

CAPITAL PROJECTS ADVISORY REVIEW BOARD

Via Zoom

Minutes - Amended

September 10, 2020

MEMBERS PRESENT	REPRESENTING	MEMBERS ABSENT	REPRESENTING
Rebecca Keith (<i>Chair</i>)	Cities	Brian Belarde	Construction Trades Labor
Andrew Thompson (<i>Vice Chair</i>)	General Contractors	Barbara Piilani Benz	Insurance/Surety Industry
Garett Buckingham	Public Hospital Districts	Rep. Mike Steele	House (R)
Bill Dobyns	General Contractors	Rep. Steve Tharinger	House (D)
Bill Frare	State Government		
Senator Bob Hasegawa	Senate (D)		
Matthew Hepner	Construction Trades Labor		
Santosh Kuruvilla	Engineers		
Mike McCormick	Higher Education		
Karen Mooseker	School Districts		
Irene Reyes	Private Industry		
John Salinas II	Specialty Contractors		
Walter Schacht	Architects		
Mike Shinn	Specialty Contractors		
Robynne Thaxton	Private Industry		
Lisa van der Lugt	OMWBE		
Jane Wall	Counties		
Senator Judy Warnick	Senate (R)		
Janice Zahn	Ports		

Staff & Guests are listed on the last page

WELCOME & BOARD MEMBER INTRODUCTIONS

Chair Rebecca Keith called the regular Capital Projects Advisory Review Board (CPARB) meeting via Zoom to order at 8:16 a.m.

Chair Keith acknowledged the work and efforts of committee chairs and members over the summer. She thanked Vice Chair Andrew Thompson and former Chair Walter Schacht for their support.

Members provided self-introduction. A meeting quorum was attained.

Vice Chair Thompson thanked members for their recruitment efforts for the Board. He welcomed John Salinas II, a new member representing Specialty Contractors. He has worked with Mr. Salinas for over 20 years who served as a subcontractor on many alternative delivery projects.

Mr. Salinas said he is the President of Salinas Construction, Inc., a specialty subcontractor for concrete, paving, and flat work for a wide variety of public owners to include the Department of Defense, Washington State Department of Transportation, Port of Seattle, Sound Transit, and other local agencies. The company is based in Mukilteo and has been providing services since 1979. He looks forward to providing a perspective from a specialty contractor position.

Barbara Piilani Benze was recently appointed representing the Insurance/Surety Industry position formerly occupied by Charles Horn. Ms. Piilani Benze is also a small business owner.

APPROVE AGENDA - Action

Talia Baker asked members to review the proposed meeting dates for 2021 as listed on the meeting agenda.

Andrew Thompson moved, seconded by Bill Frare, to approve the agenda as published. Motion carried unanimously.

APPROVE MAY 14, 2020 MEETING MINUTES – Action

The following changes were requested to the minutes of May 14, 2020:

CAPITAL PROJECTS ADVISORY REVIEW BOARD

Minutes - **Amended**

September 10, 2020

Page 2 of 18

- On page 19, correct the last motion to reflect the following: “*Rebecca Keith moved, seconded by Garrett Buckingham, to establish the following positions on the Subcontractor Bid Listing Policy Evaluation Committee with members designated by the entity as noted:*”
- On page 16, within the second paragraph, revise the second sentence to reflect: “*She is concerned that if CMAA does not believe its voice has been represented, proposals would not receive adequate consideration.*”
- On page 11, within the motion stating, “*Walter Schacht nominated Jeff Gonzalez to serve in the position of Owner-State DES. Santosh Kuruvilla seconded the nomination.*” delete the stand-alone reference of “Becky Barnhart.”
- On page 4, change the last sentence of the last paragraph to reflect, “He would also be representative of specialty contractors who are not selected through the EC/CM and MC/CM process.”
- On page 5, within the last paragraph, revise the second to the last sentence to reflect, “*With the advent of the failure of I-1000 or the success of Referendum 88, there must be ways and tools to increase women and minority business participation. The position designated on the PRC is one of the limited tools to increase participation.*”

Bill Frare moved, seconded by Chair Keith, to approve the minutes of May 14, 2020 as amended. Motion carried unanimously.

INVITATION FOR PUBLIC COMMENTS

Vice Chair Thompson invited public comments throughout the meeting.

PROJECT REVIEW COMMITTEE

Project Review Committee Appointments – Action

Chair Keith reported vacancies on the PRC include one Owner-Public Hospital Districts position, two Construction/Trades/Labor positions, and two Minority/Women Owned Businesses positions. Under the RCW provisions for PRC appointments, the Board is responsible for appointing candidates representing a balance similar to the Board’s balance as outlined in the RCW.

Chair Keith invited Curt Gimmestad to speak to his application for the Owner-Public Hospital Districts position.

Mr. Gimmestad reported he was a member of PRC for six years and served as the Chair and Vice Chair. He left PRC in the summer of 2019, amidst the conversations on the difficulty of filling the vacant Owner-Public Hospital Districts position. He offered to apply for the position and was recently encouraged to apply because of the difficulty of recruiting a representative from the Public Hospital Districts. He has been engaged in the alternative delivery model and methods since the mid-1990s. His intent is to assist PRC while also recognizing the importance of balance of participants.

Chair Keith expressed appreciation for Mr. Gimmestad’s service to the PRC. The Public Hospital Districts recently underwent a challenging transition when the district’s executive director suddenly passed away. Garret Buckingham was appointed to the Board following that transition. She invited Mr. Buckingham to speak to efforts to fill the vacant position.

Mr. Buckingham said Mr. Gimmestad’s resume and letter of interest speak to his qualifications and commitment to serve on the PRC. Following his appointment to the Board in December 2019 and the COVID-19 pandemic in February 2020, he has strived to solicit interest in the position from the Public Hospital Districts’ community and successfully solicited interest from a candidate who plans to submit a letter of interest. He recommended delaying the appointment until the Board receives the letter from the Public Hospital Districts representative to ensure balance is maintained on the PRC.

Vice Chair Thompson added that one of the challenges conveyed from PRC members is how participation can be challenging, which may be one of the reasons attributed to the delay in filling the position. He asked about the possibility of creating additional-at-large positions to ensure meeting quorums.

Ms. Baker noted that the Owner-Public Hospital Districts position has been unfilled for three years and two Construction/Trades/Labor positions have been vacant for over a year.

CAPITAL PROJECTS ADVISORY REVIEW BOARD

Minutes - Amended

September 10, 2020

Page 3 of 18

Walter Schacht stressed the importance of supporting the PRC by ensuring qualified representatives are appointed to enable the PRC to complete important work. He supported Mr. Gimmestad's application given his commitment to the Board and his contribution to the AGC Education Foundation workshops for Design-Build and GC/CM. Mr. Gimmestad has the necessary qualifications; however, the Board's appointment of the Owner-Public Hospital Districts position might be problematic administratively. He suggested exploring an amendment to the bylaws creating an at-large position or providing the Board with the authority to assign an at-large position when positions are vacant for extended periods. Filling or eliminating the position by converting the position to an at-large position could be a solution. However, it might also be problematic to summarily fill the position with a general contractor.

Janice Zahn echoed similar comments. She appreciates Mr. Gimmestad's years of service and his experience. However, of all the positions on the PRC, one private sector position could likely be representative of an at-large position. Current opportunities exist to appoint other candidates to those types of positions. Previously, the PRC experienced similar problems in filling the Counties position. Following discussions between the City of Seattle and the county, the County seat was filled by Jessica Murphy with the City of Seattle. She supported Mr. Buckingham's suggestion to defer appointment until October pending receipt of the application from the district.

Matthew Hepner asked whether a conflict of interest might exist if he offered to serve on the PRC representing the position of Construction/Trades/Labor.

Chair Keith noted the time commitment is a consideration. However, other Board Members have served on the PRC.

Mr. Hepner offered to actively recruit for candidates to fill the two vacant Construction/Trades/Labor positions.

Edward Peters, Chair of the PRC, said he believes his PRC colleagues would agree the best solution is an appointment of a candidate representing the Owner-Public Hospital Districts. Mr. Gimmestad offered to serve in the interim until recruitment from the Public Hospitals Districts identified a candidate(s).

Chair Keith agreed it might be timely to re-examine the process by reviewing the RCW, which speaks to balance of the PRC reflecting the Board's balance, as well as consider factors such as values associated with geographical diversity, diversity of candidates, and position terms. She recommended examining the PRC appointment process and position categories in collaboration with the PRC and defer appointment of the Owner-Public Hospital Districts position until October.

No nominations were offered from the Board for the Owner-Public Hospital Districts position.

Chair Keith thanked Mr. Hepner for his willingness to recruit candidates for two Construction/Trades/ Labor positions. Two letters of interest were received from Jason Nakamura and Sherry Harris for two Minority/Women Owned Business positions.

Several Board Members asked that the candidates share information on their respective alternative delivery experience, what they would like to accomplish as PRC members, background on efforts with other MWBE business owners, and whether the candidates are involved in organizations promoting MWBE.

Ms. Baker advised of Mr. Nakamura's recent withdrawal of his application and willingness to continue serving temporarily until the position is filled.

Chair Keith invited Sherry Harris to speak to her application.

Ms. Harris expressed appreciation for consideration of the PRC position. She is the owner of Ergosynch Engineering, an electrical engineering design firm focusing on systems engineering for low voltage design for buildings and facilities for public sector projects. The firm opened in 2008 with 10 employees with the main office located in downtown Seattle. Most employees work from home because of the COVID-19 pandemic. Over the last two years, she has become involved

CAPITAL PROJECTS ADVISORY REVIEW BOARD

Minutes - **Amended**

September 10, 2020

Page 4 of 18

with professional associations, such as AGC and the ACEC. She learned of the vacancy during her attendance to an AGC meeting affording an opportunity to meet with a number of project managers. She has extensive experience with alternative delivery methods with most projects utilizing alternative delivery methods using the Design-Build delivery method. She is interested and concerned about all requirements, especially after the legislative session that substantially reduced the amount of funds the state receives for projects. Her interests are directed to how small businesses will compete and the mechanisms leaders are using to address difficulties companies are facing. She is interested in contributing information from a small business perspective and providing a voice to ~~conservations~~ conversations occurring by legislators and other elected officials. The position represents her first involvement in a Washington State Board position focused on large capital projects.

Lisa van der Lugt asked Ms. Harris to speak to the difficulties she cited as a small business owner and her community involvement. Ms. Harris described the differences between Design-Bid-Build and Design-Build and how the alternative delivery model creates challenges for small businesses to compete. The state strives to achieve goals to include small businesses, especially when projects are federally funded. State agencies have done a good job of including small and minority owned businesses in projects. However, it is often difficult when the financial model requires the prime engineering company to bid projects so competitively that it often leads to the exclusion of smaller engineering companies to serve as a Sub despite encouragement of diversity in Washington State. When the state switched primarily to the Design-Build delivery method, it was often challenging to participate. Her personal experience reflects how her background and knowledge of engineering companies suddenly switched to general contractors. One example was the bid for the SR99 Tunnel project involving very large contractors some of which were not U.S. based companies. Her most difficult challenges have been in becoming acquainted with contractors through pre-bid meetings.

Asked to respond to several questions from Ms. van der Lugt on her MWBE experience and awareness of the Disparity Study, Ms. Harris replied that she served as a member of the ~~Washington State Department of Transportation State~~ Disparity Advisory Committee for five years and is familiar with the 14 recommendations from the Washington State Disparity Study.

Irene Reyes asked for information on her membership with any MWBE-focused organizations. Ms. Harris said she was a member of the Disparity Study. Ms. Reyes commented on the importance of the PRC to be conscious of participation by members in minority organizations.

Vice Chair Thompson shared that his experience with Ms. Harris has been through the avenue of pursuing alternative delivery contracts. Ms. Harris has worked in the environment, which contributes to the credibility of the candidate.

Chair Keith invited a nomination from the Board.

Ms. Reyes requested clarification as to the reason the position represents Minority/Women Owned Businesses. Vice Chair Keith explained how PRC positions are designated to parallel the Board's positions. The Board's statutory responsibility is appointment of PRC members who are knowledgeable and experienced in alternative public works because the primary role of PRC is to evaluate applicants to determine whether the applicant has the requisite knowledge and experience and whether the project is appropriate for alternative delivery.

Ms. van der Lugt responded to a request to share her perspective of the applicant's ability to represent the minority and women-owned businesses. She explained the importance of the position advocating on behalf of MWBE, especially today as the Board begins to step up MWBE efforts. The appointment represents an opportunity for the Board to appoint applicants who have served as a MWBE advocate in the community and are able to attend meetings of national organizations, like NAMC and TABOR 100. Although, those efforts may be different than in the past, it is also important for the Board to seriously consider outreach and to step up efforts.

Ms. Harris responded to her capability to fulfill the role of attending National Association of Minority Contractors (NAMC) and other MWBE organization meetings as she is acquainted with several members of different organizations. She has been a member of the engineering community for many years and served as a former Seattle City Council

CAPITAL PROJECTS ADVISORY REVIEW BOARD

Minutes - **Amended**

September 10, 2020

Page 5 of 18

member. She has advocated for MWBE as a member on numerous boards and committees for many decades. She is very familiar with the minority community and is acquainted with many MWBE leaders. Although not necessarily actively involved today, she operates a company and time is limited for volunteer efforts. She is confident that she could fulfill those specific duties during her participation as a PRC member.

Mr. Schacht remarked that the PRC serves in a technical role versus the role of the CPARB. The Board's role is to ensure applicants comply with the requirements of RCW 39.10. Although, the Board has developed best practices guidelines and has overarching goals to increase participation rates, the Board's review of an application to the PRC is regulated by statute and is limited. A broader dialogue often occurs when the PRC determines the approval of a project or when an agency is certified or recertified. He does not foresee PRC members advocating on behalf of CPARB and the community, as that role is the responsibility of the Board to represent various stakeholders and be responsive to issues and policies.

Ms. Zahn pointed out the PRC developed definitions, position descriptions, and qualifications. The Board may want to discuss potential changes to those documents. Currently, the documents speak to the ability to represent and do not require candidates to be actively engaged in different MWBE organizations.

Robynne Thaxton shared that she has presented to the PRC on behalf of her clients. She stressed the importance of PRC members having baseline experience in alternative delivery, which is the key element for consideration when appointing new members.

Chair Keith reviewed the Board's statutory authority and limitations with respect to PRC appointments. The Board does not prepare or approve the PRC bylaws or processes as the statute dictates the role of the PRC review. The Board is obligated to follow the statute and appoint PRC representatives who are knowledgeable and experienced in alternative public delivery.

Ms. Reyes acknowledged the applicant's experience and knowledge of the alternative delivery models, and urged the Board to consider including MWBE participation because if not, advocacy will not move forward in committees or in other efforts by the Board

Chair Keith asked for a nomination.

Vice Chair Thompson nominated Sherry Harris to the position of Minority/Women Owned Businesses on the basis that the PRC is a technical committee and although the Board also provides some level of advocacy, it is important to be respectful of the PRC as a technical committee.

Ms. van der Lugt acknowledged the technical nature of PRC and the applicant's experience. However, as a woman of color and as the Director of the OMWBE, she is disturbed and disappointed appointments are limited to a technical process and that the conversations are often at the exclusion of equity and inclusion. Although the action is well-intended, she continues to look forward to working on the process moving forward.

A roll call of members voted to confirm the appointment of Sherry Harris to the vacant PRC position of Minority/Women Owned Businesses:

Chair Keith acknowledged the difficult conversation and the vote. It is unusual for the Board not to achieve consensus. She plans to explore the PRC appointment process. She congratulated Ms. Harris on her appointment and her willingness to serve.

Ms. Zahn urged the Board, despite the workload, to review the job descriptions and the positions as those were developed by PRC members and subsequently reviewed by the Board. She stressed the importance of the Board's alignment with position descriptions.

CAPITAL PROJECTS ADVISORY REVIEW BOARD

Minutes - **Amended**

September 10, 2020

Page 6 of 18

Project Review Committee Report and Recommendation - *Information*

Chair Keith recognized Edward Peters, Chair of the Project Review Committee (PRC).

Mr. Peters reported over the summer, PRC reviewed and approved nine project applications (6 GC/CM and 3 Design-Build) and four recertifications for projects totaling over \$230 million. PRC welcomed a number of new members and elected Mike Shinn as Vice Chair. He invited questions or comments.

Vice Chair Thompson complimented Mr. Peters on the format of the PRC report and evolution of information provided in the report. Mr. Peters acknowledged Ms. Baker's assistance in the development of the report format.

Chair Keith asked Mr. Peters to speak to the information provided by the Edmonds School District on lessons learned. Mr. Peters said the PRC requests information on lessons learned from all applicants. Information documented on lessons learned from each applicant has been forwarded to the GC/CM Committee to assist the committee in its works to develop best practices guidelines for GC/CM. Information submitted on lessons learned is a component of the project application. The original application for certification included an appendix on lessons learned.

Vice Chair Thompson offered to work with Mr. Peters to review and format the information for a future briefing and discussion by the Board.

Mr. Shinn noted all applications are posted online to include information on lessons learned.

Vice Chair Thompson encouraged members to participate in the next PRC virtual meeting on September 24, 2020 to learn about the PRC's process for considering agency certification, recertifications, and GC/CM and Design-Build project applications.

COMMITTEE REPORTS

Reauthorization Committee– *Information*

Chair Keith reported the committee has met numerous times since the last Board meeting in May to review and finalize several open items. The items pertained to Gordian's proposed changes to the JOC statute, concerns from architects regarding the exemption of pre-engineered metal buildings from PRC review, questions surrounding the expiration of RCW 39.10 and sunset provisions, small business proposals, and a pilot program for Design-Build proposed by Washington State University. All open items were resolved. The committee is offering recommended changes to RCW 39.10 and believes the proposed changes will generate strong stakeholder support and enable CPARB to present the proposal to the Legislature with broad support from all industry stakeholders.

Next steps have deviated from the original schedule following discussions by the committee and with Vice Chair Thompson. The Board would benefit by having sufficient time to review the final recommendations and enable follow up with respective stakeholder groups and to ensure the proposal is disseminated broadly. At the October 8, 2020 meeting, the Board will be asked to support endorsing a redlined version of the proposed legislation. The DES lobbyist will work with the Board to convert the final draft to a bill format.

Over the summer, the Chair, Vice Chair, and Mr. Schacht met with DES and the DES lobbyist during numerous meetings with elected officials. Representatives Tharinger and Steele agreed to sponsor the bill for the House. Meetings were held with Senators Sam Hunt, Judy Warnick, Bob Hasegawa, Patty Kuderer, and Representative Sharon Tomiko Santos to seek their support of the bill. Board leadership is seeking Senate sponsors and is working on legislative strategies.

Following the Board's approval of the bill at the October meeting, the draft bill would be submitted to the code reviser and efforts will continue with lobbyists and bill sponsors for preparation of the 2021 legislative session to introduce the bill and successfully move the bill through legislative committees. In October and December, the Board will receive updates on the status of the legislative plan and how members and stakeholders can support the bill.

CAPITAL PROJECTS ADVISORY REVIEW BOARD

Minutes - Amended

September 10, 2020

Page 7 of 18

Major challenges today are the economy, pandemic, wildfires, and the Black Lives Matter movement with legislators pulled in many directions with numerous issues. To ensure success of the proposed legislation, it will be important to generate widespread support and speak as a unified voice.

Senator Warnick remarked that the Board is pursuing the legislation appropriately by meeting with legislators and stakeholders on the proposed changes. With the advent of COVID-19 and most recently wildfires, those events may impact some of the decisions legislators may be able to render as legislators. Certainty of the convening the next legislative session is still unknown. The Board's course of action is appropriate for moving forward.

Chair Keith reviewed the proposed changes to Job Order Contracting (JOC) offered by the Gordian Group. The Gordian Group has been actively engaged in the best practices discussions. One open item was the definition of "coefficient" applicable to the JOC statute. The Gordian Group believed it is important to include a definition of "coefficient." The definition was pared considerably to indicate that it means job order contractors competitively bid numerical factor applied to the price that is published in the unit price book. Some other changes in the JOC statute explain why the committee preferred to include a minimum-level definition. Essentially, it entails how public bodies compile what they want included in the coefficient rather than dictating the terms, such as bonding or other requirements. Public bodies would be responsible for developing a solicitation that specifies what is included in the coefficient.

Within the definition of "Job Order Contract" the committee recommends deleting "negotiated definitive work orders" because the bid price, unit price, and the coefficient are not negotiated each time. Some members in the industry have misinterpreted the provision. The definition was shortened with more information included in the provisions under RCW 39.10.430 (d) stating, "The identity of the specific unit price book to be used, and a description of which elements shall be included in the coefficient as necessary to establish a firm fixed price on work orders to be awarded under the job order contract." This provision clarifies what the prime needs to include in the coefficient rather than dictating the terms. Other changes are minor technical corrections addressing solicitation requirements regarding coefficient.

One major change since the last committee meeting pertains to Job Order provisions pertaining to required information to the Board. The Sunset Review Report by the Joint Legislative Audit Review Committee (JLARC) identified the JOC statute as confusing because job order contracts are based on a contract year with a dollar limitation on the amount that can be awarded in a contract year. Public bodies were required to provide the Board with information about job order contracts from the period of July 1 through June 30 each year. However, contract years are different for many public bodies, which reflected that some public bodies were not in compliance with the dollar limitations because the report covered the period from July 1 through June 30. Essentially, dollar limitations for most agencies were measured under different timeframes. The JLARC recommended the Board amend the reporting format. Because the Board lacked resources for data collection, the Board was not in alignment with JLARC's recommendation with several years of missing data. Today, JOC is available to all public bodies. Based on discussions surrounding the Board's limited resources and lack of identification of public bodies required to report, the committee recognized the Board is not responsible for enforcing dollar thresholds as all public agencies are subject to audit and other legal requirements to ensure compliance with the statute. The committee recommends submitting minimal legislative changes to the JOC statute clarifying public bodies must track the information and provide it to the public without involving the Board in the collection of data.

Chair Keith cited the proposed changes for exemption of engineered metal buildings. The committee received letters of concern from the American Institute of Architects and several concerns conveyed during committee meetings. She asked Mr. Schacht to review how the proposal addresses those concerns.

Mr. Schacht referred to RCW 39.10.300 (Design-Build). Design-Build delivery projects have increased in number more than any other alternative project delivery method in terms of size and complexity of projects. Originally, the statute excluded a number of project types from PRC review for approval. Currently, RCW 39.10.300 (3) states, "The design-build procedure may be used for the construction or erection of portable facilities as defined in WAC 392-343-018, or not more than ten prefabricated modular buildings per installation site, regardless of cost and is not subject to approval by the committee." The statute did not exempt a public body using Design-Build to procure the buildings from complying with

CAPITAL PROJECTS ADVISORY REVIEW BOARD

Minutes - Amended

September 10, 2020

Page 8 of 18

the requirements of the RCW 39.10 other than the public body was not required to seek approval from PRC. At that time, the industry believed there was some logic because of the temporary nature of siting portable facilities or using 10 prefabs for utility sheds or small garages. Since the statute was adopted, conditions have changed substantially as pre-engineered metal buildings have evolved significantly. Today, a pre-engineered building can house hockey rinks, large churches, office buildings, or academic buildings. Today, the trend is to hybridize systems. A pre-engineered building may not include only pre-engineered metal components as some of the components might be pre-fabricated and delivered and erected with other components completed onsite. Projects today are more complicated because of programming needs. Over the course of the last four years, the Board identified four RFPs from public bodies using Design-Build to complete a pre-engineered project. The agencies released the RFQ/RFPs and were not required to seek approval from the PRC. Observations of the procurements revealed numerous anomalies in the compliance of the Design-Build statute, such as the lack of contingency, honorarium, statutory requirements for diverse business inclusion, or using certified public agencies as evaluation criteria. The nature of the construction technology has changed and public bodies are not taking advantage of what PRC provides by reviewing the application to ensure it aligns with statutory requirements. Stakeholders believe it was important for any project involving pre-engineered metal buildings to present the project to the PRC; however in order to ensure public bodies continue to have the ability to construct small utilitarian buildings that might cost less than \$2 million, Nancy Deakins recommended including pre-engineered metal buildings within the provisions pertaining to public parking garages as it would require public bodies to complete a PRC review while maintaining the utility of the procurement type.

Robynne Thaxton acknowledged participation by all committee members and stakeholders. The underlying issue between public owners and the private sector is the continuation of alternative procurement along with reauthorization versus eliminating the sunset clause entirely and moving forward authorizing alternative procurement permanently. The committee concluded that the best approach is to continue with the sunset provision for another 10 years without eliminating the probability that provisions in the statute would continue to evolve over the next 10 years. The lack of reauthorization does not prevent the Board from improving the statute and promoting best practices. The committee unanimously recommends reauthorizing RCW 39.10 through July 2031, as well as recommending retention of the JLARC sunset review to help guide the Board.

Chair Keith added that some small business proposals were not fully vetted because of the lack of time. However, over the summer, the committee worked with the Business Equity/Diverse Business Inclusion Committee. Committee members provided good input with Dan Seydal offering feedback. The proposed statute changes reviewed by the Board in May incorporates changes in the GC/CM statute previously included in the Design-Build statute for evaluation criteria based on performance for inclusion plans for certified women and minority businesses. The committee also recognized that some of the small business proposals were based on outdated statute provisions rather than the updated statute. Mr. Seydal was advised of some of the statute changes. Other discussions were on bonding. Members agreed bonding should be addressed by the GC/CM Committee. Mr. Seydal met with Ms. Kondelis and other committee members and plans to participate in the JOC Evaluation Committee and the GC/CM Committee.

Chair Keith invited Olivia Yang to speak to the pilot project proposed by Washington State University (WSU).

Ms. Yang reported on prior statute revisions to extend Design-Build to projects with a minimum cost of \$2 million. WSU has extensive experience in Design-Build as a certified public owner. WSU was a member of the multi-year best practices effort to develop best practices for Design-Build. For many years, WSU has sponsored a forum on best practices for Design-Build each July. Within the last 10 years, WSU developed, modified and improved how the University utilizes Design-Build ranging from the expensive design competition model to progressive to the hybrid progressive comprised of a six-hour design charrette with no cost guarantee as part of WSU's selection process. Additionally, WSU has a significant backlog of deferred maintenance at a cost estimated three years ago at \$1.4 billion. WSU receives funding for deferred maintenance from the state. Funding from the state is capped at \$2 million for each deferred maintenance project. In most circumstances, WSU discovered Design-Build may not be the most efficient method. Concurrently, as WSU moved forward with Design-Build, interest has increased from design bid build contractors who want to enter the market. The pilot project is designed to help both WSU and the community of design bid builders who want to compete for alternative procurement projects. The pilot project includes a report to the Board on the projects and feedback from

CAPITAL PROJECTS ADVISORY REVIEW BOARD

Minutes - **Amended**

September 10, 2020

Page 9 of 18

general contractors, designers, architects, and engineers, as well as lessons learned as a way to develop protocols for small Design-Build projects.

Senator Warnick expressed interest in reviewing the WSU proposal. As a member of the Capital Budget Committee she supports proposals saving the state money. If the proposal results in an efficient and streamlined process, she would support the proposal. She questioned whether existing provisions in statute applicable to University of Washington are similar. Ms. Yang replied that the statute pertains to the Critical Care Roster for UW enacted nearly 10 years ago. WSU considered pursuing Design-Build projects under \$2 million under the chapter applicable to WSU. However, after receiving advice from CPARB and the Reauthorization Committee, the best policy is to include \$2 million Design-Build projects within the Design-Build chapter.

Mike McCormick added that the intent is for the University of Washington (UW) to pursue Design-Build projects under \$2 million as well because Design-Build is an efficient delivery method for projects. The University of Washington has a backlog of deferred maintenance of over \$2 billion and is contending with many of the same issues. The proposed pilot affords an opportunity to learn from best practices. The University of Washington would like the pilot to also apply to the UW and other higher education institutions moving forward.

Chair Keith encouraged members and others to outreach stakeholders and review the proposed changes to the statute. She encouraged the Board to contact her or Ms. Thaxton with any questions or feedback by September 30, 2020. JLARC is scheduled to release its initial draft of the performance report prior to its meeting on September 30, 2020. She plans to attend the meeting along with other board members. The CPARB website includes a report summarizing CPARB's performance.

Chair Keith recessed the meeting from 10:36 a.m. to 10:50 a.m. for a break.

Senator Warnick left the meeting during the break.

Local Government Public Works Study (SB5418) – Information

Chair Keith introduced Jon Rose with Municipal Research Services Corporation (MRSC). Mr. Rose updated the Board on the status of the Local Government Public Works Contracting Study.

Mr. Rose introduced members of MRSC's project team. Work on the project was initiated in October 2019. The Board was briefed in May on the items the team was tasked to complete. One of the elements is developing recommendations for increasing uniformity of efficiency. The team has been working with Vice Chair Thompson as the representative from the Board, as well as with Chair Keith and Ms. Deakins and 20 other stakeholders over five meetings during the summer. The five two-hour meetings focused on complex topics with the intent to reach a consensus on recommendations to present to the Board. At the end of August, the team of eight voting members comprised of Andrew Thompson serving as Chair with Granite Construction, Chris Herman, Washington Public Ports Association, Jolene Skinner, Department of Labor & Industries, Karen Mooseker, Mukilteo School District, Keith ~~Micah~~Michel, Forma Construction (General Contractors), Kristin Hall, Snohomish PUD, and Michael Transue, Mechanical Contractors Association developed the list of recommendations for the Board's consideration. The Board is scheduled to approve the final report at its December meeting to meet the submittal deadline to the Legislature and Governor's Office. A feedback webinar is scheduled on September 24, 2020 with interviewees.

Mr. Rose responded to questions from members and explained that the team engaged with the Office of Minority and Women Business Enterprises (OMWBE) with Rex Brown and several other staff members. The team is continuing to edit the report and the recommendations with both DES and the Chair and Vice Chair.

Mr. Rose reviewed the 11 recommendations and invited questions:

- **Recommendation 1:** Adjust Port District and Irrigation District Small Works Roster Statutes to refer to RCW 39.04.155. Currently, Port and Irrigation Districts authorizing statutes refer to number values for a small works roster

CAPITAL PROJECTS ADVISORY REVIEW BOARD

Minutes - **Amended**

September 10, 2020

Page 10 of 18

limit. Revise authorizing statutes 58.08.130(2)(a,b) and 87.03.436 to refer to RCW 39.04.155 and remove any reference to a threshold dollar amount. More information is available in the “Uniform Thresholds” section of the report. Today, irrigation and port districts using the small works roster are limited to \$300,000 because the controlling statute includes a specific dollar amount.

Aleanna Kondelis asked whether the information referencing “expedited procedures” reflects a correlation to the recommendation. Mr. Rose explained that the recommendation encompasses the small works roster and highlights how agencies can establish their respective processes. The applicable RCWs speak to each type of public agency. He acknowledged how each of the recommendations includes nuances and encouraged members with questions to contact him directly.

- **Recommendation 2:** Tie Small Works Roster threshold increases to state-wide inflation factor based on Construction Cost Index (CCI). During each legislative session, legislators are asked to consider different increases from government entities. Implementing a process to increase thresholds in response to inflation would provide entities with certainty that the threshold would be increased with some frequency and tied to an inflationary factor. The CCI has a closer tie to public works projects rather than the CPI (Consumer Price Index). The proposed language implements an inflation-based increase for public works contracting thresholds every 5 years. The process would be monitored with engagement from the Legislature with no other requests considered if they occur outside of the review period.

Vice Chair Thompson welcomed Senator Bob Hasegawa to the meeting.

Ms. Zahn asked whether the threshold would increase only once every five years even though the CCI is tracked annually. Mr. Rose affirmed the committee considered the amount of effort required to implement increases.

Chair Keith asked whether the committee considered including delegation of the calculation to an administrative agency, such as DES or the Department of Commerce. Mr. Rose said the committee recognized the need for an administrative function but did not offer a recommendation as to the identity of the function.

- **Recommendation 3:** Expand the ‘no-bid response’ process to all local agencies. Code cities and other agencies are authorized in RCW 35.23.352(1) when they receive no-bid in any contracting process, to reach out to a single contractor and negotiate a contract. The recommendation expands the process to all agencies. The committee wanted to ensure a level of transparency and controls against abuse. The recommendation poses both a challenge and a solution for code cities. The committee wanted to ensure no bid processes were utilized as a crutch for not pursuing necessary outreach efforts.
- **Recommendation 4:** Give unit price contracting authority to all local government agencies is a similar concept as Recommendation 3. The recommendation was somewhat outside of the scope of work but because of adjacency to other recommendations, the committee agreed to offer it as a recommendation. Currently, only PUDs, cities, port districts, water & sewer districts, transportation benefit districts, and counties with purchasing departments are authorized to use unit-price contracting. The current process for authorizing additional local government types to use the contracting process is dependent on each agency petitioning the legislature.
- **Recommendation 5:** Remove retainage and bond requirements for projects under \$5,000. Paying retainage and for performance bonds were identified both as a barrier to small and minority-and-women owned businesses as well as causing more paperwork and less efficiency for local government. The recommendation was unanimous by voting members.

Ms. van der Lugt asked how the committee arrived at the \$5,000 level. Mr. Rose said the committee met with representatives from L&I and other partners to determine the level of risk tolerance necessary for retainage and bond requirements.

CAPITAL PROJECTS ADVISORY REVIEW BOARD

Minutes - **Amended**

September 10, 2020

Page 11 of 18

Bill Frare added that during the recent legislative session, a revision was passed allowing the contracting agency to waive bond requirements up to \$150,000.

Chair Keith clarified that although permissive, the statute requires a public agency to assume the risk for any claims. Unclear with the change are those public works projects that properly withhold retainage and require a bond as those agencies would not assume any liability in excess of the retainage or the bond. She questioned the situation where a contractor works on a \$5,000 project without retainage or a bond damages property in excess of the project cost or fails to complete the project, or fails to pay employees. Mr. Frare replied that all contractors are required to have a specific level of insurance to cover those types of incidents.

Judy Isaac, MRSC, noted that when pursuing limited public works under the small works roster, agencies are able to waive retainage and bonds up to \$50,000.

- **Recommendation 6:** Create a centralized list of rosters. Requires any agency, collection of agencies or roster service to register in a centralized list of all small works rosters in the state for businesses to understand what sources of work are available. Questions centered on what entity would administer the list, as well as a desire not to create a burden for agencies to report.
- **Recommendation 7:** Create list of certification/registration programs for disadvantaged businesses. Requires any agency, collection of agencies or service to register in a centralized list of all small business, minority, women, disadvantaged business enterprises, and veteran-owned programs in the state for businesses to understand what resources are available. Confusion surrounds the lists of certifications and registrations for small businesses and minority, women-owned and disadvantaged businesses in terms of the benefits of submitting for certifications or registering and what lists exist in the state. Although OMWBE is the sole issuer of certifications, it is often confusing, such as the difference between being certified versus registered with King County. The recommendation could help eliminate confusion as to the specific certification or registration a company is seeking to obtain.
- **Recommendation 8:** Define small business in the public works contracting statute. Currently, no definition for small business exists in the public works contracting statute. It is recommended to either define small business for local government or refer to the definition found in the state goods and services statute 39.26.010.
- **Recommendation 9:** CPARB update to supplemental bidder responsibility guidelines. CPARB guidelines have not been updated since 2014 and should be funded to review and update to provide better guidance to public agencies and ensure supplemental criteria are project specific. The split vote reflected the discussion on whether a need exists to seek additional funding to complete the work or whether the task is under the Board's mandate and current funding structure.

Vice Chair Thompson said he voted against the recommendation as the Board might want to consider the recommendation without it being contingent on funding as the Board is a volunteer entity.

- **Recommendation 10:** Coordinated schedule for significant outreach events between public agencies and other stakeholders. Designate or establish an agency, collection of agencies, or service as a resource to create a calendar of major outreach events as a central place for businesses to find outreach information and to ensure similar events do not conflict.

Ms. van der Lugt asked for an example of duplication of efforts. Vice Chair Thompson explained that in the past, local agencies have sponsored an outreach event in conflict with another event sponsored by another entity both with the same intent and purpose creating conflicts for small businesses and others as to which event to attend. Small businesses with limited employees struggle with time constraints.

CAPITAL PROJECTS ADVISORY REVIEW BOARD

Minutes - **Amended**

September 10, 2020

Page 12 of 18

- **Recommendation 11:** Provide professional assistance to local government for contracting guidance, and marketing and outreach to contractors. Interest was conveyed to assist agencies in preparing scope documents and engage in marketing and outreach to leverage supplemental criteria. Currently, no agency exists to provide resources. The recommendation originated from a legislator promoting a discussion centered on ways to provide increased support to agencies to assist in developing solicitations. Members voting against the proposal were concerned about creating a new agency. Today, no identified resource is available with a mandate to provide local support.

Ms. van der Lugt shared that the OMWBE has increased its work with local agencies than in the past, particularly on RFPs, diversity, equity, inclusion, ways to outreach MWBEs, and best practices. Next week, the agency is submitting a package to the Governor's Office for funding for an equity toolkit to assist MWBE's in the submittal of RFPs and RFQs for procurements.

Mr. Rose advised that there are various and uncoordinated efforts to support local government. Those efforts lack a mandate for providing sustained help and associated resources.

Chair Keith encouraged the Board to consider how some of the recommendations might require changes in the statute and that many efforts can be undertaken to improve efficiency and effectiveness in the public works procurement process. The directive for the study was specific to thresholds and it is important to consider whether any of the recommendations might result in unfunded mandates or statute changes.

Ms. Zahn asked whether increasing the threshold to \$350,000 would be sufficient as the threshold has not been increased for quite some time. She asked whether that was considered and whether \$350,000 was an appropriate amount or should be higher. Mr. Rose explained that the issue is included in potential future studies for review. The issue is not within the scope of the study. Any future study would require identification of the logic for re-evaluating the figure.

Ms. Zahn questioned whether several of the recommendations align with recent discussions during the Business Equity/Diverse Business Inclusion Committee meeting. Many of the recommendations speak to access to public agency contracting opportunities, clear definitions, uniform thresholds, and centralized information to ensure bidders have the best information.

Mr. Rose requested consideration by the Board for scheduling the September 24 webinar. During initial study efforts, MRRC contacted and interviewed many individuals and received substantial feedback. Participants were advised they would receive an update on progress of the study. The September 24 webinar offers an opportunity to fulfill that commitment.

Chair Keith questioned next steps citing the long list of recommendations some of which were unanimous and some requiring additional work. Mr. Frare said the study was initiated because of confidence by the Legislature to forward the study to the Board due to its value as a policy board for public works, and because legislators are continually bombarded by special interest groups and others with requests to change the statutes. CPARB is a legislative advisory board specializing in public works, which provides the Board with the ability to study issues and vet issues within the industry to ensure consensus is achieved. The next step is forwarding the recommendations, which may result in a request for the Board to draft some legislative changes. In terms of the future study recommendations, he is uncomfortable asking for commitment from the Board to pursue additional work. Future study recommendations could be posed to the Legislature as questions that need to be resolved as the issues are beyond the scope of the initial request by the Legislature.

Vice Chair Thompson added that the task to the Board is a report that must include recommendations to increase uniformity and efficiency. The Board has time to review the information prior to the October meeting.

Mr. Rose addressed questions on the proposed September 24, 2020 webinar. The Board agreed to extend an invitation to members and to interview participants.

CAPITAL PROJECTS ADVISORY REVIEW BOARD

Minutes - **Amended**

September 10, 2020

Page 13 of 18

Subcontractor Bid Listing Report Committee (SB 5457) – Information

Co-Chair Bill Dobyms advised that based on the amended May 14, 2020 meeting minutes, next steps include finalizing membership of the committee. A Higher Education representative was previously identified as Mr. McCormick, although Ms. Yang has attended committee meetings. CMAA was asked to identify a representative. Additionally, another General Contractor representative should be assigned. Scott Middleton has requested removal from the committee because of time constraints. His proposed replacement is Barry Sherman representing Specialty Contractors.

Chair Keith reported she asked Russel King with the City of Seattle to represent Local Government. Mr. King serves as a lawyer in the City of Seattle's Attorney Office and has experience with bid protests. Mr. Dobyms affirmed Mr. King has attended meetings.

Discussion ensued on ensuring adequate representation by labor, subcontractors, and women and minority businesses. The Board agreed to designate a slate of members to serve on the Subcontractor Bid Listing Report Committee. Mr. Gimmestad shared that labor and the contracting community's issue with the legislation was because of an error in the bill language adopted last year. The Legislature plans to correct the language during the next session. Ms. Zahn requested the addition of a member representing Ports. Janet Jensen advised that Jeff Gonzales representing DES was inadvertently not included on the list of members.

Chair Keith moved, seconded by Bill Dobyms, to appoint the following additional slate of members to serve on the Subcontractor Bid Listing Report Committee: Barry Sherman (replacing Scott Middleton) (Specialty Contractors), Olivia Yang (Higher Education), Russel King (Local Government), Kyle Dilbert (Ports), Jeff Gonzalez (DES-State), and _____ (CMAA). Motion carried unanimously

Mr. Dobyms updated members on the status of the committee's work. Each meeting generated good participation from owners, subcontractors, general contractors, and labor with each expressing opinions. The committee reviewed the history of the bill, original intent, and the intent of the most recent revision. Members addressed the points within the bill as directed by the Legislature. A preliminary recommendation includes the number of subs to add to the bill (number to be listed with the bid) and the timeframe for listing. The two issues have generated colliding interests because the listing of additional subs is frustrating to owners and contractors but beneficial to the sub community. Retaining the timeframe of 48 hours is counterproductive to the goal of halting the practice of bid shopping while favoring owners and contractors because it affords time to avoid potential bid protests. Action items generated at the last meeting include general contractors and owners reviewing previous bid breakdowns and calculating a representation of 3%, 5%, and 10% subcontractor listing in terms of quantity of subs and scope of work. The next meeting includes achieving consensus on a position that will benefit all parties for quality, timing, and description of the trades while ensuring the information is simplified to avoid creating potential bid disputes and protest scenarios.

Co-Chair Heppner added that mechanical/electrical/plumbing and structural steel/rebar trades would be exempt from the percentage calculations.

Chair Keith asked about the timing for the committee's release of the report. Mr. Dobyms replied that because of COVID-19, the deadline would likely extend by one year; however, the deadline has not officially changed.

Mr. Schacht added that there was a misunderstanding in the statute calling for the due date this year for the report. Although no deadline is published, the question is whether the Board should pursue a date change in the next legislative session. During communications with construction trades, there was clear understanding the statute contained a mistake and that the Board's deadline for the recommendations would be in 2021. An alternative is providing a report to the Legislature on the status of efforts along with construction trades labor on the collaborative efforts with a common understanding the report would be due next year.

Mr. Heppner shared that he spoke with Mike Riker earlier in the week. He is under the impression the report is due by June 2021. Vice Chair Thompson recommended the Board formalize the understanding in a letter. Mr. Frare

CAPITAL PROJECTS ADVISORY REVIEW BOARD

Minutes - **Amended**

September 10, 2020

Page 14 of 18

recommended preparing a letter from the Chair and Vice Chair outlining the status of efforts and the Board's understanding of the due date.

Data Collection Implementation Committee - Information

Ms. Kondelis referred members to the pre-read on the status of efforts by the committee. The committee is pursuing some housekeeping items. The committee was directed to prepare a response to the 2013 JLARC Report Recommendation #3. Over the last 18 months, members engaged in a number of activities in response to the recommendation to include preparing notes and memos to the Chair for consideration. The elements of Recommendation of #3 include examining GC/CM self-performance data and considering some recommendations on ways data could be readily available on self-performance and ways to ensure public agencies compile information in an organized and consistent fashion for all subcontractor awards. The committee previously developed some questions for inclusion in the PRC applications for certification or recertification. The questions have been included and a number of responses from applicants have been received addressing GC/CM self-performance data. Several reviews were completed of applications to ensure data is consistent and organized. Members believe the committee has completed its task by enabling a central organized response to GC/CM self-performance data and subcontractor packages. The committee is seeking concurrence from the Board on the completion of the tasks to the satisfaction of the Board. Additionally, within the pre-reads, some observations and suggestions for consideration are included.

Vice Chair Thompson thanked Ms. Kondelis and the committee for their efforts. The request is for direction from the Board on next steps for the committee with the understanding JLARC is releasing a new report at the end of September. He suggested delaying any action on the status of the Data Collection Implementation Committee until release of the JLARC Report.

Jolene Skinner spoke to the future of the committee for data collection. Other state agencies, to include Labor and Industries, collect data on public works projects. Those agencies could provide resources to collect data with the committee responsible for reviewing and analyzing the data on activities for alternative contracts. She offered to provide data from Labor & Industries and assist in identifying data that should be analyzed for providing basic information.

Ms. Kondelis offered to provide data to the GC/CM Committee for its work on best practices.

Chair Keith recapped the history of the data collection efforts by the Board and JLARC's recognition in 2013 that the Board lacked adequate resources for data collection. JLARC recommended the Board focus on self-performance. The reauthorization statute proposal includes a recommendation to change the Board's duties and powers to the extent that it is clear the Board has the authority to collect data and information as required for the Board to complete its work. Reauthorization Committee members believe the Board is better suited to collect qualitative data through stakeholder input, discussion, and outreach.

Mr. Schacht added that he believes the best contribution by the Board is as a public forum and not as a central clearinghouse for data because of the lack of resources and funding. No systems exist to coagulate all industry data and present it in an understandable format. At times, the Board will have a need for information and for that reason the Board should retain its authority to collect data when necessary but focus on serving as a policy board in a public forum.

Ms. Zahn reported she joined the committee during her tenure as Chair of PRC. The PRC desired information from agencies seeking certification and recertification to ascertain whether they were experienced and were properly tracking previous GC/CM projects to ensure the general contractor remained within the 30% self-performance requirement. It is only one example where the PRC was seeking data for that particular purpose as a way to demonstrate that owners understood the method and were completing projects properly. Prior data collection efforts were cumbersome and laborious for public owners. She supports maintaining a narrow focus by collecting data only for specific purposes rather than creating a difficult data collection process.

CAPITAL PROJECTS ADVISORY REVIEW BOARD

Minutes - **Amended**

September 10, 2020

Page 15 of 18

Vice Chair Thompson offered thoughts on the Board's role with respect to data collection. Data collection has a role, particularly when there are desperate conditions to help identify and frame the conditions, which is occurring through the various state studies for disparities. CPARB is represented by member voices as well as audience members. In terms of the role of the Board with respect to data collection he recounted a conversation with Representative Santos on the Board's efforts to promote diversity. Information was shared on the Board's work through the Business Equity/Diverse Business Inclusion Committee. Representative Santos questioned the efforts by the Board and whether diversity and inclusion is part of the Board's fabric and embedded within its decision-making process. He believes the Board has not achieved that goal but is headed in the right direction.

Chair Keith agreed the committee has completed its task and until the Board provides further direction, the committee has no further tasks. The Board should consider the disposition of the committee moving forward.

Business Equity/Diverse Business Inclusion Committee – Information

Mr. Schacht said the COVID-19 pandemic disrupted committee meetings as well as the efforts by OMWBE because of its focus on responding to the Washington State Disparity Study. He stressed the importance of learning how the agency's initiatives will play out especially since the disappointing results of the election last November in the outcome of I-1000, which would have provided a more defined direction at the statutory level requiring a higher level of inclusion that would have benefitted everyone. The committee is preparing a draft report addressing the opportunities to improve participation rates and increase the ease for firms to compete. Three elements addressed in the report respond directly to the charge from the Board. The committee was tasked to review the statute through the lens of equity, create consistency in statutory language, and offer strategies and opportunities that would improve chances for firms to compete. The committee did not review RCW 39.80 and focused its review on RCW 39.04. Procurements under RCW 39.80 have no statutory requirements for an RFQ or bid. The nature of procurements under RCW 39.10 specifically defines the process for engaging a job order contractor, design-build team, or a general contractor/construction manager. RCW 39.10 provides an opportunity to intersect and include language specifically requiring firms competing to demonstrate through past performance and utilization of certified MWBEs and small businesses. The committee compared the changes to Design-Build and JOC in terms of increasing requirements for diverse business inclusion. The same comparison was completed for GC/CM and the results were shared with the GC/CM Committee for inclusion in the revisions to the GC/CM components of the statute included in the reauthorization bill.

OMWBE was been asked to share the agency's efforts for creating model inclusion plans and best practices to increase business equity and diverse business inclusion. Additionally, the committee is working with the Office of Financial Management (OFM) on its system and with Labor and Industries' data collection system. The committee is not recommending the Board collect data, but it is important for the Board and the public to understand where sources of information can be obtained.

Ms. van der Lugt shared information on the agency's development of model inclusion plans and ways the committee can integrate best practices the agency is developing. The top recommendation of the Washington State Disparity Study was implementation of an IT Management System. Funding was received last year and the agency hired an IT Project Manager with the office immediately closing because of COVID-19. The agency team has stepped up and continues to work with most progress occurring over the last several months. OMWBE currently does not have software to track at the subcontractor level. Most agencies have only one employee entering data. OMWBE also relies on data from different sources to determine diversity and to build reports on spending by state agencies and educational institutions. Data is provided through a secure file transfer protocol each year. Those efforts can identify MWBE participation but is unable to consistently monitor and track the level of compliance needed to meet all requirements for an established legal framework should mandatory goals be implemented. OMWBE is unable to efficiently implement and monitor recommendations from the disparity study without a system. The system will collect data from all Washington State agencies and educational institutions. At some point, OMWBE will be able to monitor and report, as well as collaborate with other agencies to help them navigate and implement systems. Currently, OMWBE is collecting data from 71 state agencies and educational institutions in different formats. The new data system will create a one-stop shop for all data for small businesses that will be in alignment with the analysis of One Washington and it will increase data capture while promoting efficiency and avoiding data collection redundancy. The system vendor also works with other state agencies.

CAPITAL PROJECTS ADVISORY REVIEW BOARD

Minutes - Amended

September 10, 2020

Page 16 of 18

Phase 1 includes OMWBE launching the new platform in conjunction with six state agencies representing two-thirds of the state spending. Phase 2 will include adding 40 other state agencies followed by Phase 3 adding another 25 state agencies over the next three years. OMWBE is seeking funding from the Legislature for funding for Phase 2. The project will implement three modules of contract compliance, outreach and event management, and utilization and planning. Over the last several years, OMWBE has been working under the guidance of Rex Brown and the Community of Practice, a statewide collaboration of work with procurement specialists on best practices for Design-Build model policy, JOC, and GC/CM. OMWBE is developing best practices to ensure agencies have some guidance during the system launch in November. Additional tools will be launched such as unbundling contract language, outreach and planning, and forecasting.

Mr. Schacht responded to the questions regarding the alignment of the Board's efforts on best practices and the Community of Practice focus on best practices. In the section promoting encouraging completion, the value of unbundling contracts is promoted, but no detail information is provided. OMWBE is advancing all the information to the next level of detail. Ms. van der Lugt added that she prefers not using the terminology of "best practices" as it is indicative of work completed. OMWBE reviews its work every six months to ensure the agency is on track and is promoting collaboration.

Ms. Kondelis shared that she is a member of the JOC Evaluation Committee and serves as a state agency representative working with the Community of Practice. The JOC Evaluation Committee developed a draft template of the JOC inclusion plan that OMWBE is working on. An entire page is dedicated on how to develop inclusion plans from a public agency perspective and how to include inclusion in JOC bid documents. Efforts by the Community of Practice include actively working to ensure alignment and incorporation of information and best business practices.

Ms. Zahn recommended each Board committee should consider the equity lens during its course of work and ways to incorporate some of the tools from OMWBE and other sources.

Senator Hasegawa asked about the front-end of data collection from contractors and whether contractors are providing the necessary information to ensure accurate evaluations of equity. During earlier efforts of the Data Collection Committee, some recommendations were offered that were subsequently narrowed to only minimum requirements to ensure data anonymity. It is difficult to determine the type of data that should be collected so accurate analysis is possible. He is unsure as to whether the Legislature will provide a recommendation to the agency tasked with processing the back-end of data on the type of data required to produce an accurate analysis.

Ms. van der Lugt reported the data collection effort will provide an online portal for electronic submission by state agencies and contractors offering real-time access to diversity for reports. Contractors and subcontractors will be able to self-report through the system. She offered to provide an update on the status of future efforts to Senator Hasegawa.

Ms. van der Lugt referred to the prior conversation surrounding the PRC appointment and noted that the comments were not directed to the caliber of the candidate and the candidate was experienced and was a good candidate. However, the conversation was frustrating as the message being conveyed was ending the conversation because of the lack of time and because the candidate had the technical ability with a recommendation to review equity and position descriptions later. She asked the Board to consider that everything the Board pursues should have an equity lens. The Board should not have the need for an equity committee as equity should be embedded in the fabric of the Board's work resulting in stronger Board and committees and stronger work reflective of equity.

Ms. Thaxton said she is encouraged OMWBE and the committee are developing and releasing guidance to public owners. She represents a number of owners that lack an in-house inclusion and diversity group. The guidance will be crucial in helping those public owners across the state. She attested to PRC questions to applicants on how they encourage greater participation.

Discussion ensued by the Board on the roles of PRC and Board efforts to ensure the equity lens of inclusion is reinforced by both bodies through its missions, values, and actions.

CAPITAL PROJECTS ADVISORY REVIEW BOARD

Minutes - **Amended**

September 10, 2020

Page 17 of 18

GC/CM Committee – Information

Chair Keith recognized Co-Chair Scott Middleton.

Mr. Middleton reported Co-Chair Nick Datz with Sound Transit was unable to attend the meeting because of a conflict. The committee was tasked to draft and submit statutory recommendations to the Reauthorization Committee. A series of unanimous recommendations were submitted to the Reauthorization Committee. Another task was reviewing best practices for GC/CM. The committee is beginning that effort with the first phase of the review focused on what is working and not working within the statute. The committee developed an outline format similar to the Design-Build Best Practices Guidelines to ensure consistency between the documents for end users. An outline has been drafted. Members plan to identify provisions within RCW 39.10 where best practices should be of focus, and anticipate appointing subcommittees with committee members serving as leads to review sections of the statute with recommendations reviewed by the committee during monthly meetings. The committee has an extensive roster of committee members and interested stakeholders. School district participation has recently increased because of the increased use of Design-Build by school districts. The committee anticipates presenting a draft of any proposed statutory changes by fall 2021.

Chair Keith recommended updating the committee's meeting dates on the website.

JOC Evaluation Committee – Information

Linda Shilley referred members to the pre-read from the committee. The Board tasked the committee to review best practices for JOC. The committee's approach incorporates a PowerPoint presentation with notes of the document. The committee has completed 50% of the review. The September 17, 2020 meeting was cancelled to enable committee members and participants time to provide comments and feedback. The committee is using other resources, such as the DES JOC Manual and OMWBE documents. Those resources will be listed as bibliographies within the JOC Best Practices Guidelines. As part of the committee's roll-out of the guidelines, the committee plans to utilize the American Public Works Association's committee on Contract Administration Education, which sponsors four venues in the state located in Yakima, Everett, Renton, and Vancouver. Four times each year, the venues offer public works workshops for public works professionals from agencies. The schedule for presentation of the final draft of the guidelines to the Board is scheduled on December 9, 2020.

Chair Keith recommended reviewing the committee's timeline for the draft guidelines and future statute changes in light of the Board's workload related to reauthorization.

Education Committee – Information

Chair Keith recognized Mike McCormick.

Mr. McCormick reported the committee plans to begin working with and preparing for different rollouts of the work completed by the Board committees.

Chair Keith encouraged members to consider serving on the committee.

ADMINISTRATIVE

CPARB Budget Report – Information

Mr. Frare reviewed CPARB's Budget Report 2019-2021. The budget reflects actuals through the first fiscal year of the biennium and projected expenses through the remainder of the biennium. CPARB's general fund appropriation is approximately \$75,000 with DES contributing another \$260,000 for a total of approximately of \$340,000 of expenditure on goods and services (supplies, meeting minutes, advertising), professional services contracts (data collection) and salaries and benefits. A separate appropriation is for Local Government Contracting (MRSC Contract).

In light of budget constraints the state is experiencing, DES is submitting a request through the capital program to fund CPARB expenses as a line item appropriation.

CAPITAL PROJECTS ADVISORY REVIEW BOARD

Minutes - **Amended**

September 10, 2020

Page 18 of 18

October 8, 2020 Meeting Agenda

The Board discussed agenda topics, time constraints, and meeting time. Members supported scheduling the meeting from 8:00 a.m. to 1 p.m. Chair Keith reviewed the proposed meeting agenda:

- Committee Reports:
 - Reauthorization Committee – Discussion/Action
 - Business Equity/Diverse Business Inclusion
 - Data Collection Implementation - Action
 - Board Development Committee
 - Project Review Committee
 - PRC Appointments
 - Subcontractor Bid Listings Policies Committee Update
 - Local Government Public Works – Final Report review
- Approval of 2021 Meeting Dates
- Budget Report

ADJOURNMENT - *Action*

Bill Frare moved, seconded by Mike McCormick, to adjourn the meeting at 1:41 p.m. Motion carried unanimously.

STAFF & GUESTS

Talia Baker, Department of Enterprise Services

Magumi Barbere (no organization noted)

Sarah Bollard, MRSC

Nancy Deakins, Department of Enterprise Services

Quinn Dolan, Centennial Construction

Curt Gimmestad, Absher Construction

Valerie Gow, Puget Sound Meeting Services

Sherry Harris, Ergosynch Engineering

Chris Herman, WPPA

Judy Isaac, MRCA

Janet Jansen, Department of Enterprise Services

Kelci (no last name or organization)

Aleanna Kondelis, University of Washington

Don Loppard (no organization noted)

Art McCluskey, Washington State Dept. of Transportation

Scott Middleton, MCAA

Edward Peters, Edmond School District

Shari Johnson-Reiter, Department of Labor & Industries

Jon Rose, MRSC

Linda Shilley, Pierce Transit

Jolene Skinner, Department of Labor & Industries

David Talcott, Exeltech Consulting

Annika Vaughn (no organization noted)

Charles Wilson, DES

Olivia Yang, University of Washington

Melissa (no last name or organization noted)

Prepared by Puget Sound Meeting Services, psmsoly@earthlink.net