here. So I think the Department needs to...
- Malfabon: I don't know. Mary, do you have any information? Mary Martini in Southern Nevada (inaudible), or is that just the name of the local contractor?
- Martini: So, for the record, my name is Mary Martini. I'm the District Engineer for District 1, which is Southern Nevada. Basically, the quote system, we have a number of contractors that put themselves on the list. We let them know that we're going out for a quote. We solicit the quotes. When the quotes come in, we basically take the low one. Our understanding is that we can apply out of state penalties, I guess, but we haven't done it. And in this particular case, we received a small number of responses, and our normal contractors that we see locally actually didn't respond.
- Malfabon: Thank you, Mary.
- Sandoval: Follow up? Member Skancke.
- Skancke: We're giving away money and there weren't any local contractors? Did I understand that right, Mary?
- Martini: Yes, you did. We can give you the exact number of people that submitted bids, but we're actually seeing that the smaller projects are not as responsive as they have been in the past, and the prices are actually creeping up significantly.
- Sandoval: Okay. Mr. Controller, on this item. We're still on Mr. Savage.
- Knecht: I have one on item 7, going back to the...

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Sandoval: Okay. I wanted to wait until Member Savage had completed all of his questions before I go to you.

Savage: Thank you, Governor. I think it's just evident that the Department has to do a better job in outreach with local contractors on informal bids, to ensure that the dollars are kept local. Thank you, Governor.

Sandoval: I guess I'll highlight that. But if they're close, I just don't see any reason why we wouldn't go with the local. And I would hope that we keep an eye to that on these smaller contracts that are exclusively state funds. I get that when there are federal funds involved, that we're required to take the low bid, but if it's a state contract and one of our locals is close, that we really look hard at that.

Malfabon: Governor, we'll look into enacting that, see what NRS allows.

Male: If I'm not mistaking, Governor, if it's state funds, there is -- and you have a local provider and an out of state provider, there is a 5% bidder's preference within the State of Nevada on any project that has state funds in it, and that applies to county, state, city, all the government-related entities. And I think it's -- I won't quote the statute.

Sandoval: All right. Well, if we can look into that and we don't -- this is an informational item, but I don't know if this contract has been let yet, but if it has not, that we could take another look at it.

Malfabon: This one was let, Governor, but we will look at it.

Sandoval: Okay. All right. Mr. Controller.

Knecht: Thank you, Governor. Very briefly, back on page 4 of item 7, the award to Intermountain Slurry Seal, the engineer's estimate was almost 2.3. We got off for 30% or one-third less than that, something like that at 1.54. How did we do that?

Terry: Again, John Terry, Assistant Director for Engineering. And some of the other Board members are aware of this issue, we struggle on the engineer's estimates on what are almost single quantity, very rural projects. We're trying to do better, but our engineer's estimate for these type of items in a very rural area are problematic, and our engineer's estimates aren't very

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good. But I will say, the two bidders were very close to each other, and we considered them reasonable bids.

Knecht: They were both lower. I guess it's what the economists would call a thin market phenomena in the rural areas. Thank you, and thank you, Governor.

Sandoval: Any questions from Southern Nevada?

Male: No, sir.

Sandoval: All right. I want to move to contract number four, which is research. I'm not questioning the university, but it says, "Taking bridge innovation into the field statewide," and \$125,000 for that. Do we need that?

Malfabon: I believe this was on the list when we had the short list of research projects that were selected. The Research Division at NDOT does not enter into an agreement unless it was on that list of proposals. The proposal process is that the technical reviewers at NDOT rank them. I don't think that I can gather from the title, everything that's involved in it, so I would have to look into that, Governor, and provide any more specific information about what the benefits are. But as I said, we rely on technical reviewers from Bridge Division. I don't know if there's anybody in the audience from Bridge Division that could respond to the benefits of this research or from Research Division. Seeing none. Did you have any more familiarity with the benefits of this topic or would we have to reach out to Bridge Division?

Male: (Inaudible).

Malfabon: Okay. So, it looks like we have (inaudible).

Sandoval: No, it just may be. The way it's entitled makes me question whether -- is that -- it seems that it's research for the sake of research, and is there a benefit for it.

Larkin-Thomason: Governor, for the record, Tracy Larkin, Deputy Director for NDOT. I believe this is the one where we're looking at using some innovative ones from another state that looks like -- a precast -- like using a precast as a form work over there. But in other states, they have different criteria that is over - - it was from, like, Western Texas. It has a different overriding factor. So I believe one is looking at how we can use that innovative, what do I want to say, work method here, but with a seismic factor in it and see if...

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Sandoval: And we can't figure that out in the Department?

Larkin-Thomason: That's not my area. I was trying to help.

Sandoval: And then the other one, we're spending -- and this is contract three. We're spending \$125,000 to determine whether the -- to help the department allocate the limited resources most effectively and efficiently; Douglas, Clark, Washoe, Pershing, and Esmeralda. So, I guess what it makes me wonder is, if we've got limited resources, are we spending \$125,000 of that - - what are we spending another \$125,000 to figure out there?

Malfabon: The benefit cost studies are something that is required. We can look, Governor, at what we can do in house, but typically these contracts with both universities have them perform the benefit cost analysis for the Department on larger projects that we have to report to the legislature on. But I don't know what specific project in those other counties typically -- most of the projects are in Clark and Washoe, Storey County more recently, and Carson. But this is a contract with UNR, we have one with UNLV, to provide these services on an ongoing basis to calculate benefit costs on various projects.

Sandoval: And as I said, I don't want to go through all of this again. I just want to make sure that we're getting benefit out of this research, and we're not just paying for -- it's my understanding, for some of these at least, is it's the researcher who approaches up and says, here's some research that might be beneficial, and then we say okay, and we pay for it. I just want to make sure we're getting -- we're using it.

Malfabon: Yes, Governor. And I think it's along the lines of the Lieutenant Governor's point, is that if NDOT can do this work in house, then we should start weaning ourselves off of outside service providers, whether it's the university or a consultant.

Sandoval: Yeah, I don't want to be doing research to validate things that we already know or have a pretty good idea of. If it's meant to meet some type of reporting requirement for the legislature or the Federal Government, and we don't have the in house capability of doing it, I can see that. But...

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- Malfabon: I believe that's the case for this. It's not research. It's to perform the studies instead of going out to a consultant service provider, which would be more costly. It's to use the university, which is much more cost effective.
- Sandoval: And then on number two, that's existing research that we're extending and that's, in my mind, if we're spending this money, the research should be finished in a timely manner.
- Malfabon: Agreed.
- Sandoval: Okay. That's all I have. Board members, any further questions with regard to Agenda Item No. 7?
- Male: Governor, Mary has a clarification on that one item regarding Arizona Civil Contractors.
- Martini: Yes. Arizona Contractors is actually a local company. They were all local companies, and the other two bids -- there was the next higher one from ENM at 199 and LVP was at 344. But Arizona Civil Contractors is a local firm; just the name.
- Sandoval: That solves that problem, but it's an interesting name. Yeah. All right. Member Fransway, did you have a question?
- Fransway: I did, Governor. It's basically a follow up on your comments. I believe that what we're after here, relative to any items, specifically the research, is that we're not doing something that is frivolous. And I believe that what need to do is make every effort to make sure that when we are approached by a vendor, that we definitely make sure that it is in NDOT's best interest to proceed with an expenditure. Thanks.
- Sandoval: Any other questions or comments? That completes the discussion on Agenda Item No. 7. We will move to Agenda Item No. 8, briefing on Las Vegas Boulevard, Tropicana Avenue, pedestrian escalators and elevators on pedestrian overpasses.
- Nellis: John Terry will present this item, Governor. Just to mention, that he will be briefing the Las Vegas Convention Visitors Authority Board on this project as well this week, because they're funding the project.

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Terry:

Again, John Terry, Assistant Director for Engineering. Do you have that PowerPoint? We've got a couple things to do here. We've got some new Board members that aren't kind of familiar with how we got to this point, so I've got to go through some of that. And again, we are presenting to the Convention Visitors Authority Board tomorrow, as it is tied to their money. Could you go to the next slide, please?

This project is a continuation of the AB595 funding that provided money to the Department of Transportation through the bond -- through the room tax in Las Vegas and the bonding done by the LVCVA. We did the express lanes on I-15. We did design-build south. We have \$19.6 million left in that bond sale. They would like us to expend that money relatively quickly because this is a bond sale that was done many years ago. So, sorry for kind of flying through this. We presented this to the Board of the LVCVA that this project would be used to spend the rest of the money, as well as this Board back in 2013. Next one, please.

If you're not familiar with the escalators, these are the first group of bridges built over Las Vegas Boulevard, very timely in that pedestrian safety. When we go back -- I don't know if he's still here. PD and I were both in the traffic section of NDOT back in the late '80s and early '90s when this was the pedestrian safety issue in the state, was when we started building these pedestrian bridges, and the situation we had on Las Vegas Boulevard before these pedestrian bridges were built, was very, very serious. And the result has been bridges up and down Las Vegas Boulevard.

So, originally built by NDOT 20 years ago, original construction. In '94, the escalators are obsolete and need replacement, and we went to CMAR, selected CMAR, and been through that process. And frankly, we wanted to be here talking to this Board about approval of the guaranteed maximum price for the CMAR, so we were moving ahead quicker, and we're behind that point. Next one, please.

Part of the reason we're behind is we got feedback from the resorts, from the county, and I'll talk about later on the Tropicana expansion. They wanted other aesthetic improvements, upgrading these to look closer to some of the other pedestrian crossings that you see up and down Las Vegas Boulevard. We wanted to have an open dialogue with the resorts to get what they wanted in here. The Las Vegas Arena is opening in 2016, is going to add

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more pedestrians to the area, we believe, and the Tropicana retail expansion construction in 2015, we're not 100% sure. Next slide, please.

So the Tropicana, one of the four corners, wants to do retail expansion, kind of make it like when you go into the Bellagio, where when you come out of the pedestrian over crossings, you're essentially in some sort of upstairs mall that's on that second level. And they've gone back and forth. We're trying to accommodate them. We're trying to work with them. But the bottom line is, where we're at now, is we want to kind of isolate that corner, spend as little money as possible, go to the next structural joint on the bridge, remove the escalators, and put the stairs in so we're not spending a lot of money. Maintain the elevators so that they can come through with their mall and not a lot rebuild. We just weren't able to incorporate their project into ours, and frankly, it's delayed our project. Next, please.

The other three corners, we're going to replace the escalators, upgrade the mechanical equipment and all of the aesthetic improvements to the bridges that have been part of the coordination. So the bottom line of all of this coordination, as well as coordination with Clark County -- next one, please -- is we're behind schedule. We're proceeding with the developer agreements. In fact, we're in the last stages of the agreement with the Tropicana Resort, finalizing the agreement with Clark County for maintenance and operation now that we know what we're actually proposing to turn over to them, and completing design and construction. Next one, please.

But because of that, we anticipated the CMAR guaranteed maximal price in December of 2014, and it will probably be put off until spring or summer of 2015, which is behind our schedule. And frankly, when we brought this project to you, the Director and I, and then to the LVCVA, we wanted to spend their money, we wanted to spend it quickly. This was something we already had underway. This is something we could do quickly, but these agreements with the Trop and the resorts, it just turned into a project that we just couldn't deliver that quickly. And we're behind schedule. We're going to go tell them. I've had conversations with the LVCVA. As long as -- we think what they're going to say is, as long as we give them revised cash flow projections of when we're going to spend that money, they think they're

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okay on their bond and arbitrage issues. But frankly, we've got to catch up and get through this because it's something we said we'd deliver earlier.

I'm sorry I flew through it so quickly, but these are the major issues we're facing, and frankly, we're behind the schedule we had originally anticipated.

Sandoval: But in your defense, you're behind because you're trying to accommodate those projects. Does there come a time where -- because you raise a really good point with that arbitrage, is that you've just got say, we've got to go and...

Terry: That's kind of where we're at. That's why the nuance in there is what I said is, the Tropicana corner, we're going to do almost nothing. We're going to take out the escalators and put in stairs. So the only ADA thing is to use the elevators. Spend as little money there as possible so they can build their mall separate from us. It took us awhile to get to that point. We kept trying to work with them on trying to incorporate them in. And Tracy has been very involved. So, we're trying to accommodate them. I think, perhaps, the mistake we made was originally saying this was a good project to get going quickly because this money needs to be spent. And frankly, we should have known all of those projects up and down the strip have all been troublesome in terms of schedule, because of all these complexities. Maybe we should have seen that coming, but I think we've got a work around, but we're behind schedule.

Sandoval: But you want to do it right too.

Terry: That too.

Sandoval: But there is a -- with the construction of that arena, you want it to be done before that -- or at least the same that arena is completed because there is going to be a lot of foot traffic there.

Terry: And they're going fast.

Sandoval: Yes.

Terry: It's hard for us to go that fast, but we're trying to move forward.

Sandoval: You can't let them build an arena faster than we build crossovers.

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Terry: I hope not.

Sandoval: In any event -- and then with regard to the county on the operations and maintenance, I recall having this conversation when I was the Attorney General, sitting on this. So, are we going to have some closure with regard to that issue? My recollection was, is that there was concern that the county wanted brand new escalators and all of that, and then that would be the point at which there could be a transfer. Are we still in that position?

Terry: That is the simple version of the agreement. It gets a little more complicated when you get into the details. I have told our staff that right now, we're not going to spend the big money. By the big money, either going forward with a construction contract or the ordering of the big equipment, without that agreement in place or some letter from the county that they're going to take it over. But we may get to the point where we have to proceed at the risk of our money, in order to get that agreement. We continue to work with the county on it though.

Sandoval: No, and Commissioner is here, and we'll have that conversation, and I think everybody wants finality to all this. So I look to that conversation and getting that done.

Terry: And the good news, I think the way we're doing it, we're going to get good equipment that doesn't break down as much, and we're going to get some of the aesthetics that the resorts want in there. And I think it'll be a better facility, closer to the other ones that are on the strip. It's just been a difficult thing to deliver quickly. And frankly, we had to put both our designer and our CMAR contractor on hold while we got some of these scope issues worked out.

Sandoval: Other questions from Board members? Member Fransway.

Fransway: Thank you, Governor. I assume, Mr. Terry, that when it comes time to work with Clark County, as far as finalizing the agreement, that will come before this Board as a relinquishment?

Terry: That's a good question. We've been working on it as an agreement. Does it fall under our new relinquishment policy? That applies to roads and...

Madewell: I can answer that for you.

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Terry: Okay.

Madewell: Good morning, Governor and members of the Board. Bob Madewell for the record. The answer is, we have a revised version on how to deal with those kind of issues, when we talk about them in terms of either surplus property and/or something that's an aesthetic to a roadway. So, we can very fast track that. The agreement would have language in there of transfer, but you would still have a document that would be a relinquishment transfer to that property.

Fransway: Okay. So, it really didn't answer my question. Will it come before the Board as a relinquishment?

Madewell: It would have to. Yes, sir.

Fransway: Okay. Thank you.

Sandoval: Member Savage.

Savage: Thank you, Governor. A question regarding the delays that you had mentioned. Is the Department subject to additional costs by the CMAR contractor, as well as the designer, or are they cooperating and understanding that it was outside of our control?

Terry: Kind of a yes and no. I believe we owe both the designer and the CMAR contractor additional compensation because essentially, in the designer's case he was near 90% design and then had to do a new design that incorporated some of these aesthetic elements. In terms of the CMAR contractor, I believe he will have to (inaudible) -- he's not under his construction phase yet because we haven't done a GMP. He's still under his services during the design, but we now are going to have to have him price things that he didn't price before, so some compensation. But I believe both of those we minimize by putting them both on hold until we could get the scope resolved. So, I think we've dealt with that issue, but I think we owe both of them extra money.

Savage: And where will those additional dollars come from?

Terry: Okay. Part of that same 19.6, both design and construction, we are charging to that bond. But I will say, with some of these aesthetic improvements and some of the other improvements to it, we may have to put, and probably will

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have to put, some state funds in, in addition to the 19.6 because it may not cover all the things that have been added to it. So design, as well as construction, is under the LVCVA bond issue. So, both the design, as well as design phases of the contractor are against that bond.

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

Sandoval: Other questions from Board members? Any questions from Southern Nevada?

Male: No, sir.

Sandoval: All right. Anything else, Mr. Terry?

Terry: No, thank you.

Sandoval: All right. That was on as an informational item, so we'll move on to Agenda Item No. 9, which is the proposed enhancement to the Department's bonding policy.

Nellis: Governor and members of the Board. For the record, Robert Nellis. While we're waiting for the PowerPoint to come up, it's just a quick summary of what we discussed last month, not to rehash too much there. We discussed the proposed enhancement to our bond policy. Basically, we're requesting approval for a couple of thresholds for senior and subordinate lien bonds, and the policy language was provided to us by the Bond Council in coordination with the treasurer's office. And for your reference, that new language can be found on Attachment "A". It's in bold and underlined in your packet. And if you'd like to see the original policy from 2007, that's Attachment B. So you can see there's not many changes to that policy.

Real quick, we did receive a AAA credit rating from Standard & Poor's when we cold our \$100 million right-of-way bond, and we believe the case can be made to improve our rating with Fitch and Moody's, which is why we're bringing this to you today. And what that senior lien annual debt service would look like is approximately \$89 million when you take our total state revenues, the gas tax, and the fuel tax, add them together, divide by three. That brings us to \$89 million. And just to give you a point of reference, in 2009 our highest payment was \$88.5 million. So we don't anticipate having to exceed that limit.

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And just a quick note, like we knew last month, our projected peak debt service in 2021 for Project NEON is \$89 million in 2021. And Governor, with that, just like to mention that this has the potential to lower rates on Project NEON. There may be potential refinancing opportunities that come available if we do this for our previous bonds. And in no way does this limit the Board's authority on future bond issuances.

Sandoval: Thank you, Mr. Nellis. And perhaps it was in last month's Agenda. Do we have a letter on treasurer letterhead saying that this is in the best interest of the state and recommending to us that we take this action?

Nellis: We don't actually have that on the Treasurer's Office letterhead. We do have Deputy Treasurer Lori Chatwood here who can provide comment if you'd like that.

Sandoval: I'd like to have a letter on letterhead, stating that this is in the best interest of the state and recommending that the Board take this action. I don't know. I don't know if there's any agreement from other Board members. Member Skancke.

Skancke: Thank you, Governor. Absolutely, I would agree with that. I think it just -- it sends the right message, and I think it's what the Board needs.

Sandoval: If this were to be delayed for one more month, is there any jeopardy to the analysis?

Nellis: There's no jeopardy -- again, for the record, Robert Nellis. There's no jeopardy, Governor and Board members. However, we were hoping to brief the rating agencies last month on this, and we've rescheduled to brief them this month on the change in the policy. One suggestion may be potentially a motion that this is approved contingent upon receiving a letter from the Treasurer's Office.

Sandoval: And the rating agencies wouldn't accept that the recommendation is at least - - let me back up. In other words, you're saying that you've briefed the Board, and the Board had asked for this confirmation and letter from the Treasurer's Office, that wouldn't be acceptable to them?

Nellis: Actually, having -- again, for the record, Robert Nellis. Having something in writing from the Department is really what we're after. It's good to still

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have that, the vote from the Board or recommendation. However, we believe, speaking with our financial advisor and the Treasurer's Office, actually having the policy in writing is what will make the difference in potentially pushing either Fitch or Moody's over the edge in that next level.

Sandoval: Well, I'm willing to take a motion to approve contingent upon that letter on treasurer letterhead. Again, that letter should have included within it that it recommends that we take this action, and that it's in the best interest of the Department and the state.

Nellis: Thank you, Governor.

Hutchison: Governor, may I ask a question?

Sandoval: Yes, Mr. Lieutenant.

Hutchison: Just real quickly. Thank you very much. I just noticed in the briefing that there mentions that if we take this change of policy and go with the change in recommended policy, that it may secure the credit rating improvements that we're seeking, and it could potentially lower our borrowing costs. My question is, is there anything else that we could do to make that more definitive, or is this what we need to do? There's nothing else that you're asking the Board to do to be even more definitive. Rather than it may, is there anything that we could do to say, it will result in lower rates?

Nellis: Again, for the record, I don't think we can say here what exactly the rating agencies would do. We can put our best foot forward, and we believe that by having this policy in place, that is putting our best foot forward to say that our senior lien debt will not exceed \$89 million annually. So we're really looking at this like a mortgage. We're taking our income and dividing by three and saying, that's our upper limit for our first lien, and then anything else -- it doesn't mean we can't have a mortgage beyond that.

Hutchison: Yeah. I understand the policy. My question really is, is there anything more you're asking the Board to do to increase our opportunity to have a better bond rate or lower rates. It sounds to me like, nope, this is what you need to do, this is what we're asking you to do, there's nothing else you could do. And if that's the case, great.

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- Nellis: That's correct, Lieutenant Governor. This is what we need from the Board right now.
- Hutchison: Great. Okay. Thank you very much, Governor.
- Sandoval: Thank you. Member Skancke.
- Skancke: Thank you, Governor. Mr. Nellis, is there a time of the essence for this? When is your briefing with the bond companies?
- Nellis: We're actually scheduling that meeting with them right after this Board meeting, so any time within the next week or two. Whenever they're available, we'd like to be able to brief them over the phone.
- Skancke: So Governor, if it's all right with you, I would -- I know the Controller made the motion. I would like to just add one piece, that we get a letter from the Treasurer's Office in 48 hours so you can move your negotiations forward. I would hate to have this drag out a month or two. Not that they would do that, but let's just get it done. Or Friday, whatever is feasible and realistic.
- Chatwood: Thank you. For the record, Lori Chatwood, Deputy Treasurer of Debt Management for the Treasurer's Office. Through you, Governor Sandoval, to Mr. Skancke, I cannot speak on behalf of the treasurer and his availability to provide that within 48 hours. I can tell you that our office is in agreement. We think this is good for the program. It allows the flexibility, and for the bonds of the state to get credit for the coverage that they carry. But I cannot make the commitment that I can deliver that within 48 hours, having not even spoke to the treasurer.
- Skancke: Okay.
- Sandoval: I think, at the soonest possible opportunity then.
- Knecht: Governor, I'm happy to accept that as a friendly amendment. I believe we vetted this thoroughly last time. I'm fully satisfied with it. The Treasurer's Office has expressed its satisfaction, so I think we're ready to go forward.
- Sandoval: No, but I -- I'm ready to go forward, but I still want that letter.
- Knecht: I mean, in that context.
- Sandoval: Yes. Okay. So will you restate the motion, Mr. Controller? Thank you.

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- Knecht: I move approval of the staff recommendation, and that the staff be instructed to ask the Treasurer's Office for a letterhead statement of approval as soon as possible, preferably within 48 hours, so that they can move forward briefing the bond rating agencies.
- Sandoval: All right. You've heard the motion. Is there a second?
- Skanccke: Second.
- Sandoval: Second by Member Skanccke. Question or discussion on the motion?
- Fransway: Yes, Governor. Thank you. Will that letter be addressed to you, Governor, or to the Director?
- Sandoval: I think it should be directed to the Board.
- Fransway: Okay. To you as Chairman of the Board, and to the Board. I agree. Thank you, Governor.
- Sandoval: Thank you.
- Hutchison: And Governor, one question here. The motion was phrased as directing the staff to ask the Treasurer for the letter. I would suggest and maybe the Controller can clarify this, but this motion is conditioned on receiving a letter, not just simply asking the Treasurer. So, I'd ask that the motion be revised with that clarification, or maybe that's what was intended.
- Knecht: I can certainly accept that. We've had a representation from the Treasurer's Office, so I'm comfortable with conditioning it on that.
- Skanccke: I'll amend my second.
- Sandoval: All right. So we've amended the motion that approval is contingent upon receipt of a letter from the Treasurer's Office, that it recommends this action, and that it is in the best interest of the State of Nevada. Any further questions or discussion? Hearing none, all in favor please say aye.
- Group: Aye.
- Sandoval: Opposed, no. Motion passes. Thank you, Mr. Nellis. We'll move on to Agenda Item No. 10, equipment in excess of \$50,000, fleet replacement.

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Larkin-Thomason: For the record, Tracy Larkin-Thomason, Deputy Director for NDOT. I'm just waiting for it to come up. I find with equipment, pictures do help. As per NRS408.389, all equipment requests over \$50,000 needs to be approved by the Board, and as a matter, of course, we always report purchases underneath. The next one. In the biennial legislative budget, we had \$5 million approved for each year, fiscal year '14 and fiscal year '15. In the fiscal year 2014, we moved \$1.5 million over to the rebuild program on there, and that was the intent to do for this year, also. In previous meetings, the Board had approved \$7 million worth of equipment purchases when Kevin did his really great presentation. And we have a remainder of \$1.5 million that we're putting over the three districts.

The money from the original \$1.5 million in the rebuild program has not yet been fully spent out of the fiscal year '14. What we're finding is after several years of working on it, some areas -- some pieces of equipment are more apt for the rebuild program than others. So we have some success stories and some lessons learned, and basically moving forward. So at this point, we do have \$1.5 million that we'd like to put forward on a couple pieces of equipment.

This is a Class 12. This is one of the ones we're looking at turning in, but it's one of the major workhorses. This is a slightly smaller one. We're actually kind of moving away from these, and I'll show you on the next slide. So, we're moving more towards a Class 13. We will be maintaining a few Class 12's because they work better in the urbanized area. They have greater maneuverability. But the Class 13 will be for -- it has more capacity, and the Class 15 is basically used in a high elevation area. So we'll use them in the Sierras. We use them in places like Ely where we have passes.

Now, we showed two different pictures here, showing you how the flatbed where they're moving there, but also in the wintertime we put in sanders or brine things. So they're used year round for a multiple -- these really are the workhorses out there. And on the next picture, this is a Class 54 tractor. This we use -- we pull for mowers, we pull for reseeding, it's used in vegetation management. And in the next -- if you'll notice on there, we have a request for seven pieces of equipment, and then also if there should be sufficient funds left over, that would really depend on the purchasing when

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it comes in, we're requesting to purchase another programmable message board.

This goes back -- I think this one is like 27 years old, back when the floppy disc was the high tech part. Basically, it's difficult to program anymore. It can only use canned messages, and it doesn't fully light. Exactly. So on the next one, basically this is the proposed list of vehicles that we're requesting.

Sandoval: And just to make sure, you said that there was unspent money. We're not spending the money for the sake of spending the money, there's a true need out there, correct?

Larkin-Thomason: There is. For the historical part, we used to spend \$10 million a year on equipment replacement, as a matter-of-fact, and we were probably losing about 1-2% ground each year. During the height of the recession, we went six years without any purchases of major equipment, and this marks basically, the first two years where we have started to purchase equipment again. And while we understand the need for it, the fleet has taken a hit by not having the replacement over those years.

Sandoval: And is there any legislative approval required for this purchase, or is this part of the budget, this is a pre-approved.

Larkin-Thomason: This was approved in the budget, and we just need your approval to purchase the equipment.

Sandoval: All right. Other questions from Board members? Member Fransway.

Fransway: Thank you, Governor. Yes, Tracy, I see that District 3's request, the reader board or the portable message board puts us over the cap by \$10,000, and personally, I would like to see that expenditure happen, but I understand that there's a limit. And so, what I'm hoping is that there can be a savings somewhere to be able to afford that unit because I think it's very necessary and aging, and it needs to be replaced for the public's protection.

Larkin-Thomason: We are also hoping for a savings so that we can purchase it at this time. If not, it will come forward in a new request later on.

Fransway: Okay. So, you're going to try and find a savings to do it if we make a motion to approve these expenditures of \$1.5 million.

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Larkin-Thomason: Yes.

Fransway: Okay. All right. Thank you. Thanks, Governor.

Sandoval: Member Savage.

Savage: Thank you, Governor. Just compliments to you, Tracy and Kevin Lee up in District 3. Very thorough, good comparisons. To me it was -- I mean, the 273,000 miles on one of the Class 13 vehicles was a point well made. I mean, that's money well spent over the last many years, and just compliments for the comparison justifying the need to purchase. Thank you, Governor.

Sandoval: Any other questions or comments? Hearing none, the Chair will accept a motion to approve the purchase of the equipment as described in Agenda Item No. 10.

Savage: So moved.

Sandoval: Member Savage has moved for approval. Is there a second?

Fransway: Second.

Martin: Second.

Sandoval: Give it Member Martin. We have a motion and a second. Any questions or discussion? All in favor say aye.

Group: Aye.

Sandoval: Opposed, no. Motion passes unanimously. We'll move on to Agenda Item No. 12, old business.

Malfabon: Thank you, Governor. The report of outside counsel costs on open matters is provided, as well as the monthly litigation report. Our Chief Deputy Attorney General, Dennis Gallagher is available to answer any questions related to items "A" and B of Item 12.

Sandoval: Questions from Board members on Agenda Item No. 12?

Hutchison: Governor, I just have a couple of questions, but I'm going to take it off line if you don't mind, please.

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Sandoval: So you're going to -- I'm sorry, I couldn't hear you clearly, Mr. Lieutenant Governor.

Hutchison: Oh, I'm sorry. I said, I just have a couple of questions, but I've talked with Mr. Gallagher before. I'll just take these off line with him again. I just wanted to alert him that I'll give him a call or he can call me later.

Sandoval: All right. Thank you. Any other questions? Okay. Then let's move to public comment. Is there any member of the public in Las Vegas that would like to provide comment to the Board?

Male: None here, sir.

Sandoval: Anyone present in Carson City that would like to provide public comment to the Board? Hearing none, the Chair will accept a motion for adjournment.

Knecht: So moved.

Fransway: Second.

Sandoval: Controller has moved, and Mr. Fransway has seconded the motion. All in favor say aye.

Group: Aye.

Sandoval: Motion passes. This meeting is adjourned. Thank you, ladies and gentlemen.



Secretary to Board



Preparer of Minutes