

In The Matter Of:
State of Nevada - Public Works Divisio
Videoconferenced Board Meeting

Monday
May 4, 2015

Capitol Reporters
208 N. Curry Street

Carson City, Nevada 89703

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STATE OF NEVADA

PUBLIC WORKS DIVISION VIDEO CONFERENCE BOARD MEETING

MONDAY, MAY 4, 2015

CARSON CITY, NEVADA

THE BOARD: TOM METCALF, Chairman
SEAN STEWART, Vice-Chairman
GUS NUNEZ, Administrator
CHRIS CHIMITS,
Deputy Administrator
JAMES WELLS, CPA, Director,
Department of Administration
TITO TIBERTI, Member
ROY WALKER, Member

FOR THE BOARD: SUSAN STEWART,
Construction Law Counsel

KEVIN BENSON,
Construction Law Counsel

HEATHER FATZER,
Administrative Assistant IV

CECE ZIMMERMAN,
Administrative Assistant IV

REPORTED BY: CAPITOL REPORTERS
BY: Nicole Alexander,
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208 N. Curry Street
Carson City, Nevada 89703

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1 CARSON CITY, NEVADA; MONDAY, MAY 4, 2015; 2:00 P.M.

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3
4 CHAIRMAN METCALF: This is the time and place
5 of the State Public Works Board, State Public Works
6 Division, State Public Works Board of Appeals meeting
7 Notice and Agenda. The first order of business will be
8 roll call.

9 MS. FATZER: Chairman Tom Metcalf?

10 CHAIRMAN METCALF: Here.

11 MS. FATZER: Vice-Chairperson Sean Stewart?

12 VICE-CHAIRPERSON STEWART: Here.

13 MS. FATZER: Member Bryce Clutts? Member
14 Steven Kwon? Member Tito Tiberti?

15 MEMBER TIBERTI: Here.

16 THE COURT: Member Roy Walker?

17 MEMBER WALKER: Here.

18 MS. FATZER: Member Director of the
19 Department of Administration, James Wells?

20 Mr. Chairman, we have quorum.

21 CHAIRMAN METCALF: Thank you very much. The
22 next item on the agenda, Item Number Two for Possible
23 Action, is the consideration and action on the appeal of
24 the qualification results issued on March 26th, 2015
25 qualifying Frank Lepori Construction, Inc. to bid on
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1 Public Works construction projects for a maximum of \$5
2 million dollars instead of Lepori's requested amount.
3 The hearing is held under the authority of NRS 338.1381
4 and NAC 338.270. Sir, I hope I got your name right.

5 MR. LEPORI: You did. You said it perfect.

6 CHAIRMAN METCALF: I apologize. Mr. Nunez?

7 ADMINISTRATOR NUNEZ: Thank you,
8 Mr. Chairman. Actually, what I'm going to do is I'm
9 going to turn it over to Susan Stewart, our construction
10 law counsel.

11 CHAIRMAN METCALF: Ms. Stewart?

12 COUNSEL STEWART: Thank you. For the record,
13 Susan Stewart, Construction Law Counsel, and Agenda Item
14 Number Two is Lepori Construction's appeal. As the Board
15 knows from prior appeals, the contractor actually has the
16 burden of proof in these matters and typically would
17 present their side of the case, if you will, first. But
18 what we've found works best for us is if I go first and
19 can essentially lay the groundwork for the issues, and
20 then the contractor can provide their position.

21 Mr. Lepori is here along with, I believe it's
22 his office manager?

23 MS. GRAHAM: Yes.

24 COUNSEL STEWART: And your name, Ma'am?

25 MS. GRAHAM: Lori Graham.
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1 COUNSEL STEWART: Lori. Okay. Great. Thank
2 you. Mr. Chairman, with your permission, I'll go ahead
3 and start.

4 CHAIRMAN METCALF: Go ahead.

5 COUNSEL STEWART: Okay. The Board has in
6 their packet and Mr. Lepori has been provided with a copy
7 of the Board packet as well and has provided
8 documentation in your Board packet at, I believe, Exhibit
9 K for the Board's consideration.

10 Lepori Construction submitted their
11 application for qualification on February 23, 2015,
12 seeking a renewal of their prior qualifications in the
13 amount of \$21 million dollars. The application is
14 attached as Exhibit A to your packet. Staff scoring of
15 Lepori's application seeking the \$21-million-dollar limit
16 indicated that they would not qualify at the \$21 million
17 dollars. Attached as Exhibit B is a copy of staff's
18 draft scoring.

19 CHAIRMAN METCALF: Sorry. Can you remind
20 people to turn their phones off?

21 COUNSEL STEWART: Yes, Mr. Chairman. I can
22 remind people that they should turn their phones off, and
23 for purposes of our video conference system, it's not
24 enough if you've silenced your phone. We ask that you
25 actually turn them off, otherwise the cell phone
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1 interferes with the reception between north and south.
2 Thank you for the reminder, Mr. Chairman. All right. So
3 where was I?

4 Okay. Staff scoring of the application at
5 the \$21-million-dollar limit indicated that they would
6 not qualify at the \$21 million dollars. And you see, as
7 Exhibit B, is what staff put together is a draft scoring
8 at the \$21 million dollars, and the scoring indicates a
9 score of 116.23 where a score of 120 is required. And
10 I've broken out the scoring for you on your cover sheet
11 here.

12 As the Board will recall, each contractor
13 gets 150 points to start with. 120 points are required
14 to qualify. And based upon the scoring, at the \$21
15 million-dollar limit, if you look, Lepori lost a score of
16 9.77, scoring principal personnel, 20 points for past
17 successful projects, and a deduction of four points for
18 an OSHA violation for a total score of 116.23. And if
19 you look on the last page of your Exhibit 3, or sorry,
20 Exhibit B, is the score sheet that shows how the
21 personnel and principal personnel and successful past
22 projects were scored.

23 Staff, myself, and along with Mr. Lepori,
24 exchanged correspondence to decide how they wanted to
25 proceed. The options were that they could seek
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1 qualification of the \$21-million-dollar limit and be
2 denied, and then they could appeal that amount or qualify
3 for the \$5 million dollars, which they do qualify for,
4 and then appeal that based upon the fact that that was
5 not the amount they wanted to qualify for. The
6 correspondence detailing those exchanges is attached for
7 your review, and ultimately, the contractor chose to
8 pursue qualification at the \$5 million-dollar limit.
9 That information is attached for the Board at Exhibit E.

10 And then, as we discussed, they did file an
11 appeal of the \$5 million-dollar qualification. That
12 appeal was timely, and they were given notice of this
13 hearing today. As part of their appeal, Lepori seeks
14 re-qualification at the amount of \$18 million dollars,
15 and for the Board's consideration, we've attached a draft
16 score sheet at the \$18 million-dollar limit, and that is
17 attached as Exhibit J to your Board packet. And
18 ultimately, the score at \$18 million dollars is almost
19 exactly the same as the score at \$21 million dollars.
20 The total points is 116.28, which again, at the \$18
21 million dollars, is not a passing score.

22 I would remind the Board that pursuant to our
23 regulations, the Board is not bound by the recommendation
24 of the qualification committee or any technical scoring
25 conducted by the Committee, and may, when rendering its
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1 decision, take into consideration such facts and
2 circumstances as may be in the best interest of the
3 State. And that concludes my presentation and
4 introductory comments unless there are any questions at
5 this point.

6 CHAIRMAN METCALF: Do we have any questions
7 from the Board down south at this time?

8 VICE-CHAIRMAN STEWART: Sean Stewart, for the
9 record. I just have a clarification that I probably
10 should get on the record. I know Frank. I spoke to
11 Frank briefly about this issue and gave him some advice
12 on how to file an appeal. In speaking with our legal
13 counsel, I've been advised that I probably should abstain
14 from the vote today, which is fine. My question, though,
15 is am I allowed to ask questions as we go through the
16 process, or how will that work?

17 COUNSEL BENSON: For the record, Kevin
18 Benson, Deputy Attorney General Board Counsel. I think
19 that given the potential ex parte communications that
20 occurred that I think that it would be better to be on
21 the safe side, that you not participate in the
22 deliberations at all.

23 VICE-CHAIRPERSON STEWART: Okay.

24 CHAIRMAN METCALF: Member Tiberti?

25 MEMBER TIBERTI: I'd rather go after I hear
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1 your guy's questions.

2 CHAIRMAN METCALF: Okay. Or would we like
3 Mr. Lepori to talk? Roy, it's up to you.

4 MEMBER WALKER: It's up to me? I would like
5 to hear from Mr. Lepori.

6 CHAIRMAN METCALF: Sir, come on up. State
7 your name, please, for the record.

8 MR. LEPORI: Good afternoon. Frank Lepori,
9 Lepori Construction. For the whole process here, I guess
10 the problem I have is the OSHA violation. I think for
11 me, as a contractor, the tram, the person had his harness
12 on. He had his lead on. So if I have one employee and
13 I'm with them all the time, I can make sure they hook
14 off. So I don't know what else I can do as an employer,
15 so I guess taking that OSHA violation in here when you've
16 been in the business as long as I have and we take OSHA
17 and we take safety very seriously. We talk about it
18 daily, we have daily meetings, weekly meetings, we grade
19 people on it. Their bonuses are structured on it. To
20 have this impact my company after all of the good things
21 we do, it's hard to -- It's a tough thing.

22 I don't think this is correct, your form.
23 This needs to be -- I believe this portion of it needs to
24 be re-done so someone else like myself who takes OSHA and
25 safety very seriously gets penalized because I have a
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1 good employee make a bad call. He got cited about 2:30
2 in the afternoon. His airgun jammed. He was tied off
3 unclipped and went down, came back up, forgot to clip
4 off. He was 13 feet in the air. That seems high to us,
5 but for a carpenter, it's not. And some of us are
6 old-timers. When they get good, I'm not saying he should
7 have been tied off, but he wasn't, and it was an error
8 from a good employee, and I get penalized. So I guess
9 that's -- I'm here to answer any questions.

10 CHAIRMAN METCALF: Thank you, Mr. Lepori.
11 Let's go down south. Mr. Tiberti first.

12 MEMBER TIBERTI: How much of this denial is
13 based on this OSHA, and how much is based on previous job
14 volumes? And is there any degree between \$5 million and
15 \$21? I heard \$18 million from Susan a minute ago. How
16 long is the re-application period that he can try again?
17 I want to get all of those facts straight before I can
18 understand what I think about this.

19 COUNSEL STEWART: The qualification period --
20 Oh, for the record, Susan Stewart, Construction Law
21 Counsel, Deputy Attorney General. The qualification
22 period is for two years, and the scoring, if you look on
23 the Agenda Item Number Two in the discussion section,
24 you'll see that 9.77 points were deducted for the scoring
25 on principal personnel based upon the size of the
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1 projects. Twenty points were deducted based upon past
2 successful projects based upon the size of the project
3 and the amount, the amount of the past successful
4 projects based upon the amount requested for
5 qualification, and then there were four points deducted
6 for OSHA violations, and just one last point.

7 If you look, the criteria for submission of
8 successful projects is -- lists ten Public Works or
9 private construction projects or any combination thereof,
10 that the applicant has successfully completed during the
11 five years immediately preceding the date of the
12 application for which the cost of the project is within
13 the cost category for which application seeks
14 qualification to submit bids.

15 And then finally, if you look at the very end
16 of -- Oh, Gus. Oh, okay. If you look at Exhibit B, the
17 last page, that shows the scoring at \$21 million dollars.
18 And at this point, based upon the current scoring and the
19 request for qualification, the maximum amount based upon
20 the scoring and the project submitted is \$5 million
21 dollars. Does that answer your question, Tito?

22 MEMBER TIBERTI: Well, it answers -- I guess
23 so. I guess what I'm saying is it's a little hard for me
24 to -- It's been very slow. This is no major secret for
25 like what, seven years, and there's not a lot of big
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1 projects.

2 So I understand our format, which makes sense
3 to me because somebody can be an older company, and you
4 could come in and say I've been doing a lot of
5 \$3-million-dollar jobs, which I looked at every one of
6 his jobs that he submitted, and they're a million and a
7 half, two and a half, three and a half million; a
8 convenience store and a bank, etcetera. But on the other
9 hand, there's not a lot of work around, but I was just
10 curious why \$21 million. We're making a big jump in the
11 two years -- the OSHA thing, I -- look. We're all for
12 safety, and my heart goes out to him because I know we
13 all make mistakes, and sometimes it's your employee.
14 That doesn't excuse any of it.

15 On the other hand, what I'm trying to measure
16 is how much the OSHA is knocking him down as compared to
17 the last five years of scale and size of jobs and/or
18 staff that would allow him to say all of a sudden,
19 complicated, big \$21 million-dollar job compared to a \$12
20 million-dollar Public Works job. I'm just picking some
21 numbers out of the air, nothing representative.

22 CHAIRMAN METCALF: Could we let Mr. Nunez go
23 first, and then I'll get back to you.

24 MR. LEPORI: Sure.

25 ADMINISTRATOR NUNEZ: Mr. Chairman, for the
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1 record, Gus Nunez, Administrator, Public Works Division.
2 I was just going to state, you know, here is the summary.
3 That last page that Susan described, you know, which is
4 Exhibit B, the last page of Exhibit B, that's what the
5 math shows. This is the way we grade everyone. And as
6 you can see there, Lepori Construction, as a result of
7 that, is losing 29.77 points, so any issues is going to
8 create -- at least based on the scoring criteria, any
9 issues is going to cause a problem because you can only
10 lose 30 points, so there's not a lot left after that.

11 So but to basically answer Member Tiberti's
12 more general question, I think with respect to the
13 personnel or company experience that is shown here, which
14 is generally what we're looking for is the last five
15 years, perhaps Mr. Lepori could answer that question
16 better than I can.

17 CHAIRMAN METCALF: Sure. Mr. Lepori?

18 MR. LEPORI: I was just going to state that,
19 you know, you're absolutely right. The last five, six
20 years have been pretty challenging. I'm just happy to be
21 in business. So we did do jobs that we can. You know,
22 before that in 2006 and '07, we were getting larger work.
23 We had \$10, \$15 million-dollar projects. Now we're doing
24 \$2 or \$3 million. We just landed a job for the
25 University of \$4 million dollars. So if you look at it
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1 that way, we're up against our cap if we have a \$5
2 million-dollar cap.

3 We're going to be asking, if we can, for, you
4 know, we're going to do bigger work. I believe we're
5 ready for it, the bigger work. We do a good job when
6 we're on site, so that's why the OSHA thing, when you
7 have all of these other elements, you have bad economic
8 times and then you get popped with the OSHA violation, it
9 takes so much away from you.

10 CHAIRMAN METCALF: Mr. Walker?

11 MEMBER WALKER: Roy Walker. Cece, in the
12 last prior qualifications for Lepori Construction in the
13 last six years, which was in this -- I'm just assuming
14 that he was down dollar volume, but there was no OSHA
15 fine or no OSHA penalty over the prior qualifications
16 that I believe were \$18 million?

17 MS. ZIMMERMAN: Correct. Cece Zimmerman,
18 Qualification. The violation, OSHA violation didn't
19 happen until February of 2014, so it was not -- It
20 happened after the last time he applied for
21 qualification.

22 MEMBER WALKER: So being qualified or going
23 through the third qualification period and the others
24 were at \$18 million. Taking the economic hardships that
25 we're all in, the only change to the application would be
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1 the four-point deduction for the OSHA fine?

2 MS. ZIMMERMAN: Correct. That's kind of what
3 made the difference this time. I could go back to their
4 last application and share with you some of the sizes of
5 the projects from last time.

6 MEMBER WALKER: I don't -- you know, I'm just
7 looking at the last six years, he's been qualifying for
8 \$18 million.

9 MS. ZIMMERMAN: Correct.

10 MEMBER WALKER: Now, there's an OSHA fine in
11 February in which he loses four points and now can't
12 re-qualify for the \$18 million that he's had for six
13 years.

14 MS. ZIMMERMAN: That's correct.

15 CHAIRMAN METCALF: Cece, this is Tom Metcalf,
16 for the record. I'd like you to repeat some of those
17 larger jobs in the last go-around.

18 MS. ZIMMERMAN: From the last application?

19 CHAIRMAN METCALF: Uh-huh.

20 MS. ZIMMERMAN: Okay. I'll go back to the
21 application from 2013 was -- one was \$1.3 million, \$2.5
22 million, and I'm guesstimating, \$3.8 million, \$3.5
23 million, \$1.7, \$2.5, \$2.9, \$1.22, and \$2,067,000.

24 CHAIRMAN METCALF: And we gave the company an
25 \$18 million-dollar limit.

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1 MS. ZIMMERMAN: Correct, because there were
2 no OSHA violations in that application.

3 CHAIRMAN METCALF: Okay. And, Mr. Lepori,
4 what was the largest job you've done in the last -- in
5 your career with Lepori Construction? Largest single
6 contract.

7 MR. LEPORI: Probably \$12 to \$15 million.

8 CHAIRMAN METCALF: And how many of those,
9 would you say?

10 MR. LEPORI: Probably one that size and a
11 couple \$8 to \$9 million. And the question here is the
12 ability to bid it, you know, because a lot of times with
13 those bigger numbers, you know as contractors, the
14 numbers sometimes -- you've got to be comfortable with
15 your number you turn in.

16 CHAIRMAN METCALF: I understand. Other
17 question maybe for Cece. How long before this OSHA
18 violation drops off the radar if there are no more
19 violations?

20 MS. ZIMMERMAN: Five years from the time of
21 the violation.

22 CHAIRMAN METCALF: Okay.

23 MR. LEPORI: Mr. Metcalf, this is Frank
24 Lepori. On our average, we have usually, unfortunately,
25 one violation about every four or five years.

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1 CHAIRMAN METCALF: Join the crowd. Sorry. I
2 agree with Mr. Tiberti.

3 COUNSEL STEWART: For the record, Mr. Lepori,
4 could you please -- I know it's in the material that you
5 submitted, but could you please just point out to the
6 Board the action that you took after the OSHA violation
7 so that that's part of the our transcript here today.

8 MR. LEPORI: Sure. Let me find the letter.
9 What we do is I bring an individual in and we talk and we
10 figure out why, and then I kind of make a judgment call
11 what to do with the individual.

12 At the time we talked, he thought he was
13 going to lose his job, and he's a good worker, so he was
14 put on basically probation to make sure this doesn't
15 happen again. Our next safety meeting was for tie-offs,
16 so we took, I thought, precautionary reasons to make sure
17 he understands how important it is to tie-off.

18 COUNSEL STEWART: Thank you.

19 CHAIRMAN METCALF: Are there any other
20 questions?

21 MEMBER TIBERTI: I would like two or three
22 questions. I'd like to ask, I guess, Susan. What
23 motions and stuff can we make or do as far as a dollar
24 amount or application? What leeway do we have as
25 directors here today?

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1 COUNSEL STEWART: You have -- For the record,
2 Susan Stewart. You have complete discretion. You are
3 not bound by the decisions of staff. You have -- I know
4 in the past, one of the -- I think Mr. Walker will recall
5 we asked a contractor six months later to come back and
6 show the safety record that they had established, and so
7 you can set the limit. You can make a motion to excuse
8 the OSHA violation based upon Mr. Lepori's
9 representations today. Really, you have the discretion
10 to craft a solution in any way you choose. You can
11 uphold staff's decision to qualify Lepori Construction at
12 \$5 million dollars. Really, it's up to the Board.

13 CHAIRMAN METCALF: Mr. Nunez?

14 ADMINISTRATOR NUNEZ: For the record, Gus
15 Nunez. Member Tiberti, Gus Nunez, for the record,
16 Administrator. Typically, we -- The maximum that we
17 would go to -- again, you have, as Susan said, full
18 discretion. It would either be the contractor's license
19 limit, and/or the bonding limit, the single, and
20 whichever is less. And so I think that I believe now
21 with Mr. Lepori, the bonding is your limit right now, not
22 your license.

23 MR. LEPORI: The license is unlimited.

24 ADMINISTRATOR NUNEZ: The license is
25 unlimited. The bonding is --

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1 MR. LEPORI: The bonding is \$21 million.

2 ADMINISTRATOR NUNEZ: The bonding is at \$21
3 million. So based on current policy, \$21 million.
4 Again, to reiterate, per Board direction in the past,
5 you've always asked the staff to just basically do the
6 scoring and do the math, no discretion, so with the
7 discretion left to the Board. And as Susan said, you
8 have full discretion.

9 All we do is we look at application, we do
10 the scoring in accordance with the scoring process that
11 you have approved for us. And again, based on we just
12 let the chips fall where they may based on the amount.
13 But, as Susan indicated, you have full discretion to go
14 anywhere from the \$5 million dollars is, I guess that's
15 recommended that the numbers show here all the way up to
16 right now would be the bonding limit, so it would be \$21
17 million or anywhere in-between that you feel comfortable.
18 That would be your discretion.

19 COUNSEL STEWART: And just to clarify --
20 Construction Law Counsel Susan Stewart. Mr. Lepori, in
21 his appeal, has asked for the \$18 million-dollar limit,
22 which is what he was qualified for in the last two years.

23 CHAIRMAN METCALF: First of all, I'd like to
24 note Member Wells is here. So, Heather, you know, that,
25 right?

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1 MS. FATZER: (Indicating.)

2 CHAIRMAN METCALF: And, Mr. Wells, if you
3 would like to make a comment at this time.

4 MEMBER WELLS: No comment, thank you.

5 CHAIRMAN METCALF: Member Walker?

6 MEMBER WALKER: First, Member Walker.
7 Discussion. I've known Frank Lepori for a number of
8 years. We've never worked together. We've worked around
9 each other, were competitors on one part. He has run a
10 very good show. I think it's in the best interest of the
11 State to support his application for \$18 million, which
12 is lower than both the license and the bonding.

13 So from that, I would like to make a motion
14 that we support the application for \$18 million dollars.
15 And with that, the -- I put the probation on the last
16 fellow, that there's a probation here that if Lepori
17 Construction does do work above the \$5 million or greater
18 than \$5 million-dollar capacity and the administrator
19 finds him not to do the work in accordance with any of
20 our standards that we review this again at that
21 particular time and discuss his limit at that particular
22 time if he has unsatisfactory performance over any
23 project greater than the \$5 million dollars.

24 COUNSEL STEWART: Susan Stewart, for the
25 record. We do perhaps make it a little bit more
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1 specific. We're speaking to State Public Works projects,
2 and the State Public Works Division does have a
3 performance evaluation that is completed at the
4 conclusion of a project, so perhaps based upon the
5 results of that performance evaluation.

6 MEMBER WALKER: Member Walker. I agree with
7 that. I believe you would clean me up with the
8 specifics.

9 COUNSEL STEWART: I'm afraid Board counsel
10 might clean it up a little bit more. I don't know.

11 COUNSEL BENSON: I'll let it go at that.

12 CHAIRMAN METCALF: We have a motion. I'm
13 looking for a second.

14 MEMBER TIBERTI: I'm like to have a
15 discussion on a couple of those points too. Tito
16 Tiberti, for the record.

17 CHAIRMAN METCALF: Member Tiberti?

18 MEMBER TIBERTI: The \$18 million dollars or
19 the bonding letter that I read, is that for a single
20 project, or is that a cumulative work?

21 CHAIRMAN METCALF: This is Chairman Metcalf.
22 It's \$21 million for a single job, \$31 million aggregate.

23 MEMBER TIBERTI: Okay. The second question
24 would be I don't know Frank and Roy does, but be that as
25 it may, I'm curious just because you have financial

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1 ability and you have a longevity, sometimes your
2 organization gets pared way down when there's not a lot
3 of work and all of a sudden you get a more sophisticated
4 and bigger job. Do you have the ability to ramp up and
5 manage that job on a state level to do that work? That's
6 my only question.

7 I'm not second-guessing the bonding company.
8 I'm not second-guessing the age of the company or Frank's
9 ability. I'm just questioning how are we standing to do
10 an \$18 million-dollar job? I'm basically going to
11 support this motion. I'd just like to have comment on
12 those things.

13 CHAIRMAN METCALF: Mr. Lepori?

14 MR. LEPORI: Right now we have just under 50
15 guys working for me. In the last three months, we put \$2
16 million dollars a month into the company, so I believe we
17 have the organization to do an \$18 million-dollar
18 project.

19 MEMBER TIBERTI: With that, I'll second the
20 motion.

21 CHAIRMAN METCALF: Okay. We have a motion
22 seconded. All of those in favor, signify by saying aye.

23 THE BOARD: Aye.

24 CHAIRMAN METCALF: Opposed? And we have one
25 abstention from Member Stewart. The motion passes. \$18

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1 million.

2 MR. LEPORI: Thank you very much.

3 CHAIRMAN METCALF: Thank you for coming here.

4 MR. LEPORI: Can I ask one question?

5 CHAIRMAN METCALF: Yes, sir.

6 MR. LEPORI: On the OSHA issue, is there
7 anything that you can add into the language that adds
8 maybe a willful or, you know, sometimes when you get an
9 OSHA violation if it's a willful or you're not trying.
10 So I think what the intent of the OSHA was forget
11 contractors who don't care about safety.

12 CHAIRMAN METCALF: And we get those, sir.

13 MR. LEPORI: I totally understand, but the
14 language needs to change, or else you're going to have
15 more people in here. And I know everyone is busy, so I
16 don't know if there's a language change that Susan can
17 craft.

18 COUNSEL STEWART: Can I respond to that?

19 CHAIRMAN METCALF: Go ahead.

20 COUNSEL STEWART: For the record, Susan
21 Stewart, Construction Law Counsel. My understanding is
22 that the law was crafted in such a way so that if there
23 are OSHA violations based upon the ability to perform the
24 work, then we would score according to what's set out in
25 our application process.

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1 The safety net in that process is you come
2 here and you tell the Board, "I've got a good employee,
3 he was written up. This doesn't usually happen," and the
4 Board says, "Oh, that's reasonable. We understand." Or,
5 in the alternative, someone comes here and they have ten
6 OSHA violations, and clearly, safety is not a priority
7 for them, and then the Board can respond.

8 MR. LEPORI: Fair enough. Thank you.

9 CHAIRMAN METCALF: Thank you, sir. Next item
10 on the agenda is public comment. Is there any public
11 comment at this time?

12 Item Number Four is Board comment and
13 discussion. Anybody down south?

14 MEMBER TIBERTI: I'd like to have Sean let my
15 arm underneath the chair. He's had it pulled back. I
16 can't get it out.

17 VICE-CHAIRMAN STEWART: Sean Stewart, for the
18 record. That is not true. I didn't say a word.

19 CHAIRMAN METCALF: Member Walker? Member
20 Wells?

21 MEMBER WALKER: No comment.

22 MEMBER WELLS: No.

23 CHAIRMAN METCALF: Meeting is adjourned.

24 (The meeting concluded at 2:32 p.m.)

25 -o0o-
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1 STATE OF NEVADA,)

2)

3 CARSON CITY.)

4

5

6

7 I, NICOLE ALEXANDER, Official Court Reporter for the
8 State of Nevada, State Public Works Division, do hereby
9 Certify:

10 That on the 4th day of May, 2015, I was
11 present at said meeting for the purpose of reporting in
12 verbatim stenotype notes the within-entitled public
13 meeting;

14 That the foregoing transcript, consisting of pages 1
15 through 24, inclusive, includes a full, true and correct
16 transcription of my stenotype notes of
17 said public meeting.

18

19

20 Dated at Carson City, Nevada, this 5th day of
21 May, 2015.

22

23

24

NICOLE ALEXANDER, NV CCR #446

25

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