

In The Matter Of:
PUBLIC WORKS DIVISION
VIDEO CONFERENCE BOARD MEETING

July 29, 2020

Capitol Reporters
123 W. Nye Lane, Ste 107

Carson City, Nevada 89706

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Min-U-Script® with Word Index

Page 1

1 STATE OF NEVADA
2 PUBLIC WORKS DIVISION
3 --oOo--
4
5 VIDEO-CONFERENCE BOARD MEETING
6 TRANSCRIPT OF PROCEEDINGS
7 SPWD CONTRACTOR QUALIFICATION SUBCOMMITTEE
8 WEDNESDAY, JULY 29, 2020
9 CARSON CITY AND LAS VEGAS, NEVADA
10
11
12
13 The Board ADAM HAND, Chairman
14 SEAN STEWART, Vice Chair
15 KEVIN LEWIS, Member
16 LAURA FREED, Member
17 TITO TIBERTI, Member
18
19 For the Board: SUSAN STEWART,
20 Construction Law Counsel
21 JEFF MENICUCCI,
22 Deputy Attorney General
23 WARD PATRICK,
24 Administrator
KENT LEFEVRE,
Deputy Administrator

Reported by: CAPITOL REPORTERS
Certified Shorthand Reporters
BY: KATHY JACKSON
Nevada CCR #402
208 North Curry Street
Carson City, Nevada 89703

Page 2

INDEX	
AGENDA ITEM	PAGE
1. Role Call.	3
2. Public Comment - No public comment.	3
3. Staff presentation on follow-up from December 11, 2019 contractor qualification subcommittee, review roundtable discussion and possible Board recommendation.	4
4. Subcommittee comment and discussion.	28
5. Public comment.	28
6. Adjournment.	30

Page 3

1 WEDNESDAY, JULY 29, 2020, CARSON CITY, NEVADA
2 -oOo-
3 CHAIRMAN HAND: We'll go ahead and get started.
4 It's five after 1:00.
5 MS. STEWART: Five after 2:00.
6 CHAIRMAN HAND: Five after 2:00. That's right.
7 That was 1:00 o'clock.
8 And I guess really the first thing on our agenda
9 is the public comment. And do we have any public comment?
10 MS. STEWART: We had an individual call in.
11 Susan Stewart for the record. Call in for the collaboration
12 code, and I reached out to her independently. She's going to
13 be listening in to our meeting and does not intend to
14 participate, but we will ask her again at the end of the
15 meeting and make sure that that remains the case.
16 CHAIRMAN HAND: Great. Thank you.
17 MS. STEWART: Uh-huh.
18 CHAIRMAN HAND: We will go to Item Three as the
19 update. Are you ready?
20 MS. STEWART: Okay. Susan Stewart for the
21 record. So we're following up on our December 11, 2019,
22 subcommittee meeting, and I apologize for the delay. I was
23 procrastinating, and then the whole world blew up, and then
24 there was nothing we could do about it, but we're ready to

Page 4

1 go. And if you look what I put here on Agenda Three is just
2 a summary of the follow-up.
3 One of the things that we did is we've confirmed
4 on the contractor performance evaluation that those
5 references to the general conditions are current and correct.
6 The second thing that we discussed at the last
7 subcommittee meeting was revising the qualification
8 application, and I've got a list of those revisions. We also
9 revised the committee score sheet consistent with those
10 changes, and then we made one minor revision to the under
11 100,000 dollar application.
12 And I think if it's okay with the subcommittee,
13 what I'll do is we'll just walk through Attachment A which is
14 the changes that we made to the application. And if you
15 look, the first one is on page five. And as you recall at
16 the subcommittee meeting last time I talked about some of the
17 items that we had to fix and this is one of them.
18 Somewhere in the twisting turns of the
19 legislative process what got added in there was that the
20 contractor that breaches a contract for public work, and
21 there's a typo here. I apologize. Which exceeds \$25,000,000
22 in cost cannot perform public works, and the language is
23 unequivocal. So it's a pass/fail. Certainly someone is
24 still going to have the opportunity to appeal that, but this

Page 5

1 is language directly from the statute that we've added now
2 into the application. And I'm sorry.
3 CHAIRMAN HAND: Is that -- is that just in Nevada
4 or is that --
5 MS. STEWART: It's Nevada.
6 CHAIRMAN HAND: It's just in Nevada?
7 MS. STEWART: Correct.
8 CHAIRMAN HAND: Okay.
9 MS. STEWART: Yeah.
10 CHAIRMAN HAND: If it happens in Utah it doesn't
11 matter?
12 MS. STEWART: Correct.
13 MR. PATRICK: What happens -- Ward Patrick for
14 the record. What happens in Utah stays in Utah.
15 CHAIRMAN HAND: Yeah, exactly. I thought it was
16 Vegas.
17 MR. PATRICK: That's right.
18 Susan, this is Ward Patrick again. So later in
19 the packet we're going to see where we made these pass/fail
20 instead of yes/no. Maybe do that for this one because this
21 is absolute.
22 MS. STEWART: No.
23 MR. PATRICK: Makes it clear.
24 MR. STEWART: No.

Page 6

1 MR. PATRICK: No.
2 MS. STEWART: Because we're asking for a yes/no
3 here because they are saying it's their application. Has
4 this happened.
5 MR. PATRICK: Okay. It's not the score sheet.
6 MS. STEWART: And you say yes or no, and in the
7 score sheet it's pass/fail.
8 MR. PATRICK: There you go.
9 MS. STEWART: I have thought about that myself.
10 Okay. Jump in any time. Page six, top of the
11 page, I just corrected the statutory references here. If an
12 applicant has been disqualified.
13 And then if you go to page ten, you will recall
14 at the subcommittee meeting last time or maybe you don't
15 recall, there's now a requirement in statute that an
16 applicant disclose prior litigation, and the thinking here
17 was if we've got a litigious contractor applying we want to
18 know that.
19 We're a little stymied at this point on how we
20 would score that. So the consensus of the subcommittee was
21 we're just going to ask for the information. And then at
22 some point we may decide, oh, we need to score this or oh,
23 we're just going to keep asking for the information.
24 But at this point if we add it we're consistent

Page 7

1 with what has to be disclosed, and then at a later date we
2 can decide if we want to score it at some point or not.
3 Because I think that can get kind of squishy but it, you
4 know -- and I think maybe what Ward and I will make a
5 commitment to do is we will -- we'll do some type of summary
6 maybe a year from now and see what kind of information we're
7 getting and then decide, you know, for the Board as a whole
8 if there's any action they want to take on that.
9 Page 12, I just changed some -- I don't know why
10 that's -- I delete -- oh, I took a comma out, okay.
11 The next substantive change is on page 22 and,
12 again, this is one of the changes we're required to make and
13 this is in the NAC that we're required to score contractor
14 performance evaluations. We talked about if there were
15 multiple evaluations for the last five years and doing an
16 average of those and so for here for the application all
17 we're asking is that they list them. And we have -- when we
18 get to the scoring piece, Ward and I have additional
19 information on that particular piece.
20 So those are the changes to the application.
21 Pretty straight forward. And then if you want, we can just
22 go to B which is how we're going to score those.
23 The first thing on page one is if you look at the
24 bottom, Ward and Kent and I spent some time discussing if we

Page 8

1 wanted to add a larger category, increase the category from
2 30,000,000 to 50. And what's presented here is two
3 categories for up to 100,000,000 and then over 100,000,000.
4 And Ward and I had a subsequent discussion and thought maybe
5 we didn't need to do this.
6 So, Ward, do you want to chime in on what your
7 thoughts are on this. It kind of came in the category if
8 it's not broke why are we fixing it, and so maybe we just
9 leave it as it is.
10 MR. PATRICK: Yeah. Ward Patrick for the record.
11 The systems that we use for better qualification is just
12 that. We're trying to qualify the bidders as opposed to
13 disqualify the bidders.
14 So when we find that, you know, that if the
15 ranges that we're using, if that causes a problem for a
16 bidder we would allow them to adjust their bond letter, you
17 know, and so then they can find a sweet spot where they can
18 get as high of a qualification, you know, without being --
19 having to come to the appeals board.
20 And so -- so it's -- it's -- it's a very friendly
21 system and it just kind of would be make work to create
22 another category because the applicant can just provide a new
23 bond letter that makes it so they are in a sweet spot where
24 they get enough points to qualify.

Page 9

1 So -- so we're kind of leaning towards just
2 keeping the same number of categories, increase the amount
3 from 30,000,000 to 50,000,000, not create any intermediate
4 categories because the applicants can work with staff, not
5 the Board, but with staff to find a sweet spot to get
6 qualified where they might want to be qualified. We're in
7 the business of qualifying contractors not disqualifying. So
8 we're leaning towards to just increasing the top end number
9 not create more categories.

10 MS. STEWART: Does that sound reasonable to you
11 guys? Yes, okay. All right. Because at the -- at the
12 conclusion of my presentation what I'm going to ask is if you
13 feel like you're ready to make a recommendation to the full
14 Board, and so what I'm seeing is that we will just bump the
15 30,000,000 up to 50 rather than create a new category, a
16 separate category. All right, great.

17 Next, page two of the score sheet, you'll see at
18 the top of the page this is the breach of contract and that's
19 a pass/fail now based upon the law.

20 The next change is just prior disqualification.
21 We're, again, just updating those statutory references.

22 Okay. So now the next page is probably one of
23 the most substantive changes we're making. This is on page
24 three, and it has to do with the scoring of fines from OSHA,

Page 10

1 MSHA and the State Contractor's Board.

2 So the underlying premise of why we ask for this
3 information is the fines are arguably related to the ability
4 of the applicant to perform the public work. And what
5 happens is staff and I will see OSHA and MSHA violations that
6 are clearly not related to the applicant's ability to perform
7 the work. There's a plate cover missing. There's paperwork
8 that wasn't billed out. But because we're not allowed to
9 exercise our discretion, those violations are scored and come
10 before the Board and may end up in an appeal.

11 So taking that underlying premise and what we
12 discussed in December subcommittee meeting what we landed on
13 is that we're still asking the contractor to disclose all
14 violations, but what staff will score is MSHA, OSHA
15 violations that are serious repeat or willful.

16 So if there's a serious violation, a repeat
17 violation or a willful violation, arguably if it lands in one
18 of those categories it will be related to the applicant's
19 ability to perform the public work. So that let's us do a
20 more accurate evaluation without exercising any discretion.

21 The other thing that we've changed is we're
22 not -- because you concede some of those administrative
23 violations, it's \$2,000. It's \$3,000, and it's a pretty
24 hefty point deduction for a relatively minor fine, and so we

Page 11

1 don't start scoring here until there's a 5,000 dollar
2 violation and, again, it has to be serious repeat or willful
3 if it's an MSHA or OSHA fine.

4 And then we go all the way up to 25,000 and above
5 which is the total deduction of seven points, and then the
6 maximum amount of points that can be deducted is 20 points.
7 And the thinking on that limitation was that every other
8 category alone is not enough to fail an applicant.

9 So by putting the maximum of 20 points here they
10 can completely fail this fine section and if they pass
11 everything else they will still be able to pass. So that
12 puts us on parody with how other sections are scored.

13 So that was the thinking for this and these
14 are -- is this consistent with what the subcommittee's
15 direction? Do you think this is going to get us where we
16 need to go as far as being better able to, you know, consider
17 a violation related to the applicant's ability to perform the
18 public work.

19 MEMBER STEWART: I think these are great changes.
20 I really really like moving the fine amount up to \$5,000.
21 Because you're right, I mean, in most situations any issue
22 that you have they are going to require a 1,000 dollar
23 payment whether it's -- it's just that's the bottom line. So
24 that 500 -- the days of 500 are even gone. It seems like

Page 12

1 everything starts at 1,000. These are good changes. I like
2 them.

3 MS. STEWART: Okay. Tito, what do you think?
4 Does this -- do you think this is going to get us where we
5 need to go?

6 MEMBER TIBERTI: Well, if you and Ward and staff
7 all think that this, forget Sean a minute, if you all think
8 that this is where we need to be, I know that one thing. You
9 can get these fines, like you say, for all kinds of things
10 and it starts to get pretty punitive without even having a
11 chance to get started. I think if staff is comfortable with
12 the changes.

13 I think Sean is right. It's time to move this
14 up, but I don't want you guys to say we're handcuffing you to
15 make good decisions, but I think we listen to a lot of these
16 people, and it is -- it's worth listening to, but sometimes
17 it sounds worse than it is, and it's dangerous. So I don't
18 think that -- I think this is a good change.

19 MS. STEWART: Okay. Adam, did you have any
20 thoughts on it?

21 CHAIRMAN HAND: Yeah, I agree. The only, my, not
22 concern, but I think we're -- I would agree with this as we
23 move forward but the -- the max -- because, I mean, these are
24 right, serious, repeat, willful, right. Those are real

Page 13

1 fines. You know what I mean. Those aren't paperwork and all
2 of that stuff.

3 And -- and, you know, when you have a contractor
4 or operator, somebody that repeatedly gets a lot of those,
5 it's a pretty big flag and to not be able to disqualify him
6 for safety is a struggle in my mind even though because they
7 obviously had been one point off someplace else they wouldn't
8 qualify.

9 MS. STEWART: And that --

10 CHAIRMAN HAND: That's the only thing that I'm
11 struggling with in my mind.

12 MS. STEWART: Yeah. And that's why I said in of
13 theory.

14 And, Kathi, I would ask you to weigh in on this.
15 Rarely, rarely do we have a contractor who doesn't have a
16 couple of points deducted --

17 CHAIRMAN HAND: Yeah.

18 MS. STEWART: -- for past projects and things
19 like that. Kathi, did you want to chime in on this.

20 MS. PASCIAK: Kathi Pasciak for the record.
21 Typically contractors do have points that are deducted in
22 part two and part six for successful projects and principle
23 personnel projects.

24 CHAIRMAN HAND: Sure.

Page 14

1 MS. PASCIAK: There are occasions that they have
2 projects that are large enough that they don't have any
3 points deducted, and they could have a full 20 points
4 deducted on this and still pass. And if they have 20 points
5 deducted do we want them to pass if their performance is that
6 poor. That's my concern.

7 MS. STEWART: Yeah, it's a good point. It's a
8 good point, and I completely agree that that is a -- that is
9 a concern. If they -- I mean, for them to have 20 points --

10 CHAIRMAN HAND: It's got to be pretty serious.

11 MS. STEWART: -- that's pretty serious.

12 CHAIRMAN HAND: It's pretty serious to get.

13 MS. STEWART: You know, so maybe we don't put a
14 cap.

15 MR. PATRICK: Yeah, I would say that -- you know,
16 what we've been hearing on these appeals is that most all of
17 these contractors have their -- their rating below 1.0, .7
18 and .9.

19 CHAIRMAN HAND: Right.

20 MR. PATRICK: And so we're spending and then
21 that multiplies the staff time on these projects to -- when
22 they have got these great safety ratings.

23 CHAIRMAN HAND: Uh-huh.

24 MR. PATRICK: And so certainly there are -- in

Page 15

1 statute there are other provisions, right. And historic -- I
2 need some help here, Susan, but historically there was
3 responsive and responsible was the criteria in which to award
4 a contract, and so is that still the same or is there some --
5 like some exceptions to that or nuances to that?

6 MS. STEWART: Well, it is a bid is responsive and
7 a contractor is responsible and I would like to say that the
8 statute keeps those separate and clear throughout NRS 338 and
9 341 but it does not.

10 But there is a provision in NRS 338 that if we
11 find -- we get information about a contractor we can ask them
12 to qualify. We can ask them to come in front of the Board.
13 So we have that -- we have that remedied.

14 We also have that remedy for subcontractors and
15 we've actually done that with subcontractors. We did that
16 with South End. They tried to qualify as a prime and did not
17 because of all of their wage hour violations. And then we
18 told them oh, by the way, we don't want you doing subcontract
19 work for us, and we asked them to qualify and they did not,
20 and so they no longer do work for us. So there is that
21 remedy as well.

22 MR. PATRICK: So this isn't the only -- you know,
23 this isn't the only net --

24 CHAIRMAN HAND: Right.

Page 16

1 MR. PATRICK: -- to get the catfish out of our
2 trout, right.

3 CHAIRMAN HAND: Yeah.

4 MS. STEWART: Right.

5 CHAIRMAN HAND: No. And I -- I was very much
6 advocating for exactly what you've done. So I
7 misinterpreted. You know, the question I'm posing --

8 MS. STEWART: Okay.

9 CHAIRMAN HAND: -- it's just there's -- it just,
10 again.

11 MS. STEWART: Recognizing.

12 CHAIRMAN HAND: Yeah.

13 MR. PATRICK: Yeah.

14 CHAIRMAN HAND: It raises I guess to bring the
15 point up that it can lead to somebody. They're probably
16 going to have other issues if they get 20 points off of here
17 they are going to have other issues.

18 MS. STEWART: Well, and the other thing that I
19 would mention is I think from the time that the Board adopts
20 these changes, staff implements them and they get rolled out,
21 you know, we can do a year of, you know, later and say hey,
22 you know, we can do an assessment. It's a problem.

23 CHAIRMAN HAND: Yeah.

24 MS. STEWART: You know, we've got these guys

Page 17

1 squeaking through. We don't think they should be squeaking
2 through and we can revisit.
3 MEMBER TIBERTI: That's a good point, Susan.
4 MS. STEWART: Okay.
5 MEMBER TIBERTI: We got out of bounds a little
6 bit here. You know, it was not a lot of big work going on
7 for six to eight months. So we wake up and we say wait a
8 minute. We goofed up here. Let's go back and redo it.
9 MS. STEWART: Right. And the one thing, you
10 know, you'll remember what we had attached for our December
11 meeting is Kathi put together that chart that showed the
12 number of appeals we've had, the number of contractors that
13 we did not grant the appeal and it was a very small number.
14 So, but there are changes we have to make because of the
15 changes in the law.
16 And then also I think we're kind of missing the
17 point in these OSHA and MSHA violations. So it makes sense
18 to visit this. See if we can do a little bit better so what
19 does come in front of the Board is something that's serious
20 and that warrants a denial in your review of it on appeal.
21 Okay. So go ahead, Sean. Did you have something
22 to add in?
23 MEMBER STEWART: No. I'm just listening in.
24 Sorry.

Page 18

1 MS. STEWART: No. No. You're fine.
2 MR. PATRICK: Appreciate it.
3 MEMBER STEWART: I guess my mindset has changed
4 on this. I've been on here for like 35 years it feels like
5 but since Tito was like 20 we've been on here.
6 I guess my thought process has changed a little
7 bit. I used to worry about the stress we put on staff and
8 having to work through these and then we overrule them. But
9 the more and more we get them I think like we work together
10 very well. And if we can simplify the amount of cases that
11 have to come to us, if staff can make that adjustment
12 themselves I'm all for it.
13 MS. STEWART: Yep. And I think it's -- I
14 completely concur. I think it's a very good team approach
15 and it's very -- it's very helpful for staff and myself
16 because, you know, A, Ward said it. We are not in the
17 business of disqualifying contractors.
18 B, I get to work with guys like U.S. Mechanical
19 and say, you know, staff has no discretion. We're just
20 ticking the boxes and work with them so that they have, you
21 know, they have the opportunity to come to the Board and
22 present their appeal.
23 CHAIRMAN HAND: Sure.
24 MS. STEWART: So I completely concur.

Page 19

1 MR. PATRICK: Ward Patrick for the record. And
2 so I see Kevin is still logged on. I don't know if he had
3 anything to say and also Director Freed is on line. I don't
4 know if they are actively listening, but it sounds like
5 something we could benefit from any other input. Maybe they
6 are not listening but happened to be logged on. I appreciate
7 it.
8 MS. STEWART: Okay. And so at the bottom of page
9 three, so I'm going to make the recommendation to the Board
10 will include the changes that are presented here today and
11 with the understanding that we're going to revisit this all
12 in a year and see what's working and see if something isn't
13 working.
14 Successful projects, you can see I bumped this up
15 to the 50,000,000, and so that's going to stand, and we'll
16 make the application match that as well.
17 The next page is the contractor performance
18 evaluation, and this is as we mentioned, we had and, I don't
19 know, I think Sean was here for this. Maybe it was even
20 before Sean. I know Tito was on the Board. We had -- we
21 changed the regulation to include a requirement that we score
22 the contractor performance evaluation.
23 We had at least three meetings in this room,
24 standing room only, and we agreed upon the form, and we

Page 20

1 agreed upon the scoring, and so that is what is reflected
2 here in the evaluation.
3 Again, I would think, excuse me, this is
4 something, and I think I begged you guys not to make me
5 change the evaluation form until we decide if it's working or
6 not working.
7 The one thing I did want to say is because the
8 evaluation has not been scored, it has been treated in a
9 perfunctory manner.
10 MR. PATRICK: Perfunctory manner.
11 MS. STEWART: Yes. We look for the correct word
12 to express which means little thought or effort because it
13 does -- really, you know, it is kind of form over substance,
14 and now that it is going to matter we're going to have to
15 give the contractors some time to understand that these
16 evaluations now will have meaning and they will impact your
17 ability to perform public works.
18 I thought the other day maybe it's something we
19 could roll out during the pre-construction meeting. They go
20 over the evaluation form and now they can flag. They can put
21 it in red and say this is going to be meaningful.
22 Now, keep in mind you'll be making a
23 recommendation to the Board. The Board isn't meeting again
24 until August. I'm not sure this will make the August agenda

1 because we're doing the CIP. So what I anticipate is this
2 probably won't get rolled out until the new year. It's a
3 little bit -- or towards, well --
4 CHAIRMAN HAND: The end of the year.
5 MS. STEWART: -- if the Board approves it in the
6 fall it won't get rolled out until 2021. So we'll have some
7 time to do some education. But, again, this is one of the
8 changes that we are required to make pursuant to regulation.
9 Any comments? Questions? Criticism? Okay,
10 good.
11 So the next thing is the next thing, sorry. The
12 next item is Attachment A or C and, again, this was one of
13 the changes we needed to make. The challenge was on the
14 applications for less than 100,000. We asked the contractor
15 to disclose whether or not they filed bankruptcy.
16 The problem was we didn't give staff any
17 direction on how to score that or what the result was, and so
18 you'll see that I just included the application for some
19 context. You can see on page two they're still just required
20 to disclose it. They are required to attach a copy of the
21 bankruptcy petition.
22 And then if you look at the next page one, which
23 is the scoring, the committee's evaluation, a Chapter Seven
24 within the last five years will be a pass or a fail. And so

1 if they disclose a Chapter Seven bankruptcy within the last
2 five years that will be a fail.
3 The Chapter 11 and Chapter 13, it's just a
4 disclosure, and there's no -- there's no pass or fail
5 associated with Chapter 11 or 13. And this is consistent
6 with how the over -- they lose points on the over 100,000
7 application.
8 Kathi, how do they -- can you.
9 MS. PASCIAK: It's pass/fail for all of them.
10 MS. STEWART: Okay. Well, no, on the -- yeah,
11 for all of them. Well, chapter -- okay. Here we go. So
12 this is consistent with how we score the over 100,000.
13 Chapter Seven bankruptcy within the last five years is a fail
14 on the over 100,000. So we're just making the under 100,000
15 consistent with the over 100,000, and that would be my
16 recommendation to the Board.
17 Any questions on that?
18 CHAIRMAN HAND: Why would they be treated
19 differently?
20 MS. STEWART: Exactly, and that's what we -- at
21 the December meeting that's the point that was raised is
22 let's treat it consistent with the larger application which
23 in the larger application if it's Chapter Seven it's a fail.
24 MR. MENICUCCI: Susan, is that something on

1 appeal the Board could decide to grant qualification
2 notwithstanding the Chapter Seven?
3 MS. STEWART: Yes. Yep. They can appeal
4 anything. I mean, they can appeal a denial. So we deny it
5 on that basis, they certainly can.
6 MR. MENICUCCI: If they had extenuating
7 circumstances.
8 MS. STEWART: Yes. Uh-huh. They can come in and
9 throw themselves on the mercy of the Board.
10 So -- so what I'm hearing is a recommendation or
11 the subcommittee is ready to make a recommendation to the
12 full Board consistent with what we've presented here this
13 afternoon.
14 Okay. We don't need a formal anything.
15 Sean, you okay with all of that?
16 MEMBER STEWART: Yeah. The only -- the only
17 question I have is that I always worry that Ward Patrick and
18 his people, as you deal with contractors and you come across
19 bad contractors, do you feel like with the changes we made
20 you're able to make some limitations on what those
21 contractors can do going forward once they prove to be the
22 type of contractor they are? I'll just leave it at that.
23 Are there protections that you feel we have that we can weed
24 out the bad contractors so we can get a good contractor?

1 MR. PATRICK: Yes. Thank you. Ward Patrick for
2 the record. So certain aspects of these changes have made it
3 more stringent like under the 100,00, and certain aspects
4 have made it -- have made it easier to qualify but yet it,
5 you know, decreases the time we're going to have together
6 because of these appeals that we're usually overturning,
7 these denials that are overturning, and so we do have the
8 tools we need to keep bad actors out.
9 And I would point out that even the idea that we
10 have the bidder qualification process, that in itself having
11 it is a screen -- is a screen that, you know, when this first
12 came about there was a few bad actors in the north and in the
13 south, and they basically kind of vaporize and didn't go
14 through this process. So that's, just having the process is
15 good. So we do have the ability to bring it back to the
16 Board and to keep projects moving successfully, and so I
17 think this will be a good move.
18 MEMBER STEWART: Okay. That's it for me. I know
19 there's a lot of entities that use your qualification process
20 as their baseline as well. So I think we're really putting
21 something together that's beneficial to the entire industry.
22 MS. STEWART: Well, and the other thing is once
23 the contractor performance evaluation is implemented fully as
24 intended it will have some teeth and because it's tied to

Page 25

1 RFI's. It's tied to, you know, specific performance
2 requirements in the general conditions, and it's something we
3 talked about this a little bit in the December meeting.
4 There will be meeting minutes where things are not getting
5 done where the contractor is not performing.
6 So there will be a paper trail, ideally this is
7 how it should work, connected to a poor contractor
8 performance evaluation, and it will result in a number of
9 points that are going to sting, and so I think in that way,
10 you know, we may see some, I can think of a couple that may
11 decide that they are not, you know, going to do public works
12 projects anymore.
13 So I think we're -- but, again, we're not in the
14 business of disqualifying people. We're in the business of,
15 you know, you file the contract. We file the contract. It's
16 the best interest of the project, and we build something
17 that, you know, is in the best interest of the state.
18 MR. PATRICK: And that's -- Ward Patrick for the
19 record. That's a good point. We qualify over 400
20 contractors but and that's for bidders, qualifying bidders
21 but yet we have less of half of that many that bid our work.
22 So that's true we're effecting the industry in our state by
23 our process because many are using our process.
24 MEMBER TIBERTI: That's a great question. Out of

Page 26

1 all the applications you just said we basically approve 400.
2 MS. STEWART: Yes.
3 MEMBER TIBERTI: Well, how many do you turn down
4 in a 12-month period, just as a, not some fact just general.
5 Do you go brand bad actors.
6 MS. STEWART: When did we -- hold on. So, Tito,
7 do you remember when we first started talking about that? We
8 did -- we did a summary spreadsheet of -- I've got the
9 December meeting here. Give me just a minute and I can find
10 -- this was -- I'm having PTSD looking through this thing.
11 Okay. So -- okay. This is numbers.
12 MR. PATRICK: I'm the numbers person.
13 CHAIRMAN HAND: He's got his cheaters.
14 MS. STEWART: That's right.
15 MR. PATRICK: So the number of applications
16 submitted, and I'll just go over the high and low number
17 throughout the last decade and this is per year. The low
18 number appears to be 233 applications. And the high number
19 appears to be 315, and so there's eight years of information
20 here and the total amount that were not qualified is, let me
21 count them, 20. It appears to be 20 that were not qualified.
22 And so then many of those came to appeal and
23 those -- and so the ones -- so the Board has seen all of
24 those that have appealed which there's 14 appeals, not

Page 27

1 counting the one today and only one of those was denied. So
2 that means six chose not to appeal.
3 MEMBER TIBERTI: Tito Tiberti for the record.
4 That sounds like the people that aren't making it really
5 don't deserve to be there because it sounds like for the most
6 part they over, for getting it approved and/or successfully
7 appealing, and I've been there a while to see those, and I
8 think those are all correct appeals. So I -- I think --
9 yeah, I think you're in good shape here. Unless like Sean
10 says the staff feels that somehow this is affecting their
11 work. Otherwise I think this is good work.
12 MR. PATRICK: Ward Patrick. I agree with a few
13 that are being denied and not appealing demonstrates that
14 they're -- that's in concurrence with the system.
15 MS. STEWART: Right.
16 CHAIRMAN HAND: Right. Yeah.
17 MR. PATRICK: Thank you.
18 MS. STEWART: Yeah. And I like the idea of
19 revisiting the changes that we've made once we make the
20 recommendation to the Board and they're implemented that
21 we'll revisit it in a year. We can do a similar analysis.
22 We can update this, and then we'll go back and see if
23 anything is falling through the cracks and go from there.
24 All right?

Page 28

1 CHAIRMAN HAND: Is that it? So you're good
2 with -- you got what you need, Susan?
3 MS. STEWART: I do. Thank you.
4 CHAIRMAN HAND: Great. Then we've got -- we're
5 back to public comment.
6 MS. STEWART: Agenda Item Number Four, which I
7 don't think -- oh, no. I got my -- I have my December packet
8 in front of me. Sorry.
9 CHAIRMAN HAND: You did presentation and that was
10 Agenda Item Three, and but I think we had the comment and
11 discussion along the way, which is --
12 MS. STEWART: Yes.
13 CHAIRMAN HAND: -- Item Number Four.
14 MS. STEWART: Yes. So we can go to five for
15 sure.
16 CHAIRMAN HAND: Have we been notified of any
17 other public comment?
18 MR. PATRICK: No. None.
19 CHAIRMAN HAND: None?
20 MS. STEWART: Nope. And the AGC was going to
21 chime in if they had any public comment at this time, and we
22 agreed that if we heard nothing that meant she was -- she
23 didn't have any comments, all right.
24 CHAIRMAN HAND: Okay. Great. If not then thank

Page 29

1 you all and again. Good job.
2 MS. STEWART: Thank you very much.
3 MR. PATRICK: Thank you very much.
4 CHAIRMAN HAND: Thanks guys.
5 MR. PATRICK: See you all here end of August 26th
6 and 27th. See you then.
7 MEMBER STEWART: I'm heading back to the water.
8 CHAIRMAN HAND: Thank you everyone.

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Page 30

1 STATE OF NEVADA,)
2 CARSON CITY.) ss.

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4 I, KATHY JACKSON, Official Court Reporter for the
5 State of Nevada, Public Works Division, do hereby certify:
6 That on Wednesday, the 29th day of July, 2020, I was
7 present at Public Works Division, for the purpose of
8 reporting in verbatim stenotype notes the within-entitled
9 public meeting;
10 That the foregoing transcript, consisting of pages 1
11 through 30, is a full, true and correct transcription of my
12 stenotype notes of said public meeting.
13
14 Dated at Carson City, Nevada, this 5th day
15 of August, 2020.

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KATHY JACKSON, CCR
Nevada CCR #402

	agenda (5) 3:8;4:1;20:24;28:6,10	18:14	8:12,13;25:20,20	3:15
\$		approve (1) 26:1	big (2) 13:5;17:6	cases (1) 18:10
\$2,000 (1) 10:23	agree (4) 12:21,22;14:8;27:12	approved (1) 27:6	billed (1) 10:8	categories (5) 8:3;9:2,4,9;10:18
\$25,000,000 (1) 4:21	agreed (3) 19:24;20:1;28:22	approves (1) 21:5	bit (5) 17:6,18;18:7;21:3;25:3	category (7) 8:1,1,7,22;9:15,16;11:8
\$3,000 (1) 10:23	ahead (2) 3:3;17:21	arguably (2) 10:3,17	blew (1) 3:23	catfish (1) 16:1
\$5,000 (1) 11:20	allow (1) 8:16	aspects (2) 24:2,3	Board (22) 7:7;8:19;9:5,14;10:1,10;15:12;16:19;17:19;18:21;19:9,20;20:23,23;21:5;22:16;23:1,9,12;24:16;26:23;27:20	causes (1) 8:15
A	allowed (1) 10:8	assessment (1) 16:22		certain (2) 24:2,3
ability (6) 10:3,6,19;11:17;20:17;24:15	alone (1) 11:8	associated (1) 22:5	bond (2) 8:16,23	Certainly (3) 4:23;14:24;23:5
able (4) 11:11,16;13:5;23:20	along (1) 28:11	attach (1) 21:20	bottom (3) 7:24;11:23;19:8	CHAIRMAN (38) 3:3,6,16,18;5:3,6,8,10,15;12:21;13:10,17,24;14:10,12,19,23;15:24;16:3,5,9,12,14,23;18:23;21:4;22:18;26:13;27:16;28:1,4,9,13,16,19,24;29:4,8
above (1) 11:4	always (1) 23:17	attached (1) 17:10	bounds (1) 17:5	challenge (1) 21:13
absolute (1) 5:21	amount (5) 9:2;11:6,20;18:10;26:20	Attachment (2) 4:13;21:12	boxes (1) 18:20	chance (1) 12:11
accurate (1) 10:20	analysis (1) 27:21	August (3) 20:24,24;29:5	brand (1) 26:5	change (4) 7:11;9:20;12:18;20:5
across (1) 23:18	and/or (1) 27:6	average (1) 7:16	breach (1) 9:18	changed (5) 7:9;10:21;18:3,6;19:21
action (1) 7:8	anticipate (1) 21:1	award (1) 15:3	breaches (1) 4:20	changes (17) 4:10,14;7:12,20;9:23;11:19;12:1,12;16:20;17:14,15;19:10;21:8,13;23:19;24:2;27:19
actively (1) 19:4	anymore (1) 25:12	B	bring (2) 16:14;24:15	Chapter (9) 21:23;22:1,3,3,5,11,13,23;23:2
actors (3) 24:8,12;26:5	apologize (2) 3:22;4:21	back (5) 17:8;24:15;27:22;28:5;29:7	broke (1) 8:8	chart (1) 17:11
actually (1) 15:15	appeal (10) 4:24;10:10;17:13,20;18:22;23:1,3,4;26:22;27:2	bad (5) 23:19,24;24:8,12;26:5	build (1) 25:16	cheaters (1) 26:13
Adam (1) 12:19	appealed (1) 26:24	bankruptcy (4) 21:15,21;22:1,13	bump (1) 9:14	chime (3) 8:6;13:19;28:21
add (3) 6:24;8:1;17:22	appealing (2) 27:7,13	based (1) 9:19	bumped (1) 19:14	chose (1) 27:2
added (2) 4:19;5:1	appeals (6) 8:19;14:16;17:12;24:6;26:24;27:8	baseline (1) 24:20	business (4) 9:7;18:17;25:14,14	CIP (1) 21:1
additional (1) 7:18	appears (3) 26:18,19,21	basically (2) 24:13;26:1	C	circumstances (1) 23:7
adjust (1) 8:16	applicant (5) 6:12,16;8:22;10:4;11:8	basis (1) 23:5	call (2) 3:10,11	CITY (1) 3:1
adjustment (1) 18:11	applicants (1) 9:4	begged (1) 20:4	came (3) 8:7;24:12;26:22	clear (2) 5:23;15:8
administrative (1) 10:22	applicant's (3) 10:6,18;11:17	below (1) 14:17	can (36) 7:2,3,21;8:17,17,22;9:4;11:6,10;12:9;15:11,12;16:15,21,22;17:2,18;18:10,11;19:14;20:20,20;21:19;22:8;23:3,4,5,8,21,23,24;25:10;26:9;27:21,22;28:14	clearly (1) 10:6
adopts (1) 16:19	application (12) 4:8,11,14;5:2,6,3;7:16,20;19:16;21:18;22:7,22,23	beneficial (1) 24:21	cap (1) 14:14	code (1) 3:12
advocating (1) 16:6	applications (4) 21:14;26:1,15,18	benefit (1) 19:5	CARSON (1) 3:1	
affecting (1) 27:10	applying (1) 6:17	best (2) 25:16,17	case (1)	
afternoon (1) 23:13	Appreciate (2) 18:2;19:6	better (3) 8:11;11:16;17:18		
again (12) 3:14;5:18;7:12;9:21;11:2;16:10;20:3,23;21:7,12;25:13;29:1	approach (1)	bid (2) 15:6;25:21		
AGC (1) 28:20		bidder (2) 8:16;24:10		
		bidders (4)		

collaboration (1) 3:11 comfortable (1) 12:11 comma (1) 7:10 comment (6) 3:9,9;28:5,10,17,21 comments (2) 21:9;28:23 commitment (1) 7:5 committee (1) 4:9 committee's (1) 21:23 completely (4) 11:10;14:8;18:14,24 concede (1) 10:22 concern (3) 12:22;14:6,9 conclusion (1) 9:12 concur (2) 18:14,24 concurrence (1) 27:14 conditions (2) 4:5;25:2 confirmed (1) 4:3 connected (1) 25:7 consensus (1) 6:20 consider (1) 11:16 consistent (8) 4:9;6:24;11:14;22:5,12,15,22;23:12 context (1) 21:19 contract (5) 4:20;9:18;15:4;25:15,15 contractor (17) 4:4,20;6:17;7:13;10:13;13:3,15;15:7,11;19:17,22;21:14;23:22,24;24:23;25:5,7 contractors (11) 9:7;13:21;14:17;17:12;18:17;20:15;23:18,19,21,24;25:20 Contractor's (1) 10:1 copy (1) 21:20 corrected (1) 6:11 cost (1) 4:22	count (1) 26:21 counting (1) 27:1 couple (2) 13:16;25:10 cover (1) 10:7 cracks (1) 27:23 create (4) 8:21;9:3,9,15 criteria (1) 15:3 Criticism (1) 21:9 current (1) 4:5	27:5 differently (1) 22:19 direction (2) 11:15;21:17 directly (1) 5:1 Director (1) 19:3 disclose (5) 6:16;10:13;21:15,20;22:1 disclosed (1) 7:1 disclosure (1) 22:4 discretion (3) 10:9,20;18:19 discussed (2) 4:6;10:12 discussing (1) 7:24 discussion (2) 8:4;28:11 disqualification (1) 9:20 disqualified (1) 6:12 disqualify (2) 8:13;13:5 disqualifying (3) 9:7;18:17;25:14 dollar (3) 4:11;11:1,22 done (3) 15:15;16:6;25:5 down (1) 26:3 during (1) 20:19	24:19 evaluation (11) 4:4;10:20;19:18,22;20:2,5,8,20;21:23;24:23;25:8 evaluations (3) 7:14,15;20:16 even (5) 11:24;12:10;13:6;19:19;24:9 everyone (1) 29:8 exactly (3) 5:15;16:6;22:20 exceeds (1) 4:21 exceptions (1) 15:5 excuse (1) 20:3 exercise (1) 10:9 exercising (1) 10:20 express (1) 20:12 extenuating (1) 23:6	five (9) 3:4,5,6;4:15;7:15;21:24;22:2,13;28:14 fix (1) 4:17 fixing (1) 8:8 flag (2) 13:5;20:20 following (1) 3:21 follow-up (1) 4:2 forget (1) 12:7 form (4) 19:24;20:5,13,20 formal (1) 23:14 forward (3) 7:21;12:23;23:21 Four (2) 28:6,13 Freed (1) 19:3 friendly (1) 8:20 front (3) 15:12;17:19;28:8 full (3) 9:13;14:3;23:12 fully (1) 24:23	
	D		F	G	
	dangerous (1) 12:17 date (1) 7:1 day (1) 20:18 days (1) 11:24 deal (1) 23:18 decade (1) 26:17 December (7) 3:21;10:12;17:10;22:21;25:3;26:9;28:7 decide (6) 6:22;7:2,7;20:5;23:1;25:11 decisions (1) 12:15 decreases (1) 24:5 deducted (6) 11:6;13:16,21;14:3,4,5 deduction (2) 10:24;11:5 delay (1) 3:22 delete (1) 7:10 demonstrates (1) 27:13 denial (2) 17:20;23:4 denials (1) 24:7 denied (2) 27:1,13 deny (1) 23:4 deserve (1)	E	easier (1) 24:4 education (1) 21:7 effecting (1) 25:22 effort (1) 20:12 eight (2) 17:7;26:19 else (2) 11:11;13:7 end (6) 3:14;9:8;10:10;15:16;21:4;29:5 enough (3) 8:24;11:8;14:2 entire (1) 24:21 entities (1)	fact (1) 26:4 fail (7) 11:8,10;21:24;22:2,4,13,23 fall (1) 21:6 falling (1) 27:23 far (1) 11:16 feel (3) 9:13;23:19,23 feels (2) 18:4;27:10 few (2) 24:12;27:12 file (2) 25:15,15 filed (1) 21:15 find (5) 8:14,17;9:5;15:11;26:9 fine (5) 10:24;11:3,10,20;18:1 finer (4) 9:24;10:3;12:9;13:1 first (5) 3:8;4:15;7:23;24:11;26:7	general (3) 4:5;25:2;26:4 gets (1) 13:4 good (16) 12:1,15,18;14:7,8;17:3;18:14;21:10;23:24;24:15,17;25:19;27:9,11;28:1;29:1 goofed (1) 17:8 grant (2) 17:13;23:1 Great (7) 3:16;9:16;11:19;14:22;25:24;28:4,24 guess (4) 3:8;16:14;18:3,6 guys (6) 9:11;12:14;16:24;18:18;20:4;29:4
			H	half (1) 25:21 HAND (38)	

3:3,6,16,18;5:3,6,8, 10,15;12:21;13:10,17, 24;14:10,12,19,23; 15:24;16:3,5,9,12,14, 23;18:23;21:4;22:18; 26:13;27:16;28:1,4,9, 13,16,19,24;29:4,8	24:21;25:22 information (7) 6:21,23;7:6,19;10:3; 15:11;26:19 input (1) 19:5 instead (1) 5:20 intend (1) 3:13 intended (1) 24:24 interest (2) 25:16,17 intermediate (1) 9:3 into (1) 5:2 issue (1) 11:21 issues (2) 16:16,17 Item (5) 3:18;21:12;28:6,10, 13 items (1) 4:17	10:17 language (2) 4:22;5:1 large (1) 14:2 larger (3) 8:1;22:22,23 last (8) 4:6,16;6:14;7:15; 21:24;22:1,13;26:17 later (3) 5:18;7:1;16:21 law (2) 9:19;17:15 lead (1) 16:15 leaning (2) 9:1,8 least (1) 19:23 leave (2) 8:9;23:22 legislative (1) 4:19 less (2) 21:14;25:21 letter (2) 8:16,23 limitation (1) 11:7 limitations (1) 23:20 line (2) 11:23;19:3 list (2) 4:8;7:17 listen (1) 12:15 listening (5) 3:13;12:16;17:23; 19:4,6 litigation (1) 6:16 litigious (1) 6:17 little (7) 6:19;17:5,18;18:6; 20:12;21:3;25:3 logged (2) 19:2,6 longer (1) 15:20 look (5) 4:1,15;7:23;20:11; 21:22 looking (1) 26:10 lose (1) 22:6 lot (4) 12:15;13:4;17:6; 24:19 low (2)	26:16,17 M Makes (3) 5:23;8:23;17:17 making (4) 9:23;20:22;22:14; 27:4 manner (2) 20:9,10 many (4) 25:21,23;26:3,22 match (1) 19:16 matter (2) 5:11;20:14 max (1) 12:23 maximum (2) 11:6,9 may (4) 6:22;10:10;25:10,10 Maybe (10) 5:20;6:14;7:4,6;8:4, 8;14:13;19:5,19;20:18 mean (5) 11:21;12:23;13:1; 14:9;23:4 meaning (1) 20:16 meaningful (1) 20:21 means (2) 20:12;27:2 meant (1) 28:22 Mechanical (1) 18:18 meeting (14) 3:13,15,22;4:7,16; 6:14;10:12;17:11; 20:19,23;22:21;25:3,4; 26:9 meetings (1) 19:23 MEMBER (12) 11:19;12:6;17:3,5, 23;18:3;23:16;24:18; 25:24;26:3;27:3;29:7 MENICUCCI (2) 22:24;23:6 mention (1) 16:19 mentioned (1) 19:18 mercy (1) 23:9 might (1) 9:6 mind (3) 13:6,11;20:22 mindset (1)	18:3 minor (2) 4:10;10:24 minute (3) 12:7;17:8;26:9 minutes (1) 25:4 misinterpreted (1) 16:7 missing (2) 10:7;17:16 months (1) 17:7 more (5) 9:9;10:20;18:9,9; 24:3 most (4) 9:23;11:21;14:16; 27:5 move (3) 12:13,23;24:17 moving (2) 11:20;24:16 MSHA (5) 10:1,5,14;11:3;17:17 much (3) 16:5;29:2,3 multiple (1) 7:15 multiplies (1) 14:21 myself (2) 6:9;18:15
handcuffing (1) 12:14 happened (2) 6:4;19:6 happens (4) 5:10,13,14;10:5 heading (1) 29:7 heard (1) 28:22 hearing (2) 14:16;23:10 hefty (1) 10:24 help (1) 15:2 helpful (1) 18:15 hey (1) 16:21 high (3) 8:18;26:16,18 historic (1) 15:1 historically (1) 15:2 hold (1) 26:6 hour (1) 15:17	J job (1) 29:1 JULY (1) 3:1 Jump (1) 6:10			
I	K			N
idea (2) 24:9;27:18 ideally (1) 25:6 impact (1) 20:16 implemented (2) 24:23;27:20 implements (1) 16:20 include (2) 19:10,21 included (1) 21:18 increase (2) 8:1;9:2 increasing (1) 9:8 independently (1) 3:12 individual (1) 3:10 industry (2)	Kathi (5) 13:14,19,20;17:11; 22:8 keep (4) 6:23;20:22;24:8,16 keeping (1) 9:2 keeps (1) 15:8 Kent (1) 7:24 Kevin (1) 19:2 kind (8) 7:3,6;8:7,21;9:1; 17:16;20:13;24:13 kinds (1) 12:9			NAC (1) 7:13 need (9) 6:22;8:5;11:16;12:5, 8;15:2;23:14;24:8;28:2 needed (1) 21:13 net (1) 15:23 NEVADA (4) 3:1;5:3,5,6 new (3) 8:22;9:15;21:2 next (9) 7:11;9:17,20,22; 19:17;21:11,11,12,22 None (2) 28:18,19 Nope (1) 28:20 north (1) 24:12 notified (1) 28:16 notwithstanding (1) 23:2 NRS (2)

15:8,10 nuances (1) 15:5 number (12) 9:2,8;17:12,12,13; 25:8;26:15,16,18,18; 28:6,13 numbers (2) 26:11,12	page (15) 4:15;6:10,11,13;7:9, 11,23;9:17,18,22,23; 19:8,17;21:19,22 paper (1) 25:6 paperwork (2) 10:7;13:1 parody (1) 11:12 part (3) 13:22,22;27:6 participate (1) 3:14 particular (1) 7:19 PASCIAC (4) 13:20,20;14:1;22:9 pass (6) 11:10,11;14:4,5; 21:24;22:4 pass/fail (5) 4:23;5:19;6:7;9:19; 22:9 past (1) 13:18 PATRICK (33) 5:13,13,17,18,23;6:1, 5,8;8:10,10;14:15,20, 24;15:22;16:1,13;18:2; 19:1,1;20:10;23:17; 24:1,1;25:18,18;26:12, 15;27:12,12,17;28:18; 29:3,5 payment (1) 11:23 people (4) 12:16;23:18;25:14; 27:4 per (1) 26:17 perform (6) 4:22;10:4,6,19; 11:17;20:17 performance (8) 4:4;7:14;14:5;19:17, 22;24:23;25:1,8 performing (1) 25:5 perfunctory (2) 20:9,10 period (1) 26:4 person (1) 26:12 personnel (1) 13:23 petition (1) 21:21 piece (2) 7:18,19 plate (1) 10:7	point (14) 6:19,22,24;7:2; 10:24;13:7;14:7,8; 16:15;17:3,17;22:21; 24:9;25:19 points (14) 8:24;11:5,6,6,9; 13:16,21;14:3,3,4,9; 16:16;22:6;25:9 poor (2) 14:6;25:7 posing (1) 16:7 pre-construction (1) 20:19 premise (2) 10:2,11 present (1) 18:22 presentation (2) 9:12;28:9 presented (3) 8:2;19:10;23:12 Pretty (7) 7:21;10:23;12:10; 13:5;14:10,11,12 prime (1) 15:16 principle (1) 13:22 prior (2) 6:16;9:20 probably (3) 9:22;16:15;21:2 problem (3) 8:15;16:22;21:16 process (8) 4:19;18:6;24:10,14, 14,19;25:23,23 procrastinating (1) 3:23 project (1) 25:16 projects (8) 13:18,22,23;14:2,21; 19:14;24:16;25:12 protections (1) 23:23 prove (1) 23:21 provide (1) 8:22 provision (1) 15:10 provisions (1) 15:1 PTSD (1) 26:10 public (12) 3:9,9;4:20,22;10:4, 19;11:18;20:17;25:11; 28:5,17,21 punitive (1)	12:10 pursuant (1) 21:8 put (5) 4:1;14:13;17:11; 18:7;20:20 puts (1) 11:12 putting (2) 11:9;24:20	20:21 redo (1) 17:8 references (3) 4:5;6:11;9:21 reflected (1) 20:1 regulation (2) 19:21;21:8 related (4) 10:3,6,18;11:17 relatively (1) 10:24 remains (1) 3:15 remedied (1) 15:13 remedy (2) 15:14,21 remember (2) 17:10;26:7 repeat (4) 10:15,16;11:2;12:24 repeatedly (1) 13:4 require (1) 11:22 required (5) 7:12,13;21:8,19,20 requirement (2) 6:15;19:21 requirements (1) 25:2 responsible (2) 15:3,7 responsive (2) 15:3,6 result (2) 21:17;25:8 review (1) 17:20 revised (1) 4:9 revising (1) 4:7 revision (1) 4:10 revisions (1) 4:8 revisit (3) 17:2;19:11;27:21 revisiting (1) 27:19 RFI's (1) 25:1 right (19) 3:6;5:17;9:11,16; 11:21;12:13,24,24; 14:19;15:1,24;16:2,4; 17:9;26:14;27:15,16, 24;28:23 roll (1) 20:19
O			Q	
obviously (1) 13:7 occasions (1) 14:1 o'clock (1) 3:7 off (2) 13:7;16:16 once (3) 23:21;24:22;27:19 One (18) 4:3,10,15,17;5:20; 7:12,23;9:22;10:17; 12:8;13:7;17:9;20:7; 21:7,12,22;27:1,1 ones (1) 26:23 only (8) 12:21;13:10;15:22, 23;19:24;23:16,16; 27:1 oOo- (1) 3:2 operator (1) 13:4 opportunity (2) 4:24;18:21 opposed (1) 8:12 OSHA (5) 9:24;10:5,14;11:3; 17:17 Otherwise (1) 27:11 out (13) 3:12;7:10;10:8;16:1, 20;17:5;20:19;21:2,6; 23:24;24:8,9;25:24 over (11) 8:3;20:13,20;22:6,6, 12,14,15;25:19;26:16; 27:6 overrule (1) 18:8 overturning (2) 24:6,7			qualification (6) 4:7;8:11,18;23:1; 24:10,19 qualified (4) 9:6,6;26:20,21 qualify (8) 8:12,24;13:8;15:12, 16,19;24:4;25:19 qualifying (2) 9:7;25:20	
			R	
			raised (1) 22:21 raises (1) 16:14 ranges (1) 8:15 Rarely (2) 13:15,15 rather (1) 9:15 rating (1) 14:17 ratings (1) 14:22 reached (1) 3:12 ready (4) 3:19,24;9:13;23:11 real (1) 12:24 really (6) 3:8;11:20,20;20:13; 24:20;27:4 reasonable (1) 9:10 recall (3) 4:15;6:13,15 Recognizing (1) 16:11 recommendation (7) 9:13;19:9;20:23; 22:16;23:10,11;27:20 record (9) 3:11,21;5:14;8:10; 13:20;19:1;24:2;25:19; 27:3 red (1)	
P				
packet (2) 5:19;28:7				

rolled (3) 16:20;21:2,6 room (2) 19:23,24 <hr/> S <hr/> safety (2) 13:6;14:22 same (2) 9:2;15:4 saying (1) 6:3 score (13) 4:9;6:5,7,20,22;7:2, 13,22;9:17;10:14; 19:21;21:17;22:12 scored (3) 10:9;11:12;20:8 scoring (5) 7:18;9:24;11:1;20:1; 21:23 screen (2) 24:11,11 Sean (7) 12:7,13;17:21;19:19, 20;23:15;27:9 second (1) 4:6 section (1) 11:10 sections (1) 11:12 seeing (1) 9:14 seems (1) 11:24 sense (1) 17:17 separate (2) 9:16;15:8 serious (8) 10:15,16;11:2;12:24; 14:10,11,12;17:19 seven (6) 11:5;21:23;22:1,13, 23;23:2 shape (1) 27:9 sheet (4) 4:9;6:5,7;9:17 showed (1) 17:11 similar (1) 27:21 simplify (1) 18:10 situations (1) 11:21 six (4) 6:10;13:22;17:7; 27:2 small (1)	17:13 somebody (2) 13:4;16:15 somehow (1) 27:10 someone (1) 4:23 someplace (1) 13:7 sometimes (1) 12:16 Somewhere (1) 4:18 sorry (4) 5:2;17:24;21:11; 28:8 sound (1) 9:10 sounds (4) 12:17;19:4;27:4,5 South (2) 15:16;24:13 specific (1) 25:1 spending (1) 14:20 spent (1) 7:24 spot (3) 8:17,23;9:5 spreadsheet (1) 26:8 squeaking (2) 17:1,1 squishy (1) 7:3 staff (14) 9:4,5;10:5,14;12:6, 11;14:21;16:20;18:7, 11,15,19;21:16;27:10 stand (1) 19:15 standing (1) 19:24 start (1) 11:1 started (3) 3:3;12:11;26:7 starts (2) 12:1,10 State (3) 10:1;25:17,22 statute (4) 5:1;6:15;15:1,8 statutory (2) 6:11;9:21 stays (1) 5:14 STEWART (60) 3:5,10,11,17,20,20; 5:5,7,9,12,22,24;6:2,6, 9;9:10;11:19;12:3,19; 13:9,12,18;14:7,11,13;	15:6;16:4,8,11,18,24; 17:4,9,23;18:1,3,13,24; 19:8;20:11;21:5;22:10, 20;23:3,8,16;24:18,22; 26:2,6,14;27:15,18; 28:3,6,12,14,20;29:2,7 still (7) 4:24;10:13;11:11; 14:4;15:4;19:2;21:19 sting (1) 25:9 straight (1) 7:21 stress (1) 18:7 stringent (1) 24:3 struggle (1) 13:6 struggling (1) 13:11 stuff (1) 13:2 stymied (1) 6:19 subcommittee (8) 3:22;4:7,12,16;6:14, 20;10:12;23:11 subcommittee's (1) 11:14 subcontract (1) 15:18 subcontractors (2) 15:14,15 submitted (1) 26:16 subsequent (1) 8:4 substance (1) 20:13 substantive (2) 7:11;9:23 successful (2) 13:22;19:14 successfully (2) 24:16;27:6 summary (3) 4:2;7:5;26:8 sure (5) 3:15;13:24;18:23; 20:24;28:15 Susan (7) 3:11,20;5:18;15:2; 17:3;22:24;28:2 sweet (3) 8:17,23;9:5 system (2) 8:21;27:14 systems (1) 8:11 <hr/> T <hr/>	talked (3) 4:16;7:14;25:3 talking (1) 26:7 team (1) 18:14 teeth (1) 24:24 ten (1) 6:13 Thanks (1) 29:4 theory (1) 13:13 thinking (3) 6:16;11:7,13 though (1) 13:6 thought (6) 5:15;6:9;8:4;18:6; 20:12,18 thoughts (2) 8:7;12:20 Three (6) 3:18;4:1;9:24;19:9, 23;28:10 throughout (2) 15:8;26:17 throw (1) 23:9 TIBERTI (7) 12:6;17:3,5;25:24; 26:3;27:3,3 ticking (1) 18:20 tied (2) 24:24;25:1 Tito (5) 12:3;18:5;19:20; 26:6;27:3 today (2) 19:10;27:1 together (4) 17:11;18:9;24:5,21 told (1) 15:18 took (1) 7:10 tools (1) 24:8 top (3) 6:10;9:8,18 total (2) 11:5;26:20 towards (3) 9:1,8;21:3 trail (1) 25:6 treat (1) 22:22 treated (2) 20:8;22:18 tried (1)	15:16 trout (1) 16:2 true (1) 25:22 trying (1) 8:12 turn (1) 26:3 turns (1) 4:18 twisting (1) 4:18 two (4) 8:2;9:17;13:22; 21:19 type (2) 7:5;23:22 Typically (1) 13:21 typo (1) 4:21 <hr/> U <hr/> under (3) 4:10;22:14;24:3 underlying (2) 10:2,11 unequivocal (1) 4:23 Unless (1) 27:9 up (12) 3:21,23;8:3;9:15; 10:10;11:4,20;12:14; 16:15;17:7,8;19:14 update (2) 3:19;27:22 updating (1) 9:21 upon (3) 9:19;19:24;20:1 use (2) 8:11;24:19 used (1) 18:7 using (2) 8:15;25:23 usually (1) 24:6 Utah (3) 5:10,14,14 <hr/> V <hr/> vaporize (1) 24:13 Vegas (1) 5:16 violation (5) 10:16,17,17;11:2,17 violations (7)
---	---	---	--	---

**PUBLIC WORKS DIVISION
VIDEO CONFERENCE BOARD MEETING**

July 29, 2020

10:5,9,14,15,23; 15:17;17:17 visit (1) 17:18		29 (1) 3:1		
	Y			
W	year (7) 7:6;16:21;19:12; 21:2,4;26:17;27:21	3		
wage (1) 15:17	years (6) 7:15;18:4;21:24; 22:2,13;26:19	30,000,000 (3) 8:2;9:3,15		
wait (1) 17:7	Yep (2) 18:13;23:3	315 (1) 26:19		
wake (1) 17:7	yes/no (2) 5:20;6:2	338 (2) 15:8,10		
walk (1) 4:13		341 (1) 15:9		
Ward (15) 5:13,18;7:4,18,24; 8:4,6,10;12:6;18:16; 19:1;23:17;24:1;25:18; 27:12	1	35 (1) 18:4		
warrants (1) 17:20	1,000 (2) 11:22;12:1	4		
water (1) 29:7	1.0 (1) 14:17	400 (2) 25:19;26:1		
way (4) 11:4;15:18;25:9; 28:11	1:00 (2) 3:4,7	5		
WEDNESDAY (1) 3:1	100,00 (1) 24:3	5,000 (1) 11:1		
weed (1) 23:23	100,000 (7) 4:11;21:14;22:6,12, 14,14,15	50 (2) 8:2;9:15		
weigh (1) 13:14	100,000,000 (2) 8:3,3	50,000,000 (2) 9:3;19:15		
what's (2) 8:2;19:12	11 (3) 3:21;22:3,5	500 (2) 11:24,24		
whole (2) 3:23;7:7	12 (1) 7:9	7		
willful (4) 10:15,17;11:2;12:24	12-month (1) 26:4	7 (1) 14:17		
within (3) 21:24;22:1,13	13 (2) 22:3,5	9		
without (3) 8:18;10:20;12:10	14 (1) 26:24	9 (1) 14:18		
word (1) 20:11	2			
work (18) 4:20;8:21;9:4;10:4,7, 19;11:18;15:19,20; 17:6;18:8,9,18,20;25:7, 21;27:11,11	2:00 (2) 3:5,6			
working (4) 19:12,13;20:5,6	20 (9) 11:6,9;14:3,4,9; 16:16;18:5;26:21,21			
works (3) 4:22;20:17;25:11	2019 (1) 3:21			
world (1) 3:23	2020 (1) 3:1			
worry (2) 18:7;23:17	2021 (1) 21:6			
worse (1) 12:17	22 (1) 7:11			
worth (1) 12:16	233 (1) 26:18			
	25,000 (1) 11:4			
	26th (1) 29:5			
	27th (1) 29:6			