

Prevailing Wage Commission Meeting

DEPOSITION OF MEETING

Taken November 10, 2021



615.221.1089

STATE OF TENNESSEE
TENNESSEE DEPARTMENT OF LABOR & WORKFORCE DEVELOPMENT

Transcript of Proceedings
of
The Prevailing Wage Commission Meeting
November 10, 2021

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1 APPEARANCES:

2 Jeff McCord, TDLWD

3 Ann McGauran, State Architect

4 Paul Degges, TDOT

5 Scott Thompson, Talley Construction

6 Steve Wright, Wright Brothers Construction

7 Dwayne Scott, TDLWD

8 Dan Bailey, TDLWD

9 Tom Herrod, TDLWD

10 Jan Caudill, TDLWD

11 Kenneth Nealy, TDLWD

12 Jamie Diefenbach, TDLWD

13 Lisa Watson, TDLWD

14 Wayburn Crabtree, TDOT

15 Brian Egan, TDOT

16 Kent Starwalt, TRBA

17 Stamatia Xixis, TDLWD

18 Rachel Hagan, TDLWD

19 Lisa Watson, TDLWD

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1 AGENDA

2 I. Call to Order and Roll Call

3 II. Announcements

4 In the event of an emergency, security

5 and/or staff will take meeting attendees to

6 a safe place in the building or direct them

7 to exit the building on the Rosa Parks side.

8 III. Conflict of Interest Declaration

9 Completed forms for all members should be on

10 file with TDLWD

11 IV. Adoption of Agenda

12 V. Old Business

13 Review and approve Prevailing Wage

14 Commission Meeting Minutes

15 November 18, 2020

16 VI. New Business

17 Set 2022 Prevailing Wage Rates for State

18 Highway Construction Projects

19 VII. Prevailing Wage Commission Meeting Date

20 for 2022:

21 Wednesday, November, 16, 2022

22 1:30 p.m.

23 220 French Landing Drive

24 Nashville, Tennessee 37243

25 VIII. Adjournment * * *

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1 P R O C E E D I N G S

2 CHAIRMAN MCCORD: We're going to call

3 the meeting to order of the Prevailing Wage

4 Commission. Start with the roll call. Paul Degges.

5 MR. DEGGES: Here.

6 CHAIRMAN MCCORD: Ann McGauran.

7 MS. MCGAURAN: Here.

8 CHAIRMAN MCCORD: Scott Thompson.

9 MR. THOMPSON: Here.

10 CHAIRMAN MCCORD: Stephen Wright.

11 MR. WRIGHT: Here.

12 CHAIRMAN MCCORD: Thank you very much.

13 We'll move on to announcements. And

14 before we make the announcements about where to meet

15 in case of an emergency or who to see, I would like to

16 take a moment to introduce somebody that you may not

17 know, our Deputy Commissioner Dwayne Scott. Dwayne

18 has responsibility for a variety of departments,

19 including Workplace Regulations & Compliance.

20 Dwayne, would you just introduce

21 yourself and talk a little bit about your background

22 for us.

23 MR. SCOTT: Good afternoon everyone. I

24 know several here, Paul and those guys, TDOT. I spent

25 18 years with a company I cofounded and was COO of SRS

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1 and a lot of construction work, about seven years

2 doing TDOT work here, and the rest of it is on federal

3 contract work all over the country.

4 Sold that company in 2019 and started

5 doing some consulting, and I have been here since

6 March with the Department of Labor in this capacity.

7 And I'm excited about it. I hope to able to bring a

8 lot of those skills to the table and help bring value

9 to the department.

10 CHAIRMAN MCCORD: Thank you, Dwayne.

11 Absolutely, we're glad to have him in from a variety

12 of backgrounds and perspectives. It's been really,

13 really good.

14 Okay. In the event of an emergency,

15 we'll -- security staff will help us, but if you can't

16 find a security staff, we'll all follow Tom. And

17 we'll exit, and we'll go out -- we'll go that way,

18 through the cafeteria and outside in case of an

19 emergency, which hopefully we won't have to have.

20 Let me stop here and see if anyone else

21 has announcements.

22 Okay. My next item is conflict of

23 interest declaration. I know we should have all

24 completed forms. And if you haven't completed that

25 paperwork, see Jan, and we'll get those on file.

<p style="text-align: center;">Page 6</p> <p>1 I do need to let you know that when you 2 make a motion, I have to, each time, ask if you have a 3 conflict of interest, and so I'll be doing that. And 4 so we'll do a motion, conflict of interest right after 5 that so we can follow the appropriate protocol -- 6 department statutory protocol driven. So anyway, 7 that's a little awkward, but we're going to power 8 through.</p> <p>9 The next item is adoption of the agenda. 10 The agenda was sent out several days ago, if not weeks 11 ago; so I'm looking for a motion to adopt the agenda.</p> <p>12 MR. DEGGES: Motion.</p> <p>13 CHAIRMAN MCCORD: Paul. We've got a 14 motion. Do we have a second -- oh, I'm sorry. Do you 15 have a comment --</p> <p>16 MR. HERROD: I do not.</p> <p>17 CHAIRMAN MCCORD: Okay.</p> <p>18 MR. THOMPSON: Second.</p> <p>19 CHAIRMAN MCCORD: Conflict?</p> <p>20 MR. HERROD: No, sir.</p> <p>21 CHAIRMAN MCCORD: Okay. Very good. So 22 any discussion?</p> <p>23 Seeing and hearing no discussion, all 24 those in favor say aye.</p> <p>25 COLLECTIVE: Aye.</p>	<p style="text-align: center;">Page 8</p> <p>1 So you have received a spreadsheet. 2 We'll be working off a spreadsheet. Appreciate TDOT's 3 help in getting the projects to us so that we can send 4 those out electronically through the contractors.</p> <p>5 We'll go down the list of these crafts 6 one by one. Now, there are actually three different, 7 I guess, categories. We have two crafts that had zero 8 response. We had 4 that had between 1 and 3 9 responses. And then we had the remaining ones, 20 had 10 over 5 or over.</p> <p>11 Based on those types of inputs or data or 12 responses, you have options. And I have shown this on 13 the spreadsheet to the left center. If you have -- 14 and we have to stay within the min and max of the 15 survey rate or the current prevailing wage rate.</p> <p>16 As we take the proposal, we have a 17 suggested number that I'll tell you about and then the 18 proposal that will be your number that you put there, 19 and then it will be validated whether or not it is 20 within the allowable limits.</p> <p>21 Does anybody have any questions?</p> <p>22 MR. THOMPSON: I actually have several. 23 I kind of -- I only came on here, I like to call it, 24 almost in the COVID era there.</p> <p>25 So some things I'm a little bit confused</p>
<p style="text-align: center;">Page 7</p> <p>1 CHAIRMAN MCCORD: All those opposed? 2 Motioned carries.</p> <p>3 We move on to the meeting minutes from 4 November 18, 2020. We need -- again, those were sent 5 in advance. We need a motion to adopt or accept the 6 minutes.</p> <p>7 MS. MCGAURAN: I also move. No 8 conflicts.</p> <p>9 CHAIRMAN MCCORD: Thank you. That was 10 very smooth.</p> <p>11 MR. WRIGHT: And I would offer a conflict 12 with --</p> <p>13 CHAIRMAN MCCORD: We got -- we have a 14 first and a second. Any discussion?</p> <p>15 Hearing no discussion, all those in favor 16 say aye.</p> <p>17 COLLECTIVE: Aye.</p> <p>18 CHAIRMAN MCCORD: All those opposed? 19 Okay. Thank you very much for that. 20 So we'll move on to new business. And 21 for that I'll turn it over to Tom.</p> <p>22 MR. HERROD: Thank you. This will be my 23 third time in presiding over the -- or helping with 24 the prevailing wage rate. And we have tried to 25 streamline it and get it more accurate.</p>	<p style="text-align: center;">Page 9</p> <p>1 about was what projects can be applied towards this? 2 Is it TDOT only projects? Is it state, federal funded 3 projects? How is this -- and because, I mean, I got 4 really confused. Because when I was reading it, I 5 interpreted it as it could be any projects that were 6 highway that had state or federal dollars.</p> <p>7 MR. HERROD: Exactly.</p> <p>8 MR. THOMPSON: So it doesn't have to be 9 TDOT. It can be a municipality.</p> <p>10 MR. HERROD: They have to be able to 11 prove it has state or federal funded money.</p> <p>12 MR. DEGGES: So the department 13 interprets -- here, Rule 800-3-2-.01(2) states, I 14 quote, Prevailing -- "Tennessee Prevailing Wage Rates 15 apply to any highway contractor entering into a state 16 contract for the performance of work on state highway 17 construction projects."</p> <p>18 So this has been a perennial debate in 19 this area here. Because it also says in 800-03-02-.03 20 that no con- -- quoting, No contract shall be let by 21 any state agency or any municipality, county, or other 22 subdivision for a state highway construction project 23 not in compliance with prevailing wage rates.</p> <p>24 So, you know, on one hand it speaks to a 25 contract between a contractor and the state and a --</p>

<p style="text-align: right;">Page 10</p> <p>1 but elsewhere it mentions that if you have a contract 2 with a local government. Well, a contract with a 3 local government with state money is not a state 4 contract.</p> <p>5 And so -- however, for purposes of the 6 data, when you guys reached out to TDOT, we mined our 7 construction letting system that Mr. Egan is over, and 8 it only includes TDOT contracts. So as a practical 9 matter, the data we supplied, because that's the data 10 we have, would just say contracts. And so I've 11 thoroughly confused you, I suspect. But we foresee an 12 inconsistency.</p> <p>13 Again, it's a perceived inconsistency in 14 the rules. And this issue has come up several times 15 over the years. And, you know, would it lower the 16 prevailing wage, you know, maybe --</p> <p>17 MR. HERROD: If I can -- I'm sorry to 18 interrupt you.</p> <p>19 MR. DEGGES: No. No.</p> <p>20 MR. HERROD: We had three responses that 21 were --</p> <p>22 MS. CAUDILL: (Overtalking.)</p> <p>23 MR. HERROD: -- local projects managed 24 that, verifying it was federal dollars that went into 25 it. So 3 out of 2,000 of the responses were like</p>	<p style="text-align: right;">Page 12</p> <p>1 in our contracts with local government, from our 2 perspective, its an unenforceable contract because 3 TDOT doesn't enforce it, so . . .</p> <p>4 MR. THOMPSON: But from data gathering --</p> <p>5 MR. DEGGES: But it's only 3 out of 6 2,000, so maybe it's not --</p> <p>7 CHAIRMAN MCCORD: But I think your 8 thought would be you would have 2,500.</p> <p>9 MR. THOMPSON: I think you might have a 10 lot more. Possibly. Maybe not. I don't know.</p> <p>11 MR. HERROD: Well, we sent out 1,600 12 surveys. We got 600 back. So they had -- and they 13 had the option of either putting in the TDOT contract 14 number or a different contract number. And we only 15 had 3 that did that.</p> <p>16 MR. WRIGHT: The 1,600, was that 17 individual firms, or was that surveys -- so there 18 was -- many firms got more than one --</p> <p>19 MS. CAUDILL: Right.</p> <p>20 MR. WRIGHT: -- survey; right?</p> <p>21 MR. HERROD: That's right.</p> <p>22 MR. WRIGHT: And this is all new. This 23 is the first year we sent out through 24 computer-driven --</p> <p>25 MS. CAUDILL: Like this, yes.</p>
<p style="text-align: right;">Page 11</p> <p>1 that. And so -- and we sent them to all the 2 construction companies. So some of those construction 3 companies, obviously, had some local projects. They 4 did not submit them because there were not any such 5 state or federal dollars, only -- other than those 6 three. Now, you know, it's been an ongoing issue.</p> <p>7 CHAIRMAN MCCORD: Dan, do you want to 8 comment?</p> <p>9 MR. BAILEY: Well, I mean, yeah. We've 10 been over this several times. We basically have a 11 disagreement. I know TDOT interprets it, of course, 12 that it applies only to state contracts. We interpret 13 it that it applies to any contract road project 14 involving state or federal funding. And so it's -- 15 you know, we're the department that's been charged 16 with enforcing it, and so that's the interpretation we 17 had made.</p> <p>18 MR. THOMPSON: Well, the reason I ask is 19 because we -- we're trying to get people to get 20 engaged and fill them out and all that. It was -- 21 only a TDOT project or not. And that's where it 22 gets -- that's where your problem starts. Is it just 23 like people say, Well, if it's not a DOT project -- a 24 TDOT project.</p> <p>25 MR. DEGGES: Well, from our perspective,</p>	<p style="text-align: right;">Page 13</p> <p>1 MR. WRIGHT: So, you know, I know in 2 times past we've always wanted to be as inconclusive 3 as possible. Because the sampling, you know -- which, 4 by the way, I haven't seen any data. Where is -- did 5 I get it and just didn't look at it, the backup data 6 for this?</p> <p>7 MR. THOMPSON: Yeah, that was my other 8 question.</p> <p>9 MR. HERROD: We can supply that to you.</p> <p>10 MR. WRIGHT: I mean, we used to have them 11 through meetings. And to come to this meeting with 12 one sheet of paper and no backup data, it kind of puts 13 the commissioners in a tough spot. And I'll just 14 leave it at that. We really need the backup data, and 15 we need an opportunity to review it more than right 16 now.</p> <p>17 Are we -- I know that's yours, do you 18 want -- are we supposed to have three --</p> <p>19 MR. THOMPSON: We used --</p> <p>20 MR. HERROD: By law, we don't have to 21 have three, but we do have to have a meeting. The 22 idea was we had a meeting to plan a meeting, and then 23 the second meeting was to talk about the third 24 meeting, so . . .</p> <p>25 MR. WRIGHT: Well, yes. I agree that the</p>

<p style="text-align: right;">Page 14</p> <p>1 first one has always been kind of useless to me. But 2 the second one was where we actually reviewed the 3 data, talked about it, went over it. 4 Now, I -- granted, the technology changes 5 some things, when you can dump it in a spreadsheet and 6 sort it automatically and do things now. And I think 7 that history goes back to when it was tabulated 8 manually. But I know more than once over the years -- 9 when we got that big notebook, you would look through 10 there and go through and find stuff that didn't belong 11 in there. 12 MR. HERROD: Did you send out the PDFs 13 that had all the data on it? 14 MS. CAUDILL: Huh-uh. 15 MR. HERROD: Okay. Well -- 16 MR. WRIGHT: I would, you know, 17 respectfully request in the future we get it so we can 18 review it in time to, you know, have some kind of 19 comfort level that the data is appropriate, all those 20 kinds of things. 21 But, you know, when you go back to 22 everything trying to -- you know, all the efforts to 23 include more, is to get a broader spectrum of -- you 24 know, or a broader inclusion of data. And now that 25 TDOT has the ability to furnish you-all all of that --</p>	<p style="text-align: right;">Page 16</p> <p>1 And I'm not volunteering Kent's help, but 2 I would like to make the suggestion that if we could 3 get -- this is how you go do it through it. You know, 4 because these -- you know, like you and I talked, 5 Mandy didn't even know she had it. And you already 6 had it back -- 7 MS. CAUDILL: And it was already done. 8 MR. WRIGHT: -- so, you know, that's 9 weird. But then if we were to have a -- this 10 department come to one of the Kent's meetings where 11 you have 350 contractors there and half of TDOT -- or 12 a lot of TDOT people -- all the important people at 13 TDOT. But anyway, you could present, How do we go 14 through this and do this. 15 And then those of us who don't even know 16 when it comes out because we're not on the mailing 17 list, you know, because it really needs to go to 18 people -- we can prepare our people what to be looking 19 for and how to do it should -- when it gets there. 20 And I suspect we could have an ever-increasing return 21 rate if we school them up just a little bit. 22 MS. CAUDILL: And then one another 23 question that I get asked a lot is, Is this required 24 by law? And I'm like, Nope. Do I have to do this? 25 CHAIRMAN MCCORD: So let's -- I'm going</p>
<p style="text-align: right;">Page 15</p> <p>1 I assume you send certified payroll records, don't 2 you? Is that what you -- 3 MR. HERROD: No. No. No. 4 MR. WRIGHT: So you don't provide the 5 data, just the number of contracts? 6 MR. DEGGES: Well, we provided you guys 7 with a list of -- 8 MR. HERROD: Current projects. 9 MR. DEGGES: -- current -- 10 MS. CAUDILL: Actual projects -- 11 MR. WRIGHT: -- (overtalking) payroll, 12 there wouldn't be -- 13 MR. DEGGES: Current -- current 14 contractors and subcontractors is what we were able to 15 dump out. 16 MS. CAUDILL: And overall, there was 286 17 individual subcontractors or contractors that these 18 went out to, and only a hundred responded. 19 MR. THOMPSON: And that's good 20 information. 21 MR. WRIGHT: Yeah. And that's what I'm 22 saying, the way the data is being presented and 23 working forward, that Jan does such a good job with, I 24 think the sampling rate should increase if we can 25 teach people how to do it.</p>	<p style="text-align: right;">Page 17</p> <p>1 to summarize here real quick. So we have a point of 2 contention on how many people are going to be included 3 and since we're the department in charge and we 4 interpret it wider and screen it to market it as 5 wider. So we have a process issue there. 6 And then if we need to continue a 7 conversation about interpretation later. Because what 8 you read is conflicting within the rules -- I mean, it 9 just is already. So I can see why either could have 10 that interpretation, but -- 11 MR. DEGGES: Just for what we -- we don't 12 care either way. 13 CHAIRMAN MCCORD: No. I know there's no 14 bad blood or anything. But we're trying to follow the 15 law. 16 MS. MCGAURAN: So you're -- I think 17 Paul's point was that the data they give was based on 18 their interpret, not yours. 19 CHAIRMAN MCCORD: Correct. 20 MR. DEGGES: And I -- 21 CHAIRMAN MCCORD: Exactly right. 22 MR. DEGGES: Our construction system does 23 not capture all of the contract or subcontractor stuff 24 for all the agencies who we do work with. 25 CHAIRMAN MCCORD: Okay. So that's a</p>

<p style="text-align: right;">Page 18</p> <p>1 limitation even if they wanted to. So there's a 2 process, a conversation there. I'm not sure we can 3 improve it. But we certainly can improve the 4 communication and the confusion that it was just TDOT 5 or elsewhere -- elsewhere. And to your point, it 6 should increase the size of people even if it's not 7 required by law.</p> <p>8 And then we have a process, it sounds 9 like, more data -- I think we were thinking, 10 especially during the COVID stuff, of streamlining a 11 piece of this is, is what we need to do. It sounds 12 like we need to go back and re-evaluate. Okay. So it 13 if it makes for better preparation to come here and 14 have the data beforehand, then that's something that 15 we need to work towards as well. Would you agree, 16 Tom?</p> <p>17 MR. HERROD: Oh, that's fine, yes.</p> <p>18 CHAIRMAN MCCORD: Okay. And then so the 19 third and most pertinent question is, do we feel like 20 we're prepared right now to be able to proceed with 21 setting these rates? Do we feel good about it?</p> <p>22 MS. MCGAURAN: I have one other question. 23 Just, I don't really think about this except for one 24 or two --</p> <p>25 CHAIRMAN MCCORD: Fair enough.</p>	<p style="text-align: right;">Page 20</p> <p>1 build a little bit on Steve's comment about the data. 2 You know, big picture, when you have lots of 3 responses, averaging is going to get you pretty close.</p> <p>4 So I mean, like, if you look at Item 5 No. 20 in the sweeping machine, only seven items, a 6 tremendous increase. If we had the data, we could 7 look in there and say, Well, is it overtime? Did 8 somebody have some over- -- you know, I'm not exactly 9 sure. And you-all probably looked at all that too.</p> <p>10 MR. HERROD: We did.</p> <p>11 MR. DEGGES: But, you know, from --</p> <p>12 MS. CAUDILL: It was cold --</p> <p>13 MR. HARROD: Yes, the vacuuming of --</p> <p>14 MS. CAUDILL: Yeah. They were getting 15 paid 32.50 an hour. I called them. They had three 16 tunnels they do every -- every month. And it wasn't 17 just a sweeping machine, like what our wage shows; it 18 was higher, because it was actually the milling and 19 the vacuuming of the dust.</p> <p>20 MR. WRIGHT: You could argue that's an 21 inappropriate --</p> <p>22 MS. CAUDILL: Classification.</p> <p>23 MR. WRIGHT: -- classification. 24 Corporate data for this classification --</p> <p>25 MS. CAUDILL: Yeah.</p>
<p style="text-align: right;">Page 19</p> <p>1 MS. MCGAURAN: -- this time of year. But 2 I was caught off guard when they -- or with Item 3 No. 4, because -- that the information is for just a 4 quarter, for July --</p> <p>5 MS. CAUDILL: Yes.</p> <p>6 MS. MCGAURAN: -- through September? 7 I always thought it was for the preceding 8 year.</p> <p>9 MS. CAUDILL: No. It's in the rules, 10 preceding quarter of July, August, and September.</p> <p>11 MS. MCGAURAN: Okay.</p> <p>12 MR. BAILEY: It's in the statute as well.</p> <p>13 MS. CAUDILL: The month of --</p> <p>14 MR. DEGGES: That's when heavy 15 construction is going on in the highway construction. 16 So I think there's an argument.</p> <p>17 MS. MCGAURAN: That's when they do the 18 majority of the work?</p> <p>19 MR. DEGGES: Not the majority, but the 20 broadest cross section.</p> <p>21 MS. MCGAURAN: Okay.</p> <p>22 MR. DEGGES: The time of year, for sure.</p> <p>23 MS. MCGAURAN: So the heaviest months of 24 the year.</p> <p>25 MR. DEGGES: And I -- I guess to kind of</p>	<p style="text-align: right;">Page 21</p> <p>1 MR. WRIGHT: -- since they're vacuuming 2 tunnels. I assume that's like a broom.</p> <p>3 MR. DEGGES: It might be. Well, there's 4 a broom operator.</p> <p>5 MR. THOMPSON: Yeah, broom --</p> <p>6 MR. DEGGES: At 11. Again, but that's 7 something that we -- if we looked at, we might, you 8 know -- and I don't know if this is, you know, our -- 9 be careful what I say. But, you know, sweeping 10 contracting is a niche-type business. I'm not exactly 11 you sure how this applies to our sweeping contracts. 12 But certainly that's a significant increase.</p> <p>13 MR. WRIGHT: But I think that speaks to 14 it's important for the -- you know, for us to review 15 the data before we're asked to vote.</p> <p>16 CHAIRMAN MCCORD: Or have access to it as 17 we go through and can answer the questions like we did 18 there.</p> <p>19 Okay. So I guess the question is, do we 20 want to try and proceed through this and see where we 21 are, or do we -- what is our -- if we don't set it 22 today, what happens?</p> <p>23 MR. BAILEY: Well, the commission 24 certainly has the authority to decide to have another 25 meeting other than today, but the rates have to be set</p>

<p style="text-align: right;">Page 22</p> <p>1 prior to December 1.</p> <p>2 CHAIRMAN MCCORD: Okay.</p> <p>3 MR. BAILEY: So you're going to have</p> <p>4 another meeting, which would have to be giving public</p> <p>5 notice, then you're going to have to have it pretty</p> <p>6 soon. And then, you know, if you want to see the</p> <p>7 backup data, then you would have time to review it</p> <p>8 before the next meeting.</p> <p>9 MR. WRIGHT: I would ask our legal</p> <p>10 counsel, is it appropriate for us to vote on this</p> <p>11 without having reviewed the data?</p> <p>12 MR. BAILEY: I don't know that that's a</p> <p>13 legal question versus a policy question, to be honest</p> <p>14 with you.</p> <p>15 MR. DEGGES: I guess I would say, Steve,</p> <p>16 that I know Janet and all -- you-all guys have looked</p> <p>17 at all of this stuff professionally and all, and I</p> <p>18 think it's important for us to have this conversation.</p> <p>19 I think, as the commissioner mentioned,</p> <p>20 going through COVID, trying to look at doing things a</p> <p>21 different way, I will submit to you that less than</p> <p>22 three meetings is better. And I think that technology</p> <p>23 is allowing us a little bit more. But to Steve's</p> <p>24 point, we would like to have a little bit more. And</p> <p>25 we could reach back out to Janet and say, Hey, could</p>	<p style="text-align: right;">Page 24</p> <p>1 confirm this. So but I'm not saying you wouldn't want</p> <p>2 to exclude some of this stuff.</p> <p>3 MR. DEGGES: I mean --</p> <p>4 CHAIRMAN MCCORD: So (overtalking) --</p> <p>5 MR. DEGGES: I would propose moving</p> <p>6 forward, myself.</p> <p>7 CHAIRMAN MCCORD: So did you have a</p> <p>8 question?</p> <p>9 MR. THOMPSON: Well, yeah, I mean --</p> <p>10 well, I mean, I'm fine with moving forward. I mean,</p> <p>11 in some of my stuff -- my questions, they actually</p> <p>12 were just generated once I started looking at this,</p> <p>13 and, you know, it was like the trucking. And so,</p> <p>14 like, to me, it would be like -- if I could just ask a</p> <p>15 question or two. I mean, because when you got those</p> <p>16 axles Are they on-road, or are they off-road?</p> <p>17 I mean, I actually started calling some</p> <p>18 companies asking about the truck driver, what their</p> <p>19 rates were. And, I mean, you know, because is it</p> <p>20 three or four or five plus axles? Is it dominated by</p> <p>21 fuel truck drivers, or is it -- there's a dump</p> <p>22 trucking indus- -- are they represented correctly in</p> <p>23 there with enough to make sure that -- because when</p> <p>24 you're getting into most of the dump truck people who</p> <p>25 were submitting this, they're DBEs.</p>
<p style="text-align: right;">Page 23</p> <p>1 you send me your data? And we should have done that.</p> <p>2 MS. MCGAURAN: Is it possible to have the</p> <p>3 data here at this meeting?</p> <p>4 MS. CAUDILL: Yeah.</p> <p>5 MR. HERROD: We got it. It's on the --</p> <p>6 MR. BAILEY: I mean, is it in a</p> <p>7 reviewable form?</p> <p>8 MR. HERROD: It's on the -- yeah.</p> <p>9 MR. WRIGHT: And I'm in no way saying</p> <p>10 anything inappropriate has been done. In the past,</p> <p>11 all of the work, other than the straight mathematics,</p> <p>12 has been in the review. Look through the data, you</p> <p>13 know, and that's where we found things that may or may</p> <p>14 not have been --</p> <p>15 MR. HERROD: Yeah. This spreadsheet has</p> <p>16 tabs with all the crafts on it, and that goes into the</p> <p>17 combined fitted table and then into the spreadsheet.</p> <p>18 Now, each one of these can be reviewed</p> <p>19 individually, looked at. I have -- we have gone</p> <p>20 through and taken out those projects that did not pay</p> <p>21 prevailing wage rates that they should have in that</p> <p>22 year. So it's already been filtered once just for</p> <p>23 that.</p> <p>24 And anything that looked really high, we</p> <p>25 called the contractor and asked, Can you please</p>	<p style="text-align: right;">Page 25</p> <p>1 Because there's so many certified</p> <p>2 payroll -- they're under contract. And then you've</p> <p>3 got a lot of these dump truck companies, ones who</p> <p>4 operate it, or whatever, they're not under contract,</p> <p>5 they're not submitting anything. So it's kind of like</p> <p>6 you're starting to penalize people unless you've got</p> <p>7 them separated and you -- does that make sense? I</p> <p>8 mean . . .</p> <p>9 CHAIRMAN MCCORD: Let's to do this, this</p> <p>10 is what I propose let's do. Let's start working</p> <p>11 through this, and we can go to the data if we have</p> <p>12 questions and see if we have a comfort level,</p> <p>13 approving just one at a time, doing those -- doing the</p> <p>14 work, if we're good with that.</p> <p>15 MR. DEGGES: I'd like to make a brief</p> <p>16 comment before we go through the data --</p> <p>17 CHAIRMAN MCCORD: Sure.</p> <p>18 MR. DEGGES: -- just for a little bit --</p> <p>19 or maybe -- we seem to be in an interesting time in</p> <p>20 the transportation construction industry right now in</p> <p>21 that we're all competing for resources. In fairness,</p> <p>22 TDOT's view all along has been in prevailing wage work</p> <p>23 is that we want to make sure that we keep wages low,</p> <p>24 keep overall prices low.</p> <p>25 My comment to the committee here is, are</p>

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1 we in a situation right now -- you know, if we put a
 2 really, really low rate in and Steve decides to pay
 3 his people at a much higher rate, well, he's not going
 4 to be competitive.

5 And the question that I've kind of got
 6 for the prevailing wage for -- you know, for what
 7 we're responsible for is, Is there a mindset here that
 8 we need to be thinking about leaning to hire
 9 prevailing wage rates per what we're allowed to do in
 10 this? Because we're trying to encourage new employees
 11 to come into the industry. So I'm just throwing that
 12 out there from a -- I mean, we're a committee here
 13 that --

14 CHAIRMAN MCCORD: And that's within the
 15 purview of this committee --

16 MR. WRIGHT: You addressed my heart
 17 there, sir. Because that's the reason I just wanted
 18 to get on this committee, is that we work in several
 19 states, as you know. And Tennessee is the only state
 20 in which the prevailing wage published by the highway
 21 department is relevant at all.

22 I mean, Alabama, a bulldozer operator is,
 23 like, 8.75 or something. You know, who -- where are
 24 you going to find that? So, you know -- and I agree.
 25 And that's why we've tried to push to keep them

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1 current and part of the process. Because, one, it
 2 helps your pricing be more stable. Because most of
 3 the contractors believe they can hire for the wage
 4 rates that are published. Where if you go anywhere
 5 else, it's irrelevant.

6 It's just what your market will bear.
 7 You're competing with the building trades, not the
 8 highway wage table. And I think in the times we have
 9 now, you can't get people to work for any number. I
 10 would think this is a time that we should be pressing
 11 for higher wages to try to get people, rather than
 12 holding back on it.

13 MR. DEGGES: I want to be careful when
 14 I'm saying this. You know, Congress passed a bill
 15 last Friday on the President's signature that for us
 16 means, particularly in our construction program,
 17 probably about a 20 percent increase in dollars going
 18 to construction.

19 That's going to be more projects. And
 20 we're already struggling in some areas of finding, you
 21 know, manpower to deliver the work. You know, we want
 22 our contractors to run their businesses and, you know,
 23 have more staff and -- you know, and more companies,
 24 more competition.

25 And, you know, right now, I mean, I've

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1 got a -- my nephew's roofing buddy makes \$19 an hour
 2 serving pizza. You know, I mean, there's a
 3 competition for manpower out there.

4 And so I throw that out to this
 5 committee. Because I see the rulemaking that, you
 6 know -- and staff has done a good job. And, you know,
 7 we could argue about the details of it. But in
 8 general, this is the direction. They've looked at the
 9 data and said, Here is the bumper rails that we've got
 10 to operate between. And I just throw that out
 11 there --

12 CHAIRMAN MCCORD: So my comment would be,
 13 I think that's a fair lens to look through, and that's
 14 part of the (inaudible) --

15 THE COURT REPORTER: I'm sorry, if you
 16 could speak louder for me, please.

17 CHAIRMAN MCCORD: I'm a very -- I'm doing
 18 this on purpose so that you can't hear -- I will speak
 19 up.

20 I said, I think that's a fair lens for us
 21 to look through.

22 MR. THOMPSON: I mean, just to add on
 23 there, I mean, I second Steve. And that's the reason
 24 why I'm diving so deep and asking a lot of questions.
 25 Because this is extremely important. Because this is

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1 a baseline that a lot of people work off of.

2 And so I think that it's important that
 3 they're right and they're accurate and they reflect --
 4 because it is, it is changing so much. I mean, that's
 5 the reason why I was questioning about the truck
 6 drivers trying to understand it.

7 Because, I mean, we've seen rates -- I
 8 mean, we're seeing 20, 25 percent rate increases in
 9 trucking, just like -- I mean, it just happened like
 10 that because of fuel and pay. And truckers are trying
 11 to understand that to make sure that these are -- you
 12 know, are these right? Do these make sense?

13 CHAIRMAN MCCORD: All right. So why
 14 don't we dive in, Tom, and start working one by one
 15 with that all in mind.

16 MR. HERROD: All right. First craft,
 17 they have zero responses. I'm going to ask for -- Jan
 18 will put up the proposal. I'll put in a suggested
 19 number that's based on the current prevailing wage
 20 rate times 1.3 percent increase, which was the overall
 21 increase, which would make it \$25. You do have to
 22 stay between 22.75 and 25.65 for it to be a valid
 23 minimum wage. As we put those up there, we'll know
 24 whether or not it's a valid number.

25 So what is your --

<p style="text-align: right;">Page 30</p> <p>1 MS. MCGAURAN: So, Tom?</p> <p>2 MR. HERROD: Yes.</p> <p>3 MS. MCGAURAN: Would you kind of walk us</p> <p>4 through this table and this graph --</p> <p>5 MR. HERROD: Sure.</p> <p>6 MS. MCGAURAN: -- and, you know, kind of</p> <p>7 what we're looking at and what those kind of</p> <p>8 thresholds are, where they come from, and those kind</p> <p>9 of things?</p> <p>10 MR. HERROD: All right.</p> <p>11 MS. MCGAURAN: Just remind me.</p> <p>12 MR. HERROD: If you look on your</p> <p>13 spreadsheet or up here, in Column No. 2 we have the</p> <p>14 craft description. Column No. 3 is the number of</p> <p>15 responses that we had for each craft.</p> <p>16 Anything in yellow is going to be four or</p> <p>17 below in responses. They're just highlights.</p> <p>18 Anything -- zero is highlighted text in red. The</p> <p>19 survey rate is the average rate for that</p> <p>20 classification, from -- whether it's 1 or 200. That's</p> <p>21 a survey rate.</p> <p>22 And Column 5 is the current prevailing</p> <p>23 wage rate. That's in a yellow background. Then</p> <p>24 Column 6 is the survey versus the current prevailing</p> <p>25 wage. That's either an increase or decrease. It</p>	<p style="text-align: right;">Page 32</p> <p>1 MS. MCGAURAN: So the prevailing wage is,</p> <p>2 again, a plus or minus 6 percent of that --</p> <p>3 MR. HERROD: That's correct.</p> <p>4 MS. MCGAURAN: Okay. I just wanted to</p> <p>5 make sure.</p> <p>6 MR. HERROD: And where you have</p> <p>7 options -- where you have two options, I have taken</p> <p>8 the current prevailing wage rate, or the survey rate</p> <p>9 if that's applicable, and that's your baseline. Of</p> <p>10 course, where you have two options, you can go with</p> <p>11 either one. But where there's a huge increase or a</p> <p>12 huge decrease, I've gone with the current prevailing</p> <p>13 wage rate as the baseline when there is one to four</p> <p>14 responses.</p> <p>15 So from there, as you go over to the</p> <p>16 prevailing wage calculator, you have your min and max</p> <p>17 then, based upon that baseline and then the normal</p> <p>18 adjustment that we would make to get the suggested</p> <p>19 rate increase.</p> <p>20 And this is based on past history of how</p> <p>21 we've done it. If -- to keep it -- the overall</p> <p>22 increase is 3.34 percent. So if there's a huge</p> <p>23 increase, we give it the survey rate, or -- or the</p> <p>24 3.34. We've never decreased the prevailing wage rate</p> <p>25 versus the previous years in the times I've done it.</p>
<p style="text-align: right;">Page 31</p> <p>1 shows up in green if it is an increase of 6 percent or</p> <p>2 less. And anything in red background means it's a</p> <p>3 higher or lower increase depending -- or a decrease.</p> <p>4 So it kind of highlights the survey versus the</p> <p>5 current.</p> <p>6 Then Column 7, 8, 9, and 10 are the</p> <p>7 bumper rails, as it was referred to. The survey, we</p> <p>8 go by the survey, and only have that as an option.</p> <p>9 You have a min and max based on -- the calculation for</p> <p>10 that is the survey rate plus or minus 6 percent of the</p> <p>11 current prevailing wage rate.</p> <p>12 So we have to know the prevailing -- the</p> <p>13 current prevailing wage rate goes into every</p> <p>14 calculation. It's just a matter of, do you add it to</p> <p>15 the current prevailing wage or to the survey rate. So</p> <p>16 that is the min and max.</p> <p>17 Where there are -- over under the</p> <p>18 prevailing wage calculator, I have highlighted what</p> <p>19 the baseline will be, if it's the prevailing wage or</p> <p>20 if it's going to be the survey. And I have it</p> <p>21 highlighted for you.</p> <p>22 Where there is zero response, you have to</p> <p>23 go by the prevailing wage. Where there are five or</p> <p>24 more responses, you have to go by the survey rate,</p> <p>25 which is in blue. And then when you have --</p>	<p style="text-align: right;">Page 33</p> <p>1 And then I have, under the -- I have a</p> <p>2 suggested number there. And then the proposed number</p> <p>3 is what you will give us. And we will put that in the</p> <p>4 spreadsheet on the screen then. And the validation</p> <p>5 will show up whether or not it's a valid number if it</p> <p>6 meets the criteria or the limits.</p> <p>7 CHAIRMAN MCCORD: And the criteria is 6</p> <p>8 percent.</p> <p>9 MR. HERROD: Of the current prevailing</p> <p>10 wage rate, right.</p> <p>11 CHAIRMAN MCCORD: Okay.</p> <p>12 MR. HERROD: So that's the short</p> <p>13 explanation. If I've confused anybody or you need</p> <p>14 clarification, please let me know.</p> <p>15 CHAIRMAN MCCORD: As we work through.</p> <p>16 MR. HERROD: Exactly.</p> <p>17 CHAIRMAN MCCORD: A couple of little --</p> <p>18 MR. THOMPSON: The responses are jobs;</p> <p>19 correct?</p> <p>20 MR. HERROD: That's correct.</p> <p>21 MS. MCGAURAN: So enough people with</p> <p>22 jobs --</p> <p>23 MR. HERROD: It's the weighted average of</p> <p>24 all the hours, the responses -- individual responses</p> <p>25 from a company on the jobs that they have.</p>

<p style="text-align: right;">Page 34</p> <p>1 MS. CAUDILL: Per classification? 2 MR. HERROD: Per classification, right. 3 Okay? 4 CHAIRMAN MCCORD: Okay. 5 MR. HERROD: All right. No. 1. Craft 6 No. 1, there is, we have no response. The current 7 prevailing wage rate of 24.20. And based on the 8 overall adjustment increase, overall increase this 9 year of 3.34 percent, the suggested number is \$25.01. 10 It does happen to be between 22.75 and 25.65. So you 11 can tell us what you propose. And as we put the 12 number up there, it will let us know if that's a valid 13 number. 14 MS. MCGAURAN: And so your suggested is? 15 MR. HERROD: \$25.01. 16 MS. MCGAURAN: But you get the \$25.01 17 because you calculated what number by 3 -- 18 MR. HERROD: The current prevailing wage 19 times -- 20 MS. MCGAURAN: 3.34 percent? 21 MR. HERROD: Yeah. 22 MR. DEGGES: And that 3.34 percent is 23 your analysis of all responses is a 3.34 percent 24 inflationary rate? 25 MR. HERROD: That is correct. That's on</p>	<p style="text-align: right;">Page 36</p> <p>1 very small sample -- 2 MS. CAUDILL: One. 3 MR. DEGGES: -- it was higher than that? 4 MR. HERROD: Yeah. We had one response 5 of almost 23 percent higher, \$18.03. 6 MR. WRIGHT: The survey rate was 21. 7 MR. HERROD: 21.44. One response. You 8 can take the survey rate if you like and the min and 9 max between that or the prevailing wage. 10 MR. DEGGES: Let's just keep working 11 through. 12 MR. HERROD: 18.03. All right. Item 13 No. 3 had 64 responses. The overall increase was 14 2.66. That's survey versus the current. Based on 15 past history, we've increased just enough to get it up 16 to that 3.34 percent. That's what that 0.68 is. So 17 the number -- the suggested number of 22.16 is 3.34 18 percent higher than what the survey rate is. That's 19 just to keep it in line with the adjustment. 20 MR. DEGGES: And then .68 percent 21 higher -- 22 MR. HERROD: Than the overall increase. 23 If you take the 2.66 and add the .68 to it, you 24 get 3.34. 25 MR. DEGGES: Okay.</p>
<p style="text-align: right;">Page 35</p> <p>1 the last page on the bottom of the second page. 2 MR. DEGGES: They've proposed using the 3 average inflation rate? 4 MR. HERROD: That's correct. 25.01. 5 What is your preference on that one? 6 CHAIRMAN MCCORD: Any discussion? 7 MR. HERROD: We'll come back through 8 there a second time just to verify. 9 MS. CAUDILL: Put it -- 10 MR. HERROD: Yeah. 11 No. 2, bricklayer. We have one response. 12 It was almost 23 percent higher than the current 13 prevailing wage based on past history. In those 14 situations, we've take the current prevailing wage. 15 We do not have to take -- in one to four responses, we 16 do not have to go by the survey. You can. You don't 17 have to. We can go by the survey, which was the 18 prevailing wage for this past year, 17.45, and adjust 19 it up. It will be \$18.03. 20 MR. DEGGES: So the 18.03 is the 17 -- 21 MR. HERROD: 45. 22 MR. DEGGES: -- 45 with the 3.34 -- 23 MR. HERROD: That's correct. Whatever 24 is -- 25 MR. DEGGES: -- percent? But based on a</p>	<p style="text-align: right;">Page 37</p> <p>1 MR. HERROD: That's a little confusing. 2 MR. THOMPSON: Yeah. 3 MR. HERROD: Yeah. I hesitate, the base 4 rate of 22, the survey rate, and increase it slightly 5 to get it up to the overall increase, 22.16. 6 MS. MCGAURAN: So, basically, you're 7 saying that the 21.44, the current prevailing rate, 8 times the 3.34 gets you the 22.16, which is .68 9 percent higher than -- 10 MR. HERROD: That's correct. That's 11 correct. 12 MS. MCGAURAN: Okay. 13 MR. HERROD: Does that make sense? 14 MS. MCGAURAN: Yeah. 15 MR. HERROD: Okay. Item No. 4, 117 16 responses. Here again, about 2.62 increase survey 17 versus prevailing wage. I'm taking that over the -- 18 we're going to raise -- or increase on the 24.03 19 survey and increase it slightly to .72 percent to get 20 it up to 24.21. That will be 3.34 percent above the 21 current prevailing wage. 22 MR. DEGGES: So these four 23 classifications here for operators, that is a broad 24 cross section of trucking equipment; is that correct? 25 All equipment. Had a lot of responses in this area.</p>

<p style="text-align: right;">Page 38</p> <p>1 I mean, is this an area where, to your 2 point earlier, that we're struggling? 3 MR. THOMPSON: Yeah. And it's also -- 4 which Steve and I talked just a little bit about this. 5 Some of your higher skilled machines are not 6 necessarily in Class A. They may be in Class B. I 7 used a motor grader for an example. And so it gets a 8 little bit -- I don't know, the classifications, I'd 9 love to have a topic discussion about those. 10 CHAIRMAN MCCORD: So this is one that we 11 want to talk about as -- I mean, we're getting these 12 up to -- we're increasing what the survey said. But 13 you're thinking -- 14 MR. HERROD: Well, I mean, my observation 15 is, I've seen ads in the newspaper -- 16 MR. WRIGHT: I think we ought to go to 17 the maximum on the next four or five. 18 MR. HERROD: -- you know, for -- you 19 know, CDL -- 20 MR. THOMPSON: I'll -- we need to be 21 above 4 percent. 22 MR. WRIGHT: Yeah. 23 MR. BAILEY: Excuse me. Try not to talk 24 over each other. It's being transcribed, and it's 25 hard for her to record two people at one time.</p>	<p style="text-align: right;">Page 40</p> <p>1 MR. DEGGES: I mean, this raises the cost 2 of doing business for us. 3 CHAIRMAN MCCORD: Right. 4 MR. DEGGES: But my -- my thought, and I 5 think this is what Steve and Scott are talking about 6 is, for us to compete in this industry and have a 7 level playing field for competition, the prevailing 8 wage is a mechanism to do that. 9 MR. BAILEY: Okay. 10 MS. MCGAURAN: And there's a lot to be 11 said for having high caliber people working on 12 construction in terms of the overall outcomes. You 13 know, the higher -- higher caliber, I guess, than a 14 lower wage might lend yourself to. 15 MR. WRIGHT: Warm bodies are looking good 16 right now. 17 CHAIRMAN MCCORD: So it sounds like it's 18 25.44. 19 MR. HERROD: All right. So go through 20 No. 5, Class B operators. We have a similar 21 situation? 22 MR. WRIGHT: Yes, sir. 23 MR. HERROD: The overall increase was 24 4.45 percent. We can go -- we can bump it up some 25 more and get it up to 23.07.</p>
<p style="text-align: right;">Page 39</p> <p>1 CHAIRMAN MCCORD: So -- 2 MR. HERROD: Okay. The max is 25.44, the 3 maximum we can go up to. Is that acceptable? 4 MS. CAUDILL: Yeah. 5 MR. HERROD: Okay. 6 MR. DEGGES: I'm -- do we want to go to 7 the maximum or somewhere in between? I don't know the 8 answer to that, but . . . 9 MR. HERROD: We have 6 percent. We can 10 go -- 11 CHAIRMAN MCCORD: So it sounds like we 12 want to go to the maximum. 13 MR. WRIGHT: That would be my personal 14 preference. 15 MR. HERROD: Okay. The maximum? 16 CHAIRMAN MCCORD: I think that's, Ann -- 17 MS. MCGAURAN: I mean, I think it gets 18 down to the question that Paul made earlier in 19 conversation is, kind of what are we trying to do. 20 And my personal opinion, certainly -- my background 21 says vertical (phonetic) construction rather than road 22 construction. But you want as many possible bidders, 23 that's where we get the best outcome. 24 CHAIRMAN MCCORD: Okay. 25 MS. MCGAURAN: Is what I prefer to see.</p>	<p style="text-align: right;">Page 41</p> <p>1 CHAIRMAN MCCORD: Sounds like that's 2 consensus. 3 MR. HERROD: Sounds good. 4 All right. 23.07. All right. The next 5 one will be the similar thing. We can pump it up. 6 That's Item No. -- Class C operators, Craft No. 6. We 7 can bump it up to 24.04. 8 MS. CAUDILL: Up. 9 MR. HERROD: Is that good? 10 MS. CAUDILL: Uh-huh. 11 MR. WRIGHT: Please. 12 MR. HERROD: All right. The next Item is 13 Class D. It went up 5 percent, almost 5 1/2 percent. 14 We can take it up a little bit more, take it to 22.67. 15 MS. CAUDILL: Okay. 16 MR. WRIGHT: Yeah. 17 MR. HERROD: Good? Okay. 18 Okay. Item No. 8, concrete finisher. 19 Survey was slightly higher, 4 percent higher than the 20 current prevailing wage. We can leave it at that wage 21 or we can, within the limits there, take it down some 22 or move it up some. 23 MR. BAILEY: A concrete finisher is just 24 as hard to find as a motor vehicle operator. 25 MR. HERROD: So 21.59.</p>

<p style="text-align: right;">Page 42</p> <p>1 MR. WRIGHT: Or a good one.</p> <p>2 MR. HERROD: All right.</p> <p>3 MS. CAUDILL: Yeah.</p> <p>4 MR. HERROD: Okay. 21.59.</p> <p>5 All right. The next one is a drill</p> <p>6 operator. We only had three responses, therefore we</p> <p>7 can go either with the survey or the current. They're</p> <p>8 very similar. I took the higher rate, 37.26 was the</p> <p>9 survey, and increased it slightly. We can maximize it</p> <p>10 or somewhere in between.</p> <p>11 MR. THOMPSON: I have no opinion.</p> <p>12 MR. WRIGHT: Yeah. Most every case --</p> <p>13 operator we use is a subcontractor. And, honestly, I</p> <p>14 think the vast majority of them are union employees.</p> <p>15 MR. HERROD: Okay.</p> <p>16 MR. WRIGHT: Is that not right, Brian?</p> <p>17 MR. EGAN: I assume, basing --</p> <p>18 MR. WRIGHT: Knowing who the contractors</p> <p>19 are --</p> <p>20 MR. EGAN: -- (overtalking) specialize, I</p> <p>21 would --</p> <p>22 MR. WRIGHT: -- because most of their</p> <p>23 work is done on building.</p> <p>24 MR. HERROD: All right. Do you want to</p> <p>25 take the suggested number?</p>	<p style="text-align: right;">Page 44</p> <p>1 MR. DEGGES: You know, we -- like a lot</p> <p>2 of our contracts, you know, have a short order. But</p> <p>3 the big dollar contracts generally take more time.</p> <p>4 MS. MCGAURAN: Imagine that.</p> <p>5 MR. DEGGES: Sometimes small ones do.</p> <p>6 But we don't like to talk about those.</p> <p>7 MR. THOMPSON: But you also have people</p> <p>8 who increase every year with what the wage rate is, so</p> <p>9 that's all across the board.</p> <p>10 MS. MCGAURAN: All right.</p> <p>11 MR. HERROD: All right. For Item No. 10,</p> <p>12 though, we can maximize it. The most we can go is</p> <p>13 33.79, which is the suggested number. Two different</p> <p>14 things.</p> <p>15 MS. MCGAURAN: So the most that we can go</p> <p>16 is 33.79, not 33.96?</p> <p>17 MR. THOMPSON: You've got one contractor</p> <p>18 who --</p> <p>19 MR. HERROD: Oh, I'm sorry --</p> <p>20 MR. THOMPSON: -- influences this. And</p> <p>21 he's the largest electrical contractor, and he did not</p> <p>22 submit last year.</p> <p>23 MR. WRIGHT: This would be an interesting</p> <p>24 one to look at the data.</p> <p>25 MR. THOMPSON: Yeah. This is a data --</p>
<p style="text-align: right;">Page 43</p> <p>1 MR. DEGGES: I would agree.</p> <p>2 MR. HERROD: Okay.</p> <p>3 MR. WRIGHT: Yeah.</p> <p>4 MR. HERROD: All right. The next one is</p> <p>5 electrician. It went down slightly.</p> <p>6 MS. MCGAURAN: Can I ask a question? If</p> <p>7 the prevailing wage rate is a certain wage, how can</p> <p>8 people pay less than the prevailing wage rate on</p> <p>9 contract?</p> <p>10 MR. DEGGES: They're not supposed to per</p> <p>11 our contract.</p> <p>12 MR. WRIGHT: They're older.</p> <p>13 MR. HERROD: No, they -- well, they're --</p> <p>14 they pay whatever the letting year was.</p> <p>15 MR. WRIGHT: To answer your question, the</p> <p>16 contract may not have been let in 2021. It may have</p> <p>17 been a 2018 contract, which is how the number gets --</p> <p>18 MR. DEGGES: On average, our contracts</p> <p>19 last four years. And at the time they go into effect</p> <p>20 is when the prevailing wage is -- did I say that</p> <p>21 correctly?</p> <p>22 MR. WRIGHT: So who turns the number in</p> <p>23 that haven't been correct?</p> <p>24 MS. MCGAURAN: So those are probably old</p> <p>25 numbers as well as . . .</p>	<p style="text-align: right;">Page 45</p> <p>1 this is a data one right here.</p> <p>2 MR. DEGGES: Yeah.</p> <p>3 MR. WRIGHT: Because I would want to know</p> <p>4 if it was one contractor driving and if it</p> <p>5 miraculously only had old jobs.</p> <p>6 MR. THOMPSON: And I think if you look at</p> <p>7 it --</p> <p>8 MS. CAUDILL: You can go both ways.</p> <p>9 MR. THOMPSON: If you look at last year's</p> <p>10 and then look at this year's data, you're going to see</p> <p>11 something different. I don't know what the answer is</p> <p>12 here. I'm just saying.</p> <p>13 MR. WRIGHT: It doesn't matter to me</p> <p>14 because --</p> <p>15 MS. MCGAURAN: Can we look at the data?</p> <p>16 MR. THOMPSON: Yeah. I don't have a dog</p> <p>17 in that hunt.</p> <p>18 MS. MCGAURAN: Jan, can we pull up the</p> <p>19 data at all?</p> <p>20 MS. CAUDILL: Which class?</p> <p>21 MS. MCGAURAN: The electrician.</p> <p>22 CHAIRMAN MCCORD: Bust that up a little</p> <p>23 bit.</p> <p>24 MS. CAUDILL: Where do you want me to go?</p> <p>25 MS. MCGAURAN: Right there, 28.21. What</p>

<p style="text-align: right;">Page 46</p> <p>1 year was that? That's a 2019 contract?</p> <p>2 And then if you go to the very top, there</p> <p>3 was almost a 2,000-hour one.</p> <p>4 MS. CAUDILL: We have 2017 in it too.</p> <p>5 MR. WRIGHT: Yeah.</p> <p>6 MS. CAUDILL: That was the oldest I</p> <p>7 remember.</p> <p>8 MR. WRIGHT: There's 1,200 right there,</p> <p>9 so --</p> <p>10 MS. MCGAURAN: Can we sort by, you know,</p> <p>11 like, maybe 2020 data just to see where . . .</p> <p>12 MR. WRIGHT: I don't have an opinion.</p> <p>13 MR. THOMPSON: I don't either.</p> <p>14 MR. WRIGHT: I have never tried to</p> <p>15 hire --</p> <p>16 MS. MCGAURAN: I just --</p> <p>17 CHAIRMAN MCCORD: Let's look and see.</p> <p>18 MS. CAUDILL: There's the one from . . .</p> <p>19 MS. MCGAURAN: So it appears that the</p> <p>20 rate that they've got mentioned here, 33.79, would be</p> <p>21 still an increase from what people were, you know,</p> <p>22 receiving.</p> <p>23 MR. HERROD: We can go to 33.96 on that.</p> <p>24 That would be the maximum.</p> <p>25 MS. MCGAURAN: So Tom and Jan, I think it</p>	<p style="text-align: right;">Page 48</p> <p>1 essentially stays the same, a 1 percent decrease. We</p> <p>2 can -- suggestion is -- up to 26.45, that gives you an</p> <p>3 overall increase of a survey of 4.36, which is 3.34</p> <p>4 percent over the current prevailing wage, 26.45. Is</p> <p>5 that good?</p> <p>6 CHAIRMAN MCCORD: Uh-huh.</p> <p>7 MR. HERROD: Item No. 15, we have a</p> <p>8 suggested rate of 27.32. There was a 4 percent</p> <p>9 increase overall. We could leave it at 27.32 or take</p> <p>10 it up from there. That gives you 27.32. Is that</p> <p>11 good?</p> <p>12 MR. THOMPSON: Yeah.</p> <p>13 MR. HERROD: Okay. Second page. Item</p> <p>14 No. 16, mechanic light duty. There was a 3.3- -- 3.46</p> <p>15 percent increase. Suggested is 25.66. That's a --</p> <p>16 that does give you a little over what the overall</p> <p>17 increase is, 25.66. Is that good?</p> <p>18 MR. THOMPSON: Yes.</p> <p>19 MR. HERROD: Okay. Item No. 17, we only</p> <p>20 had one response. So we can go with either the survey</p> <p>21 or prevailing wage rate. They're almost identical.</p> <p>22 So the suggested is 33.35. It gives you the 3.34</p> <p>23 percent increase. Is that good?</p> <p>24 MR. THOMPSON: Yeah.</p> <p>25 MR. HERROD: All right. Item No 18,</p>
<p style="text-align: right;">Page 47</p> <p>1 would be helpful -- I don't know if you can lock that</p> <p>2 spreadsheet in such a way so we can change the</p> <p>3 numbers, but if, in addition to the pdf we got that</p> <p>4 whole workbook, that would be helpful --</p> <p>5 MR. HERROD: Yeah. I'm going to send</p> <p>6 this off to Ms. --</p> <p>7 CHAIRMAN MCCORD: Process change.</p> <p>8 MS. MCGAURAN: Yeah, going forward.</p> <p>9 MR. HERROD: Yeah. Okay. 33.96 on</p> <p>10 No. 10. Item No. 11, there was a 4 percent decrease.</p> <p>11 We can go up to the max, 16.88. How's that? That's</p> <p>12 good?</p> <p>13 MS. CAUDILL: Uh-huh.</p> <p>14 MR. HERROD: Okay. Item No. 12,</p> <p>15 ironworkers, we had five responses. It went up 6</p> <p>16 percent. We can keep it there or we can take it up a</p> <p>17 little bit more. Suggested is 21.15. That gives you</p> <p>18 a little over a 6 percent increase.</p> <p>19 CHAIRMAN MCCORD: Okay.</p> <p>20 MR. HERROD: Item No. 13, there was no</p> <p>21 responses, so we have to work off the prevailing wage.</p> <p>22 Suggested is 21.36. It's 3.34 percent increase. Is</p> <p>23 that good?</p> <p>24 MR. THOMPSON: Yeah.</p> <p>25 MR. HERROD: Okay. Item No. 14,</p>	<p style="text-align: right;">Page 49</p> <p>1 skilled laborer, a 3.93 percent increase. We can go</p> <p>2 with survey or take it up some more, but the survey</p> <p>3 gives you slightly over the increase. Is that good?</p> <p>4 MR. DEGGES: So this is -- with, you</p> <p>5 know, skilled labor and unskilled labor, that's</p> <p>6 your --</p> <p>7 MR. WRIGHT: That's our biggest one right</p> <p>8 there. I mean, I would personally be for raising that</p> <p>9 to the maximum.</p> <p>10 MS. MCGAURAN: So the 20- --</p> <p>11 MR. WRIGHT: That's just my one opinion.</p> <p>12 MR. HERROD: 20.62?</p> <p>13 MS. CAUDILL: Yeah.</p> <p>14 MR. HERROD: Okay. Item No. 19. I only</p> <p>15 had one response. We can use the survey or the</p> <p>16 current prevailing wage, but we can take it up to 28.</p> <p>17 That's the suggested. That gives you the 5 percent</p> <p>18 increase, or we can take it up slightly more, 28?</p> <p>19 MR. DEGGES: 28.</p> <p>20 MR. HERROD: 28 good?</p> <p>21 Okay. Item No. 20, we've got a -- we had</p> <p>22 seven responses.</p> <p>23 MS. MCGAURAN: I think this is where they</p> <p>24 (inaudible) --</p> <p>25 THE COURT REPORTER: I'm sorry, if you</p>

<p style="text-align: right;">Page 50</p> <p>1 could speak up for me, please.</p> <p>2 MS. MCGAURAN: I said, I think this is</p> <p>3 where they wanted to see the data.</p> <p>4 MR. HERROD: Okay. No. 20.</p> <p>5 MR. DEGGES: This is the one you-all said</p> <p>6 you-all called about.</p> <p>7 MS. CAUDILL: Yeah. It's still a</p> <p>8 contractor.</p> <p>9 MR. WRIGHT: What did you say they were</p> <p>10 doing, Jan? I'm -- I was lost.</p> <p>11 MS. CAUDILL: Cold milling the tunnels.</p> <p>12 MR. WRIGHT: Cold --</p> <p>13 MR. THOMPSON: No. No. That -- those --</p> <p>14 actually, this is -- those are actually the broom</p> <p>15 trucks that you're running behind -- at Jones</p> <p>16 Brothers, I know, standard would be the same. They're</p> <p>17 running behind the -- milling it.</p> <p>18 MS. CAUDILL: Right.</p> <p>19 MR. WRIGHT: So they're on the interstate</p> <p>20 in the middle of the night.</p> <p>21 MR. BAILEY: Yes.</p> <p>22 MR. WRIGHT: It could ruin your company</p> <p>23 with one --</p> <p>24 CHAIRMAN MCCORD: It defines it -- excuse</p> <p>25 me for interrupting -- the one who drives a sweeping</p>	<p style="text-align: right;">Page 52</p> <p>1 MR. EGAN: They go into -- I hate to call</p> <p>2 it -- a machine they developed that cleans and brushes</p> <p>3 those tiles of our tunnels and takes the dirt</p> <p>4 overhead --</p> <p>5 MR. DEGGES: Overhead sweeper.</p> <p>6 CHAIRMAN MCCORD: Significantly</p> <p>7 different.</p> <p>8 MR. WRIGHT: That's a dramatically</p> <p>9 different thing --</p> <p>10 MR. EGAN: That's all I'm saying. It</p> <p>11 doesn't coincide with the definition that's in the</p> <p>12 promulgated rules.</p> <p>13 MR. WRIGHT: Because 32.50 would put the</p> <p>14 guy picking up behind the milling machine the highest</p> <p>15 paid member of a paving crew. I think --</p> <p>16 MR. THOMPSON: Yeah. That would be</p> <p>17 correct.</p> <p>18 MR. WRIGHT: -- in my humble experience.</p> <p>19 So we need to --</p> <p>20 MR. EGAN: It doesn't necessarily match</p> <p>21 the description --</p> <p>22 MR. WRIGHT: -- split it or toss it or</p> <p>23 something. I don't exactly know.</p> <p>24 MS. MCGAURAN: So the suggested rate of</p> <p>25 29.63 seems high.</p>
<p style="text-align: right;">Page 51</p> <p>1 machine that cleans streets of trash and other</p> <p>2 accumulations, fills water tanks and machine from</p> <p>3 hydrant, dry sweep along near -- along street near</p> <p>4 curbs, (inaudible) controls, rotary brushes, and water</p> <p>5 sprays so machine automatically picks up dust and</p> <p>6 trash from a street and deposits in the dirt trap at</p> <p>7 the rear of the machine.</p> <p>8 So those are also classes that TDOT uses</p> <p>9 for our street cleanings along the medium rails,</p> <p>10 shoulder of the roadways, in addition to what some</p> <p>11 contractors have for milling where they vacuum up</p> <p>12 milling. So it's also for our maintenance contracts</p> <p>13 for street sweeping.</p> <p>14 MR. DEGGES: And I guess the question</p> <p>15 that I've got for our Steve, contractor, I don't know</p> <p>16 that this is -- I don't know that these responses are</p> <p>17 consistent with a lot of the work we do. You know, we</p> <p>18 vacuum our shoulders and sweep our shoulders on the</p> <p>19 urban interstates, you know, twice a month.</p> <p>20 MR. WRIGHT: What did Diamond Specialized</p> <p>21 do? They're the only ones with the high rates.</p> <p>22 THE COURT: They have our tunnel cleaning</p> <p>23 contracts.</p> <p>24 MR. WRIGHT: Tunnel cleaning. Tunnel,</p> <p>25 tunnel.</p>	<p style="text-align: right;">Page 53</p> <p>1 MR. THOMPSON: Extremely high.</p> <p>2 MR. WRIGHT: I would offer that the \$32</p> <p>3 paid by Diamond Specialized, Inc., is what they had to</p> <p>4 pay to get the skilled operator to do what they were</p> <p>5 doing. It's not like if we lower the rate they're</p> <p>6 going to go down. But if we make Jones Brothers do --</p> <p>7 their sweeping machine operators, it's going to</p> <p>8 dramatically impact the dynamics of the crew.</p> <p>9 I think it's inappropriate to -- either</p> <p>10 we need to split it out somehow, or we really ought to</p> <p>11 ignore Diamond Specialized's stuff, because that's a</p> <p>12 whole different category.</p> <p>13 MR. HERROD: So if you ignore that, the</p> <p>14 other two that are highlighted, 17.75 -- go back --</p> <p>15 you're not paying an accurate prevailing wage for that</p> <p>16 year. So the number would be 19.20, which was paid</p> <p>17 accordingly by Jones Brothers. So it was the current</p> <p>18 prevailing wage. So we can adjust it off of that if</p> <p>19 you'd like to.</p> <p>20 MR. WRIGHT: That's one of the things we</p> <p>21 maybe should consider, a category, or if there's a lot</p> <p>22 of it -- is there a lot of tunnel vacuuming going on,</p> <p>23 Brian.</p> <p>24 MR. EGAN: No, we just have the three</p> <p>25 projects.</p>

<p style="text-align: right;">Page 54</p> <p>1 CHAIRMAN MCCORD: Yeah, so do we have the 2 ability to set this? I mean, it's reasonable not to 3 include those. So -- okay.</p> <p>4 MS. MCGAURAN: So can we take them out or 5 hide them, I mean, remove them from --</p> <p>6 MR. WRIGHT: Yeah. Highlight -- yeah, 7 highlight that 19.20 from -- everybody's 19.20 from 8 2021.</p> <p>9 MS. CAUDILL: Uh-huh.</p> <p>10 MS. MCGAURAN: So I think what you were 11 saying, Janet, is that the 17.75 wasn't paid the 12 appropriate prevailing wage?</p> <p>13 MS. CAUDILL: No. It should be 19.20.</p> <p>14 MR. HERROD: We -- it's not being 15 considered in the calculations.</p> <p>16 MR. WRIGHT: Click on that.</p> <p>17 MR. HERROD: We can -- so you only end up 18 with four entries, \$19, 19.20. And you're talking --</p> <p>19 CHAIRMAN MCCORD: Let's work off of the 20 19.20.</p> <p>21 MR. HERROD: Okay. So, basically, that's 22 four responses. And there would be -- 19.20 would be 23 the current prevailing wage. So you could go up 6 24 percent or go up to 3.34 percent, which is --</p> <p>25 MR. WRIGHT: Scott, does that make</p>	<p style="text-align: right;">Page 56</p> <p>1 drivers similar -- do you have a fair amount of 2 number -- or are they in that same rage as the 3 operators? That's a struggle?</p> <p>4 MR. WRIGHT: Yes. The -- especially the 5 No. 22. That's the one where we had to quit paving 6 because nobody's got drivers.</p> <p>7 MR. THOMPSON: Yeah. That's the industry 8 that --</p> <p>9 MR. WRIGHT: That's really, really --</p> <p>10 MR. THOMPSON: That was my big one, 11 trying to figure out who's submitting, who -- are we 12 getting good information on that one. Because that 13 was the one that stuck out to me, is that -- are we 14 getting -- are we getting enough there to know that 15 these are --</p> <p>16 MR. WRIGHT: Paul, I would personally 17 think that Item 21 is the truck driver two axles, 18 probably grease trucks and lube trucks and maintenance 19 vans. And so, you know, they're critical and 20 important. But the 22 is the one that delays your 21 projects.</p> <p>22 MR. DEGGES: So are you proposing the --</p> <p>23 MR. WRIGHT: The max.</p> <p>24 MR. DEGGES: -- 20.07 for the two-axle?</p> <p>25 MS. CAUDILL: 20.98 --</p>
<p style="text-align: right;">Page 55</p> <p>1 logical sense in the fact it's almost the same rate as 2 skilled labor?</p> <p>3 MR. THOMPSON: 19.84 --</p> <p>4 MR. DEGGES: I would almost say --</p> <p>5 MR. WRIGHT: I bet that's where ours --</p> <p>6 MR. DEGGES: Yeah. Or you could put it 7 down into a Class D, like a water truck or -- that's 8 the reason why -- I mean, I don't know if I wouldn't 9 move --</p> <p>10 MR. WRIGHT: So, really, we may have the 11 wrong one.</p> <p>12 MR. HERROD: Well, I took 19.20 times 1.3 13 percent. I got 19.84. Do you want to go up 6 14 percent?</p> <p>15 MR. DEGGES: 6 percent would be 20.35.</p> <p>16 MR. HERROD: 20.35. Okay. Go up to 17 20.35.</p> <p>18 CHAIRMAN MCCORD: That was pretty 19 impressive. Yeah, we need to -- the math on your end.</p> <p>20 MR. HERROD: Item No. 21, suggested rate 21 is 20.07. That gives you the 3.34 percent of our 22 current prevailing wage and keeping in line with the 23 survey. Do we want to go to the max or keep it there?</p> <p>24 MR. DEGGES: So are these -- are these 25 two axel and three -- are these multi axel truck</p>	<p style="text-align: right;">Page 57</p> <p>1 MR. DEGGES: -- or the 20.98?</p> <p>2 MR. WRIGHT: It doesn't really matter.</p> <p>3 MR. DEGGES: I would stick with the 4 suggested.</p> <p>5 MR. WRIGHT: Yeah. We'd really be better 6 to get the --</p> <p>7 MR. DEGGES: 20.07 --</p> <p>8 MR. WRIGHT: -- the 22 above the 21.</p> <p>9 MS. MCGAURAN: Right. So then going up 10 to that, so you would have 20.07 for the two-axle and 11 22.42 for the three-, four-axle. And then it would go 12 up to the 23 for the five-axle. So there would be an 13 incremental increase.</p> <p>14 CHAIRMAN MCCORD: That would line up, 15 yeah.</p> <p>16 MS. MCGAURAN: Okay.</p> <p>17 MR. HERROD: All right. 20.42 for 18 Item 22, and then --</p> <p>19 MS. MCGAURAN: Item 21 is \$20.07, just 20 like you recommend.</p> <p>21 MR. HERROD: Right.</p> <p>22 MS. MCGAURAN: Item 22 would go to the 23 maximum, which is the 20.42. And then I think the 24 thinking is that your Item 23 might stay at your 25 recommended number.</p>

<p style="text-align: right;">Page 58</p> <p>1 MR. HERROD: 23.89. Okay. Item 24, 2 unskilled, that was suggested -- 3 MR. WRIGHT: Before we -- 4 MR. HERROD: Yes, sir. 5 MR. WRIGHT: Before we leave that, could 6 we see the data, please, for -- 7 MS. CAUDILL: For 22? 8 MR. WRIGHT: -- No. 22? I just would 9 like to know. 10 MS. CAUDILL: Do you want a certain year? 11 MR. WRIGHT: I was looking for the big 12 numbers. I'm looking for the big volume. 13 MR. THOMPSON: I don't know what -- had 14 we had a trucking company yet? 15 MR. WRIGHT: No. I don't recall if we 16 did. 17 MR. THOMPSON: See. 18 MR. WRIGHT: There's not -- 19 MR. DEGGES: See, Erosion Solutions is 20 not even showing up on there, are they? 21 MS. CAUDILL: But they got surveys. 22 MR. THOMPSON: She told me she submitted 23 half of them. That's Mandy Robertson. 24 MR. WRIGHT: And Gibco has not turned in 25 any?</p>	<p style="text-align: right;">Page 60</p> <p>1 MR. EGAN: That's what it leads you to 2 believe. 3 MR. THOMPSON: I've got a 21, maybe that 4 defines -- nope. 5 MR. WRIGHT: Erosion Solutions hasn't 6 turned in any dump truck numbers. 7 MR. THOMPSON: She told me she did, 8 but . . . 9 MR. EGAN: But the three-, four-axle 10 definition says, (as read) The ones who may pull a 11 semitrailer or a trailer to transport construction 12 equipment and materials. And the truck driver with 13 five or more axles on the road or heavy-duty 14 off-the-road, means one who either operates a truck on 15 the road with five or more axles or a heavy-duty 16 off-road truck, either (inaudible) -- 17 THE COURT REPORTER: I'm sorry, I'm 18 having a hard time hearing you. I'm hearing too many 19 people talking. 20 MR. BAILEY: Yeah, I was going to say, 21 you can't have two or three people talking at one 22 time. She cannot get it. Okay? You were fine. But 23 when you're talking over there on the side -- I mean, 24 she's having trouble recording it. 25 MR. DEGGES: Repeat the five-axle.</p>
<p style="text-align: right;">Page 59</p> <p>1 MR. THOMPSON: No. I asked him. And he 2 told me he wasn't aware of them. 3 MR. WRIGHT: I'll just be quiet over 4 that. 5 MR. THOMPSON: So that's where I get 6 confused -- or I shouldn't say confused, I get worried 7 is that none of these on here are dump trucks, which 8 is what I'm thinking about and was worried about and 9 what we've been talking about, or most of them are. 10 MR. DEGGES: Go to Item 23. 11 MR. WRIGHT: Because we don't own any 12 dump trucks. It can't be dump trucks. 13 MR. THOMPSON: See, we're not showing 14 anything on there. 15 MR. EGAN: The definition for a Class 21 16 of the truck driver two-axle says, (as read) One who 17 drives a multi rear axle truck for transporting 18 construction materials, oil, grease, otherwise 19 service -- adjusted to equipment as needed, may 20 perform other related duties. 21 MR. BAILEY: I'm sorry, but which number 22 did you say? 23 MR. EGAN: That was for the two-axle. 24 MR. THOMPSON: So the two-axle is two 25 rear axles?</p>	<p style="text-align: right;">Page 61</p> <p>1 MR. EGAN: Okay. No. 23, five-axle or 2 more, (as read) Means one who either operates a truck 3 on the road with five or more axles or a heavy-duty 4 off-road truck, either rigid frame or articulated. 5 MR. HERROD: Are we looking for a 6 particular company or just -- we can sort it by 7 company. 8 MR. WRIGHT: Well, we're disappointed 9 that there are no trucking companies turning in data. 10 MR. THOMPSON: That's right. 11 MR. BAILEY: I think what Scott and Paul 12 and I are somewhat frustrated by, you know, if every 13 time we call to get a truck, they say, Well, I ain't 14 got no drivers. And you -- you know, Turn in some 15 rates so we can figure it out, try to help you. There 16 will be a speech coming. 17 MR. THOMPSON: I mean, what this goes 18 back to, though, if they're not a DBE and they don't 19 have a direct contract, subcontract, they're not being 20 notified and they're not filling out the information. 21 I mean, they don't even know to fill it out. 22 MR. EGAN: And that is a valid point. 23 Our data would not show that because of -- that is a 24 valid point. 25 MR. BAILEY: Just for the record, what</p>

<p style="text-align: right;">Page 62</p> <p>1 does DBE stand for?</p> <p>2 MR. THOMPSON: Disadvantaged business.</p> <p>3 MR. DEGGES: So disadvantaged business</p> <p>4 enterprises own the federal aid contracts. We are</p> <p>5 required to be reflective of the population of</p> <p>6 Tennessee, and so we set aspirational goals on</p> <p>7 projects.</p> <p>8 And we also use DBEs, not on goal</p> <p>9 projects. Like if a contractor hires a DBE, we want</p> <p>10 to make sure that we're capturing that data. So all</p> <p>11 of that subcontract information shows up in our</p> <p>12 contracts. But if a contractor just calls a trucking</p> <p>13 company and says, Hey, I need some dump trucks today,</p> <p>14 that subcontract doesn't show up in our system.</p> <p>15 MS. MCGAURAN: So you're DBE is</p> <p>16 disadvantage, not diversity?</p> <p>17 MR. DEGGES: It's the federal definition.</p> <p>18 MS. MCGAURAN: Okay.</p> <p>19 MR. BAILEY: The only reason I brought it</p> <p>20 up is the acronym DBE was used several times. I don't</p> <p>21 think it was ever defined in the record. So I wanted</p> <p>22 to make sure it was.</p> <p>23 MR. WRIGHT: The point -- the five points</p> <p>24 that got Scott and Paul are making is that</p> <p>25 (inaudible) --</p>	<p style="text-align: right;">Page 64</p> <p>1 you're not at the table, you need to say who you are</p> <p>2 before you make a comment.</p> <p>3 (Discussion off the record.)</p> <p>4 THE COURT: Jan, you just brought up the</p> <p>5 news, I think.</p> <p>6 MS. CAUDILL: Oops. I'm just . . .</p> <p>7 MR. WRIGHT: Mr. Commissioner, sir?</p> <p>8 CHAIRMAN MCCORD: Yes, sir.</p> <p>9 MR. WRIGHT: And I think this last few</p> <p>10 minutes of discussion brings to light the continued</p> <p>11 need for us to -- or maybe the association that</p> <p>12 can't -- or TDOT, or one of the two or both, we need</p> <p>13 to work together to train our people to turn in</p> <p>14 better -- appropriate and better data to this</p> <p>15 department so we can make better decisions.</p> <p>16 CHAIRMAN MCCORD: And so part of our</p> <p>17 process review will be better marketing, better</p> <p>18 education so we can increase the pool of folks to make</p> <p>19 sure we're connecting with those folks. I absolutely</p> <p>20 agree.</p> <p>21 MR. HERROD: Okay.</p> <p>22 MR. THOMPSON: I have one question,</p> <p>23 changing these -- if we're trying -- I mean, which one</p> <p>24 of these are -- tandem or dump trucks fall under,</p> <p>25 which category?</p>
<p style="text-align: right;">Page 63</p> <p>1 THE COURT REPORTER: I'm sorry, I can't</p> <p>2 hear you.</p> <p>3 MR. WRIGHT: The contracts to the DBE</p> <p>4 truckers, we actually issue a subcontract to. And if</p> <p>5 you just call the quarry and say, Hey, have my rock</p> <p>6 delivered, they may send it on to Fred and Susie and</p> <p>7 Jim's truck, and there is no subcontract. You just</p> <p>8 pay it on that bill. So it is -- the data doesn't go</p> <p>9 through Brian's system, which I always thought was</p> <p>10 bizarre that -- you know, those guys may be making --</p> <p>11 trading chickens for driving. I mean, there's no</p> <p>12 telling what they're doing.</p> <p>13 MS. MCGAURAN: And I just have one</p> <p>14 question for the person taking notes. Did you ever</p> <p>15 get Brian's full name?</p> <p>16 THE COURT REPORTER: No.</p> <p>17 MR. EGAN: Brian Egan, E-G-A-N.</p> <p>18 MS. MCGAURAN: Is there anybody else,</p> <p>19 same thing, you think you did not get their full name?</p> <p>20 THE COURT REPORTER: Well, I'm going to</p> <p>21 get a copy of who all is in attendance. I know who is</p> <p>22 at the table. I don't know who is around the</p> <p>23 perimeter. I have Lisa because she came in. Now I</p> <p>24 have Brian.</p> <p>25 MS. MCGAURAN: So when you speak, if</p>	<p style="text-align: right;">Page 65</p> <p>1 MR. DEGGES: Well, I'll ask Mr. Egan to</p> <p>2 give his -- he was just reading the definition of the</p> <p>3 various trucks. I believe a typical dump truck would</p> <p>4 fall under Categories 21 and 22.</p> <p>5 MR. THOMPSON: Okay.</p> <p>6 MR. DEGGES: That's how I understand from</p> <p>7 what he read earlier. I see some heads nodding in the</p> <p>8 room.</p> <p>9 MS. MCGAURAN: Including Mr. Egan.</p> <p>10 MR. DEGGES: Yeah.</p> <p>11 MR. EGAN: Brian Egan for TDOT. I always</p> <p>12 say there are probably some potential five-axle dump</p> <p>13 trucks out there on the road for the larger pulling</p> <p>14 capacity as well.</p> <p>15 CHAIRMAN MCCORD: Thank you, sir. Where</p> <p>16 are we, Tom?</p> <p>17 MR. HERROD: Item No. 24, craft number.</p> <p>18 MS. MCGAURAN: Well, and just circle back</p> <p>19 so everybody has that item in their head. Item 21, we</p> <p>20 kept it the suggested rate of \$20.07.</p> <p>21 Item No. 22, we used the maximum rate of</p> <p>22 \$20.42. So it's incrementally larger than 21. And</p> <p>23 Item No. 23, we kept as a suggested rate of 23.89. So</p> <p>24 there's an incremental increase for each of those as</p> <p>25 well. Does that make sense?</p>

<p style="text-align: right;">Page 66</p> <p>1 MR. DEGGES: Yes.</p> <p>2 CHAIRMAN MCCORD: Yes.</p> <p>3 MR. HERROD: Craft No. 24, unskilled</p> <p>4 labor. The suggested rate is 16.80. That gives you</p> <p>5 the overall 3.34 percent increase. Is that good?</p> <p>6 MR. DEGGES: Is this the scenario where</p> <p>7 we need more --</p> <p>8 MR. WRIGHT: Yes. I think so. I think</p> <p>9 it's the maximum.</p> <p>10 MR. HERROD: 17.71.</p> <p>11 Item 25, the suggested is 23.99. That</p> <p>12 increase is -- there was a 9 percent increase survey</p> <p>13 versus current. We can -- we do have an option of</p> <p>14 taking it down versus the survey or keeping it at the</p> <p>15 survey or moving up. So those are your options.</p> <p>16 MR. THOMPSON: Can we look at the data on</p> <p>17 that one, please? Surprise. Surprise.</p> <p>18 MR. HERROD: The ones that I highlighted</p> <p>19 in yellow were not considered in the survey.</p> <p>20 MS. MCGAURAN: Because they were below</p> <p>21 the current prevailing wage rate for that --</p> <p>22 MR. HERROD: Right here. Yes. We can</p> <p>23 filter that out if that helps you any.</p> <p>24 MR. BAILEY: Well, thank you for that.</p> <p>25 Because that helps me understand that there's not any</p>	<p style="text-align: right;">Page 68</p> <p>1 a lot of survey responses and you felt like they were</p> <p>2 appropriate. So I just would question that, certainly</p> <p>3 the subject matter in the room, whether keeping it to</p> <p>4 that rate is appropriate versus going closer to the</p> <p>5 25.31.</p> <p>6 MR. DEGGES: So let me just throw out to</p> <p>7 the construction industry here. So in our contracts,</p> <p>8 we have, for lack of a better term, stiffer penalties</p> <p>9 about safety and put more risk on the contractors.</p> <p>10 And what that data appears to show, and at least one</p> <p>11 contractor -- it was all one contractor. And they do</p> <p>12 good work for us -- that -- that the market is driving</p> <p>13 more expertise and more money for that.</p> <p>14 So, I mean, arguably, the 23.99 is the</p> <p>15 market rate today. And, you know, the question is is,</p> <p>16 do we give -- do we think from a prevailing wage</p> <p>17 standpoint it needs to be any higher up.</p> <p>18 MR. STARWALT: Kent Starwalt, Tennessee</p> <p>19 Road Builders Association. I would say it is the</p> <p>20 prevailing wage, which is what you're supposed to</p> <p>21 establish. So if you've got somebody that's paying</p> <p>22 23.99, they're paying at 9.4 percent above the wage,</p> <p>23 that is a prevailing wage, which is what you're</p> <p>24 supposed to be paying.</p> <p>25 MS. MCGAURAN: Okay.</p>
<p style="text-align: right;">Page 67</p> <p>1 oddball -- something else in there. You know, that's</p> <p>2 what they do every day all day long. It's probably</p> <p>3 appropriate, whatever they have.</p> <p>4 MR. HERROD: 23.99. Okay. We can go</p> <p>5 back over quickly or if you're -- does that make</p> <p>6 sense?</p> <p>7 CHAIRMAN MCCORD: Yeah.</p> <p>8 MS. MCGAURAN: So 23.99, we have 80</p> <p>9 responses. And we're keeping it at exactly what they</p> <p>10 paid them this past year. We're doing --</p> <p>11 MR. HERROD: No. No. No. No. We're</p> <p>12 going by the survey rate.</p> <p>13 MR. DEGGES: A 9.4 percent increase.</p> <p>14 MR. HERROD: Yeah. It's above the</p> <p>15 current prevailing wage rate by a half percent.</p> <p>16 MS. MCGAURAN: Yes. But it's not above</p> <p>17 what people are paying them today. We don't give them</p> <p>18 any buffer for next year. We're just telling them</p> <p>19 that they're now going to be able to pay what they</p> <p>20 have been paying in the past.</p> <p>21 MR. HERROD: That's what we've done in</p> <p>22 past commission meetings.</p> <p>23 MS. MCGAURAN: Right. Just, when I look</p> <p>24 back at the ones where we kind of have gone to the max</p> <p>25 on those things, have been those ones where there were</p>	<p style="text-align: right;">Page 69</p> <p>1 MR. WRIGHT: So the final question is, do</p> <p>2 you want to -- and, Ann, do we want to give it a</p> <p>3 little more for next year so they won't --</p> <p>4 MR. STARWALT: I would say -- I would say</p> <p>5 the industry has already decided that it's worth a 9</p> <p>6 percent increase over the previous one.</p> <p>7 MS. MCGAURAN: Okay.</p> <p>8 MR. HERROD: Do you want to keep it --</p> <p>9 MR. STARWALT: One more thing, let me --</p> <p>10 if you don't mind. Back on the truck driver stuff, I</p> <p>11 will say for the first time in maybe 10 or 12 years or</p> <p>12 longer you have averaged -- you have established a</p> <p>13 wage, which is good, that the -- that the truck</p> <p>14 drivers with three and four axles is actually being</p> <p>15 paid more than the truck driver two axles, which has</p> <p>16 always been -- has been an issue in the industry. So</p> <p>17 we've corrected something that got out of whack a long</p> <p>18 time ago.</p> <p>19 MR. HERROD: All right. Can we go back</p> <p>20 and review these and make sure we have the right one?</p> <p>21 Craft No. 1 is 25.01; Craft 2, 18.03;</p> <p>22 Craft 3, 22.16; Craft 4, 25.44; Craft 5 is 23.07;</p> <p>23 Craft 6, 24.04; Craft 7, 22.67; Craft 8, 21.59;</p> <p>24 Craft 9 is 37.53; Craft 10 is 33.96; Craft 11 is</p> <p>25 16.88; Craft 12 is 21.15; Craft 13, 21.36; Craft 14,</p>

<p style="text-align: right;">Page 70</p> <p>1 26.45; Craft 15, 27.32; Craft -- sorry. Craft 16 is 2 25.66; Craft 17 is 33.35; Craft 18 is 20.62; Craft 19 3 is \$28? 4 MS. CAUDILL: Uh-huh. 5 MR. HERROD: Craft 20, 20.35. We took 6 some data out for that one, so 20.35. Craft 21 is 7 20.07; 22 is 20.42; 23 is 23.89; 24 is 17.71, and 25 8 is 23.99. Any -- 9 CHAIRMAN MCCORD: Well, let's do this. 10 I'm going to pause here. Any other comments that 11 anybody wants to make, and we'll call for a motion to 12 approve the rates. So I'm going to pause first. 13 Okay. So we've set the rates. Is there 14 a motion to approve without conflict of interest? 15 MR. DEGGES: Motion. No conflict. 16 MR. THOMPSON: Second with no conflict. 17 CHAIRMAN MCCORD: Second. So we have a 18 motion and a second. Any further discussion? 19 MR. THOMPSON: Jan, can you pull back up 20 and sort by company. I just want to make sure that 21 Erosion Solutions -- so I can understand that she 22 thinks she did but she didn't. And then if she did, 23 what she did it under so I can understand this 24 trucking . . . 25 MR. WRIGHT: I bet it's all erosion work.</p>	<p style="text-align: right;">Page 72</p> <p>1 MR. STARWALT: Can I speak? 2 CHAIRMAN MCCORD: What's your name again? 3 MR. STARWALT: Kent Starwalt with the 4 Tennessee Road Builders Association. To echo that 5 comment, the reason that -- and I have been an 6 advocate for three meetings, at least two. 7 The reason for the first meeting that 8 always occurred in September was to look at the survey 9 to see if the crafts were right, to see if we needed 10 to add additional crafts, and to look at the survey 11 itself, which really was a huge deal. 12 But this year, with the survey change 13 where you added really just the TDOT projects, we 14 probably could have avoided some confusion going 15 forward if that was known; so, therefore, when the 16 commissioners or I are talking to people they know 17 what's there and how they would go about adding other 18 projects that are state funded. And so that's the 19 reason -- I believe the rationale for having a 20 September meeting sometime before the survey goes out. 21 And then the second meeting was this 22 meeting where you went about looking at it. So the 23 question becomes, if you get the raw data beforehand, 24 then that would help. But sometimes when we got that 25 raw data, the commission came and addressed issues</p>
<p style="text-align: right;">Page 71</p> <p>1 MR. HERROD: Back to erosions. 2 MS. CAUDILL: It's right there. 3 MR. THOMPSON: There it is. There it is. 4 MS. CAUDILL: There they are. 5 MS. MCGAURAN: Craft 7 and 24. 6 MS. CAUDILL: Yep. 7 MR. THOMPSON: Class D operators. 8 MR. WRIGHT: Sorry, guys. There's just 9 no trucking. It's all their erosion work. 10 CHAIRMAN MCCORD: Any other discussion? 11 A motion -- oh, go ahead. 12 MS. MCGAURAN: I just -- not on this. 13 But one of the things, as we talked about, like tunnel 14 cleaners or something like that, in the past when we 15 had more meetings, we also looked at the 16 classifications and decided whether or not definitions 17 were still pertinent, whether additional 18 classifications needed to be added to the list or 19 anything like that. And I don't see that as an 20 item even in consideration. And so I would also 21 propose going forward that we add that back into our 22 deliberations. 23 CHAIRMAN MCCORD: Understood. 24 MS. MCGAURAN: Okay. 25 CHAIRMAN MCCORD: Any other discussion?</p>	<p style="text-align: right;">Page 73</p> <p>1 there, that they may not been completely resolved at 2 the time of the meeting, which is why they had the 3 meeting on November 29 or 30 to approve the rate. 4 That was the rationale for the three 5 meetings. I'm not saying have all three. I do think 6 you need to have probably the September one or 7 sometime before the survey goes out just to make sure 8 that you're getting the right data or make sure you 9 ask for the right thing. 10 CHAIRMAN MCCORD: Thank you. 11 Any further discussion? 12 MR. WRIGHT: One more comment. Back to 13 the theoretical training session. I would like to add 14 the thought that I think -- you know, Brian and Jan, 15 they've done a beautiful job of getting more data out 16 and making it more accessible. 17 One phone call that Jan and I understood 18 what was going on -- after you helped me, thank you. 19 And -- but that probably in that training process we 20 need to remember there may be some people who want to 21 submit a project that is not already prepopulated, 22 which I assumed that was the stroke of genius in that 23 it made it so simple to fill it out when you already 24 have the prepopulated data. 25 And then the technical people at our</p>

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1 office just went and found the data and put it in.
 2 But we probably need to also train them on what to do
 3 if you have a project you think to be eligible but
 4 that is not prepopulated.
 5 CHAIRMAN MCCORD: Understood.
 6 MR. WRIGHT: Because that was a point of
 7 confusion with some.
 8 CHAIRMAN MCCORD: Thank you, sir.
 9 Any other discussion?
 10 So we have a motion to second. No more
 11 discussion. And then I would call for a vote on the
 12 current prevailing wage rate. All those in favor say
 13 aye.
 14 IN UNISON: Aye.
 15 THE COURT: All those opposed.
 16 Motion carries.
 17 Hey, thank you. We have some good input
 18 on some processes going forward and marketing. And I
 19 think we all agree the better the pool the better our
 20 ability to make decisions. So we'll work towards that
 21 as well.
 22 And now I need a motion without a
 23 conflict to adjourn this meeting.
 24 MS. MCGAURAN: So moved without a
 25 conflict.

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1 CHAIRMAN MCCORD: Thank you.
 2 And a second.
 3 MR. WRIGHT: Second with no conflict.
 4 CHAIRMAN MCCORD: With no conflict.
 5 Any further discussion? We have a motion
 6 and a second. Conflict free.
 7 Hearing no discussion, this meeting is
 8 adjourned.
 9 END OF PROCEEDINGS
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C E R T I F I C A T E

1
 2
 3 STATE OF TENNESSEE)
 4 COUNTY OF DAVIDSON)
 5
 6 I, Deborah M. Fernau, a shorthand reporter, do
 7 hereby certify that the foregoing Prevailing Wage
 8 Commission Meeting was taken down and transcribed
 9 under my direction to the best of my ability.
 10 Signed on December 1, 2021.
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Deborah Fernau

Deborah M. Fernau, LCR No. 306
 Expiration Date: 06/30/2022

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