

THE STATE OF ARIZONA
CITIZENS CLEAN ELECTIONS COMMISSION

REPORTER'S TRANSCRIPT OF PUBLIC MEETING

Phoenix, Arizona

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9:39 a.m.

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<p style="text-align: right;">Page 2</p> <p>1 PUBLIC MEETING BEFORE THE CITIZENS CLEAN 2 ELECTIONS COMMISSION convened at 9:39 a.m. on April 27, 3 2017, at the State of Arizona, Clean Elections 4 Commission, 1616 West Adams, Conference Room, Phoenix, 5 Arizona, in the presence of the following Board members: 6 Mr. Steve M. Titla, Chairperson (Telephonic) 7 Mr. Mark S. Kimble (Telephonic) 8 Mr. Damien Meyer (Telephonic) 9 Ms. Amy B. Chan (Telephonic) 10 Mr. Galen D. Paton (Telephonic) 11 OTHERS PRESENT: 12 Thomas M. Collins, Executive Director 13 Paula Thomas, Executive Officer 14 Sara Larsen, Financial Affairs Officer 15 Gina Roberts, Voter Education Manager 16 Mike Becker, Policy Director 17 Alec Shaffer, Web Content Manager 18 Amy Jicha, Legal Admin and VE Intern 19 Lee Miller, Secretary of State 20 Joseph Roth, Osborn Maledon (Telephonic) 21 22 23 24 25</p>	<p style="text-align: right;">Page 4</p> <p>09:40:38-09:41:55</p> <p>1 one-item agenda, right? 2 MS. THOMAS: Yes, sir. 3 CHAIRPERSON TITLA: Okay. Board -- or, 4 Commissioners, do we have a motion to approve the 5 agenda? 6 MR. COLLINS: Mr. Chairman, I'm sorry. If 7 I could interrupt you one quick second. Yeah, I just 8 want to make clear what we're -- the motion would be to 9 approve what is -- the document that is the modified 10 document that was in your materials that you were 11 emailed. That is the email -- that is the document 12 that is dated 4-21-2017 at 9:57 a.m. I'm sorry -- 13 thank you. 14 And then, Commissioners, when you speak, we 15 just need to make sure that you announce yourself for 16 the court reporter when you do speak. 17 I'm sorry, Mr. Chairman. I just needed to 18 make sure that everybody has that on the record. 19 CHAIRPERSON TITLA: Okay. Good. Yeah, 20 this is Steve Titla, Chairman of the Commission. 21 So do we need to pass the agenda, then, 22 with this one item that you mentioned, Tom? 23 MR. COLLINS: Mr. Chairman, Commissioners, 24 yes. We're looking for a motion to -- 25 THE OPERATOR: Joining the meeting.</p>
<p>09:11:24-09:40:36</p> <p style="text-align: right;">Page 3</p> <p>1 P R O C E E D I N G 2 3 CHAIRPERSON TITLA: Okay. This is a call 4 of the meeting to order, special meeting of the Clean 5 Elections Commission, on May -- or April 27, 9:39 a.m. 6 And can we have a roll call? 7 MR. COLLINS: So, Commissioners, if you 8 could -- 9 COMMISSIONER CHAN: This is Commissioner 10 Chan. I'm here. 11 CHAIRPERSON TITLA: Okay. Can somebody 12 call the roll? 13 MR. COLLINS: Yes, I can do that, 14 Mr. Chairman. 15 CHAIRPERSON TITLA: Okay. 16 MR. COLLINS: Commissioner Kimble? 17 COMMISSIONER KIMBLE: I'm here. 18 MR. COLLINS: Commissioner Paton? 19 COMMISSIONER PATON: Here. 20 MR. COLLINS: Commissioner Chan? 21 COMMISSIONER CHAN: I'm here. 22 MR. COLLINS: And Commissioner Meyer is on 23 his way and will -- will dial in. 24 Hello? 25 CHAIRPERSON TITLA: Okay. We have a</p>	<p>09:41:56-09:43:07</p> <p style="text-align: right;">Page 5</p> <p>1 COMMISSIONER MEYER: Damien Meyer. 2 CHAIRPERSON TITLA: Okay. Commissioners, 3 this is Steve Titla. 4 Is there a motion by any of the 5 commissioners to approve this one-item agenda? 6 COMMISSIONER CHAN: Mr. Chairman, this is 7 Amy Chan, and I would -- I would so move what Tom said, 8 but may I just make a brief comment before we get a 9 second? 10 CHAIRPERSON TITLA: Okay. 11 COMMISSIONER CHAN: I am in support of the, 12 you know, modified ISA that our Staff has worked so 13 hard on with the Secretary's office. I just really 14 want to get on the record that, you know, I feel like 15 this is kind of -- this is something that has come out 16 of the Secretary's need, in my mind, to kind of bail 17 out of a situation that she's in, you know, having 18 spent half a million dollars on what should have been, 19 I think, the system. And we're, you know, singly 20 situated where we can help her so that the voters of 21 Arizona are able to be the beneficiaries of this new 22 system. 23 So I just wanted to put that out there 24 before we make our vote. I know we have a voice vote. 25 I feel like that would be more appropriate than</p>

<p>09:43:09-09:44:04 Page 6</p> <p>1 explaining my vote. I have a background at the 2 legislature where that's what we would do, but I just 3 felt like I wanted to make sure that we had that on the 4 record at this final juncture where we're voting on 5 this. 6 So having said that, I, again, would just, 7 you know, restate my motion to approve the Interagency 8 Service Agreement with the Secretary of State's office, 9 as Tom mentioned. 10 CHAIRPERSON TITLA: Okay. This is Steve 11 Titla. Again, thank you for your comments, 12 Commissioner Chan. 13 And there's a motion by Commissioner Chan 14 to approve this one-item agenda. 15 Is there a second? 16 COMMISSIONER KIMBLE: This is Mark Kimble, 17 and I second it. 18 CHAIRPERSON TITLA: Commissioner Kimble 19 seconds. 20 This is Steve Titla, again, the chairman. 21 And do we have a -- can we have a vote -- a 22 roll call vote, Tom? 23 MR. COLLINS: There's no reason why you 24 can't have a roll call vote. And given that we're all 25 on the phone, I mean, that certainly would make some</p>	<p>09:45:39-09:47:03 Page 8</p> <p>1 I'm also somewhat concerned about the 2 amount of the payments, the first payment being 3 basically three-quarters, 75 percent of the total 4 amount that will be due at the end of one of the early 5 phases in October. So then we only have 25 percent of 6 the payment left for when the entire thing is completed 7 which I think give us limited leverage to make sure 8 that it does get completed. 9 I would have preferred to see something 10 that has more of the payment at the end than at the 11 beginning. On the other hand, I do understand that we 12 have -- we're sharing in the salary costs of getting 13 this done. So I'm not -- I understand why it's being 14 done. I just wish that there was a way to get more of 15 the payment delivered later than earlier, but other 16 than that I'm -- I'm supportive of the motion by 17 Commissioner Chan. 18 CHAIRPERSON TITLA: Okay. This is second 19 by Commissioner Kimble. 20 Thank you for your comments and -- 21 COMMISSIONER MEYER: Mr. Chairman? 22 CHAIRPERSON TITLA: Can we have a vote and 23 a motion? 24 COMMISSIONER MEYER: Mr. Chairman? 25 CHAIRPERSON TITLA: Can we have a motion to</p>
<p>09:44:07-09:45:36 Page 7</p> <p>1 sense. Although we don't usually do that, there's 2 nothing that prohibits that. 3 CHAIRPERSON TITLA: Okay. Can we get a 4 roll call? 5 COMMISSIONER KIMBLE: Mr. Chairman, this 6 is -- this is Mark Kimble. 7 Could I say one thing? 8 CHAIRPERSON TITLA: Okay. 9 COMMISSIONER KIMBLE: I do have -- I am 10 supportive of this agreement. I think the changes that 11 have been made since we initially saw it are very 12 positive. I do have a couple minor concerns. One of 13 them is on page 4 in the document we have under number 14 B where it says "The Commission and the Secretary agree 15 that the Secretary may request payment for delivering 16 some objectives of a particular phase of the project 17 without having delivered every objective of a 18 particular phase." 19 That -- I understand that there are some 20 issues with writing computer programs and that 21 unexpected things come up. I am concerned, though, 22 that we are already outlining a process by which we 23 would make a payment for something that is not 24 completed to that phase. That somewhat concerns me, 25 although I understand the reasoning for it.</p>	<p>09:47:06-09:48:05 Page 9</p> <p>1 approve this agenda? Commissioners, this is only a 2 motion to approve the agenda. After the agenda is 3 approved, we can go to the one-item agenda and then 4 discuss the merits of the -- of the document, but now 5 it's only a motion to approve the agenda. 6 Can we have a roll call vote? 7 COMMISSIONER CHAN: Oh, I'm sorry. 8 MR. COLLINS: Okay. 9 COMMISSIONER CHAN: Mr. Chairman, this is 10 Commissioner Chan. I meant to -- my intent was to move 11 that item. I apologize if I was out of order. 12 COMMISSIONER KIMBLE: Yeah, I didn't -- 13 this is Commissioner Kimble. I didn't understand that 14 either, that we were voting to approve the agenda. 15 COMMISSIONER TITLA: Yes. That's what I 16 thought we were doing was to approve the agenda. 17 MR. COLLINS: Okay. Okay. Mr. Chairman, 18 may I interrupt a moment? This is Tom Collins. 19 CHAIRPERSON TITLA: Okay. 20 MR. COLLINS: So if you want to approve the 21 agenda and then approve the merits, what we would need 22 to do is for Commissioner Kimble to withdraw his second 23 and Commissioner Chan to withdraw her motion and then a 24 new motion to approve the agenda and a second and then 25 we can -- I will call the roll on that at that point</p>

<p>09:48:08-09:49:20 Page 10</p> <p>1 and then -- then we will need a motion to approve the 2 execution of the modified agreement dated 4-21-2017 at 3 9:57 a.m. subsequently. So that would be the 4 procedural -- what we need to do currently to achieve 5 all that. 6 So that's what I would recommend at this 7 point. If Commissioner Kimble would withdraw his 8 second and Commissioner Chan will withdraw her motion 9 and a new motion was made to approve the agenda item 10 with a second, I will call the roll and then we will 11 move on to the -- the item -- the ISA itself. 12 Does that -- is that clear with you, 13 Mr. Chairman? Does that work for you? 14 CHAIRPERSON TITLA: Yes. 15 Is that clear with all the commissioners? 16 COMMISSIONER KIMBLE: This is Commissioner 17 Kimble. I withdraw my second. 18 COMMISSIONER CHAN: This is Commissioner 19 Chan. I'll withdraw my motion. 20 CHAIRPERSON TITLA: Okay. The motions are 21 withdrawn and we go to the -- what point, Tom? 22 MR. COLLINS: So now we would need a 23 motion. Mr. -- Chairman Titla, on your recommendation, 24 we would need a motion to approve the agenda and a 25 second.</p>	<p>09:50:07-09:51:52 Page 12</p> <p>1 votes to approve the agenda. 2 CHAIRPERSON TITLA: Okay. We have a 3 unanimous vote to approve the agenda. So we go to the 4 one-item agenda now which is the IAS -- or ISA 5 agreement. 6 And, Tom, can you give us a summary? 7 MR. COLLINS: Yes, Mr. Chairman, 8 Commissioners. We have worked with the Secretary of 9 State's office to develop a document that in the view 10 of -- my view and as a staff member achieves a number 11 of objectives. 12 First, it will help ensure that the State 13 does have the infrastructure in place to have a broader 14 availability of public access to campaign finance 15 information and it -- which I think is a benefit to all 16 voters from a voter education perspective. 17 I also believe that this document is 18 drafted in a way that protects the Commission's 19 downside risk which, as the Secretary of State's office 20 is aware, was a principal priority of mine and also 21 ensures that our -- that the Commission's own reports 22 respecting participating candidates and certain 23 independent expenditure reports will be part of that, 24 the candidate finance system, which, again, will ensure 25 that all of the filings that folks would want access to</p>
<p>09:49:20-09:50:04 Page 11</p> <p>1 CHAIRPERSON TITLA: Okay. Is there a 2 motion to approve the agenda? 3 COMMISSIONER MEYER: This is Commissioner 4 Meyer. I will move to approve the agenda. 5 CHAIRPERSON TITLA: Commissioner Meyer 6 moves to approve the agenda. 7 Second? 8 COMMISSIONER CHAN: I'll second that 9 motion. 10 CHAIRPERSON TITLA: Second by Commissioner 11 Chan. 12 Can we have a roll call vote? 13 MR. COLLINS: Yes, Mr. Chairman. 14 Commissioner Meyer? 15 COMMISSIONER MEYER: Yes. 16 MR. COLLINS: Commissioner Kimble? 17 COMMISSIONER KIMBLE: Yes. 18 MR. COLLINS: Commissioner Paton? 19 COMMISSIONER PATON: Yes. 20 MR. COLLINS: Commissioner Chan? 21 COMMISSIONER CHAN: I vote aye. 22 MR. COLLINS: Chairman Titla? 23 CHAIRPERSON TITLA: Aye. 24 MR. COLLINS: So, Mr. Chairman, you have 25 the -- if you want to announce the vote, there are five</p>	<p>09:51:57-09:53:25 Page 13</p> <p>1 are in one place and folks can get access to them. 2 So we think it's a -- it's an appropriate 3 expenditure. We think it's -- we've worked well with 4 the Secretary of State to do it. We're appreciate of 5 Mr. Miller being here and his help on this. And so I 6 recognize the comments with respect to Commissioner 7 Kimble's comments. I think those are well taken. 8 My observation would be twofold. I think 9 he's correct that there does -- and I personally 10 discussed the issue of flexibility with the Secretary's 11 office and agree with the language that is in there 12 that allows flexibility. It also requires them to 13 continue to make best efforts which we think will -- is 14 a meaningful term. 15 And, in addition, frankly, the payment 16 structure is -- one way to look at it is it is a large 17 payment in October, but another way to look at that is 18 that we're not making a payment in this fiscal -- in 19 this Secretary of State's fiscal year or July of this 20 fiscal year. So they will have gone, in effect, two 21 quarters into this project before we make any payment. 22 And so there's a -- there's actually a -- 23 from -- harking back to Deputy Secretary Miller's 24 comments at the last meeting, the Secretary does bear 25 some risk there that if there -- they will have paid</p>

<p>09:53:28-09:54:56 Page 14</p> <p>1 those salaries in reliance on this without having 2 gotten that -- those initial payments as progress was 3 broken down. 4 So in that sense, although, yes, it is a 5 larger payment, it is a larger payment in the second 6 fiscal quarter of the Secretary's office. We're in the 7 fourth quarter of this fiscal year then. So there's 8 two quarters that we're not paying, and so there's a -- 9 there's a balance of the -- of the risk versus the size 10 of the payment in October that I think warrants, you 11 know -- you know, that's all I would just make -- make 12 sure everybody understands that essentially the 13 Secretary of State is structuring this in a way that 14 they have to go essentially six months without payment 15 and then they get a larger payment. 16 So it's kind of a -- it does have a balance 17 to it that I -- that I think is -- puts the Secretary's 18 office in a position where they have skin in the game 19 leading up to that six-month payment, and I think 20 that's -- that's -- that's an important thing to 21 acknowledge. 22 And other than that, I would just ask that 23 you approve the execution of the agreement that is 24 dated 4-21-2017 at 9:57 a.m. and approve my execution 25 of that -- of that agreement or to -- well --</p>	<p>09:56:21-09:57:28 Page 16</p> <p>1 COMMISSIONER MEYER: Too many versions. 2 MR. COLLINS: Right. So just so we're 3 clear that that is the version. 4 And, Joe, if that's wrong, please say the 5 word. 6 MR. ROTH: Yeah. I'm -- the most 7 up-to-date version is the one that has 4-25 at 2:15. 8 MR. COLLINS: Okay. Good. 9 So I apologize, Commissioners, but yes. So 10 now we have the right version and I apologize. 11 And, please, Mr. Chairman, I return back to 12 you the floor to just -- you know, to recognize whoever 13 you want to recognize. 14 CHAIRPERSON TITLA: Okay. Who was that 15 speaking? Commissioner Meyer? 16 COMMISSIONER MEYER: Yes, Mr. Chairman. 17 CHAIRPERSON TITLA: Okay. Go ahead. 18 COMMISSIONER MEYER: Thank you. 19 And, Tom, thank you for your comments. I 20 had a question on this -- it's page 4. It's paragraph 21 B. I think it's the same paragraph that Commissioner 22 Kimble was asking about. And I guess when I read this 23 paragraph, you know, it's essentially -- let's start 24 from the premise that we're agreeing to pay these funds 25 once we have the deliverables. And this paragraph</p>
<p>09:55:00-09:56:16 Page 15</p> <p>1 CHAIRPERSON TITLA: Okay. Tom, thank you 2 for your comments. This is Chairman Titla. 3 Any comments or action by the 4 commissioners? 5 COMMISSIONER MEYER: Mr. Chairman, this is 6 Commissioner Meyer. 7 CHAIRPERSON TITLA: Commissioner Meyer? 8 COMMISSIONER MEYER: I had a question. 9 It's in Volume -- 10 MR. COLLINS: Oh, I'm sorry. 4-25 at 2:16. 11 I'm sorry. I had the wrong date on my motion. I'm 12 sorry -- my suggestion. I'm sorry. But never mind. I 13 apologize. So -- I'm sorry. 14 COMMISSIONER MEYER: That's okay. You're 15 referring to the redline, correct, Tom? 16 MR. COLLINS: Yeah, I think I -- I think I 17 referred to the wrong document. I'm trying to now find 18 the right document. We're actually -- I'm sorry. 19 We're talking about 4-25 at 2:16 p.m. I apologize. 20 That is not 4-21 at 2:17. It's 4-25 at 2:17 which is 21 the -- that is the document that -- it is a -- it is 22 a -- it is a redline, but, you know, we'll obviously 23 accept the changes and formalize -- memorialize that 24 and then execute it, but I just -- I apologize for -- I 25 have -- I have too many pieces of paper in front of me.</p>	<p>09:57:36-09:58:54 Page 17</p> <p>1 essentially says, you know, even if the Secretary of 2 State's office runs into an issue and can't deliver 3 every -- every objective of a particular phase of the 4 project, that they won't be in breach. 5 And I guess I want us to understand that. 6 Does this mean that the Commission is still going to 7 make -- be obligated to make their payments pursuant to 8 the schedule that's on Exhibit 1? And then I had a 9 follow-up to that. 10 MR. COLLINS: Okay. Well, Mr. Chairman, 11 Commissioner Meyer, if I can answer the first question 12 first. 13 COMMISSIONER MEYER: Sure. 14 MR. COLLINS: I would say two things about 15 that. One, the provision requires the Secretary to be 16 continuing to make their best -- their best efforts. 17 And, in addition, the agreement provides that the 18 Secretary shall -- under Section 4F, the Secretary 19 shall make an accounting of expenditures prior to 20 invoicing the Commission. So those provisions read 21 together mean that, you know, were we provided an 22 invoice that was -- that was for work that was not 23 completed, we would have an accounting of why that was 24 and also be able to talk to them about -- about what 25 reasonable efforts they are making.</p>

<p>09:58:55-10:00:14 Page 18</p> <p>1 I believe that that's appropriate 2 protection, and especially because the alternative of a 3 fixed date leads us to a situation where if that gets 4 missed and we end up having to renegotiate, it's not 5 very efficient. So I think the requirement under 4F 6 that there's an accounting prior to invoicing and the 7 reasonable efforts together ensure that the Secretary 8 will be obligated to inform the Commission of its 9 status and its progress prior to invoicing and be 10 able -- and by that -- and by that mechanism show that 11 it is making reasonable efforts or not making 12 reasonable efforts. So I think it provides protection 13 for the Commission on that issue. 14 COMMISSIONER MEYER: And can I follow up 15 with that, Mr. Chairman? 16 CHAIRPERSON TITLA: Continue, Commissioner 17 Meyer. 18 COMMISSIONER MEYER: So I guess my question 19 is, Tom, I think you're talking about discretion that 20 the Commission would have. 21 So I guess my question is if you reach the 22 decision that, you know, you review the accounting and 23 we determine not all -- not all the deliverables have 24 been met, you know, you review the accounting and have 25 some real issues as to reasonable efforts and why</p>	<p>10:01:30-10:03:04 Page 20</p> <p>1 commissioners' thoughts on that as well as 2 Mr. Miller's. 3 CHAIRPERSON TITLA: Okay. Any comments by 4 the commissioners? 5 COMMISSIONER KIMBLE: This is Mark Kimble. 6 I think Commissioner Meyer reflects my concern. 7 And, Tom, I understand what you're saying 8 about Item F about making an accounting of the 9 expenditure, but my concern is the same as Commissioner 10 Meyer that they may well have -- have paid people the 11 money to do what they said they were going to do, but 12 our concern is we want to make sure that we're getting 13 what -- we're getting a product they said they would 14 produce, not just that they're paying the people to do 15 it because that was kind of the problem with the -- 16 with the last undertaking even though we weren't 17 involved in it. They had paid a lot of money for it 18 but didn't have the product. 19 So I am supportive of Commissioner Meyer's 20 concern that we need some kind of way to make sure that 21 as the process goes along, that there are -- there's a 22 way for us to say the deliverables are not here. 23 Therefore, what are we going to do about the payment? 24 CHAIRPERSON TITLA: Any more comments, 25 Commissioners?</p>
<p>10:00:17-10:01:28 Page 19</p> <p>1 something isn't done at that time, what discretion, if 2 any, does the Commission have to say, you know what, 3 we're not sending you \$150,000 right now. We're going 4 to send you 100, but not 150. And once you complete 5 this other deliverable, then we'll send you the other 6 50. 7 Is there any type of discretion like that 8 and does anyone think there should be if there's not? 9 MR. COLLINS: Well, to answer your question 10 before the commissioners discuss it, Chairman Titla, 11 Commissioner Meyer, let me put it this way: I would 12 anticipate that in the event that reasonable steps are 13 being taken, that that would not come up. I don't 14 think that the -- the terms are structured in such a 15 way that that -- that if there are reasonable efforts 16 there is not breach. 17 If we determine that efforts -- reasonable 18 efforts are not being made, then there is an argument 19 for breach and we would raise that issue through the 20 breach provisions of the provision which they're -- 21 and Lee Miller can speak to that. He's actually come 22 to the podium and he may be able to speak to that, if 23 that's helpful to you, Commissioner Meyer. 24 COMMISSIONER MEYER: Sure. And I thank 25 you, Tom. And I'd also like to get the other</p>	<p>10:03:07-10:04:49 Page 21</p> <p>1 COMMISSIONER PATON: This is Galen Paton. 2 I would like to hear from Mr. Miller on this topic. 3 MR. COLLINS: Mr. -- Chairman Titla, if you 4 could recognize Mr. Miller from the Secretary's office. 5 CHAIRPERSON TITLA: Okay. Mr. Miller? 6 MR. MILLER: Thank you, Mr. Chairman, 7 members of the Commission. 8 In addition to the various paragraphs that 9 we've been focusing on here in Section 4 of the 10 agreement, let me also draw your attention to paragraph 11 3A on -- on page 2 which from the Secretary's point of 12 view, I think is the language which addresses the 13 concerns being raised here today. We have -- as 14 described in 3A, we have an ongoing obligation starting 15 with the execution of this agreement to keep you-all 16 informed how development is going. 17 There is -- there is this project plan 18 that's attached here today and we have every intention 19 of achieving all those deliverables on all those dates, 20 but it won't be on October 1st or September 30th where 21 we come to you-all and say, hey, you know, you're going 22 to get 90 percent of what we promised at execution on 23 October 1st and here's the 10 percent we're still 24 working on. 25 We read the language in paragraph 3A and</p>

<p>10:04:54-10:06:43 Page 22</p> <p>1 our obligation to keep you informed on a regular basis 2 as to how we're doing and any revisions to the project 3 plan we think are necessary and appropriate as the -- 4 as the mechanism by which you're going to have comfort 5 that we're doing what we're supposed to do and that 6 you're -- whatever payments are made are reasonably 7 reflective of what is being delivered. 8 And let me absolutely assure the Commission 9 that if -- if we -- if we got to October 1st and I had 10 90 percent of the functionality ready for beta testing, 11 I would not expect \$150,000 from the Commission. I 12 would expect 90 percent of \$150,000 from the 13 Commission. 14 To the extent we're going to -- we're going 15 to have issues to work through is, you know, perhaps 16 what's each piece and part, how much -- how much is 17 each piece and part of the overall functionality worth, 18 but while it is absolutely my intention to deliver 100 19 percent of the functionality for beta testing on 20 October 1st, rest assured that if some -- if something 21 needs to be modified, first of all, you'll know about 22 it as soon as I know about it and that we will be 23 continuing to talk about how the project plan might 24 evolve and what the payment schedule might evolve -- 25 and how the payment schedule will evolve as well.</p>	<p>10:07:59-10:09:17 Page 24</p> <p>1 had -- you know, obviously there's no reason for us to 2 doubt your efforts and the Secretary's efforts, you 3 know. I still am just a little concerned about the 4 great amount of discretion that the Secretary's office 5 seems to have and the more limited amount of discretion 6 that we have in the payments. 7 I mean, we have a black-and-white payment 8 plan here and then there's discretion and leeway for 9 the Secretary of State's side. And I appreciate the 10 statement that, you know, hey, if we're 90 percent 11 there we're going to only ask for 90 percent of the 12 money, but if you go to page 7 and look at paragraph 10 13 of this agreement, I mean, that's essentially an 14 integration clause that this is the whole agreement and 15 none of that -- and these representations aren't going 16 to be enforceable. 17 So I guess that's -- that's just a concern 18 I have that I'm raising, and if there's a way to add a 19 phrase in here -- I don't think it has to be a 20 significant reworking of the agreement, but is there a 21 way to add a phrase in here that's something in the 22 lines that the Commission has the discretion to 23 evaluate -- you know, if deliverables aren't made, that 24 the Commission has discretion to make a payment on a 25 pro-rata basis such as what Mr. Miller has described</p>
<p>10:06:47-10:07:54 Page 23</p> <p>1 MR. COLLINS: And, Commissioners -- this is 2 Tom. Mr. Chairman, if I may. 3 CHAIRPERSON TITLA: Continue, Tom. 4 MR. COLLINS: I would -- I think -- I think 5 that's right, and I do think that both 3A and 4F 6 basically taken together mean that. Essentially, 7 because the Secretary's office is obligated to provide 8 an accounting, you know, that accounting preceding the 9 invoicing would mean that the invoicing would relate to 10 the accounting. And so there's a -- there's a tie 11 there that I think is direct and should, in combination 12 with -- I really believe the Secretary's desire to get 13 this done in a working order is stronger than -- well, 14 is as strong as it could be. 15 So I think that -- I think that we have 16 this designed in a way that allows flexibility but does 17 protect the downside risk of the Commission, and I 18 do -- I do really believe that that's true. 19 CHAIRPERSON TITLA: Any questions by the 20 commissioners? 21 COMMISSIONER MEYER: This is Commissioner 22 Meyer. 23 CHAIRPERSON TITLA: Commissioner Meyer? 24 COMMISSIONER MEYER: One other comment. I 25 mean, I thank Mr. Miller for his comments. And I</p>	<p>10:09:21-10:11:07 Page 25</p> <p>1 here? 2 MR. COLLINS: Do you want to go first? 3 Mr. Chairman, Mr. Miller has a response to 4 that if you would care to recognize him. 5 CHAIRPERSON TITLA: Mr. Miller? 6 MR. MILLER: Mr. Chairman, Commissioner 7 Meyer, from my perspective, I think we've already 8 addressed the concern you're looking for in the last 9 sentence of paragraph 3A on page 2 in that it is -- it 10 is entirely up to the Commission working through its 11 executive director how that -- how that project plan is 12 changed. 13 I don't have -- I don't the discretion. 14 The Secretary's office doesn't have the discretion to 15 unilaterally announce modifications, changes to the 16 project plan. That discretion is entirely yours, and 17 so we will have to convince you-all, especially Tom, 18 that as a matter of fact, we are working as diligently 19 as possible and that to the extent we request that 20 agreement that a piece or part of the overall plan be 21 delivered -- just to make up a date -- on October 31st 22 instead of October 1st, that the ability to approve or 23 disapprove that proposal is entirely yours. 24 CHAIRPERSON TITLA: Mr. Miller, thank you 25 for your statements. And we're looking at 3A, right,</p>

<p>10:11:10-10:12:25 Page 26</p> <p>1 the agreement? 2 MR. MILLER: Yes, sir. 3 CHAIRPERSON TITLA: You're saying the last 4 sentence should address this concern, and the last 5 sentence, as I read it, says that "All the execution of 6 all duties and responsibilities of either the Secretary 7 or the Commission respecting See the Money shall follow 8 the See the Money Project Plan, as it may be revised 9 and modified from time to time, with the written 10 consent of the Commission or its executive director." 11 So, Mr. Miller, so you are saying that that 12 sentence to you means that if only 90 percent is 13 finished by you at a certain time, then only 90 percent 14 can be paid by the Commission for this project plan? 15 Is that what you're saying? 16 MR. MILLER: Mr. Chairman, yes. 17 CHAIRPERSON TITLA: Okay. Any -- any 18 questions by the Commission on this issue? 19 MR. COLLINS: Mr. Chairman, this is Tom, if 20 I could just get -- be recognized real briefly. 21 CHAIRPERSON TITLA: Okay, Tom. 22 MR. COLLINS: The version -- the version 23 that we're actually looking to execute, that language 24 is a little different. It's substantially the same, 25 but it actually reads "No modification to the See the</p>	<p>10:14:01-10:15:16 Page 28</p> <p>1 that, but the concern, I think, is that it doesn't 2 really say that outright clearly. And in agreements 3 that are made or in contracts that are made, it is 4 within the four corners of the document, I think is 5 what they told me in contract 101 at law school, if I 6 remember correctly. 7 MR. COLLINS: You do. 8 CHAIRPERSON TITLA: So we're saying here 9 that that means that, but it really doesn't say that is 10 what I'm saying. 11 MR. COLLINS: Mr. Chairman -- 12 CHAIRPERSON TITLA: So is there a way to 13 say what we're saying it means? 14 MR. COLLINS: Mr. Chairman and with 15 Mr. Miller in the room and everybody on the phone, I 16 think I have a suggestion for that and -- which is in 17 item -- turning back to Item 4F on page 5 of the 18 4-25-27, 2016 [sic] document, if we were to add a line 19 to Section F that says the Commission shall consider 20 this accounting in determining its payment obligation 21 pursuant to Exhibit 1 on a pro-rata basis. 22 CHAIRPERSON TITLA: Okay. Commissioners, 23 what do you think? 24 MR. COLLINS: And, Lee, what do you think? 25 COMMISSIONER MEYER: This is Commissioner</p>
<p>10:12:28-10:13:58 Page 27</p> <p>1 Money Project Plan is effective until approved in 2 writing by the executive director of the Commission or 3 its designee." So we -- we sharpened that sentence a 4 little bit in the draft that you actually were looking 5 to approve. That's -- the Secretary wrote that 6 sentence. 7 So -- and, you know, the -- so I just 8 wanted to make sure that we're all working from the 9 same version given that I created a confusion at the 10 very beginning. The -- 11 COMMISSIONER PATON: So this is the 12 comparison draft? This is Galen Paton. 13 MR. COLLINS: Right. That's right. The 14 comparison draft is -- is the correct version. 15 And I guess I'll leave it there. I just 16 want to make sure everyone is on the right draft. 17 CHAIRPERSON TITLA: Okay, Tom. Thank you 18 for the corrections. 19 Now, from what Commissioner Meyer and 20 Commissioner Kimble expressed, I can understand what 21 they're saying there because what we're saying, I 22 think, here is that if -- just for example, 23 hypothetically, if only 90 percent is done at a certain 24 time, then only 90 percent will be paid on the project. 25 And we're saying that this sentence that you read means</p>	<p>10:15:17-10:16:11 Page 29</p> <p>1 Meyer. 2 CHAIRPERSON TITLA: Commissioner Meyer? 3 COMMISSIONER MEYER: I think that is a good 4 idea. And can I make another suggestion? 5 CHAIRPERSON TITLA: Okay. Go ahead. 6 COMMISSIONER MEYER: That would be on 7 page 4 in paragraph B where we kind of all started 8 here. 9 CHAIRPERSON TITLA: Okay. 10 COMMISSIONER MEYER: And I think it's the 11 second-to-the-last sentence where it says the 12 Secretary's inability to deliver every objective of a 13 particular phase of the project, that entire sentence. 14 CHAIRPERSON TITLA: Okay. 15 COMMISSIONER MEYER: That's the sentence 16 that worries me. And that line that says discretion, 17 that's the -- that's the concern I have because I read 18 that to mean, well, the Secretary can provide, you 19 know, three out of the four deliverables but it's not 20 going to be a breach. And there's no sort of equal 21 discretion for the Commission to say, well, in that 22 instance, we'll evaluate what you've done and pay you 23 pro-rata. 24 So I think a sentence after that and before 25 the one that says "notwithstanding," maybe you could</p>

<p>10:16:13-10:17:19 Page 30</p> <p>1 add a sentence in there about the, you know, in the 2 event this takes take place, in the event the Secretary 3 fails to deliver every objective, the Commission shall 4 have -- you know, use reasonable discretion and detain 5 making a pro-rata payment for what's been delivered, 6 something along those lines. 7 MR. COLLINS: Is that the same thing? 8 Okay. 9 COMMISSIONER MEYER: Based on what Tom was 10 just suggesting, I just think it's maybe a more -- 11 MR. COLLINS: Okay. 12 COMMISSIONER MEYER: -- a more appropriate 13 location. 14 MR. COLLINS: Okay. So that's helpful. 15 Mr. Chairman, if I could have the floor for 16 one minute just to read back what I think this is and 17 then we will put Mr. Miller on the spot here a little 18 bit and ask him if this is going to work, but -- 19 CHAIRPERSON TITLA: Tom, go ahead. 20 MR. COLLINS: So that would say, then, the 21 Secretary is using reasonable efforts and diligence to 22 deliver the required objective in each phase of the 23 project, period. In the event the Secretary is unable 24 to complete an objective, the Commission shall have 25 discretion to make payment on a pro-rata basis.</p>	<p>10:18:51-10:20:15 Page 32</p> <p>1 is that you end that proposed sentence with some 2 language which essentially says reflective of what is 3 actually delivered. 4 MR. COLLINS: Okay. So pro-rata basis 5 reflective of what is actually delivered. 6 Is that -- okay. So, Mr. Chairman, 7 Mr. Meyer, does that -- does that sentence -- so I'll 8 read it back to you one more time just for the record 9 here. 10 So after the word "Project," new sentence: 11 In the event the Secretary is unable to complete an 12 objective, the Commission shall have discretion to make 13 payment on a pro-rata basis actually reflective of 14 the -- of the work completed. 15 MR. MILLER: Sure. 16 MR. COLLINS: Any thoughts? 17 CHAIRPERSON TITLA: Any comments by the 18 Commission? 19 COMMISSIONER MEYER: This is Commissioner 20 Meyer. I mean, I think that works. That addresses my 21 concern. I'm always hesitant to draft contractual 22 language on the fly. 23 CHAIRPERSON TITLA: Yeah. Tom, can we -- 24 COMMISSIONER MEYER: But I would -- 25 CHAIRPERSON TITLA: Can you draft this</p>
<p>10:17:33-10:18:51 Page 31</p> <p>1 And then to -- and then to try to kind of 2 keep this consistent with where we're -- where we are, 3 but I would suggest, to make this easier for 4 Mr. Miller, that we also add a line that says but -- 5 but shall determine that some payment shall be made, 6 you know, or that -- you know, that we need to -- we 7 also need to not -- frankly, to make this deal work, I 8 don't want to put -- and this is up to Lee, to some 9 extent, whether or not he needs this or not. So if the 10 sentence is -- let me back up a second. 11 So the sentence as I understand, 12 Commissioner Meyer, would be new sentence after the 13 work "Project": In the event the Secretary is unable 14 to complete an objective, the -- the Commission shall 15 have discretion to make pro -- make payments on a 16 pro-rata basis -- to make payment on a pro-rata basis. 17 You know, so the question then becomes -- and, 18 Mr. Chairman, if I could -- if you could indulge me in 19 somewhat of a conversation with Lee about this here 20 just -- does that work or -- 21 CHAIRPERSON TITLA: Yeah, go ahead, Tom. 22 MR. COLLINS: Is there -- is there 23 additional language that would be helpful to sort of 24 balance that out if that's acceptable? 25 MR. MILLER: The only request we would make</p>	<p>10:20:15-10:21:28 Page 33</p> <p>1 again and then send it out to the commissioners and 2 let's have another special meeting to review final, a 3 document that we have actually read and seen and 4 reviewed? 5 MR. COLLINS: That is the Commission's -- 6 if that's the Commission's pleasure, that is something 7 we can -- we can certainly do. 8 CHAIRPERSON TITLA: Commissioners, is that 9 okay with you? 10 COMMISSIONER MEYER: Mr. Chairman, this is 11 Commissioner Meyer -- 12 COMMISSIONER KIMBLE: I quite honestly 13 don't feel that's necessary. I'm -- I'm very 14 comfortable with the language as Tom read it back. I 15 yield to the numerous lawyers involved in this process, 16 but I think that that protects the concerns that I have 17 and I think it also protects the Secretary's office. 18 And I don't know there's a need for additional 19 redrafting, but that's more of a lawyerly question 20 than -- than I think anything I can deal with. 21 COMMISSIONER CHAN: Mr. Chairman, this is 22 Commissioner Chan. I would -- I would agree with 23 Commissioner Kimble. That's just my opinion and, of 24 course, if any of the other commissioners -- 25 specifically, Commissioner Meyer, if you prefer to take</p>

<p>10:21:32-10:22:45 Page 34</p> <p>1 some time, I understand that, but I'm comfortable, I 2 think, based on what I've heard today from Staff and 3 the new language. 4 COMMISSIONER PATON: Mr. Chairman? 5 CHAIRPERSON TITLA: Commissioner? 6 COMMISSIONER PATON: This is Galen Paton. 7 I would agree with Commissioner Chan. I know time is 8 of the essence to the Secretary's office, and I 9 think -- from what I heard from that statement, I think 10 that it addresses the concerns of Mr. Kimble and 11 Mr. Meyer. 12 CHAIRPERSON TITLA: Okay. What are the 13 wishes of the Commission on this document? 14 COMMISSIONER MEYER: This is Commissioner 15 Meyer. One last point. 16 Based upon the comments of my fellow 17 commissioners, if they're comfortable with this 18 language and Mr. Collins is comfortable, then I don't 19 see a need to, you know, terminate the meeting -- 20 adjourn the meeting and then reconvene at a later date. 21 And we can just approve it today if that's -- if that's 22 what the Commission chooses to do. 23 And I also just want to put on the record, 24 I'm not meaning to be a stickler on this, Mr. Miller. 25 I'm just -- essentially what I'm trying to do is just</p>	<p>10:24:00-10:25:29 Page 36</p> <p>1 I think that when it comes to a motion, I 2 would make two suggestions. One, that the motion 3 approve the draft with the authority to both, you know, 4 make nonsubstantive cleanups because obviously we're 5 looking at this in a -- in a redline version and to 6 approve the specific language: In the event that the 7 Secretary is unable to complete an objective, the 8 Commission shall have discretion to make payment on a 9 pro-rata basis actually reflective of the work 10 completed added to Section B -- actually, under "The 11 Commission shall" in Subpart 3 of the contract. 12 That's a little complicated as a motion, 13 but that -- that is what we're looking for. We need 14 authority to, you know -- you know, basically, get the 15 document cleaned up in the final form, execute it and 16 then put that sentence in. And those are the three 17 things that we're looking for in a motion. 18 COMMISSIONER CHAN: Mr. Chairman? 19 CHAIRPERSON TITLA: Chairman Chan? 20 COMMISSIONER CHAN: I would so move. 21 Tom, is that acceptable? 22 MR. COLLINS: Joe, does that work for you 23 as a motion? 24 CHAIRPERSON TITLA: I have a motion by 25 Commissioner Chan -- excuse me. I said "Chairman</p>
<p>10:22:47-10:23:59 Page 35</p> <p>1 draft into the contract, you know, what we're hearing 2 today. And I appreciate your willingness to do that 3 and I appreciate Tom and Staff's willingness to kind of 4 work with us on this as well. So I hope that all makes 5 sense why I'm requesting this provision. 6 CHAIRPERSON TITLA: Okay. That is 7 understandable with me, Commissioner Meyer. I think 8 that's a good point to make here because having dealt 9 with numerous contracts over the years of my 33 years 10 as an attorney, what they say is that the devil is in 11 the detail. And I find that to be true, and I'll be 12 most comfortable if we had -- what Commissioner Meyer 13 said, if we had another document that we reviewed. 14 That would be my most comfort zone, but seeing that the 15 majority of the Commission are saying that let's 16 approve the document, then is there a motion to approve 17 this document, Commissioners? 18 COMMISSIONER MEYER: Mr. Chairman, one last 19 question. 20 CHAIRPERSON TITLA: Okay. 21 COMMISSIONER MEYER: Tom, are you 22 comfortable? Are you comfortable with this language? 23 MR. COLLINS: Yeah. Mr. Chairman -- or 24 Mr. Chairman, Commissioner Meyer, I'm comfortable with 25 this language.</p>	<p>10:25:31-10:26:19 Page 37</p> <p>1 Chan," but Commissioner Chan. 2 We have a motion to approve this document 3 as stated by Executive Director Collins. 4 Is there a second? 5 COMMISSIONER KIMBLE: This is Commissioner 6 Kimble. I second. 7 CHAIRPERSON TITLA: Commissioner Kimble 8 seconds. 9 Any comments? Discussions? 10 (No response.) 11 CHAIRPERSON TITLA: If not, shall we have a 12 roll call vote, Tom? 13 MR. COLLINS: I can call the roll if you -- 14 if there's no further discussion, Mr. Chairman, if you 15 just say the word. 16 CHAIRPERSON TITLA: Okay. Okay. Call the 17 roll. 18 MR. COLLINS: Okay. Commissioner Meyer? 19 COMMISSIONER MEYER: I vote aye. 20 MR. COLLINS: Commissioner Kimble? 21 COMMISSIONER KIMBLE: Aye. 22 MR. COLLINS: Commissioner Paton? 23 COMMISSIONER PATON: Aye. 24 MR. COLLINS: Commissioner Chan? 25 COMMISSIONER CHAN: I vote aye.</p>

10:26:21-10:27:06 Page 38

1 MR. COLLINS: And Chairman Titla?
2 CHAIRPERSON TITLA: Yeah, aye.
3 MR. COLLINS: Okay. Mr. Chairman, there
4 are five aye votes.
5 CHAIRPERSON TITLA: Okay. The motion
6 passes. The document is passed with the changes as
7 noted by Executive Director Collins. So it is
8 approved.
9 Tom, can you send us the final document?
10 MR. COLLINS: Of course.
11 CHAIRPERSON TITLA: Okay. Is there any
12 more discussion on anything else?
13 MR. COLLINS: Mr. Chairman?
14 COMMISSIONER MEYER: Mr. Chairman,
15 Commissioner Meyer.
16 CHAIRPERSON TITLA: Okay. Commissioner
17 Meyer?
18 COMMISSIONER MEYER: I want to again thank
19 Mr. Miller and Mr. Collins for their work on this and
20 for their ability to work with us and their willingness
21 to work with us today.
22 Thank you.
23 CHAIRPERSON TITLA: Any more comments?
24 COMMISSIONER CHAN: Mr. Chairman, this is
25 Commissioner Chan. I would echo Commissioner Meyer's,

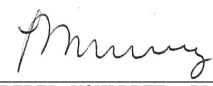
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1 you know, thanking of Mr. Miller for being so willing
2 to be here. And, frankly, it's been very nice to have
3 you work with us on this.
4 And, Tom, thank you for your hard work and
5 all the staff for getting this done.
6 CHAIRPERSON TITLA: Okay. Any more
7 comments by the commissioners?
8 (No response.)
9 CHAIRPERSON TITLA: If not, those comments
10 are good.
11 Good work, Tom, and Mr. Miller. Good work.
12 Is there a motion to adjourn?
13 MR. COLLINS: Just as a formal matter,
14 Mr. Chairman, there is a public comment item, but there
15 is no one --
16 CHAIRPERSON TITLA: Okay.
17 MR. COLLINS: There are -- no one seems
18 willing to comment, unless we make Mike do it.
19 CHAIRPERSON TITLA: Wait. Let me call for
20 it.
21 MR. COLLINS: Yes, please.
22 CHAIRPERSON TITLA: Okay. Let's go to
23 public comment.
24 Is there any public comment by anyone?
25 (No response.)

10:27:55-10:28:21 Page 40

1 MR. COLLINS: No, there is not.
2 CHAIRPERSON TITLA: If not, what's next on
3 the agenda?
4 MR. COLLINS: Adjourn -- motion to adjourn.
5 CHAIRPERSON TITLA: Is there a motion to
6 adjourn?
7 COMMISSIONER CHAN: I move to adjourn,
8 Mr. Chairman.
9 COMMISSIONER MEYER: Second.
10 CHAIRPERSON TITLA: Commissioner Chan
11 motioned. Second by Commissioner Meyer.
12 All in favor say aye.
13 (Chorus of ayes.)
14 CHAIRPERSON TITLA: Opposed?
15 (No response.)
16 CHAIRPERSON TITLA: Abstain?
17 (No response.)
18 CHAIRPERSON TITLA: We are adjourned.
19 Thank you, Commissioners. We'll see you
20 next time.
21 (Whereupon, the proceedings concluded at
22 10:28 a.m.)
23
24
25

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1 STATE OF ARIZONA)
2 COUNTY OF MARICOPA)
3 BE IT KNOWN the foregoing proceedings were
4 taken by me; that I was then and there a Certified
5 Reporter of the State of Arizona, and by virtue thereof
6 authorized to administer an oath; that the proceedings
7 were taken down by me in shorthand and thereafter
8 transcribed into typewriting under my direction; that
9 the foregoing pages are a full, true, and accurate
10 transcript of all proceedings and testimony had and
11 adduced upon the taking of said proceedings, all done to
12 the best of my skill and ability.
13 I FURTHER CERTIFY that I am in no way
14 related to nor employed by any of the parties thereto
15 nor am I in any way interested in the outcome hereof.
16 DATED at Phoenix, Arizona, this 28th day of
17 April, 2016.
18
19 
20
21 LILIA MONAREZ, RPR, CR #50699
22
23
24
25

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