



Department of Transportation  
Board of Directors  
Notice of Public Meeting  
1263 South Stewart Street  
Third Floor Conference Room  
Carson City, Nevada  
April 14, 2014 – 9:00 a.m.

## AGENDA

1. Presentation of Retirement Plaques to 25+ Year Employees – *Informational item only.*
2. Presentation of Awards – *Informational item only.*
3. Receive Director's Report – *Informational item only.*
4. Public Comment – limited to no more than three (3) minutes. The public may comment on Agenda items prior to action by submitting a request to speak to the Chairman before the Meeting begins. *Informational item only.*
5. March 10, 2014 Nevada Department of Transportation Board of Directors Meeting Minutes – *For possible action.*
6. Approval of Contracts over \$5,000,000 – *For possible action.*
7. Approval of Agreements over \$300,000 – *For possible action.*
8. Contracts, Agreements, and Settlements – *Informational item only.*
9. Condemnation Resolution No. 443 – *For possible action.*  
  
I-15 Freeway, from Desert Inn Road to the US-95/I-515 Interchange; Project NEON; in the City of Las Vegas, Clark County, NV 1 owner; 3 parcels
10. Resolution of Relinquishment – *For possible action.*  
  
Disposal of NDOT right-of-way located along a portion of IR-15 in the City of Mesquite, Clark County, NV SUR 09-36
11. Review and Ratify the Selection of the Contractor for the Pedestrian Bridge Escalator Replacement Construction Manager at Risk (CMAR) Project in Las Vegas, Nevada, and Approve an Agreement with Whiting-Turner Contracting Company for Pre-Construction Services for this Project – *For possible action.*
12. Receive an Update on the Southern Nevada High Occupancy Vehicle (HOV) Plan – *Informational item only.*
13. Receive a Report on the Status of Project NEON – *Informational item only.*
14. Briefing on the Nevada Department of Transportation (NDOT's) Research Program – *For possible action.*
15. Briefing on the University Transportation Center (UTC) – Safety and Operations of Large Area Rural/Urban Intermodal Systems (SOLARIS) Research Consortium – *For possible action.*

16. Briefing on the Nevada Pacific Parkway Interchange Project – *Informational item only.*
17. Old Business
  - a. Report of Outside Counsel Costs on Open Matters – *Informational item only.*
  - b. Monthly Litigation Report – *Informational item only.*
  - c. Report on Settlement for a Direct Condemnation Claim in the Matter of *State of Nevada v. Woodcock: Case No. A-12-664399* – *Informational item only.*
  - d. Fatality Report dated March 30, 2014 – *Informational item only.*
18. Public Comment – limited to no more than three (3) minutes. The public may comment on Agenda items prior to action by submitting a request to speak to the Chairman before the Meeting begins. *Informational item only.*
19. Adjournment – *For possible action.*

**Notes:**

- Items on the agenda may be taken out of order.
- The Board may combine two or more agenda items for consideration
- The Board may remove an item from the agenda or delay discussion relating to an item on the agenda at any time.
- Reasonable efforts will be made to assist and accommodate physically handicapped persons desiring to attend the meeting. Requests for auxiliary aids or services to assist individuals with disabilities or limited English proficiency should be made with as much advance notice as possible to the Department of Transportation at (775) 888-7440.
- This meeting is also expected to be available via video-conferencing, but is at least available via teleconferencing, at the Nevada Department of Transportation District One Office located at 123 East Washington, Las Vegas, Nevada in the Conference Room and at the District III Office located at 1951 Idaho Street, Elko, Nevada.
- Copies of non-confidential supporting materials provided to the Board are available upon request.
- Request for such supporting materials should be made to Holli Stocks at (775) 888-7440 or hstocks@dot.state.nv.us. Such supporting material is available at 1263 South Stewart Street, Carson City, Nevada 89712 and if available on-line, at [www.nevadadot.com](http://www.nevadadot.com).

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1951 Idaho Street  
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Governor's Office  
Capitol Building  
Carson City, Nevada

Clark County  
200 Lewis Avenue  
Las Vegas, NV



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## MEMORANDUM

March 31, 2014

**TO:** Department of Transportation Board of Directors  
**FROM:** Rudy Malfabon, Director  
**SUBJECT:** April 14, 2014, Transportation Board of Directors Meeting  
**ITEM #2:** Presentation of Awards – Informational Item Only

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### **Summary:**

This item is to recognize the Department of Transportation and staff for awards and recognition received.

### **Background:**

#### **NDOT Partnering Program Awards**

NDOT's Partnering Program establishes facilitated, structured partnering to build successful road projects without the cost and delay of construction-related claims. Through the Partnering Program, the state has greatly reduced road construction-related claims, and saved both money and staff time while building successful road projects for Nevada.

The Department has recognized the following road projects in our annual Partnering Program awards:

- ***Moana Lane Diverging Diamond Interchange***

NDOT constructed Nevada's first diverging diamond interchange (DDI) at I-580 and Moana Lane in Reno. At diverging diamond interchanges, traffic briefly crosses over to the left, opposite side of the roadway. The unique interchange configuration enhances safety and traffic flow by allowing a free left turn onto freeway on-ramps.

Partnering closely with internal and external stakeholders, the project team integrated many design and construction innovations estimated to save more than \$1.5 million – and successfully delivered an outstanding project.

- ***2013 Elko-Area Coordination Partnering***

In 2013, NDOT has six projects encompassing approximately 50 miles of state roadway in the Elko area, administered by four NDOT resident engineers and three different contractors.

Through extensive coordination, the project teams joined together to effectively function as one project. The outreach and coordination effort resulted in minimized conflicts between contracts and helped mitigate the impact to the traveling public, while each project individually met or exceeded project requirements.

**American Society of Civil Engineers - Truckee Meadows Branch  
Outstanding Achievement in Civil Engineering - Structural/Geotechnical  
Meadowood Interchange Project**

Due to increasing traffic congestion near Meadowood Mall area in Reno, NDOT, in partnership with the City of Reno, RTC and CH2M Hill successfully constructed new interchanges and connector roads, as well as extended Meadowood Mall Way and added landscape and aesthetic features, to help alleviate congestion and enhance connectivity. Construction was completed with minimal impact to traffic, particularly on the vital I-580/U.S. 395 thoroughfare.

The award recognized the innovative structural and geotechnical components that provided traffic solutions within a constrained urban environment. The project was also recognized for outstanding interagency coordination through development, design and construction.

**Zero Fatalities Anti-Impaired Driving Campaign**

**Silver ADDY – *Public Service TV*  
Silver ADDY - *Public Service Integrated Campaign***

In partnership with the Nevada Office of Traffic Safety, NDOT administers the state's Zero Fatalities traffic safety public outreach campaign, focusing on saving lives and reducing the most dangerous driving behaviors seen on Nevada roads.

An anti-impaired driving campaign targeting young drivers to always designate a sober driver and highlighting the benefits of being a designated driver received two awards in the American Advertising Federation's American Advertising Awards (formerly the ADDYs).

The local-level awards recognized outstanding public service advertising using many different public outreach channels to enlist public support or action in remedying societal problems.

The campaign reached 95% of Nevadans, drawing attention to the dangers of impaired driving.

**Recommendation for Board Action:**

This is an informational item only.

**Attachments:**

None

**Prepared by:**

Julie Dewel, Public Information Officer

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Governor Brian Sandoval  
Controller Kim Wallin  
Frank Martin  
Tom Skancke  
Len Savage  
Tom Fransway  
Rudy Malfabon  
Dennis Gallagher

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Sandoval: ...call the Nevada Department Transportation Board of Directors meeting to order. Can you hear us loud and clear in Las Vegas?

Martin: We can. Can you hear us?

Sandoval: Yes, we can hear you clearly as well. Member Skancke and Member Martin are attending from Las Vegas. We will commence with Item 1 of the Agenda, Director's Report. Good morning, Mr. Director.

Malfabon: Good morning, Governor, Board members. I have a few things to report today. First slide -- next slide, please. So a couple weeks ago, my deputy director from Southern Nevada, Tracy Larkin, and I were able to visit with our delegation. It's the annual meeting of the state DOT directors that can be present to attend what's called the Washington Briefing.

What's -- the best part of that is often -- it was the first time that we've heard from our new USDOT secretary, Anthony Fox. He's a former mayor, new in the position, but he gave us a good overview of some of the objectives promoting more innovation in transportation. There's been a lot of movement in the federal leadership on the transportation side. Victor Mendez, who used to be the administrator of FHWA, is now the deputy secretary for USDOT. And we also heard from many of the modal administrators in rail and transit, and some of the other areas that don't have as much presence in Nevada, such as ports and waterways.

But it gave us the opportunity, as I said, to meet one on one with our congressional delegation, and they were -- made themselves available to us. Governor, I wanted to thank you for the assistance of Ryan McInnis. He was very helpful in arranging the one-on-ones with the delegation.

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We also had a lot of discussion about the future Interstate 11, what's happening with the current construction projects. And you'll get a briefing later on that issue, on the current construction projects. But also what's the future of I-11. And Sondra Rosenberg, our project manager on that study, was able to brief the delegation as well as a large meeting of all the staffers from our delegation concurrently with the Arizona DOT director, John Halikowski. They gave a presentation. Very informative.

The big issue -- next slide -- was the -- just as we were meeting, the president and the USDOT Secretary Fox, were in Minneapolis for the unveiling of the president's budget. It's a \$302 billion budget, but they did announce that TIGER grants, the next round of TIGER grants has been released and announced. So we have, I believe, sometime in April to -- for the recipients to recommend and submit projects for that. We're generally supportive of all the Metropolitan Planning Organizations in Nevada that submit projects. A lot of the focus on TIGER grants is for multimodal projects, so if you have connections between highways and rail and transit, buses -- or bus rapid transit, it's a good opportunity to get those types of projects funded.

The significance, though, was in President Obama's budget. It's a four-year transportation bill that he's proposing. \$302 billion is a significant increase, over 20% increase. You can see some of the breakdown of highways, transit, rails and continuation of the TIGER grant program in the future in that four-year period. But what's important is that there is a gap to fill in the Highway Trust Fund. There's -- the spending levels that were authorized under MAP-21, the current highway bill -- or transportation bill, were exceeding the amount of revenues going into the Highway Trust Fund from federal gas tax.

So this bill from the President is going to propose a 60 -- the budget proposes filling that gap of \$63 billion over that period. Next slide. This shows the situation that we're currently, and we heard a lot of concern from AASHTO, from the DOTs present about the fact that the Highway Trust Fund is projected to run into the red towards the September time frame, right about when MAP-21 expires. So either there will be an adjustment to what the state's received going forward, even if Congress just passes a continuing resolution to continue the current requirements under MAP-21 without a new transportation bill. They can't just assume that the same

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amount of funding will be distributed to the states, because of the Highway Trust Fund insolvency.

Sandoval: Rudy, why does it fall off the cliff like that?

Malfabon: What Congress did was they had MAP-21, which is a little bit over a two-year bill, and they had so much money in the Highway Trust Fund, but they authorized spending levels in excess of what the revenue was coming in. So eventually it was going to occur and it just -- that's the time frame. It just happened to coincide with the expiration of MAP-21. So they knew that this was going to happen, but what's happened in the past is that there's been an infusion from the general fund from the U.S. government into the Highway Trust Fund to keep it solvent. And there's concern that that might not happen this time. Any discussions about revenue increase don't have a - - there's not a lot of appetite in Congress right now for any type of fuel tax increase.

And there's been discussion of other means of funding this gap. They've talked about tax reform, and there's been a proposal for tax reform. It's just that it's a huge issue to tackle this year by Congress, and we're going to be watching this. What we're doing is looking at ways to address our -- if the federal funds are cut, how to address that. Primarily, cutting projects. So it's a concern for us because these transportation projects provide a lot of jobs. They promote economic development, and it would be a terrible situation for us to have to cut our work program.

Obviously, we're going to keep the Board informed of what's happening in Congress and those debates. They want -- we heard both from the Senate side, Chairwoman Barbara Boxer, and on the House side we heard from Bill Shuster about their intentions to work together to try to have a mockup of the next transportation bill done around April. It's going to be a huge issue this year as they try to get that through. But they have shown the ability to work together between the House and the Senate to get a water resources bill passed recently. They're just in conference right now trying to settle on the differences and the two versions of the bill. So there is some opportunity there to work together. It's just a huge issue based on the revenue having to be raised somehow to make up that gap.

Sandoval: And it's, at least, in the discussion that I had on one of the National Governors' Committees that I sat on was that it's likely that this whole

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discussion is going go to the last moment, similar to some of the other budgetary issues that have been confronted in Washington.

Malfabon: Yes, it's -- what we're hearing is that it might be part of some larger bargain -- or budget deal between both sides of Congress and the Administration. So they are aware of it and there's -- it's just of the, probably, a bigger discussion that's going on currently with the deficit and spending and the debt ceiling. So hopefully they'll come to an agreement. What's important for us is to have some assurance. The point that we made to our delegation was we would like a long-term bill so that we know how to make those investments in some of the larger projects that we deal with.

Sandoval: But by the same token, we've got to start planning.

Malfabon: Yes.

Sandoval: Planning for if it goes there. So when will we, we being this Board, start having the discussion if those decisions have to be made?

Malfabon: Most likely...

Sandoval: When will that information be presented to us?

Malfabon: We're thinking that in May we will be bringing it forward. We're going to have a meeting later this week to discuss what are the options available in terms of cutting some costs. And as I mentioned, primarily the bulk of the federal money goes to projects, so it would be cutting projects.

Sandoval: Because we have a lot of spending in this Agenda today.

Malfabon: Yes.

Sandoval: And does that -- is that comparing apples and oranges, what we're approving today as to what's coming up?

Malfabon: It depends. Some of the things such as the research funding was state funds, so -- we try to maximize the amount of federal received by using the state funds to match it, but eventually we use all the federal funds available...

Sandoval: Yeah.

Malfabon: ...and we have state funds...

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Sandoval: Well, we can talk about it then, but that's part of my concern is that \$20 million that we spent on research and now another million for more research, when we're looking at that and how that can affect projects.

Malfabon: Yes. Next slide. You can see that on this slide there's a transit account that's separate from the highways account, but it's the same situation. In September, it's going to get down to the bare bones.

Sandoval: And, Rudy, just one more thought before I lose it is I'd also like to know as we -- as we get further into the year how that funding, if whether that affects Project NEON.

Malfabon: Yes. That is definitely -- we would want to know what's going to be happening, because by -- the timeline for Project NEON is towards the end of the year. We will have a team selected or recommended to the Board and negotiating a long-term contract. And it's going to be something that we have to consider; how much are we going to be receiving in federal, because that's what a lot of the availability payment is about on that project. So definitely has to be a consideration for the Department and for the Board later on in the year, so...

Sandoval: Member Fransway.

Fransway: Thank you, Governor. I would ask the same question as the Governor did relative to will it affect Boulder City Bypass funds.

Malfabon: It's possible, and the presentation later will show you some things that are affecting the Boulder City Bypass project, the future I-11 project for NDOT's phase. Because we're talking about a delay to that project for the major portion that we were planning on doing this current federal fiscal year, it looks like an issue that we ran into is going to make it slip a few months, but that puts it in the next federal fiscal year which is not a clear picture yet. So it could affect that project, but we're hoping that it doesn't.

And I handed out this document called The Nation at a Crossroads. It's a -- the -- what AASHTO did in putting this together was to try to make the information more graphic so that it's more readable and understandable rather than a bunch of pages of text on the issue. But obviously, as I said, the issue was what won't get done is projects and those projects affect congestion, mobility primarily in the urban quarters, jobs and economic

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development. And just an idea of what it means to the nation if this issue is not addressed in a timely fashion. So if there's any other questions on that issue for the Board.

Sandoval: Member Fransway.

Fransway: Thank you, Governor. Yes, Rudy, did you get any feel that there was any federal discussion relative to VMT?

Malfabon: They are looking at VMT. They mentioned it a few times, but it was mentioned in terms of a long-term -- very long-term solution, not for this year's issue.

Fransway: Thank you, Governor.

Sandoval: Any questions from Southern Nevada?

Malfabon: Okay. You can forward to that blank slide. And I wanted to mention that we do have, this week, a settlement going to the Board of Examiners for their consideration. It's associated with Warm Springs Bridge over I-15, which was part of the I-15 South design-build project. So it's been through negotiations. We did reach a, what we consider a fair settlement that will meet the needs of both parties. It is in the amount of -- the settlement is -- the total amount that we're paying the property owner is \$125,000 for the easement on their land. We had to do some acquisitions and move a power line over as part of that bridge construction at Warm Springs. But about half of that was additional negotiations with the property owner, and we feel it is a fair settlement. And a lot more detail is being presented tomorrow to the Board of Examiners on why we felt that that was a fair settlement.

The other thing I mentioned is we -- there's been a delay on what's called the rulemaking process. Under MAP-21 it was about a two-year bill, but it had a lot of new policies related to performance measures. The first one coming out is on safety. So we -- as we report on a monthly basis to the Board on our fatality statistics, that's the type of measure they're looking at on the national level. But the rulemaking is important, because we want to know what effect does it have on funding or any kind of policy requirements from the Federal Highways Administration or National Highway Traffic Safety Administration.

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The schedule is off a little bit. They wanted to get these rules, the potential rules out last year -- late last year, but they missed that deadline. So we're anticipating that in a few weeks we should have the first of those federal rules out on the safety performance measure. What we'll do is discuss that with the Board and in concert AASHTO does a lot of getting some of the feedback from the states and how they're affected by those potential rules.

Next slide. I wanted to talk about some issues, and my sense is that, definitely, we want to keep the Board assured and informed of certain activities and items. We had an issue to talk about last month with interlocal agreements. And you'll see that interlocal agreements are actually provided for your information and there's another -- an Agenda item later to discuss about how we address that.

But it's important for us to have transparency as an agency, I think, and to have the Board's confidence. So what we're going to propose bringing back to the Board for your approval is trying to look at hiring through a request for proposals, competitive process, hire an outside auditing firm to come in and look at certain areas to be discussed. But what I looked at in consideration was we had the issue with interlocal agreements and the fact that there's a lot of money that we enter into associated with these agreements. They're primarily associated with projects, but also could be related to research programs and other service types of -- where we're talking between two public agencies.

Also, there's issues. Recently, I attended the mandatory class on internal controls. And we have a lot of money that goes out through purchasing through the stockrooms. Obviously, we use state purchasing for the large items, but there's a lot of money that goes out through these purchase cards that we have. And that's another area that we could look at; a significant amount of cost associated with purchasing. And there's a lot of other operational issues. I had a good discussion with the three district engineers and Equipment Division about some other areas that we could look at.

Equipment is typically one of the fairly frequently audited items at the Department. And we really want to focus in on some other areas where we might gain some efficiencies and improve the way that we manage certain contracts, for instance. Do we have the proper controls in place when we're managing service contracts? Often there are given to some folks that might

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not have the training on what to watch out for or what's a reasonable amount of documentation. We don't want to wait until the end of an agreement to go back to that service provider and say three years later, okay, we audited your contract and you didn't give us enough information, although we paid the invoices. So we want to perhaps look at that area as an area to improve efficiency and perhaps provide more training to the people that administer contracts.

But more discussion is required, and I just wanted to make it a point that we definitely want to be transparent in what we do and look for efficiencies and improve the way we do business at NDOT. So more to come in the future. Probably in a couple months we'll bring this back for more deliberation and consideration and direction from the Board.

Sandoval: Who do you have in mind to conduct the audit?

Malfabon: We've heard of some firms that are able to do efficiency audits for government agencies. We want to, as I said, make it competitive proposal, an RFP. So we did get the name of one firm. The name escapes me, Governor, but we could provide that to the Board.

Next slide. That was it for the -- I wanted to kind of keep it short and sweet because I have a full Agenda, but I'm willing to have any other questions. I wanted to mention our Blue Diamond Signal project is on schedule, and we're looking at just combining it as one project. The group that was doing the design felt that it wasn't necessary to split it up into two. My concern was that we could meet the schedule and not delay having the installation before the beginning of the school year. But they feel confident that they can meet that schedule. We'll have a very quick advertisement period that's the minimum allowed by NRS. So we feel that we can meet the schedule and do the acquisition of the poles through state purchasing so that we can provide them to the contractor and still gain time on that schedule.

Sandoval: Any questions from Board members for the Director on the Director's Report?

Skancke: Governor?

Sandoval: Yes.

Skancke: Tom Skancke.

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Sandoval: Please proceed.

Skankce: Good morning. I just wanted to back up for a second. Tracy and Frank had to pick me up after the -- off the floor after the comment on the trust fund. And now that I've recovered, I had a couple of questions and a couple of comments. The fact that we're \$51 billion short, potentially, has a significant amount of impact on our state and our nation as a whole. And to conversations that have happened in the past, and I'm not suggesting that we do anything, but just to shed some light on the process.

You know, the federal government has had conversations for years on how we collect the trust fund dollars and what's the future of the trust fund. My instincts tell me there's not going to be any of these discussions in this next authorization, because they've kicked this can down the road for so many years. But I think it's important for us as a state to take a look at the impacts of -- I was just talking to Tracy -- the impacts of electric vehicles, hybrids and the new café standards to get more miles per gallon. And what the state is going to need to do in the future -- and I'm not suggesting that we take a look at options. I think we have to take a look at impacts first and then have a conversation about solutions. We don't know the full impact of these new standards and these new vehicles.

If, for example, you take the Tesla manufacturer, Mr. Musk's, comments seriously about his increased production of the Tesla vehicle and providing a \$38,000 product that's going to make that car more affordable. That's going to be -- have a significant impact on the trust fund, both here in our state and across the county, and I think we as a state need to be proactive to find out what the impacts are today so we can have a serious conversation about what's going to happen tomorrow. It's significant, Governor.

Please keep in mind that -- I know you've had conversations in the past about VMT. The federal government and the Federal Highway Administration that has said -- and there is conversation after conversation about this -- it will take the federal government 17 years -- 17 years to implement a new Highway Trust Fund account or implementation, if you will, of a VMT or any type of other funding mechanism. And so if that is true, we're already 17 years behind the ball here.

So my suggestion to the Department would be to be a little more proactive on impacts. So I think you as the Governor and the Chair of this Board and

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us as members can actually see what those are going to be so we can make really good educated decisions and not emotional, irrational things based upon a crisis. Thank you.

Sandoval: Thank you very much. Any comments? Mr. Director.

Malfabon: It is definitely a long-term issue that we're going to have to address. Part of the discussion in Washington, D.C., a couple weeks ago, was about that issue of fuel efficiency and the trends that we see. So definitely moving away from the present method of cents per gallon that's charged for the federal gas tax was discussed. One of the options is looking at a -- like a sales tax, a percentage of the sales price, but that doesn't address the issue of fuel efficiency in the long-term. So definitely discussions about a distance-based fee are being held and considered in Congress, but it is a long-term solution and has to be addressed eventually.

Sandoval: Madam Controller.

Wallin: Okay. Thank you. Just to kind of follow up on Member Skancke's comments. I think it was December, or maybe it was November, but we talked about the VMT and we talked about joining the consortium...

Malfabon: Yes.

Wallin: ...and we put it off, and we said that we would bring it back. Do you know when we're going to bring that discussion back to the Board?

Malfabon: It's at the direction of the Board. We can bring it back either next month or the month after, whatever the Board's pleasure is.

Wallin: Okay. All right. Because it think it's something that we should have the dialogue and...

Sandoval: Yeah, and although we haven't joined that consortium, it's my understanding that we are still participating with other states in looking at this and...

Malfabon: Yes, we have our current study.

Sandoval: Yeah, and we have a study that's being conducted by one of the universities on the issue as well.

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- Malfabon: Yes, we help up one -- the next phase of the study, which you were trying to accelerate, but it's best to just wait for the information to come in and build off of that current study which is about halfway complete before we go forward with our next phase.
- Sandoval: Mm-hmm. Okay.
- Wallin: Then I just have follow-up for your hiring an outside auditing firm. I think that's a great idea. I know that my counterparts, comptrollers from other states, a lot of other states have done that and stuff. And what I'll do is -- and I can't think of the names of the firms that do that, but I will get you a list of names as well.
- Malfabon: That'd be great. Thank you, Madam Controller.
- Wallin: Actually, their conference is here in Reno this week, so that'll be perfect so...
- Malfabon: Oh, and I -- that reminds me, Governor and Board members. I wanted to mention that our annual bike and ped conference is going to be held the next two days, Tuesday and Wednesday, in Reno. So I'm going to be giving opening comments, but definitely a good opportunity to talk to folks that are looking at more bikes sharing the road with cars and buses and those issues. Definitely something that we're focused on improving in the future and looking at sidewalks and Americans with Disabilities Act compliance at the Department.
- Sandoval: If there are no further questions or comments, we will move on to Agenda Item No. 2, public comment. Is there any member of the public here in Carson City that would like to provide comment to the Board? Is there anyone present in Las Vegas that would like to provide comment to the Board?
- Martin: None, sir.
- Sandoval: Okay. Thank you. Agenda Item No. 3, February 10, 2014 Board minutes. Have the members had an opportunity to review the minutes and are there any changes? If there are none, the Chair will accept a motion for approval.
- Wallin: Move to approve.

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Sandoval: Controller has moved to approve the February 10, 2014 meeting minutes. Is there a second?

Savage: Second.

Sandoval: Second by Member Savage. Any questions or comments on the motion? All in favor, say aye.

Group: Aye.

Sandoval: Opposed no?

Martin: Aye.

Skanccke: Aye.

Sandoval: Motion passes. Move to Agenda Item No. 4, Briefing on the university transportation center.

Malfabon: Thank you, Governor. I'll just present this item. The university transportation centers are centers that -- where universities combine together in groups to compete for USDOT research funds. We've been doing this for several years. University Nevada of Las Vegas previously had been selected through an earmark under the -- I think it was SAFETEA-LU, which was the transportation bill before MAP-21. So it's something that's been common, but we feel that it's important to bring it to the Board for your consideration in currently and going forward with this type of expenditure.

It is significant, but we feel that we are doing -- we're getting some benefit out of the research, and we have a very good process with the university. The members of this consortium of universities and this UTC are the University of Nevada, Las Vegas, University of Nevada, Reno, Desert Research Institute, Arizona State University and University of New Mexico.

The name of this consortium is names SOLARIS, and Dr. Zong Tian from the University of Nevada, Reno is here today to answer any specific questions you may have. But the idea is that these groups of universities receive the funding. And because it's federal funds, you have to match with (inaudible) services -- labor, for instance, or local funds. In the case of this Agenda item, we're requesting the funds to be matched using state highway gas tax revenue. The total amount that they -- that SOLARIS received is

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\$1.414 in \$100 per year for two years. And they would be conducting the research between this year and up to September of 2017.

They did ask for support from other states, as I mentioned Arizona, New Mexico have universities that are involved in this group. And in the case of those agencies, they didn't have -- the DOTs, at least, didn't have any funding in the current fiscal year available. The timing of these grants doesn't align with our regular research program, and that's why we gave you the -- in your Board packet you have kind of the research cycle as shown as Attachment B. So right around this time, we start -- are starting the process so that by the time that the new federal fiscal year starts we have an approved research program.

What we anticipate doing in the future is to bring that research program to you so that you're informed about the research program that we fund on a regular basis through a certain portion of the research funds -- of the federal funds that we receive has to be set aside for research specifically. But this in addition to that, and it's state funds, as I mentioned, because you have to -- you can't match federal funds to federal research funds.

So in general, our process is for research we have an advisory group that consists of certain division chiefs at NDOT. So Materials Division, Bridge Division, Roadway Design and Construction, as well as others. The more technical divisions review these research proposals, they rank them and then they're approved by the assistant directors and deputy directors at the Department. So there's a process and that second group is called the Research Management Committee. So there's a process in approving the research program. It's just that we want to be more transparent in the future; bringing that to the Board on an annual basis as that cycle continues. This is not in that funding cycle because it's -- they often don't receive the grants on a -- same time every year. It's a competitive process this time around. I mentioned the UNLV grant. That was actually earmarked through actions by our delegation in a previous transportation bill. This one was a competitive process. So they don't know if they're going to receive it when they apply for it, and they just received notice late last year that they did -- were successfully selected as a recipient of these federal research funds through the RITA program.

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So I wanted to basically make the request to the Board to use the state funds to match the federal research funds available to this university transportation center called SOLARIS. Any questions?

Sandoval: No, and thank you, Director. I mean I'm going to look back to my comments before, which is if we're looking at not having -- of having to make decisions later on of whether we're going to have to eliminate some road projects, is it prudent for this Board to be putting money towards research?

Malfabon: And Governor and Board members, I believe it is because as just with a business that is looking at improvement, some of the things that the research program provides to NDOT is new products, new methods that can gain us efficiencies or save us money. In some cases, it would be study materials where we can use more advanced materials that could actually save cost in the long run because of longer performance. In other cases, it's how to have -- how to improve safety for pedestrians or motorists. How to move freight better was one item. The issue of materials also is both from the concrete side, asphalt, cement -- any kind of innovative use of materials that we're looking into, research usually gives us the answers; with our materials in Nevada, will it work; will it give us the results that we want to see.

So definitely there is a process in ranking the proposals that we do receive from this -- from SOLARIS. And it involves several people at NDOT to make sure that we're selecting projects that give us some bang for the buck. It's not just a waste of money.

Sandoval: Well, and I -- and I'm not suggesting that it's a waste of money, but we have just spent \$20 million in research over the past two years. And I don't have those in front of me, but vaguely I recall us having studied asphalt, having studied safety; and are these studies going to be redundant?

Malfabon: No, they're usually -- some of the new changes, for instance in asphalt, has to do with new products that they do, new additives to asphalt. So it's constantly changing and improving, and we want to make sure what we receive -- because say, for instance with asphalt, we are supplied by this region's suppliers. We constantly are doing research, yes, on materials that we receive, but they're also constantly changing. Sources of crude oil changes. So we do have to look at things from time to time to make sure that we're looking at the current state of materials and what have you,

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whether it's a useful tool, software programs that are new that we can apply. We do -- things are constantly changing in our transportation world, so...

Sandoval: Well then what good are those other studies.

Malfabon: Well, they -- I don't want to downplay the benefit of some of the previous studies, but things are definitely -- you can see the same subjects being looked at, but it's always something that's new or significant in programs or materials. In looking at some of the items, for instance, if we were going to be looking at -- let's see -- some of these are very technical and may not have been studied before. We talked a lot about asphalt and definitely a lot of studies have been done on asphalt. And it's one of those cases where -- I don't want to say we've wasted money by studying things previously and then continuing to study them. I think that each research project is ranked based on what it can give us as an agency; what benefits we can receive.

So we're not -- we definitely do consider if it's something that's not going to be a benefit to NDOT, we have turned down certain problem statements that don't make sense for NDOT. Maybe they're more in line with a provider of transit services, for instance, that they could fund those things. And in the past, the RTCs have funded and currently funding research, as well, through these types of initiatives. I know that Dr. Tian gave a presentation to the Regional Transportation Commission of Washoe County for some of the safety research projects that they've been doing associated with pedestrians and bus stops. And that's just an example where NDOT is not the only one that's funding some of the activities at the universities.

Sandoval: Member Savage has a question.

Savage: Thank you, Governor and thank you, Mr. Director. I too have concerns. I know that we're all very conscientious of the dollars spent and this matter comes up. So I do have a few questions for you, Mr. Director. The \$1.4 million, is that passed through the Department or was that from the university directly to a recipient of a grant?

Malfabon: Yes, that is direct to the university, the group of university SOLARIS.

Savage: Okay. My second question is, I guess, how much is enough? You have the \$1.4 from the feds and the request of additional dollars. How much money is needed in order to adequately study this specific topic? Has that been

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determined? Was there a specific budget request and was it documented and substantiated as to what dollars would be spent how? And what is the administration fee? We had talked about this, I think, last month during some of the interlocal agreements on what those administration fees would be with the different universities and the Department. And lastly, the last question would be it looks like the other schools are not contributing financially. Are they still able to participate in the study without any skin in the game? Thank you, Governor.

Malfabon: In response, the -- it seems SOLARIS -- this consortium is focused on promoting safer and more efficient and economic movement of goods and people on our roadways. To answer the question of how much is enough. Definitely in the process when these grant opportunities are available to the universities they team up together to be competitive. And so it's a case of they do have a history of asking the DOTs, the RTCs for support in finding the matching funds, but at the time when they apply they don't really know what they'll receive and if they will actually be selected for the grant.

So we try to do our best to -- they do approach us but we don't make a commitment until we see that they are actually successful in receiving a grant. And it's only been -- because of the -- in interest of transparency and getting Board approval of these types of expenditures that I started bringing it forward.

The administrative fee, I think Dr. Tian can respond to that. But the -- definitely we -- that was one of my questions and we researched that about what are those other DOTs perhaps or other MPOs in those other states forwarding. Most of the research, if we're doing the matching funds then we're selecting projects that make sense to our agency, so not doing it in the interest of those other states. So we select what's important to NDOT in the research projects that we will fund.

Dr. Tian, could you respond to the issue of administrative overhead at the -- at the podium, please, and state your name for the record?

Dr. Zong Tian: Thank you, Board members for giving me the opportunity to talk a little bit about this UTC. To answer your question, for the federal portion the university charges the standard overhead rate, (inaudible) rate 43.5%. For the NDOT's matching portion, we have the agreement which is 23%. So if you want to reduce that I will be happy, because we're going to have more

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money to spending on products on research instead of, you know, paying for the administration.

I think the university usually agrees on that if the funding agency asks them. You know, this is the kind of an (inaudible) rate we want you to go with. Usually, the university is willing to work out with that requirement, so that's the current rate we have, 23% with NDOT's matching.

Savage: And, Dr. Tian, thank you. One of the questions I'd ask the Director was the original request for the amount of dollars for this particular study and how that might have been substantiated.

Dr. Zong Tian: The requirement -- okay. There are, you know, there are different type of centers so we are Tier 1. For Tier 1 the minimum requirement is 50% non-federal dollar match. For other type of centers actually requires 100% match. Is that what you're asking?

Savage: But this is not a 50% match.

Dr. Zong Tian: Well, 50% match -- see, we get \$1.4 million, right?

Savage: Right.

Dr. Zong Tian: \$1.4 million, but there are so many will go to the other two states. So Nevada will keep about \$1 million. This is per year. We are -- we are going to get two years of funding, so we're requesting NDOT to match 50% of the \$2 million, which is about \$1 million.

Malfabon: So it was -- Director Malfabon here. It was \$250,000 per year anticipated up to four years term so...

Dr. Zong Tian: Yeah, the...

Malfabon: ...\$1 million total.

Dr. Zong Tian: ...it's a two-year grant, but they allow us to spend over four years. So the other part of matching, like we have Arizona State University, we have University of New Mexico -- they need to come up with their own matching.

Savage: But according to this document, they are not funding or contributing to this research...

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- Dr. Zong Tian: They are. It's just no commitment from their DOT, because they are not the leading university here. We are the leading university. It's very important actually to have the DOT's support. They are not the leading university. When we pursued this program two years ago, each state DOT actually contributed, committed the matching because they also wanted their university to lead. So this year they didn't make the commitment, but in the future I'm hoping the DOT will contribute. But they still need to come up with the minimum 50% match, either from their own university or from some other agencies.
- Savage: I'm confused.
- Malfabon: So just in response for clarification. The backup says the University of New Mexico is providing \$280,000 in match and Arizona State University is \$140,000 but definitely significantly less than what Nevada Department of Transportation is providing, but...
- Dr. Zong Tian: But they're also getting -- they're not getting the same...
- Malfabon: Right.
- Dr. Zong Tian: ...amount. The (inaudible)...
- Malfabon: They won't receive the same amount of funds for research as our state's universities.
- Wallin: Governor?
- Sandoval: Madam Controller.
- Wallin: Thank you. Okay. So right. Nevada is going to be getting basically \$1 million per year for two years.
- Dr. Zong Tian: Yeah.
- Wallin: And we get to pay our million, our match, over four years, correct?
- Dr. Zong Tian: Yes.
- Wallin: Okay. All right. So as far as those other states, there's only \$400,000 left and one's putting in \$280,000; the other is \$140,000. So they are getting less. I can see that. I can see our match part. To follow up on some of these things, as I, too, have concerns as the numbers get tight and we have

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less and less funding, where do we spend it. I think research is important because it does make us more efficient, but I think that we need to have some type of a report with here's the research; here's the savings that we're going to realize now that the research is done here's the savings so we can start identifying it, because I think that as you go forward and we have more and more of these research projects come in this is a question the Board's going to be asking. What are the savings that we're going to realize so we can start having confidence that the research we do does create those efficiencies and at least -- at least we get back the money that we invested in in savings out there and hopefully more. So I'd like to see that.

And then I have a question for you. This research that you're doing, are you going to be hiring any subcontractors to do it or are you just doing it within the university itself?

Dr. Zong Tian: It's mostly university professors with the grad students. If there's a need for, let's say, for a particular subject and there's no expertise within the university, I think there's no policy to prohibit hiring some contractors. But mostly will be university faculty and the students.

Wallin: Because I know that this Board, in the past, we had a situation where, yes, we went to the university but then a chunk of it was going to a subcontractor. So I just...

Dr. Zong Tian: Yeah, this one, you know, the federal has very strict policy. We also need to provide a kind of quarterly report, a progress report -- annual report. They want to know how the dollar -- each dollar was spent. So we really have to focus on our mission, make sure we go -- meet what the requirement -- the federal requirement.

Wallin: But you're pretty much trying to do it in-house?

Dr. Zong Tian: That's pretty much -- yeah. They -- that's how I see it so...

Wallin: Because that's something else I would like to see on this project, you know, if they do go outside.

Malfabon: Governor, Board members, in response to Controller Wallin's question. We are putting together that list of subcontractors on the previous university-type research agreements, and we will continue to do that going forward. I wanted to make a point about very excellent point about making

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sure that the research is actionable, that it's going to give us some benefit. And it ties in, Governor, with your budgeting process of tying to performance and making sure that if we're going to spend money on any initiative that's it's paying back dividends to the agency that's going to be taking that initiative.

The thing that we've done in the recent past was to identify technical leads at the Department so that the research program is simply not kind of a burden of the research group at the Department. We have subject matter experts in safety and materials and in structures. And if it's a research project related to those programs, somebody in those technical divisions is monitoring the research, making sure that it's going to give us some benefit and then putting -- taking the steps to put those research findings into -- basically to take action on implementing those research findings.

So we definitely have to do more, I think to see that we are getting performance out of our research funds and that we are getting the benefit for the payment.

Sandoval: Because that's a question and then, at least, my rudimentary math is a third of this is going away to overhead.

Malfabon: In any kind of service contract that we do, it's -- the unfortunate case is that a lot of it is going to overhead.

Sandoval: And what is overhead?

Malfabon: Overhead is what's typically allowed, so a consultant, say, for their facilities, for the -- basically we have overhead for buildings, for utilities, for whatever the -- obviously, you're paying for labor, but there could be some indirect cost associated with the administrative cost. I don't know, Dr. Tian, if you have any more specifics about what's included in overhead, but it is something that's compensable by the federal rules whenever we hire service contractors with federal funds.

Dr. Zong Tian: (Inaudible) research office. They have many staff to manage different aspects of projects. So their salary -- I think their salary will be covered mainly from kind of -- this kind of income from research at the university. And the other part like purchasing materials, let's say a computer, like we know federal -- particularly NDOT does not allow using research money to

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purchase a computer, printers and those kind of things. So those operating costs will be covered through this kind of overhead.

Sandoval: I guess I'd want some more clarity because, again, this is an issue that came up with Board of Examiners on other university contracts, because essentially we're paying the university's rent for their own buildings to do our research. We're paying for their computers to do our research. We're paying for a lot of things that I always thought -- I didn't -- I should say I didn't know that we were paying rent and electricity and all these overhead costs for the right -- for them to do our research, if that makes sense.

So anyway, I -- you know, this -- I guess we need -- I need more answers before I am prepared to support this. Number one and number two, I'm really concerned about spending money now and then come September or August, and we're having this report that this federal money hasn't been approved and then suddenly we're having to tell the contractors out there we don't have money for their projects; we're having to tell our constituents that we don't have money for their projects, but back in March we spent a bunch of money on research. So that's the issue I'm having.

Malfabon: Governor, we'll note that. I wanted to mention that a standard clause in our contracts of this nature is that we can unilaterally say we don't have -- it's subject to available funds. So if there were that issue with a lack of federal funds and we were in that decision between do we create jobs and put projects out or do we do research, we would definitely bring that back for consideration on ending an agreement earlier than anticipated. So we have that option in our contracts.

Sandoval: Member Fransway has a question.

Fransway: Thank you, Governor. First of all, I want to say that the information that's provided us in the packet, to me, is very vague and from the discussion that I'm hearing I don't think I'm the only one that feels that way. And so I'm going to ask some questions and maybe I can understand it more.

For one thing, to me, the burden of research should be shouldered a great amount by private enterprise. If they want to sell NDOT or any entity their products that's going to make the roads last longer of something then they need to market that to us. And it's -- I assume that they do research also. And I'm vague on the Tier 1 grant that apparently went to the University of

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Nevada, and where it says that 1.4 million will be funded by the federal government for SOLARIS. Am I to believe that the \$1.4 million is the Tier 1 grant, and is that the match that we're being asked to come up with, the \$250,000? And I see here where it's a two-year program and then later it talks about \$250,000 per year for four years.

Malfabon: Yeah, I can explain.

Fransway: And so I...

Malfabon: That is confusing. As Dr. Tian had mentioned, it's a -- it's a two-year grant but they are allowed to spend that money received over a four-year period. So the \$1.4 million is what they're receiving and they're asking for \$1 million from NDOT for our share, but it would be \$250,000 a year for four years, so that's the million dollars that we would contributing for their support for the research projects that we select.

Fransway: So the Tier 1 grant and SOLARIS is the same thing?

Malfabon: Basically, the grant was given to SOLARIS, which is this group of universities.

Fransway: Okay. And then I'm hearing about a 50/50 match and \$250,000 for \$1.4 million doesn't, in my arithmetic, that's not 50%. So once again I certainly can understand the Governor's request to bring this back so that we can understand what we're -- what we're being asked to contribute. And I think that everyone on this Board realizes that our main emphasis is to put the black stuff on the roads. And, of course, we want them to last as long as we can and everything, but we need to be assured that any of our spending, any of it, is not frivolous. That's my comments, Governor. Thank you.

Malfabon: And, Governor, if I may just to clarify that, because it is confusing as far as the math. You have a \$1.4 million grant, a million dollars being requested from the Department and then there's the other balance, \$420,000 from those two other state universities, Arizona State University and University of New Mexico, would contribute the \$420,000 match. So that total is approximately \$1.4 million for the \$1.4 million grant, so 50/50.

Sandoval: Why are New Mexico and the other university contributing?

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- Malfabon: Basically, they're contributing in order to do the research to match the funds they received from the federal grant. So they...
- Sandoval: But what's that have to do with our -- you just said that they're putting in...
- Malfabon: It's just making up the difference of the \$1.4 total that the SOLARIS received. They have to basically do the match, and those other universities are coming up with their match for their research projects.
- Sandoval: So how much would we get out of it then?
- Malfabon: We would get, basically, \$2 million of research. So for the million dollars that we kick in over the next four years, we would get \$2 million worth of research projects that we would select. And they typically -- how much is the typical research project individually on average cost, Dr. Tian?
- Dr. Zong Tian: The range is somewhere between \$60,000 to like \$120,000 a year, depending on what type of projects.
- Sandoval: Okay. Are there any questions from Southern Nevada?
- Skanccke: Governor, Tom Skanccke. So a couple of things. One, these research grants and the funding mechanism that we go through in the conversation, I'm not certain that we fully understand the process. And so my suggestion would be, and I was talking to Member Martin about this as well, is that if the research that's being done, not to stop the universities from doing research and providing research, but if the research that's being done does not contribute to the goals and objectives of the Department of Transportation and the state as a whole then I think the Board has the -- should have the authority or the input as to what those grants look like, one.
- Two, to your point of the administration fees and not fully understanding kind of, you know, how this is all coming together, my suggestion would be that we tell the academic community that these are the five or six things that the Department is working on this year and next year. And if the research contributes to those goals and objectives those are the grants that we should be going after. But to have an application, in my mind, that is just trying to get funding for USDOT to go to a university, and if that research does not impact the goals and objectives of NDOT, for what we're dealing with today, I'm not certain that that we should be considering that.

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It looks as though we have dollars coming in from USDOT for grants for faculty and then we decided arbitrarily and capriciously how these grants are administered and how we give out the money. I think -- I hate policy. I've spent 25 years getting around policy in my previous life. But I think we have to set a policy of how these grants are going to come in and if they meet the objectives of NDOT. I haven't seen the list, but I certainly would be interested in seeing what that list looks like.

My final comment is that there was a comment earlier about duplicative research. I'm not certain if there is a policy in place or some type of review policy in place to make sure that we're not doing a grant that we did 10 years ago, when nothing has changed in the environment. If there is a way to pull some of these out or review what might have been done in the past to reduce that duplicity that would be great. And if anyone could answer that question for me that would be helpful. Thank you.

Sandoval: Do you keep a library of all the research that's been done?

Malfabon: Yes, we have a research library.

Sandoval: Because, again, we've done \$20 million, and is that the right figure, in the last two years.

Malfabon: Well, Governor, I wanted to make the point that some of the -- those large projects were associated with the VMT studies and larger studies like that. That was kind of on top of our regular research program. Kind of the cost of most of these research projects are typically in the \$100,000, \$60,000 range as Dr. Tian had indicated. And I really don't feel that -- because we're bringing it forward to you, we don't have a list of the projects that are proposed at this time, and I think that what I'm hearing because you don't see what we're getting out of it we need to be more clear to the Board about what the benefit is of the research.

The list that I was talking about was one that was for an existing one with UNLV. And I can assure the Board that through our efforts we do select projects that are not arbitrary and capricious that there's no -- basically, we're trying to focus on things that benefit the Department and not another agency or just research for research sake; that we are trying to make sure that it's beneficial to the Department and it can make some operational improvements or it can be enacted and put into place to give us the benefits of that research and not just somebody's thesis that's theoretical.

Sandoval: All right. Any other questions or comments? I...

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Malfabon: And, Governor, if I may. Our head of research wanted to approach the podium and make a comment in response probably. Please identify yourself.

Chambers: Thank you, Governor. Ken Chambers, Chief of Research here at NDOT. Excuse me. I just want to back up and address a few quick questions, if I may. Member Savage, to your question about how much; there is never enough. I don't know where the \$20 million figure came from, but I do want to clarify a little bit. Our annual federal apportionment for research is about \$1.7 million. We have to match that 20% with state money, so we're talking about an additional \$300,000-\$350,000. We get a couple million dollars a year for our annual research program. About 10% of the problem statements that are submitted to the interdisciplinary two committees that select those projects, about 10% are approved and funded.

We select the cream of the crop. We support those and that research helps not only our department, but we share that information through the Transportation Research Board with the nation and the world. So there is a real benefit to that. In fact, I believe that the requirement to do research, the federal requirement to spend a quarter of our 2% of planning and research money on research is an indication that even at the national level the value of research is appreciated even if it's difficult to quantify. So it is a good investment. I can tell you that those -- that the subject matter experts that rank these problem statements that tell us this is either a good idea or it's not a good idea, when they get these programs in hand, these projects, they appreciate the results that we are able to provide for them.

The indirect cost rate, I'm surprised to hear Dr. Tian say we'll even negotiate further with that 23%, because I know that hurts. I -- for example, we have an agreement through TMCC to do some work for us. The university charges TMCC a higher rate than TMCC is able to charge us. So they do have skin in the game. As far as savings goes, concrete's been around for a couple centuries -- or millennia if you'll put it that way. But every few years, when we send out or problem statement solicitation it may -- it may still be concrete. It may still be asphalt. There are a lot of other areas aside from the chemistry, the operational benefits, the strategic benefits of how and when do we dispatch snow plows. The technology that's available to do that much more effectively and better is phenomenal.

To respond to our local partners in developing guidelines for what is an appropriate speed limit in a rural town in Nevada. Those are areas where, my opinion is, NDOT should answer those questions. And we have great partners to do that rather than hiring contractors to tell us what those are. I think I'll stop there, but I'd be happy to answer any further questions.

Sandoval: No, and thank you. And I'm a little confused, Rudy, because, you know, there's a representation that there's only \$2 million. Yet, again, I know that specifically it

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wasn't \$20 million, but I just recall us having \$20 million worth of research over the past two years.

Malfabon: And part of that, Governor, as I mentioned was some of the VMT studies, some of which did not -- one is on hold. That was significant expense for some of those studies. I don't know what -- the \$20 million is probably other areas. But as our director of research had mentioned, the core research program, which we gave you that chart that shows the cycle, is funded at a much lower level. When we want to go above and beyond that such as the VMT studies were much more costly to proceed with and that's kind of on top of our regular research program.

Sandoval: And no one's -- and I want you to be clear, no one is questioning the value of research. And there are some very important issues that need to be done. But, unfortunately, we're in a time now because of the Director's Report, that we're having to make some really difficult decisions here, where we're going to put the money. And if we're going to do research, at least I'll speak for me, we're going to need a little more comfort that there's going to be, you know, a specific issue like speed limits and things or there will be a savings because the asphalt will last longer or the concrete will last longer. But as I said, there was a tremendous amount of money moving through this Department without the knowledge of the Board. And that's the issue here, is at the end of the day this Board's responsible for how we expend the money.

Chambers: Absolutely.

Sandoval: And so it's making these meetings a lot longer, and I don't think there's any intent on micromanaging things, but at the same time we have to be good stewards of the public's money, because it is the public's money.

Chambers: Yes.

Sandoval: And we want to make sure that every dollar we spend is being spent well. And so I -- I'm not trying to chide anybody. I'm not trying -- we're just trying -- as Member Fransway said, as we get these presentations and sometimes we don't -- it doesn't really show how that money is going to be spent and what the need was from the Department and how the two connected up, so it leads to some of these questions that haven't been asked before.

Chambers: And, Governor, those are excellent questions and I welcome them. One thing I would like to point out is that when this application was submitted to NDOT to pass on to FHWA, we recognized at the time that that input was critical. This application was done with the understanding that there would be heavy involvement. In fact, the deputy director, Tracy Larkin-Thomas, will be the chairman of the executive committee and as will Member Skancke is one of the

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members on the review committee that will help identify and select projects for funding. So that's...

- Sandoval: You know, it's just, as I said, six months ago, we wouldn't have seen this, right?
- Malfabon: Yes, this would have been considered (inaudible).
- Sandoval: Yeah.
- Malfabon: We're changing.
- Sandoval: So as I said, I -- you know, I don't know if there is a deadline here that if we don't fund it at this meeting if that would jeopardize this grant.
- Malfabon: Dr. Tian?
- Dr. Zong Tian: Sort of because the federal really wants to see us selecting the projects. We need to make good progress to show them that we can perform and get us prepared for future competitions. Right now, we already collected the proposals but has not been reviewed and (inaudible) because we need to get approval from the -- from the Board before we move on to the next step.
- Sandoval: Member Fransway.
- Fransway: Well, if that's the case then you should have come before this Board before you put in for the grant if it was necessary for this Board to approve the match. I don't want to be put in the position to where we have to fund \$250,000 because if we don't we're going to suffer. No, I don't want to be put into that position. And with response -- your response to Member Savage's question of how much is enough was there's never enough. And to me, the Research Division of NDOT does not have an open-ended budget. There has to be enough and it has to be spent wisely. And being asked to just put \$250,000 out there because there's a line in the sand for time, with all due respect, I kind of resent that and I'm not ready to make that decision until I know more. And so I'm hoping that if we don't make a decision today it doesn't cave in your grant.
- Dr. Zong Tian: No, it's not going to, you know, kill the grant. We would like to see, you know, to move on as quickly as possible, but I know your concerns and understand your concerns. I certainly am willing to sit down with any of you to answer any questions if you have or through the Department. So I think -- I'm not sure whether we made -- I made it clear. You know, the -- we are requesting matching from NDOT only for those projects that will benefit NDOT and have the Board specifically select those projects. But -- and also Rudy mentioned there are other agencies like RTC, they are probably interested in some other subjects. If they are

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willing provide the matching, and then we can also use the federal dollar to work on their projects.

Sandoval: Well, I think we've...

Larkin: Excuse me, Governor.

Sandoval: Yes. I think we've covered this. If there are any other questions, I'd be glad to allow the members to do so. But I kind of see two options here. One is to continue this so that the members can -- I don't feel like anyone feels like they're in a position to make an informed decision on this today, but if there's -- we can also put it up for a vote. And, you know, I can only speak for me, I'm not in a position to vote favorably for this given the information that I have in front of me and the responses to the questions that I've received today.

Chambers: Governor, may I suggest the...

Larkin: Excuse me, Governor.

Sandoval: Yes.

Larkin: This is Tracy Larkin, Deputy Director in Southern Nevada. I'd like to make one comment on here, is that it might be beneficial to move forward with evaluating the proposals and bringing back any that we thought were worth moving forward at another meeting. That would allow the proposals to be evaluated, which would allow other transportation partners the opportunity to also provide matching funds, because some of these will be matched by funding partners in Arizona. Also, I think DIR has potential match and also New Mexico has potential match. And then anything -- and would be -- you still have the opportunity to look at the projects because they would be coming back. So it wouldn't be arbitrarily approving for \$250,000 at this time, but it would be moving forward to look at the value of the projects that have been submitted.

Sandoval: Well, and I -- my preference is to do option one, which is to, again, have some more information before I make a decision on this. You know, and if -- it just -- you know, again what Member Fransway said, to put us up with one second to go in the game to have to make a decision today based on inadequate information I don't think is fair to the Board. So I, you know, I'm willing to hear any other comments from members, but my preference would be to continue this matter.

Fransway: I concur, Governor.

Sandoval: Member Skancke, do you have a comment?

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- Skanche: I just wanted to know, Governor, if you wanted a motion to that effect or if you just wanted us all to concur with your comment?
- Sandoval: Well, I think given that I would be more comfortable to have a motion.
- Skanche: So moved.
- Martin: Second.
- Sandoval: We have a motion by Member Skanche to continue this matter to a future meeting so that the Board can be provided with more specific information with regard to the nature of the research and how the money would be spent. Second by Member Martin. Any questions or comments from Board members? All those in favor, say aye.
- Group: Aye.
- Sandoval: Opposed no? Motion passes. Thank you.
- Dr. Zong Tian: Thank you, Governor.
- Sandoval: Let's move on to Agenda Item No. 5, Consideration of additional work for Kyle Canyon Road.
- Malfabon: Thank you, Governor. Assistant Director for Engineering, John Terry, will present this item.
- Terry: I'd like to point out right away that this item has no research involved and, in fact, will put pavement down very quickly. Through quite an extensive process, NDOT entered into an agreement with Central Federal Lands, who builds roads in federal property and most of this -- or I believe all this property falls within federal lands. And it was to build this Kyle Canyon road project from the junction US 95 to 158. And this agreement was entered into a few years ago.
- The current project consists of four-foot shoulders and bike lanes in both directions, pavement reconstruction but not total reconstruction, pavement overlay, safety improvements as well as two roundabouts that are currently underway. And this is a construction project that is currently underway.
- So we signed an interlocal agreement. So we're kind of in this area here of what do we do, what do we take to the Board. And we felt like this is obviously a significantly enough issue. We signed an interlocal agreement. The original agreement was signed in 2012 and amended in 2013, but it will note it was under development for quite a period before this. And we contributed \$2 million in state funds. The rest of the funding was federal through the Central Federal Lands

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project. So we kind of made the match in order to proceed with this project. It's about a \$20 million project.

And we're, right now, asking this Board to approve an amendment to that agreement to add five-and-a-half million dollars in state funds to really change the pavement reconstruction strategy from what was originally proposed. So there's a map and this is the revised scope. Full depth reconstruction of the pavement from 157 down to about three miles of the junction of 95 and just a two-inch mill and overlay on the stretch close to US 95, where previously had been mostly a two-inch mill and overlay.

And the reason is, essentially, when the project was developed -- and I go back to the project was developed, even though the agreement was 2012, was kind of developed before that thinking that the mill and overlay would be successful. And the time has gone by and the construction started some severe weather that's happened out there -- there was the rains last year, et cetera -- the cracks now go full depth. And we feel like the mill and overlay won't be successful. But in some of the stretches, we think we can still get by with a two-inch mill and overlay.

So what are we -- so say upfront here five-and-a-half million in state funding is available. Now, a little bit different than the issue of the continuing federal funding. When I say state funding is available, a highway fund is relatively higher right now than it was. Many of our overlay projects have, in the last year, come in under engineer's estimate and are lower. And in our '06 budget for this year, we feel like this additional five-and-a-half million can be absorbed. But when I say that, this is five-and-a-half million that not only would we authorize to spend, but they'd be out there, bulldozers moving within a month. And almost all of this money would be expended in this fiscal year, so before July 1<sup>st</sup>. But the pavement has deteriorated to the point that we feel the original strategy would not be successful.

This project was high on our 3R pavement condition, so we would have had to address this pavement. We feel -- and I will say this project developed through the project team. In other words, through Central Federal Lands, through our resident engineer that's overseeing the project, through the district. Asked for our lab to come out and look at it. Our lab concurred that the original strategy wouldn't be successful, and we were involved in the change order process between the contractor and Central Federal Lands to develop this.

And our recommendation to the Board, and I've got people down in Las Vegas that can answer your questions as well, is to approve the amendment to spend an additional five-and-a-half million dollars in state funds to kind of do the right thing

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for the pavement reconstruction added as a change to the interlocal agreement. And with that, I'll take any questions.

Sandoval: Okay. And thank you, Mr. Terry, and well done. I mean this is exactly what I'm looking for, is you've made the case. The need is there. The circumstances have changed. If we don't do this it could be catastrophic if we were stick to the original plan. So I shouldn't use the word catastrophic, but it could be really bad conditions if we were to stick with the original plan rather than go to this amended agreement. So...

Terry: Yes, sir.

Sandoval: ...I have no questions. I think your presentation was thorough and the information that was provided to me has put me in a position where I'll be supportive of this matter. Member Fransway.

Fransway: Thank you, Governor. And thank you, Mr. Terry. I agree exactly with what the Governor just said that it's a good presentation. You did say that there was an initial agreement and then did you say that it was amended once?

Terry: Yes, and that had little to do with the pavement strategy. It had to do with the roundabouts and the right-of-way and some other things. So, yes, it was amended once, but really the main agreement was back to 2012, when the agreement of how much we would pay to the match was a part of it. Yes, sir.

Fransway: Okay. So it wasn't a fiscal amendment?

Terry: No, sir.

Fransway: Okay. And Paragraph 4, let's see...

Terry: Of the agreement or the write-up?

Fransway: Let's see, let me -- Paragraph 4. It states that it's going to be funded with state funds.

Terry: Yes, sir.

Fransway: It mentions earlier that it's going to be state gas tax funds. And so I would...

Terry: Same thing.

Fransway: ...well, I don't know. Is it? Perhaps it should state, state gas tax funds rather than just state funds.

Terry: Okay.

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- Fransway: Okay. That's all.
- Skanccke: Governor, Tom Skanccke.
- Sandoval: Yes, please proceed.
- Skanccke: Thank you, Governor. I'd make a motion for approval of this project.
- Martin: Second.
- Sandoval: Member Skanccke has moved for approval of the project. Member Martin has seconded the motion. Any questions? All in favor, say aye.
- Group: Aye.
- Sandoval: Opposed no? The motion passes unanimously of the members present. Thank you.
- Malfabon: Thank you, Governor, and John Terry will stay up for the next briefing as well.
- Terry: This one's a little more complicated. So we said we would give an update on the Boulder City Bypass project, and there's some various parts to this project. And I think you've -- could you advance it, please. Okay. So this slide shows kind of the overview of the Boulder City Bypass project. So NDOT is doing the part to the -- to the west or to the north that's shown in yellow, and we're calling that phase one. And then RTC, with NDOT, involvement is doing the part that's outlined in the red over there, and that's phase two of the project. And, of course, it ties into the Nevada approach we call it to the Hoover Dam Bypass project that was completed a number of years ago. Next please.
- So when the RTC bond issue passed and lot of the money was dedicated towards the Boulder City Bypass phase two, NDOT entered into an interlocal agreement with the RTC of Southern Nevada about the Boulder City Bypass project and had many parts to it. Essentially, they were going to give NDOT \$31 million towards phase one. And -- but what we did instead was we modified the limits between phase one and phase two. Originally, phase one limits were set up as though phase one were complete and it could be a number of years before phase two was done, so we built half of the interchange to tie to US 93. That didn't really make sense now that both projects were supposed to be completed together, so we moved the limit and put the entire interchange within phase two. And so we valued that at \$21 million and they gave us \$10 million towards phase one. So that's how we're proceeding.
- There is \$51 million in federal funds that are going towards their phase two. That is really \$51 million that they have control over. Those are STP local funds that they have control over, but it is an impact because they're federal funds that they're

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trying to program towards that project. And so that's in the agreement. NDOT has an oversight role, a pretty significant oversight role in their design-build project. And critical is NDOT's going to assume maintenance of the entire route when it's completed. So obviously you've got a role in seeing that it's built to our standards, because we're going to take it over pretty much the day it's completed. Next please.

So this is phase one. And it's kind of hard to see between kind of reddish-colored and black-colored, but that's the portion on the far right of the slide that was given to the phase two project so they could complete the entire interchange. Right-of-ways is underway. We've had some discussions at this Board about that issue. The tortoise fencing has been completed. Package 2-B, which was the frontage road and a lot of utilities, was advertised and that project has been cancelled. Utility relocations are underway and then Package 3 is currently scheduled for a dock date in the summer of 2014.

If I could go back to -- Package 2-B was cancelled. It was advertised for construction.

Sandoval: Well, let's get into that.

Terry: Yeah.

Sandoval: So why don't you go ahead.

Terry: It was advertised for construction. It was in the middle of the advertising period when we found out the natural-occurring asbestos issue. We went to the mandatory pre-bid conference, discussed it with the contractor, said we're not sure quite how we're going to deal with it, and at first we extended it for four weeks.

Sandoval: Yeah, but that natural-occurring asbestos study was a complete blindside, was it not?

Terry: Yes, sir.

Sandoval: And that was a study that was conducted by UNLV?

Terry: Yes, sir.

Sandoval: And there was no notice from UNLV that this research was being done?

Terry: I can't say there wasn't any notice, but certainly at my level at the DOT we weren't aware of it until about the Christmas time period.

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- Sandoval: Okay. And, you know, I had never heard of natural-occurring asbestos before. Is this something that is new? Is this something that in the history of the state of Nevada road construct that this has ever been brought up before?
- Terry: We've never dealt with it. Since it's come up we've researched it. California has dealt with it. Cal Trans has dealt with it. There are some other states that have dealt with it, but we only knew that after doing research after this issue came up. We have no construction specifications or anything of how to deal with it and that's part of the reason why we cancelled that contract. And if I could move a little further into the presentation, I'll kind of talk about the other impacts of it.
- Sandoval: Well, and that -- as you do that because is that a show stopper?
- Terry: It's a show slower downer. We hope it's not a show stopper.
- Sandoval: Well, and that...
- Terry: And that's what I...
- Sandoval: ...that could be a show stopper. And...
- Terry: We hope not.
- Sandoval: No, and neither do I. And that's why, you know, I guess what we need to talk about today is what is -- I mean is that a legitimate study? Is there going -- you know, we just finished talking for an hour about studies and research. But this could have -- this is a study that was conducted without letting the Department know, and there's already been a pretty substantial expenditure of monies and a commitment to get this project done. And now given that this is out there, we need to have a discussion or a strategy if there's a workaround. I mean is it even possible to fix that if you have naturally-occurring asbestos? What do you do?
- Terry: If I could move into the rest of this...
- Sandoval: Okay.
- Terry: ...then I'll show you how we're trying to deal with it, but we don't have the answers yet...
- Sandoval: Okay.
- Terry: ...if I could. Okay. So the next slide, please. So on phase two -- and they were here, some people from RTC were here -- they'd issued a draft RFP for a design-build contract with a final RFP in April, so they're well along on a design-build contract. They have already received proposals from teams with a

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notice of intent, and you can see their various schedules. So the impact isn't just on us, it's on that project which is \$200 to \$300 million, a bigger project even. If we go to the next one.

And their project, of course, goes around Boulder City, but if you look in the far upper right corner of the slide you can see they go through very hilly terrain, extensive cuts and fills. I've heard as much as 200-foot cuts in some of those areas. So a big earth moving job in what could be the soil. Next please.

So I'm just going to throw in one thing before I get to natural-occurring asbestos, and that is I-11. We feel there's a lot of reasons why this should be designated as I-11 the day it opens. Of course, Congress designated I-11 from Phoenix to Las Vegas, not really the specifics. We would like to and are proposing to designate I-11 from the Arizona border to I-215. So actually beyond the limits of this job -- of the construction job. That'll be in the construction phases for one and two, and that will put out a separate contract to deal with the signing of the stretch of 515 that will change over to I-11.

We feel we've got -- and there's a little bit of debate about this -- but we feel we've got to go to the AASHTO outnumbering committee and then to the FHWA for approval. We don't really need approval to designate it I-11, but we need approval to designate just that little stretch as I-11 as a part of the process of developing it. So that's another part of the project. If you'd go to the next one, please.

So this is the report that came out. Now, the date on the report was in about November, but I will say most people became aware of it when it was published right after Christmas. So we've been kind of dealing with this issue ever since. Next please.

So what did we do? We immediately...

Sandoval: Let's back up.

Terry: Yeah.

Sandoval: Who did the study? Who...

Terry: Okay. I'm sorry.

Sandoval: ...what was the genesis of the study?

Terry: The study was done by researchers from the University of Nevada, Las Vegas. I've heard various reasons for why they did the study, but they suspected it was out there because of the rock types. They're kind of geologists. And so they followed through and went and did sampling, not specifically where this project is, but we're

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in the middle of it in a large area surrounding Boulder City. And the report was published in a scientific journal that I hadn't heard of but, you know, in a scientific journal. And we became aware of it right around the Christmas time.

Sandoval: Okay. And the conclusion of the study is that there is natural-occurring asbestos...

Terry: In the soils, in ever sample they took in this general area. Now, they specifically took the samples based upon rock areas that they suspected it would be in and alluvium, they call it, or soils that float off of those rock areas, but they showed -- if you could go to the previous one, that map. Every one of those white dots showed positive for some level of asbestos. So this project kind of goes right through and around them. So go to the next one. Sorry.

So we formed an internal task force. We talked about it. Mostly what we dealt with originally was what to do with that contract that was advertised, and we made the decision to delay, to go to the pre-bid and eventually to cancel that contract because we didn't have special provisions to deal with this issue. We decided we need outside help. We need specialists. We have to get -- we have to get specialists to deal with this. They're out there and we put out an RFP for that issue.

And we put out the RFP for additional sampling, testing and analysis. And while we have that agreement for approval in Item 9-A, it's not done. We haven't made the selection. We're kind of in a gray area here with the Board. We're now, you know, putting up major interlocal agreements for approval, but it's not -- or this would be a consultant agreement for approval. We think it'll go over the \$300,000 limit. We're asking for up to \$400,000 so that perhaps we could execute the agreement before the April Board meeting, because we're trying to hurry. But we're not done yet.

So we have worked with the FHWA. A reevaluation of the EIS is required. In other words, if new information comes available after an EIS is approved, per CFRs you have to evaluate it.

Sandoval: But we had already done an EIS in this area, correct?

Terry: Yes, sir. And we didn't find this. We didn't know what to look for.

Sandoval: So we went out and hired an expert to do soil samples as well?

Terry: But we did soil samples in the terms of geotechnical. In other words, how big to make our foundations and how strong to make our pavements and what the soils were and whether we had to blast or not. We weren't looking for asbestos. It takes specialized equipment to find it, it turns out. So it is a new issue to us. A reevaluation of the EIS is not, timewise, a really big deal. If it turns into a

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supplemental EIS that's a much bigger deal. We feel, right now, where we're at we've got to get more testing done out there and determine what we have to do in terms of EIS.

I think at a minimum, an absolute minimum, we have to do extensive dust control, of course, Clark County area because it has air quality issues, has extensive dust control on construction projects anyway. We've got to go, probably, beyond that. The issue is not allowing it to become dust. And so extensive dust control and other constraints, and we're really worried about blasting and how to control dust on blasting. Those are the issues we're kind of trying to deal with, but until we know how much is out there, at what depths and whatever, they only have a couple samples within our project area. We're talking about doing dozens of them.

Skanske: Governor?

Sandoval: Member Skanske. Yes.

Skanske: Thank you, Governor. I think RTC is actually out doing some study out there. Is Tina Quigley in Carson City?

Terry: Yes, and the next slide...

Sandoval: No, and that's going to be my next series of questions. So why don't we allow Mr. Terry to get through his presentation. I would like to hear from Ms. Quigley as how the RTC is responding to this issue as well.

Terry: Okay. So...

Skanske: Thank you.

Terry: ...I'm talking first about impacts to phase one. We cancelled contract 2-B we called it, which was Contract 3528. We sent out the notice to contractors. We cancelled it. All utility and other work is on hold. There's big gas lines that have to be relocated. We're on hold because we don't have specifications for how to deal with excavation and such in these soils, but we're working on it. And we need to get going on those utilities. Phase one, Package 2-B, we're just going to combine with the bigger Package 3. That kind of means that utilities -- some utilities that were going to go on that frontage road have to be put in the bigger package, but we think we can write that into the specifications in an attempt to keep it on schedule. We wanted to do it first then give them a period to relocate the utilities and then do the bigger contract. We don't feel we can do that, but we think we can incorporate it within the bigger contract. That helps the schedule.

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So that is scheduled to go out in August of 2013. The key to August of 2013 is that's as late as we can go in this federal fiscal year. Even though the RTC is giving us money, we have \$40 plus million in federal funds that we want to spend on this project and obligate this year. If it moves past September, it will fall out of this fiscal year so we have to have a backup project in case it doesn't. And so we have backup projects so we could spend the federal obligation this year and then do that one in the next year if that's what happens.

So that's where we currently stand. We're doing our best by cancelling the first contract, moving with the consultant to help us deal with it, hoping we can get that information so we can advertise in August, but having a backup plan if it moves out farther. Go to the next slide.

Phase two, the RTC is currently maintaining their schedule for the design-build. They have already contracted for a consultant throughout and they have started getting testing in their area.

Sandoval: Yeah, and why do...

Terry: The trouble is we'll have to do one giant NEPA for both.

Sandoval: Why wouldn't we -- and I guess Ms. Quigley could answer this. Why wouldn't we piggyback with them and use the same consultant?

Terry: We were headed down that path and then we chose not to because we wanted to get an independent consultant and consult -- and put out an RFP. One of the people that submitted the RFP is the same one that they're using, but we felt like we should put it out.

Sandoval: Okay.

Terry: And, you know, that would have been a pretty big just add-on to an existing consultant agreement and that was strongly considered. They will definitely have to add additional dust control and other measures, and they are starting to do so. One of the key lines is we have to coordinate with them to get the NEPA done. We need their consultants' results. We need our consultants' results. We need to submit through the FHWA whatever level of NEPA update has to be done. I guess then the other big piece is what do we have to add to both ours and their construction documents to control the dust once we know the level of this asbestos in the soils. That's about all I have. With that, I'll take any questions you've got.

Sandoval: No, and thank you. And I don't want it to be lost. We're all concerned about health and safety. No doubt about it. But had we known -- I mean had UNLV or whoever is responsible for the study collaborated with us a little bit we could have

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incorporated that as part of this project and perhaps had a little bit more time so that now we're not looking at perhaps forfeiting \$40 million in federal funds on this project?

Terry: Well, yeah. We won't -- the reason for the backup is so we don't forfeit the \$40 million. Now, moving it into the next year puts it into the risk of the federal appropriations and that issue. That's kind of the different one. Yeah.

Sandoval: We won't lose the money, but we'll lose the money for this project?

Terry: We'll just put it in the next -- I mean the projects that we had in the next year were going to be funded in federal fiscal year '15. We're moving them to '14 and moving this one to '15, assuming that the federal bill passes, et cetera. But that was the best we could come up with. We have to have a contingency plan.

Sandoval: No, I understand.

Terry: That's a good way to put it.

Sandoval: And, again, I want it to be healthy and safe and all those things. And the whole point of this is to work together. And NDOT didn't know, I'm sure. The RTC didn't know (inaudible) incorporated that as part of our original study...

Terry: To make this...

Sandoval: ...(inaudible) we're having (inaudible) because this was delivered after Christmas...

Terry: Yes.

Sandoval: ...in December of 2013.

Terry: Yes.

Sandoval: Other questions from other Board members? Member Fransway.

Fransway: I don't even know where to start. I'm wondering if this latest development is going to delay the approval of the RFP in the next meeting. We were expecting to have an RFP before us.

Terry: That's...

Sandoval: That's on the Project NEON.

Fransway: (Inaudible) here?

Terry: That's the NEON one.

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Sandoval: Yeah.

Terry: Their RFP is under their control. I believe, currently, we have an agreement with the RTC of Southern Nevada. I believe we are still meeting the terms of that agreement. Even if our project were to move in November, we would still complete our phase one in a period that would pretty closely match their completion of phase two. So so far we're still meeting the terms of the signed agreement with the RTC of Southern Nevada. The concern is if there are delays any longer or the environmental process where they really find higher levels of this NOA out there and it delays the project further, we'd have to look at it. But so far we're still meeting our obligations in terms of finishing phase one using their money to help us finish phase one, and cooperating with them on phase two, but we haven't gotten through all the issues.

But we aren't going to come to this Board for their approval of the RFP. Now, Dana could come up here -- they've got to go to their Board for the approval of the RFP probably. But all we've done is sign an agreement with them that I tried to outline what we're doing. So it's a delay. We think we can deal with it, but we don't know the answers yet.

Sandoval: Have we asked for a copy of the study and all the science behind it?

Terry: Mm-hmm. Yes, sir.

Sandoval: And has it been provided?

Terry: Well, I don't know how much more there is that we would -- we've got to find somebody that knows what they're reading. I've read this thing and I can't make much sense of it. So we need these experts onboard so we can have them read those studies, because it doesn't mean much to us.

Sandoval: Okay. All right. And thank you. And, Ms. Quigley, did you have a presentation that you'd like to make on...

Quigley: I don't have a presentation. I'll just comment.

Sandoval: Yes, we'd love to have your comment.

Quigley: First of all, I just want to say I really appreciate the questions that the Board is asking on this. We, too, thought it rather ironic that just recently we learned about this study; that this research was going on. We are trying very hard. We had conversations with FHWA and NDOT to keep our portion of the study going as quickly as just as we had originally planned and to not overreact to the results of -- or to the presence of this study.

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So far -- we initially did ten samples just as part of our normal coring, and of those only two came back with any presence at all of any naturally-occurring asbestos, and both were very low levels which would not require anything more than just normal dust mitigation that you would do at a construction site anyway in Clark County. We are moving forward with the collection of -- as a result of this study, we are moving forward with collecting 200 plus samples along our portion of the corridor. We will get the results of those -- of that study by the end of May, May 23<sup>rd</sup>. And if there is any additional addendum required to our RFP, our design-build RFP, then we'll incorporate it into that. But at this point, we do not -- we don't believe that we are going to find results that are going to hijack the process.

Sandoval: Member Fransway.

Fransway: Okay. Thank you, Governor. I notice here where you talk about the different packages involved in phase one, and I'm seeing that Package 2-B is \$12 million, Packet 3 is \$62 million, and then down below in the next paragraph it mentions another \$13 million in utility relocations. My question is is that \$13 million part of combined total of 2-B and 3 or is that additional?

Terry: It is additional, and those are -- what those would be is, you know, if a gas line which is the biggest part of it -- power lines, WAPA lines -- if they had prior rights over us, in other words we want to widen our road and they were there kind of first, we have to pay for the relocations. Most of those agreements are already underway, and in the case of the gas line they'd be out there started already if we hadn't kind of put them on hold. So these are direct payments to the utility companies for their utility relocations and they are additive to the cost of the phase one project.

Fransway: Thank you, John.

Sandoval: So we're moving forward with all due speed. I mean the RTC is out there collecting samples...

Terry: Yes.

Sandoval: ...right now and doing the studies. So we're going to have to wait until the contract comes before this Board to approve...

Terry: Well...

Sandoval: ...before we can get someone out there to do the same?

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- Terry: I guess what we'd like to ask, when we get to the later Agenda item, is ask this Board's approval to select an NOA consultant up to the amount of \$400,000 so we don't have to wait for the April Board meeting.
- Sandoval: Okay. That'd be my preference too. All right. Any questions, further questions? Does that complete your presentation on...
- Terry: Yes.
- Sandoval: ...Agenda Item No. 6? Mr. Skancke, did you have a question?
- Skancke: I did, Governor. Thank you. John, my only comment would be that you went through a couple of items that you're considering, which is I-11 designation, this environmental process that we're dealing with. I'm not certain if this would be the case, but if getting I-11 designation from Federal Highways or USDOT needs to be like a separate item that doesn't hold the project up, I would just recommend that -- how do I say this right -- that we streamline that process as best as possible so that any of these -- any one action doesn't slow the project down. I'm sure you've thought about that. I just wanted to see if that's going to cause us any problems.
- Terry: I mean I do not believe that the Interstate 11 designation is controversial. I guess the only issue is that we only want to do from the Arizona line to 215 for now. And I just think we need to go through the process. We're going to put in the construction plans the I-11 signs, so I do not see the I-11 designation as changing what we're doing or slowing it down. And I think kind of politically and whatever, we want it designated as I-11 when it opens and that's why we're doing that. But I don't think it should slow down the other processes such as NEPA reevaluation or construction packages.
- Skancke: Thank you.
- Sandoval: Thank you, Mr. Terry. We'll move on to Agenda Item No. 7, Consideration of the guaranteed maximum price on the State Route 207 Kingsbury Grade Construction Manager At-Risk project.
- Malfabon: Thank you, Governor. Our project manager, Pedro Rodriguez, is going to present this item to the Board.
- Rodriguez: Good morning, Governor. Good morning, members of the Transportation Board. For the record, Pedro Rodriguez, Project Manager of the Kingsbury Grade Pavement Reconstruction Project. Today, I'll be presenting Contract 3564 for your consideration.

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Back in June, we approached the Board. You select -- you approved the selection of Q&D Construction for this CMAR process. Since then the design has progressed. We've negotiated G&P. We've gotten FHWA concurrence and will be presenting the G&P today.

The project is located in Stateline, Nevada. It begins at US 50 and extends approximately four miles to the Summit. Coring of this roadway determined that the pavement was deficient and in need of construction. The scope of the work for this contract includes 13 inches of full depth pavement reconstruction, water quality improvements, as well as the items that were presented to you last month -- at last month's Transportation Board meeting, which were the mitigation of the natural springs, the safety improvements at Tramway, the lighting for the pedestrian visibility, as well as the sidewalk curb and gutter and ADA improvements.

On January 29<sup>th</sup>, bids were opened with a guaranteed maximum price of \$14.9 million. Pending your approval, we anticipate construction to begin May 1<sup>st</sup>, and expect the construction will be completed by -- before July 4, 2015. Approval for this item will be requested under Agenda Item 8. With that, I'd open it up to any questions.

Sandoval: Questions from Board members? It's pretty straightforward, isn't it?

Terry: I think it is.

Sandoval: Yeah. I mean I guess the fact that there are no questions compliments the process leading today, because it's been very thorough and the Board's been very informed. Member Savage.

Savage: Thank you, Governor. Just one question, Mr. Rodriguez. Who is the engineer of record on the project?

Rodriguez: NDOT is.

Savage: NDOT is. So it's internal>

Rodriguez: Yes.

Savage: Okay. That's all I had. Thank you, Governor.

Sandoval: What is the action you're seeking from the Board on this Agenda item?

Rodriguez: The action that will be requested on the next Agenda item will be approval of the G&P.

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- Sandoval: Okay. I just did -- seven was noted as an action item and I wasn't sure if we needed to do anything.
- Gallagher: Governor, for the record, Dennis Gallagher, Counsel for the Board. No, it's incorporated in Item 8.
- Sandoval: All right. If there are no questions, we'll move to Agenda Item No. 8. Thank you very much.
- Malfabon: Thank you, Governor, Board Members. Assistant Director for Administration, Robert Nellis, will present approval of contracts over \$5 million.
- Nellis: Good morning, Governor, member of the Board. There are two contracts under Attachment A that can be found on Page 3 of 19 for the Board's consideration. The first contract is a project near Dunphy at Union Pacific Railroad and Humboldt River. It's to replace substandard off system structures in District 3, Eureka County. There are three bidders and the Director recommends awarding the contract to Q&D Construction Incorporated in the amount of \$7,835,211.70. And then the second item is, for your approval, is a project that was just covered in the previous Agenda Item No. 7, and the Director recommends awarding the contract to Q&D Construction in the amount of \$14,877,619.20. Are there any questions for either myself or Assistant Director, John Terry?
- Sandoval: Questions from Board members?
- Martin: Governor, Frank Martin.
- Sandoval: Member Martin, please proceed.
- Martin: I note there's almost a 30% delta between first and second on the 3557. Is that reasonable?
- Terry: John Terry again, Assistant Director for Engineering. Our BRAT reviewed the bids and felt like it was reasonable, and I would point out is relatively close to the engineer's estimate it is somewhat different work and that is, you know, a rural bridge, a little bit different work. But our BRAT evaluated it and we recommend award.
- Martin: Okay. Thank you.
- Sandoval: Board members, any further questions with regard to Agenda Item No. 8?
- Fransway: Governor.
- Sandoval: Member Fransway.

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- Fransway: Relative to the Kingsbury project, 3557, is there a number of days for completion for that project?
- Rodriguez: Pedro Rodriguez, NDOT Project Manager. Yes, 200 working days.
- Fransway: Okay. Is there a mechanism for liquidated damaged?
- Rodriguez: Yes.
- Fransway: Okay. That answers my question.
- Sandoval: Is there a weather clause in there?
- Rodriguez: If there's weather, there is no working days.
- Sandoval: Okay. And just back to 3557, I know this sounds like an NDOT term. A substandard off system structure. Is that a bridge?
- Nellis: Yes.
- Sandoval: Okay.
- Nellis: We didn't use an acronym.
- Sandoval: All right. I have no further questions. If there are no further questions for Board members, the Chair will accept a motion for approval of Contracts of 3557 and 3564 as described in Agenda Item No. 8.
- Wallin: Move to approve.
- Sandoval: The Controller has moved to approve. Is there a second?
- Savage: Second.
- Sandoval: Second by Member Savage. Questions or discussion from Board members? All in favor, say aye.
- Group: Aye.
- Sandoval: Opposed no? Motion passes. We'll move on to Agenda Item No. 9, approval of agreements over \$300,000.
- Nellis: Thank you, Governor. There's one agreement under Attachment A found on Page 3 of 6 for the Board's consideration. This is the item that was covered by Assistant Director John Terry. It's an emergency procurement in the amount of -- not to exceed \$400,000 to study naturally-occurring asbestos and provide technical

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services for the Boulder City Bypass project in Clark County. Are there any questions from the Board on this item?

Sandoval: Just where is the \$400,000 coming from?

Malfabon: That would be -- since we have -- this is Director Malfabon in response, Governor and Board members. Since we obligated the federal funds this fiscal year, although there are some changes with this project, we're using state funds so that we can rapidly get the contract executed. And Assistant Director John Terry had mentioned, we received three proposals out of the four that we had solicited out of firms that we knew had expertise in this area.

Sandoval: Okay. And that's fine. I mean we need to -- we need to move on this. So I just wanted to know -- be clear on where the money is coming from. Questions from Board members?

Martin: While you're there -- this is Frank Martin. While you're there, could you ask Ms. Quigley how much they paid for their study? Is \$400,000 a reasonable number? It seems like a lot of money to duplicate efforts that they're already heading towards.

Quigley: I'm walking slowly because I just texted my staff. I think it was about \$250,000. Let me see if I can...

Malfabon: Yes, it was.

Quigley: Did somebody just say yes. Yeah, it was \$250,000. And certainly I would think that there was be cost benefit economy of scale by sharing a consultant, but you will find out when you get your results of your -- from your (inaudible).

Malfabon: Yes. And this is Director Malfabon in response to Member Martin's question. One of the firms obviously is, as John Terry had stated, is in the running submitted a proposal. So we could end up with the same consultant firm that could do the work. They're doing the work on the RTC's project and we considered having them perform it on our portion as well, and they're just in the running now amongst those three firms.

Sandoval: No, it just seems logical that we would use the same expert. And then second, I would imagine the scope of the RTC's project is much larger than ours.

Quigley: Yes, and we've got 12 1/2 miles, but yes. So correct.

Terry: Their project is larger, but we need to do some other tasks like we're responsible for the environmental documents. So we would use this consultant to help do the consolidated environmental document. But you're right in general, they have a much bigger scope.

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- Sandoval: Okay. Well, I just I -- piggybacking on Member Martin, 250 over here, 400 over here. But I know the 400 doesn't mean that we're going to spend all 400 of it.
- Terry: Yes. Correct.
- Sandoval: Yeah.
- Terry: Correct. We're just throwing that amount saying it's going to be over the 300 limit and can we be approved up to that level. We will negotiate with the consultants and we anticipate a cost plus fixed fee-type consultant agreement.
- Sandoval: All right. Any other questions on this Agenda item? If there are none, the Chair will accept a motion for approval of the agreement described in Agenda Item No. 9.
- Wallin: Move to approve.
- Skanccke: Governor, so moved. I'm sorry.
- Sandoval: Member Skanccke has moved for approval. Madam Controller has seconded the motion. Any questions or discussion on the motion? All in favor, say aye.
- Group: Aye.
- Sandoval: Opposed no? Motion passes. Thank you. We'll move on to Agenda Item No. 10, contracts, agreements and settlements.
- Nellis: Thank you, Governor. There are 34 executed agreements under Attachment A that can be found on Pages 4 through 6 for the Boards information. We'd like to note that Page 4 contains cooperative and interlocal agreement categories that'll be reported to the board from this month forward as Director Malfabon will also cover later in Agenda Item No. 12. Please also note that Item No. 1 is a (inaudible) amount from the City of Las Vegas for project NEON. And also we'd like to point out Item No. 4 is for the airport connector. It's not fully executed, but felt important enough to put on this month's Agenda. Does the Board have any questions for the Department on any of these items?
- Sandoval: Questions from Board members? Just I know -- on No. 6, the effectiveness of driver education and information programs in Nevada. Is that one of those things that we need to do and that we ask for? I would imagine the answer is going to be yes, we need driver education.
- Greco: Governor, the answer is yes. For the record, Tom Greco, Assistant Director of Planning. Within the Planning Safety Division, we do a lot of driver pedestrian bicycle outreach and we want to measure if it's working or not.

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- Sandoval: Any other questions for Board members with regard to Agenda Item No. 10?
- Fransway: Question, Governor.
- Sandoval: Member Fransway.
- Fransway: Thank you. Item 31, I'm not questioning the amount, but I -- should that not read Humboldt County rather than Winnemucca or are you referring to the Winnemucca district? Because there are no rest stops in Winnemucca Proper.
- Greco: That is correct. That (inaudible)...
- Fransway: Okay. It would be Humboldt County then?
- Greco: Yes.
- Fransway: Okay. Thank you. Thank you, Governor.
- Sandoval: Any other questions from Board members? If there are none, thank you very much.
- Nellis: Thank you, Governor.
- Sandoval: We'll move on to Agenda Item No. 11, acceptance of amendments and administrative modifications to the FFY 2014-17 STIP.
- Malfabon: Assistant Director for Planning, Tom Greco, will present this item.
- Greco: Thank you, Rudy. Governor, members of the Board, good morning. This Agenda item, I did not bring any slides. It'll be short and sweet. There's no asbestos involved. And our STIP, our state transportation improvement program that we brought to you last November was approved by FHWA and FTA on February 12<sup>th</sup> of this year. So any amendments and modifications would have been between that date and now. And if we turn to Attachment B, which we updated this morning...
- Malfabon: That'll be A, Tom. Revised A.
- Greco: A. I said B? That just slipped out. Okay. It is A. And the reason we gave you an updated sheet is that we inadvertently left out one of the items that Washoe added in their Amendment 1, and that is the Mt. Rose project at \$12.3 million. I would gladly walk through each of these items or answer any questions about any of the Washoe amendment issues.
- Sandoval: Board members, any questions with regard to the project amendments list as described in Attachment A?

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Fransway: Governor?

Sandoval: Member Fransway.

Fransway: Thank you. Yes, Mr. Greco, the TIGER grant for Paiute -- Pyramid Lake Paiute Tribe, what particular project would that be involving?

Greco: Member Fransway, that is -- that's an application by the tribe wanting to do a realignment of Pelican Point Road, which is beyond the end of NDOT's roadway.

Fransway: Okay. What's the distance of that? Do you know, Tom?

Greco: I'm sorry?

Fransway: The distance of that project?

Greco: I'm thinking it's about four miles.

Fransway: Okay. Okay. Thank you, Tom. Thank you, Governor.

Sandoval: And isn't that the project that the tribe had applied for and was one of only two projects in the state that was -- that received the grant and was highly sought after and very competitive?

Greco: I don't have any knowledge of that.

Sandoval: Was that the same one?

Malfabon: Yes, that's the one that was the TIGER grant that they were successful in receiving.

Sandoval: Okay. Are there any other questions with regard to the project amendments list?

Greco: And Carson Amendment No. 1 is also an amendment on Attachment A. I had previously delineated just the one Washoe group.

Sandoval: Member Fransway.

Fransway: Are you ready for a motion?

Sandoval: I am.

Fransway: Governor, I would move for acceptance of the amendments and administrative modifications as indicated in Attachment A, revised version.

Sandoval: Okay. Member Fransway has moved for acceptance of Attachment A as revised. Is there a second?

Savage: Second.

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Sandoval: Second by Member Savage. Any questions or concerns with regard to the motion? If there are none, all in favor say aye.

Group: Aye.

Sandoval: Motion passes. Thank you very much, Mr. Greco.

Greco: Thank you.

Sandoval: Move on to Agenda Item No. 12, approval of notification process for interlocal agreements.

Malfabon: Thank you, Governor. As we had presented last month a lot of discussion and concerns expressed by the Board regarding interlocal agreements. As you recall, in our matrix of what items required Board approval, interlocal agreements were identified as not even being reported, and we feel that for the sake of transparency and the opportunity to discuss for the Board -- go ahead and go to the next slide -- that we would present these for -- currently, we provided them in this current packet as informational items. But this gives you -- this Agenda item gives you the opportunity to give us some guidance on what you would like to see.

Previously, last month we talked about there are some agreements that were with universities that are service-based. Examples that we provided when we noticed -- when I noticed that there were sizeable contracts being awarded to the university for services, such as the Oracle Business Intelligence project that was brought before the Board previously as an informational item. The idea was those are significant. We should take those to the Board for approval.

We've talked a lot about the research program. And I wanted to say that Ken Chambers has done a great job managing that. As he stated, that most of the research program that he's responsible for is at roughly \$2 million a year program. And we do get these additional situations with consortiums or university transportation centers, UTCs, that request money. So we definitely feel that we need to come back with a program and policy for the research program that the Board can support and adopt. So we will be coming back with a separate item for research that will address a lot of the questions that were raised today.

And then you have project based. And the bulk of interlocal agreements as you had seen previously in the previous Agenda items was associated with projects. So when money flows from NDOT to NRTC and a Metropolitan Planning Organization they give money to a county or a city that's under their jurisdiction sometimes. Those are projects that we do together and we're typically talking about federal funds, but sometimes talking, as John Terry had indicated, state funds can be substantially involved in some of these projects on -- the project up at Kyle

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Canyon and Mt. Charleston that the Board previously approved earlier in the Agenda.

But I wanted to make the point that we recognize that we need to have more transparency in this area of interlocal agreements and identify which ones need to come before Board for approval. Next slide.

The objective, obviously, is transparency and notifying the Board in a timely manner. I think that Member Fransway had a very good point to make about when a grant is received by a recipient and they want matching funds from the state, you want to know before that application goes in that this could happen; they could get selected; how much money are we talking about committing so that it's not at the end of the race here that the Board feels that there's not enough timeliness in the process of notification.

And we want to be expedient. We definitely had a discussion last month about these project agreements and a concern both from the Department and the recipients of those federal funds from the RTCs or counties or cities or other public agencies that we don't want to slow down the project agreement process, but we need to be more transparent and notify you ahead of time. Next slide.

One of the things that we're doing is to require Board presentations prior to these agreement coming before you for consideration. So in the past, we had the Business Intelligence project where the university was using that Oracle product of software, and we had the group explain what are we going to achieve with that tool. Another example, we've hired a university in the past to do a service for us related to a dashboard system for performance management so that you can see are we red, yellow, green; are we performing well in a graphic presentation or process. So that's another example that we would make presentations to the Board going forward on those types of agreements.

We're making some process improvements. Internally, at the Department when a division wants to expend funding on a -- on a project or a program there is a process. There's a separate process for projects. Obviously, you receive the Statewide Transportation Improvement program every year in the fall and you approve that. So when there's changes to that program we inform you on a regular basis on those amendments and revisions. But when there's other, more or less, related to programs or some improvements that we're trying to make to manage a program better, we often will hire a university to do those process improvements. What we do, currently, is we're going to be changing the process to where it's not a paper process. It'll be a document that goes to the Director for my consideration, and I will note on there this is subject to Board approval so they'll know in advance and they'll know how to -- that they need to prepare a clear presentation of what

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they ask is to the Board for your consideration in advance, typically, of the actual agreement coming before you for approval. So that'll give you some time for consideration and comment to the Department.

And specifically with regards to Transportation Board approval, what we're looking at as a couple options, but definitely you're not limited to these two options. You can give us some guidance on what you feel is appropriate. Next slide. So currently, as I stated, under the matrix for approval, we weren't even presenting interlocal agreements to the Board, so we want to suggest an option one that we have it as an informational item so at least you're seeing all of the interlocal agreements. And that if there's agreements over \$300,000 that are more due to service type agreements that you would have those -- a presentation on what we're trying to achieve there.

Under this option, your approval would not be required for interlocal agreements. I know that the concern is not to delay the run of the mill project agreements where you know how much funding is from the transportation -- the Statewide Transportation Improvement program and approval of our annual work program on an annual basis. We keep you informed of revisions to that. So the idea was there are interlocals associated with projects. It's the Board's decision whether you would consider approval or not, but this option does not require approval of those types of agreements. Next slide.

The next option similarly, we will report them as informational items, all the interlocal agreements. We continue doing that presentation for those agreements that are more service-based over \$300,000. So you have the information ahead of time and eventually that you would actually approve those service-based type of agreements that are interlocals with the university. The other type of service-based contracts, you're already seeing those ones, so that's -- there's no change to that process. This is mainly those university agreements that were considered interlocals, but they were actually more for a service, not for other -- for a project or something other.

But we -- the last bullet on that slide -- we need to address that. Right now, it's considered informational for research but, again, we have to come back with a separate policy and adoption process for how we're going to handle the research program so as the Board is informed. Perhaps the Board wants to consider selecting, approving and seeing what the actual research projects are going to be done under a research funding program. And so you can strike any bit of this option related to research and just say that we're going to address that separately and focus in on the project-type agreements or service-type agreements through a university. Project-type agreements being with the NRTC, typically a county or a city or some other local public agency.

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So those were the two options we presented, but we're willing to take any kind of questions and allow the Board to give us direction on which -- what their preference is with any kind of option and specifics to those sub-elements to those options.

Sandoval: And thank you, Mr. Director. And what I'm trying to accomplish here is I don't want to have to look at every single agreement. We're going to be here twice a month all day. And -- but the interlocal ones have never really been the issue for me. It's the research. And I'm trying to strike that balance where I know we need research. We talked about it earlier today, but at the same time we don't have a blank checkbook for every research project. So that's the balance I'm trying to find here, is as I said, I -- we review a lot of things now. And, you know, under this policy I don't even know if that one on the Agenda still would hit our Agenda if it were \$250,000 a year.

Malfabon: The -- well, as I said, Governor and Board members, we feel that we have to address research more specifically as a separate item that will come back to you. Typically, those -- what we do in the research program is they're typically less than \$250,000...

Sandoval: Right. But they really add up...

Malfabon: ...except for those really large ones that...

Sandoval: ...is the point.

Malfabon: So yes. You, typically, were not seeing those so we'll have to address that in a future Agenda item focused on research.

Sandoval: But I don't know -- I can't recall me personally and other Board members having issues with any of the interlocals.

Malfabon: Yeah.

Sandoval: Madam Controller.

Wallin: No, I don't think we have a problem with it. I think that when you have the option of calling something an interlocal and I think that what really got us was the Oracle project that was called an interlocal. And if we go and say, well, we don't need to look at interlocals then it's really to like, well, this is an interlocal and we don't have to see it. I don't think we have to necessarily approve them, but I think it should be for informational. We've had that -- less than \$300,000, we've had that before and I can remember a time where we had contract that was less than \$300,000 and it was information and we said pull it. And so I think if it's there we

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can look at it, but not to approve each individual one and just question those that we have.

And then I also have concerns when we have -- when we do that, like the Oracle one they actually hired a subcontractor on that as well. And so that's something I want to have addressed too.

Sandoval: Let me clarify because it may have sounded like I just contradicted myself when I say we don't need to see interlocals. I mean I -- historically, our agreements with RTC, the RTCs and those things. But we've had with the Oracle and the research projects are the ones that have fallen within that definition of interlocal that become problematic.

Malfabon: And the VMT study.

Sandoval: Yes. Member Fransway.

Fransway: Thank you, Governor. And my question is why are we not including private agreements for our private cooperators also? To me, I agree with what Controller said. I haven't had a lot of problem with interlocals, but there are times and I think we'll probably know the one I'm talking about; that we have amendments with private individuals be it, A, someone that's developing property, a developer. Then I believe that we can do that by simply going back to Item 9 and just ask for approval of agreements and amendments over \$300,000. And option two, and correct me if I'm wrong, the way I'm reading it, items under \$300,000 would be informational only. Items over \$300,000 would be information and the information would come before the Board took action. And we don't want to delay a project for two meetings. So could we have the presentation followed by action, Mr. Chairman, the same day?

Sandoval: We're looking at a long...

Malfabon: Well, Governor, if I may address that point.

Sandoval: ...time to present.

Malfabon: Typically, when we're still in the mode of negotiating, I would like on substantial service-type agreements that are with another public agency like a university that we present to the Board so that we can get direction; hey, that's a lot of money. We don't necessarily want to spend that right now, so that we can basically suspend those negotiations and that amount of effort. So I would like -- as soon as we know that there's a significant expense that the Board should be aware of, for the sake of transparency and your consideration, I would have the presentation in advance, but

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it wouldn't hold up the process because we just haven't gotten to that point of negotiating the agreement. But it would give us the opportunity to not waste effort.

Sandoval: Well, I don't want to complicate this. What was the difference between option one and option two?

Malfabon: In option one you weren't approving and in option two you're approving those -- yes. So option one it's informational. We're going to give you a presentation and your approval is not required on interlocals, as currently the case. But the difference between what's -- currently we're doing was we're going to show you the information, at least, so if you have any questions you can ask -- have the opportunity to ask and be aware of. Option two is where you're actually approving those...

Sandoval: Okay. Well, I support...

Malfabon: ...which I think that the service-based agreements were already -- we should have been bringing those to you, in my opinion, because they're a service, not necessarily a traditional interlocal for a project.

Sandoval: So I personally -- I think we need to move this along. I support option two. Let's see how it works and then if it needs to be modified later on we can do so. But obviously I'm open to hearing suggestions from other members.

Malfabon: And may I suggest, Governor, that we -- we'll just strike that last bullet of option two as an amended, and then we'll address that in the future separately.

Sandoval: Okay, yeah. Comments from Southern Nevada?

Martin: None here, sir.

Fransway: Governor?

Sandoval: Yes, Member Fransway.

Fransway: I hope I didn't step on you, Len. But I'm wondering if we could, as part of option two, if we could just add to Item 9, approval of agreements and amendments over \$300,000.

Sandoval: Are we noticed for that?

Malfabon: That was -- that was done previously with...

Gallagher: Excuse me. For the record, Dennis Gallagher, Counsel to the Board. Board Member Fransway, I believe that currently any amendment that takes an agreement over \$300,000 is listed on your action items. We don't have any this month.

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Fransway: Okay.

Sandoval: So we already do, in other words?

Gallagher: Yes, sir.

Malfabon: Yes, that was a previous action taken by the Board so we could clarify that point, so if there was something that was a \$280,000 agreement and we add \$25,000 by amendment, it's -- you're aware at the amendment phase and we tell you that it's over \$300,000.

Fransway: Okay.

Sandoval: Then the Chair will accept a motion for the adoption of option two with the deletion of the university research agreements are considered information.

Wallin: Move to approve.

Sandoval: Madam Controller has moved to approve. Is there a second?

Martin: Second.

Sandoval: Second by Member Martin. Any questions or discussion on the motion? All in favor, say aye.

Group: Aye.

Sandoval: Opposed no? Motion passes. Let's move to Agenda Item 13, Briefing on the 2013 facts and figures book.

Malfabon: And we wanted to keep this item very brief, Governor. This is a fact book that NDOT produces each year. And we went to a larger format for ease of reading a few years back. But it gives a lot of facts and figures, a lot about the revenue that we receive. I didn't want to make a very long-winded presentation about it other than to state that we provided you with an opportunity for any comments so that we can make those amendments and then get it posted on our website.

We try to minimize how many publications we make so we can reduce printing cost, so we just try to make it available on the website. And if there is any questions we'll do our best to respond to the Board's questions about the fact book. But it gives key information about where NDOT's headed, what our mission and goals and vision are, and talks about awards and recognition, performance management at the Department. We talk a little bit about our customer satisfaction focus at the Department in our maintenance program, a little bit about our innovative financing in operational improvements and safety improvements, and

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March, 10 2014

also a little bit about how we're trying to improve the aesthetics of some of our projects as well to make, you know, communities proud of the projects that we do.

It also goes a little bit into highway system condition and use. It talks about how -- I think it's a very good point to make nowadays with the discussion about where our funding goes. We want to make those statistics available about how much mileage in the current system is a state responsibility and how much is others, primarily the counties and the cities to maintain. And it talks a little bit about the condition of our pavements and bridges. But a lot of the more in depth detail about condition of bridges and pavements comes in a separate document published every two years, the pavement -- the Highway Preservation and Bridge Report.

So this is more facts and figures. A lot of it is very useful information and it is available on the website. Any questions or comments could be considered at this time.

Sandoval: Member Savage.

Savage: Thank you, Governor. And Mr. Director, I just want to compliment you and your staff. This is a fine, fine professional -- it's a road map to the Department and it's a statement to others that we're very professional in everything we do. The core values of integrity, honesty, respect, commitment and accountability. I know you want to keep it short, but there's a lot of work that's put into this, and this book here is something I know I refer back to each and every time I have a question. It's very solid and very professional, so I think you, Mr. Director.

Malfabon: Thank you, Member Savage. And I would like to give the compliments to our performance management group. They put this together with a lot of other assistance, particularly from other groups in the Department in financial management for some of those dollars -- information where spending goes.

Sandoval: No, and I wanted to echo Member Savage's comments, is that we get this nice, beautiful book with facts and figures, and there are probably hundreds if not possibly thousands of hours that go into the compilation of all that data. So for those that are -- who are responsible for doing this, you have my sincere thanks for the hard work and commitment.

Malfabon: Thank you, Governor.

Sandoval: Any other comments or questions with regard to Agenda Item No. 13? Okay. We'll move on to Agenda Item 14, old business.

Malfabon: Thank you, Governor. Contained in your packet under Item No. 14, old business, is a report of outside counsel cost and open matters and a monthly litigation report.

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Board of Director's Meeting  
March, 10 2014

Although we can't comment on specific legal cases, if there's any questions under Items A and B, our chief deputy attorney general, Dennis Gallagher, will respond.

Sandoval: Any questions for Mr. Gallagher? Thank you.

Malfabon: Continuing on, Governor and Board members, a fatality report dated February 20, 2014 is provided. Good news, I received a report dated March 5<sup>th</sup>, which shows the amount of fatalities compared to the previous year is down 12. So in your packet it indicates six less than last year at this time. The report was February 20<sup>th</sup> in your packet. The most recent, we're 12 less. So our efforts are really showing reduced fatalities. And any time that we can do that it's a great thing for our state to have people go home to their families and loved ones.

Sandoval: Questions for Board members on Agenda Item 14-C? Let's just hope we can continue that momentum.

Malfabon: Yes, Governor.

Sandoval: If there are no questions on Agenda Item 14, we'll move to Agenda Item 15, public comment. Is there any member of the public here in Carson City that would like to provide comment to the Board?

Malfabon: Governor, I wanted to make a couple of points. The Transportation Board meetings dates have changed. They're usually on the second Monday, but they will be on the first Monday in June and July, so June 2<sup>nd</sup> and July 7<sup>th</sup>. And the Construction Working Group will remain on June 9<sup>th</sup>, originally scheduled date, but they will start at 9:00 a.m. So we'll get those public notices out at the appropriate time.

Sandoval: Any public comment from Southern Nevada?

Skanche: Governor, there's no one here, but I wanted to a follow-up real quick on an item that you -- we discussed at the last meeting regarding DBEs. In the minutes, it said that I would come back in March with some recommendations. That's not going to happen today. This is a lot more -- this issue is difficult and challenging. And so I've had several meetings with individuals within the business community, as well as with the Department. And I would probably suggest that I come back to you in May. I'm going to need more time, and I think we want to do this correctly and we want to do it properly. And so 30 days was not enough. So if it's all right with you, I'd like to continue to do meetings, excuse me, individually and then come back to the Board sometime in May with -- the May meeting with recommendations.

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Board of Director's Meeting  
March, 10 2014

- Sandoval: And thank you, Mr. Skancke. And I think that's a prudent approach and it is a complex area that I would prefer to see detail rather than expedience. So thank you for your willingness to do this.
- Skancke: My pleasure. Thank you.
- Sandoval: And that will close public comment. We'll move to adjournment. Is there a motion for adjournment?
- Wallin: So moved.
- Sandoval: Controller has moved. Is there a second? It's as fast as I've seen everyone move all day.
- Savage: I'll second.
- Sandoval: Second by Member Savage. All in favor, say aye.
- Group: Aye.
- Sandoval: Opposed no? Motion passes. Thank you, ladies and gentlemen. This meeting is adjourned.

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Secretary to the Board

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Preparer of Minutes



1263 South Stewart Street  
Carson City, Nevada 89712  
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Fax: (775) 888-7201

## MEMORANDUM

April 7, 2014

**TO:** Department of Transportation Board of Directors  
**FROM:** Rudy Malfabon, Director  
**SUBJECT:** April 14, 2014 Transportation Board of Directors Meeting  
**Item #6:** Approval of Contracts Over \$5,000,000 – For Possible Action

---

### **Summary:**

The purpose of this item is to present to the Board a list of construction contracts over \$5,000,000 for discussion and approval.

### **Background:**

The Department contracts for services relating to the construction, operation and maintenance of the State's multi-modal transportation system. Contracts listed in this item are all low-bid per statute.

The attached construction contracts constitute all contracts over \$5,000,000 for which the bids were opened and the analysis completed by the Bid Review and Analysis Team and Contract Compliance section of the Department from February 15, 2014, to March 24, 2014.

### **Analysis:**

These contracts have been prepared following the Code of Federal Regulations, Nevada Revised Statutes, Nevada Administrative Code, State Administrative Manual, and/or Department policies and procedures.

### **List of Attachments:**

- A) State of Nevada Department of Transportation Contracts Over \$5,000,000, February 15, 2014, to March 24, 2014

### **Recommendation for Board Action:**

Approval of all contracts listed on Attachment A.

**Prepared by:** The Administrative Services Division

# Attachment

# A

**STATE OF NEVADA DEPARTMENT OF TRANSPORTATION**  
**CONTRACTS OVER \$5,000,000**  
**February 15, 2014 to March 24, 2014**

1. February 27, 2014, at 2:00 p.m., the following bids were opened and read related to Contract No. 3559, Project Nos. IM-080-3(064), SP-000M(206), I-80 From 1.474 miles west of the Golconda Interchange from the crossover to 0.967 miles east of Pumpnickel Valley Interchange. Described as 2" Mill and 2" PBS with 3/4" Open Graded Wearing Course, Humboldt County.

Granite Construction Company .....	\$10,069,069.00
W. W. Clyde & Company .....	\$10,312,787.70
Road and Highway Builders LLC .....	\$10,393,393.00
A & K Earth Movers, Inc.....	\$11,569,000.00
Sierra Nevada Construction, Inc. ....	\$11,588,007.00
Q & D Construction, Inc. ....	\$12,101,930.00

The Director recommends awarding the contract to Granite Construction Company, in the amount of \$10,069,069.00.

Engineer's Estimate: \$12,019,481.05

2. February 27, 2014, at 2:30 p.m., the following bids were opened and read related to Contract No. 3561, Project No. NHP-050-2(013), US 50 from 0.343 miles east of Deer Run Road to the CC/LY County Line; US 50 from the CC/LY County Line to 0.499 miles east of the junction with SR 341. Described as 2 3/4" Mill and 2" Plantmix Bituminous Surface with 3/4" Open Graded Wearing Course. 4" Mill and 4" PBS in Lane #2 Eastbound and Westbound, Carson City and Lyon Counties.

Granite Construction Company .....	\$6,354,354.00
Sierra Nevada Construction, Inc. ....	\$6,387,007.00
Road and Highway Builders LLC .....	\$7,050,050.00
Q & D Construction, Inc. ....	\$7,313,119.13
Spanish Springs Construction, Inc. ....	\$7,473,444.00
A & K Earth Movers, Inc.....	\$7,733,000.00

The Director recommends awarding the contract to Granite Construction Company, in the amount of \$6,354,354.00.

Engineer's Estimate: \$7,226,630.85

# Line Item 1



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## MEMORANDUM

### Administrative Services

March 24, 2014

**To:** John Terry, Assistant Director - Engineering  
Richard Nelson, Assistant Director - Operations  
Rudy Malfabon, Director

**From:** *MJ for* Jenni Eyerly, Administrative Services Officer

**Subject:** Concurrence in Award for Contract No. 3559, Project No. IM-080-3(064), SP-000M(206), I 80 From 1.474 Miles West of the Golconda Interchange from the Crossover to 0.967 Mile East of Pumpnickel Valley Interchange, Humboldt County, described as 2" Mill and 2" PBS with 3/4" Open Graded Wearing Course, Engineer's Estimate \$12,019,481.05.

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This memo is to confirm concurrence in award of the subject contract.

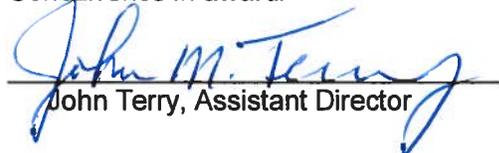
Bid proposals were opened on February 27, 2014. Granite Construction Company is the apparent low bidder at \$10,069,069.00 and they submitted a properly executed proposal, bid bond and anti-collusion affidavit. The second low bidder is W.W. Clyde & Co. with a bid of \$10,312,787.70.

The project is Federally funded, required 5% DBE participation, and is not subject to State Bidder Preference provisions.

The subcontractor listing documentation and DBE information submitted by the two lowest bidders has been reviewed and certified by the Contract Compliance Officer. The bid is below the Engineer's Estimate Range, and a copy of the Unofficial Bid Results report is attached for your reference. The BRAT Chairman has provided their concurrence to award, and their report is attached.

Your concurrence in award of this contract by endorsement hereon is respectfully requested. Please return the approved copy to this office. Upon receipt a packet will be prepared to obtain Transportation Board approval of the award at the next available meeting.

Concurrence in award:

  
John Terry, Assistant Director

  
Richard Nelson, Assistant Director

  
Rudy Malfabon, Director

Enclosures:  
Unofficial Bid Results Report  
Contract Compliance Memo  
BRAT Summary Report

# Nevada Department of Transportation

## Unofficial Bid Results

February 27, 2014

---

**Contract Number:** 3559 **Bid Opening Date and Time:** 2/27/2014 2:00 pm  
**Designer:** BILLY EZELL **Liquidated Damages:** \$7,900  
**Senior Designer:** JOHN BRADSHAW **Working Days:** 140  
**Estimate Range:** R30 \$11,500,000.01 to \$13,500,000 **District:** DISTRICT 3  
**Project Number:** IM-080-3(064), SP-000M(206)

**County:** HUMBOLDT

**Location:** I 80 From 1.474 Miles West of the Golconda Interchange from the Crossover to 0.967 Mile East of Pumpernickel Valley Interchange

**Description:** 2" Mill and 2" PBS with 3/4" Open Graded Wearing Course

Apparent Low Bidder Granite Construction Company \$10,069,069.00

Apparent 2nd W.W. Clyde & Co. \$10,312,787.70

Apparent 3rd Road and Highway Builders LLC \$10,393,393.00

<b>Bidders:</b>	Actual Bid Amount
1 Granite Construction Company PO Box 2087 Sparks, NV 89432 (775) 358-8792	\$10,069,069.00
2 W.W. Clyde & Co. P.O. Box 350 Springville, UT 84663- (801) 802-6800	\$10,312,787.70
3 Road and Highway Builders LLC P.O. Box 70846 Reno, NV 89570 (775) 852-7283	\$10,393,393.00
4 A & K Earth Movers, Inc. PO Box 1059 Fallon, NV 89407-1059 (775) 423-6085	\$11,569,000.00

# Nevada Department of Transportation

## Unofficial Bid Results

February 27, 2014

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**Contract Number:** 3559 **Bid Opening Date and Time:** 2/27/2014 2:00 pm  
**Designer:** BILLY EZELL **Liquidated Damages:** \$7,900  
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**County:** HUMBOLDT

**Location:** I 80 From 1.474 Miles West of the Golconda Interchange from the Crossover to 0.967 Mile East of Pumpnickel Valley Interchange

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Apparent Low Bidder Granite Construction Company \$10,069,069.00

Apparent 2nd W.W. Clyde & Co. \$10,312,787.70

Apparent 3rd Road and Highway Builders LLC \$10,393,393.00

<b>Bidders:</b>	Actual Bid Amount
5 Sierra Nevada Construction, Inc. P.O. Box 50760 Sparks, NV 89435-0760 (775) 355-0420	\$11,588,007.00
6 Q & D Construction, Inc. P.O. Box 10865 Reno, NV 89510 (775) 786-2677	\$12,101,930.00



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## Memorandum

March 13, 2014

**TO: Jenni Eyerly, Administrative Services Division Chief**  
**FROM: Paul Frost, Chief Roadway Design Engineer**  
**SUBJECT: BRAT Summary Report for Contract #3559**

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The Bid Review and Analysis Team met on 3/11/14 to discuss the Bid Tabulation for the above referenced contract. The following BRAT team members were in attendance:

Jeff Shapiro, Chief Construction Engineer  
Shawn Howerton, Principal Roadway Design Engineer  
Paul Frost, Chief Roadway Design Engineer  
Mark Stewart, Contracts and Agreements Manager  
Casey Connor, Assistant Chief Roadway Design Engineer  
Dave Schwartz, Resident Engineer  
John Bradshaw, Senior Roadway Design Engineer  
Bill Ezell, Roadway Designer  
Brian Deal, Roadway Design  
Jeff Freeman, Construction  
Kelly Rini, Rotational Engineer  
Dale Wegner, FHWA

The Price Sensitivity Report (attached), as prepared by the Administrative Services Division showed no items were overly sensitive to the quantity estimates.

Several significant bid items are mathematically unbalanced. The majority of the plan quantities were verified and no errors were found (please see attached quantity Price Sensitivity report with comments). The proposal bid prices were evaluated and determined to be reasonable.

The apparent low bid is 84 percent of the engineers estimate. The BRAT recommends proceeding with awarding this contract.

BRAT Chairman Concur to Award

\_\_\_\_\_

Date 3 / 13 / 14

cc: attendees  
Pierre Gezelin, Legal  
Attach.

**Contract No.:** 3559  
**Project No.:** IM-080-3(064), SP-000M(206)  
**Project ID/EA No.:** 60577/60626  
**County:** HUMBOLDT  
**Range:** R30 \$11,500,000.01 to \$13,500,000  
**Working Days:** 120

**RE:** Dave Schwartz  
**Designer:** Bill Ezell

Engineer's Estimate	Granite Construction	W.W. Clyde & Co.	Diff. Between Low & 2nd	Diff Between EE & Low	Low Bid % of EE
\$12,019,481.05	\$10,069,069.00	\$10,312,787.70	\$243,718.70	-\$1,950,412.05	83.77%

Item No.	Quantity	Description	Unit	Engineer's Est. Unit Price	Low Bid Unit Price	2nd Low Bid Unit Price	Qty Chg Req'd to Chg Bid Order	% Change in Qty Req'd	Low % of EE	Significantly Unbalanced	Quantity Check Comments
2020476	18,722.00	REMOVE AND RESET GUARDRAIL	LINFT	2.50	3.90	2.03	130,330.85	696.14%	156.00%	Yes	EE- OK. Quantity verified and accurate. Unusual requirements: portion of rail called out for "remove and reset" as well as "remove" per Constructability.
2020990	638,028.00	REMOVAL OF BITUMINOUS SURFACE (COLD MILLING)	SQYD	1.00	0.50	0.62	-2,030,989.14	-318.32%	50.00%	Yes	EE- OK. Quantity verified and accurate. No unusual requirements.
2021287	182,925.00	GRINDING FOR PAVEMENT MARKINGS	LINFT	2.00	0.50	0.37	1,874,759.20	1024.88%	25.00%	Yes	EE- High, newer item, very little bid history. Quantity verified and accurate. No unusual requirements.
2030140	6,032.00	ROADWAY EXCAVATION	CUYD	17.00	13.50	7.62	41,448.76	687.15%	79.41%	No	EE- OK. Quantity verified and accurate. No unusual requirements.
3020130	5,419.43	TYPE 1 CLASS B AGGREGATE BASE	TON	15.00	12.00	13.94	-125,628.19	-2318.11%	80.00%	No	EE- OK. Quantity verified and accurate. No unusual requirements.
4020190	74,500.40	PLANTMIX SURFACING (TYPE 2C)(WET)	TON	78.00	65.00	67.68	-90,939.81	-122.07%	83.33%	No	EE- OK. Quantity verified and accurate. No unusual requirements.
4030110	24,406.92	PLANTMIX OPEN-GRADED SURFACING (3/8-INCH)(WET)	TON	115.00	105.00	110.68	-42,908.22	-175.80%	91.30%	No	EE- OK. Quantity verified and accurate. No unusual requirements.
6190200	2,038.00	GUIDE POSTS (RIGID)	EACH	35.00	35.00	28.39	36,871.21	1809.19%	100.00%	No	EE- OK. Quantity verified and accurate. Unusual requirements: District requested additional guide post to perpetuate the existing shorter than standard guide post spacing on the outside of curves.
6250490	1.00	RENT TRAFFIC CONTROL DEVICES	LS	447,634.00	65,000.00	188,513.04	N/A	N/A	14.52%	Yes	EE- OK. Lump sum value verified and accurate. Unusual requirements: (4) truck mounted impact attenuators required for additional safety.
6270190	3,757.74	PERMANENT SIGNS (GROUND MOUNTED) (METAL SUPPORTS)	SQFT	65.00	73.00	53.74	12,654.14	336.75%	112.31%	No	EE- OK. Quantity verified and accurate. No unusual requirements.
6280120	1.00	MOBILIZATION	LS	679,376.22	998,377.04	780,537.74	N/A	N/A	146.95%	No	EE- OK. Lump sum value verified and accurate. No unusual requirements.
6320940	27.80	EPOXY PAVEMENT STRIPING (8-INCH SOLID WHITE)	MILE	2,500.00	2,285.00	2,028.08	948.62	3412.29%	91.40%	No	EE- OK. Quantity verified and accurate. No unusual requirements.
6321030	27.90	EPOXY PAVEMENT STRIPING (8-INCH SOLID YELLOW)	MILE	2,250.00	2,300.00	2,028.08	896.29	3212.50%	102.22%	No	EE- OK. Quantity verified and accurate. No unusual requirements.
6460180	766.00	LIQUID MEMBRANE	SQYD	80.00	57.00	56.53	518,550.42	67695.88%	71.25%	Yes	EE- High, little bid history with comparable quantities. Quantity verified and accurate. No unusual requirements.
Additional Comments:											

# Line Item 2



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Carson City, Nevada 89712  
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## MEMORANDUM

### Administrative Services

March 24, 2014

**To:** John Terry, Assistant Director - Engineering  
Richard Nelson, Assistant Director - Operations  
Rudy Malfabon, Director

**From:** *MJ* Jenni Eyerly, Administrative Services Officer

**Subject:** Concurrence in Award for Contract No. 3561, Project No. NHP-050-2(013), US 50 from 0.343 Miles East of Deer Run Road to the CC/LY County Line; US 50 from the CC/LY County Line to 0.499 Miles East of the Junction with SR 341., Carson City, Lyon County, described as 2 3/4" Mill and 2" Plantmix Bituminous Surface with 3/4" Open Graded Wearing Course. 4" Mill and 4" PBS in Lane #2 Eastbound and Westbound., Engineer's Estimate \$7,226,630.85.

---

This memo is to confirm concurrence in award of the subject contract.

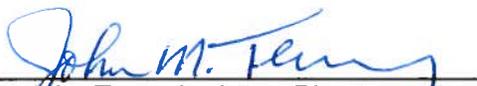
Bid proposals were opened on February 27, 2014. Granite Construction Company is the apparent low bidder at \$6,354,354.00 and they submitted a properly executed proposal, bid bond and anti-collusion affidavit. The second low bidder is Sierra Nevada Construction, Inc. with a bid of \$6,387,007.00.

The project is Federally funded, required 5% DBE participation, and is not subject to State Bidder Preference provisions.

The subcontractor listing documentation and DBE information submitted by the two lowest bidders have been reviewed and certified by the Contract Compliance Officer. The bid is below the Engineer's Estimate Range, and a copy of the Unofficial Bid Results report is attached for your reference. The BRAT Chairman has provided their concurrence to award, and their report is attached.

Your concurrence in award of this contract by endorsement hereon is respectfully requested. Please return the approved copy to this office. Upon receipt a packet will be prepared to obtain Transportation Board approval of the award at the next available meeting.

Concurrence in award:

  
\_\_\_\_\_  
John Terry, Assistant Director

  
\_\_\_\_\_  
Richard Nelson, Assistant Director

  
\_\_\_\_\_  
Rudy Malfabon, Director

Enclosures:  
Unofficial Bid Results Report  
Contract Compliance Memo  
BRAT Summary Report

# Nevada Department of Transportation

## Unofficial Bid Results

February 27, 2014

---

**Contract Number:** 3561 **Bid Opening Date and Time:** 2/27/2014 2:30 pm  
**Designer:** FRED SHAKAL **Liquidated Damages:** \$5,800  
**Senior Designer:** STEVE BIRD **Working Days:** 110  
**Estimate Range:** R27 \$6,600,000.01 to \$7,950,000 **District:** DISTRICT 2  
**Project Number:** NHP-050-2(013)

**County:** CARSON CITY; LYON

**Location:** US 50 from 0.343 Miles East of Deer Run Road to the CC/LY County Line; US 50 from the CC/LY County Line to 0.499 Miles East of the Junction with SR 341.

**Description:** 2 3/4" Mill and 2" Plantmix Bituminous Surface with 3/4" Open Graded Wearing Course. 4" Mill and 4" PBS in Lane #2 Eastbound and Westbound.

Apparent Low Bidder Granite Construction Company \$6,354,354.00

Apparent 2nd Sierra Nevada Construction, Inc. \$6,387,007.00

Apparent 3rd Road and Highway Builders LLC \$7,050,050.00

<b>Bidders:</b>		Actual Bid Amount
1	Granite Construction Company PO Box 2087 Sparks, NV 89432 (775) 358-8792	\$6,354,354.00
2	Sierra Nevada Construction, Inc. P.O. Box 50760 Sparks, NV 89435-0760 (775) 355-0420	\$6,387,007.00
3	Road and Highway Builders LLC P.O. Box 70846 Reno, NV 89570 (775) 852-7283	\$7,050,050.00
4	Q & D Construction, Inc. P.O. Box 10865 Reno, NV 89510 (775) 786-2677	\$7,313,119.13

# Nevada Department of Transportation

## Unofficial Bid Results

February 27, 2014

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6	A & K Earth Movers, Inc. PO Box 1059 Fallon, NV 89407-1059 (775) 423-6085	\$7,733,000.00



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## Memorandum

March 13, 2014

**TO: Jenni Eyerly, Administrative Services Division Chief**  
**FROM: Paul Frost, Chief Roadway Design Engineer**  
**SUBJECT: BRAT Summary Report for Contract #3561**

---

The Bid Review and Analysis Team met on 3/11/14 to discuss the Bid Tabulation for the above referenced contract. The following BRAT team members were in attendance:

Jeff Shapiro, Chief Construction Engineer

Jeff Freeman, Construction

Shawn Howerton, Principal Roadway Design Engineer

Paul Frost, Chief Roadway Design Engineer

Mark Stewart, Contracts and Agreements Manager

Casey Connor, Assistant Chief Roadway Design Engineer

Fred Shakal, Roadway Designer

Steve Bird, Senior Roadway Designer

Kelly Rimi, Rotational Engineer

Dale Wegner, FHWA

The Price Sensitivity Report (attached), as prepared by the Administrative Services Division showed no items were overly sensitive to the quantity estimates.

Several significant bid items are mathematically unbalanced. The majority of the plan quantities were verified and no errors were found in the significant bid items (please see attached quantity Price Sensitivity report with comments). The proposal bid prices were evaluated and determined to be acceptable.

The apparent low bid is 88 percent of the engineers estimate. The BRAT recommends proceeding with awarding this contract.

BRAT Chairman Concur to Award

Paul Frost

Date 3 / 13 / 14

cc: attendees  
Pierre Gezelin, Legal  
Attach.

**Contract No:** 3561  
**Project Number:** NHP-050-2(013)  
**Project ID:** 60609  
**County:** CARSON CITY, LYON  
**Range:** R27 \$6,600,000.01 to \$7,950,000  
**Working Days:** 110

**RE:** John Angel  
**Designer:** Fred Shakal

Engineer's Estimate	Granite Construction Co.	Sierra Nevada Const.	Diff. Between Low & 2nd	Diff Between EE & Low	Low Bid % of EE
\$7,226,630.85	\$6,354,354.00	\$6,387,007.00	\$32,653.00	-\$872,276.85	87.93%

Item No.	Quantity	Description	Unit	Engineer's Est. Unit Price	Low Bid Unit Price	2nd Low Bid Unit Price	Qty Chg Req'd to Chg Bid Order	% Change in Qty Req'd	Low % of EE	Significantly Unbalanced	Quantity Check Comments
2020990	220,170.00	REMOVAL OF BITUMINOUS SURFACE (COLD MILLING)	SQYD	2.25	1.50	1.00	65,306.00	29.66%	66.67%	Yes	EE ok. Quantity verified.
2030140	5,500.00	ROADWAY EXCAVATION	CUYD	12.00	12.00	12.00	N/A	N/A	100.00%	No	EE ok. Quantity verified.
2070110	923.00	GRANULAR BACKFILL	CUYD	60.00	12.00	41.00	-1,125.97	-121.99%	20.00%	Yes	EE ok. Wide range of recent prices. Quantity verified.
3020140	5,210.00	TYPE 1 CLASS B AGGREGATE BASE	CUYD	20.00	20.00	0.01	1,633.47	31.35%	100.00%	No	EE ok. Quantity verified.
4010120	59,648.00	PAVEMENT REINFORCING FABRIC	SQYD	5.00	4.50	3.35	28,393.91	47.60%	90.00%	No	EE ok. Quantity verified.
4020100	10,151.40	PLANTMIXING MISCELLANEOUS AREAS	SQYD	10.00	4.75	2.00	11,873.82	116.97%	47.50%	Yes	EE ok. Recent fluctuation in price. Quantity verified.
4020180	35,513.00	PLANTMIX SURFACING (TYPE 2)(WET)	TON	87.00	80.00	86.00	-5,442.17	-15.32%	91.95%	No	EE ok. Quantity verified.
4030110	8,910.00	PLANTMIX OPEN-GRADED SURFACING	TON	115.00	115.00	107.00	4,081.63	45.81%	100.00%	No	EE ok. Quantity verified.
5020170	2,952.00	CONCRETE BARRIER RAIL (TYPE FA)	LINFT	45.00	38.00	46.00	-4,081.63	-138.27%	84.44%	No	EE ok. Quantity verified.
6030170	1,415.00	18-INCH REINFORCED CONCRETE	LINFT	60.00	65.00	42.00	1,419.70	100.33%	108.33%	No	EE ok. Quantity verified.
6091730	262.00	18-INCH PIPE LINER	LINFT	200.00	105.00	105.00	N/A	N/A	52.50%	Yes	EE high. Not much history. Quantity verified.
6091764	288.00	36-INCH PIPE LINER	LINFT	300.00	265.00	270.00	-6,530.60	-2267.57%	88.33%	No	EE ok. Quantity verified.
6100170	512.20	RIPRAP (CLASS 150)	CUYD	110.00	38.00	50.00	-2,721.08	-531.25%	34.55%	Yes	EE ok. Quantity verified.
6230575	17.00	STEEL POLE, TYPE 7 WITH SAFETY BASE	EACH	4,000.00	3,700.00	3,800.00	-326.53	-1920.76%	92.50%	No	EE ok. Quantity verified.
6231805	3,624.00	2-INCH CONDUIT	LINFT	15.00	12.25	12.25	N/A	N/A	81.67%	No	EE ok. Quantity verified.
6240140	110.00	TRAFFIC CONTROL SUPERVISOR	DAY	500.00	100.00	900.00	-40.82	-37.11%	20.00%	Yes	EE ok. Quantity verified.
6250490	1.00	RENT TRAFFIC CONTROL DEVICES	LS	160,890.00	150,000.00	45,000.00	N/A	N/A	93.23%	No	EE ok. Quantity verified.
6280120	1.00	MOBILIZATION	LS	408,188.27	416,754.96	517,540.74	N/A	N/A	102.10%	No	EE ok. Quantity verified.
6410130	4.00	IMPACT ATTENUATOR (55 MPH)	EACH	23,000.00	22,500.00	19,500.00	10.88	272.11%	97.83%	No	EE ok. Quantity verified.

Additional Comments:



1263 South Stewart Street  
Carson City, Nevada 89712  
Phone: (775) 888-7440  
Fax: (775) 888-7201

## MEMORANDUM

April 7, 2014

**TO:** Department of Transportation Board of Directors  
**FROM:** Rudy Malfabon, Director  
**SUBJECT:** April 14, 2014 Transportation Board of Directors Meeting  
**Item #7:** Approval of Agreements Over \$300,000 - For Possible Action

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### **Summary:**

The purpose of this item is to provide the Board a list of agreements over \$300,000 for discussion and approval following the process approved at the July 11, 2011 Transportation Board meeting. This list consists of any design build contracts and all agreements (and amendments) for non-construction matters, such as consultants, service providers, etc. that obligate total funds of over \$300,000, during the period from February 15, 2014, to March 24, 2014.

### **Background:**

The Department contracts for services relating to the development, construction, operation and maintenance of the State's multi-modal transportation system. The attached agreements constitute all new agreements, new task orders on existing agreements, and all amendments which take the total agreement above \$300,000 during the period from February 15, 2014, to March 24, 2014.

### **Analysis:**

These agreements have been prepared following the Code of Federal Regulations, Nevada Revised Statutes, Nevada Administrative Code, State Administrative Manual, and/or Department policies and procedures. They represent the necessary support services needed to deliver the State of Nevada's multi-modal transportation system.

### **List of Attachments:**

- A) State of Nevada Department of Transportation Agreements over \$300,000, February 15, 2014, to March 24, 2014.

### **Recommendation for Board Action:**

Approval of all agreements listed on Attachment A.

**Prepared by:** Administrative Services Division

# Attachment

# A

State of Nevada Department of Transportation  
 Agreements for Approval  
 February 15, 2014 to March 24, 2014

Line No	Agreement No	Amend No	Contractor	Purpose	Fed	Original Agreement Amount	Amendment Amount	Payable Amount	Receivable Amount	Start Date	End Date	Amend Date	Agree Type	Notes
1	29113	01	CHAPMAN LAW FIRM	PROJECT NEON LEGAL REPRESENTATION	N	200,000.00	250,000.00	450,000.00	-	7/25/2013	7/30/2015	3/24/2014	Service Provider	AMD 1 03-24-14: THE CASE IS CURRENTLY BEFORE THE NEVADA SUPREME COURT ON AN APPLICATION FOR A WRIT OF MANDAMUS CONCERNING THE TRIAL COURT'S DETERMINATION OF A DATE OF TAKING. ONCE THAT DECISION IS RENDERED AND THE CASE REMANDED, THE INCREASE OF AUTHORITY \$250,000.00 FROM \$200,000.00 TO \$450,000.00 WILL ALLOW FOR CONTINUED SERVICES THROUGH AND INCLUDING TRIAL. 07-25-13: LEGAL REPRESENTATION BY CHAPMAN LAW FIRM RE AD AMERICA (NEON) INVERSE CONDEMNATION CASE, CLARK COUNTY. NV B/L#: NV20011462722-S
2	10512	01	STANTEC CONSULTING SERVICES	STATEWIDE BRIDGE INSPECTIONS	Y	1,896,783.94	1,768,940.82	3,665,724.76	-	9/14/2012	9/30/2016	3/24/2014	Service Provider	AMD 1 03-24-14: EXTEND TERMINATION DATE FROM 09-30-14 TO 09-30-16 AND INCREASE AUTHORITY \$1,768,940.82 FROM \$1,896,783.94 TO \$3,665,724.76 FOR CONTINUED BRIDGE INSPECTION AND LOAD RATING SERVICES. 09-14-12: PROFESSIONAL AND TECHNICAL ENGINEERING SERVICES TO PERFORM BRIDGE INSPECTION AND LOAD RATING SERVICES, STATEWIDE. NV B/L#: NV20101021081-R
3	03414	00	TBD	NOA TECHNICAL SERVICES	N	571,955.70	-	571,955.70	-	4/14/2014	5/31/2015	-	Service Provider	04-14-14: NATURALLY OCCURRING ASBESTOS (NOA) TECHNICAL SERVICES FOR THE BOULDER CITY BYPASS PROJECT, CLARK COUNTY. NOTE: AMOUNT IS AS PROPOSED BY TETRA TECH. NDOT ENVIRONMENTAL SERVICES IS NEGOTIATING, AND FINAL AGREEMENT AMOUNT MAY BE LESS.

# Line Item 1

**STATE OF NEVADA  
DEPARTMENT OF TRANSPORTATION**

**MEMORANDUM**

March 19, 2014

**TO:** 1. Donna Spelts, Budget Section  
2. Norfa Lanuza, Project Accounting *N. Lanuza*  
3. Rudy Malfabon, Director 

**FROM:** Dennis Gallagher, Chief Deputy Attorney General, Legal Division

**SUBJECT:** REQUEST BUDGET APPROVAL - FOR APRIL 14, 2014 BOARD MEETING  
AMENDMENT NO. 1 FOR AGREEMENT NO. P291-13-004  
WITH CHAPMAN LAW FIRM, P.C.  
AD AMERICA – PROJECT NEON  
REGARDING E.A. NO. 73652 AND  
WORK ORDER NO. 20371000

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Chapman Law Firm is under contracted to provide legal representation to the DEPARTMENT in action entitled *AD America, Inc. vs. State of Nevada, ex rel., Department of Transportation*, 8<sup>th</sup> JD Case No. A640157 (Project Neon) and related litigation. The agreement sets forth with the Service Provider a service agreement for the inverse condemnation action regarding Ad America (Project Neon).

The original estimated cost for the services projected was \$200,000.00. This Amendment No. 1 allows for an additional \$250,000 through and including trial (plus certain related normal and customary expenses). The exact amount to be spent each fiscal year has yet to be determined.

This case is currently before the Nevada Supreme Court. The work to be performed will include assisting in the appellate process and the anticipated costs when the matter is remanded back to the District Court for trial.

Approval of this memo by the Project Accounting Section and the Budget Section indicates funding authority is available for consulting services for Budget Category 06, Object 814R, Organization A004. The A04 Financial Data Warehouse, Budget by Organization Report No. NBDM30 must be attached. Actual availability of funds and the monitoring of actual expenditures must be determined by the Division Head/District Engineer. Return this memo to the originator for inclusion in the project.

Approval of this memo by the Director's Office authorizes this request.

Approved:

  
\_\_\_\_\_

Director

COMMENTS:

Approved

  
\_\_\_\_\_

Budget Section

*This budget will require an allocation of resources from other budgets with excess authority depending on usage.*

# Line Item 2

STATE OF NEVADA  
DEPARTMENT OF TRANSPORTATION

MEMORANDUM

January 23, 2014

**TO:** 1. Felicia Denney, Budget Section  
2. Norfa Lanuza, Project Accounting *N. Lanuza*  
3. Rudy Malfabon, Director

**FROM:** Mark Elicegui, Chief Structures Engineer *Mark Elicegui*

**SUBJECT:** REQUEST APPROVAL TO AMEND (AND OBTAIN BUDGET APPROVAL) FOR AGREEMENT NO. P105-12-011 FOR STATEWIDE BRIDGE INSPECTION AND LOAD RATING SERVICES WITH STANTEC CONSULTING SERVICES, INC.

Due to the continuing need to provide bridge safety inspections throughout the State of Nevada, Structures Division has contracted with the above referenced firm for services, and would like to request approval to amend. Per Article II, Section 1 of Subject Agreement, the Agreement term may be extended by written amendment, if agreed to by all parties and if approved the governing body of the Department prior to expiration of the existing Agreement term.

Current Department staffing levels necessitate the continued use of service provider engineers, to meet Federally-mandated bridge inspection requirements. Stantec's performance of bridge inspection services to date has been exemplary. Their inspection operations have met or exceeded all performance requirements, as well as being on time and budget. The requested Agreement amendment will be to continue to perform statewide bridge inspection and load rating services for term effective October 1, 2014 through September 30, 2016.

The estimated cost for the services will be similar to the original term amount of approximately \$1,750,000. This amount is 95% Federal-aid and 5% State funded over Fiscal Years 2015 (\$437,500), 2016 (\$875,000) and 2017 (\$437,500).

Approval of this memo by the Budget Section of Financial Management Division, indicates funding authority is available for consulting services for Budget Category 06, Object 814G, Organization B-011. The A04 Financial Data Warehouse, Budget by Organization Report No. NBDM30 is attached. Actual availability of funds and the monitoring of actual expenditures must be determined by the Division Head/District Engineer. Return this memo to the originator for inclusion in the project.

Approval of this memo by the Director's Office authorizes the request to solicit services.

Approved:

*Rudy Malfabon*  
\_\_\_\_\_  
Director

Approved:

*Felicia Denney*  
\_\_\_\_\_  
Budget Section

Approved:

\_\_\_\_\_  
Project Accounting

Comments: Two year agreement extended for an additional two years per option in existing/original agreement.

**STATE OF NEVADA  
DEPARTMENT OF TRANSPORTATION**

# M E M O R A N D U M

**DATE:** 03/25/2014

**TO:** John Terry, Assistant Director

**FROM:** David Severns, Project Contact

**SUBJECT:** Negotiation Summary for Statewide Bridge Inspection and Analysis Services

A negotiation meeting was held on March 24, 2014 between Mr. Ryan Nataluk and Mr. Nick Cioffredi of Stantec, and Mr. David Severns and Mr. Michael Premo of NDOT Structures Division. The scope of the services that Stantec will provide under Amendment 1 to existing Agreement P105-12-011 was reaffirmed by both parties. This scope includes the conduct of statewide bridge inspections and Specialized Hauling Vehicle (SHV) load rating analyses during the period from approximately October 1, 2014 through September 30, 2016, and includes:

- Ground Level Routine Inspection – 1150 total structures over a 2-year period
- Access-Required Routine Inspection – 125 structures over a 2-year period
- Ground Level Inventory Inspections – 20 bridges over a 2-year period
- Ground Level Confined Space Inspections – 20 bridges over a 2-year period
- Special Inspections – 20 bridges over a 2-year period
- SHV Load Rating Analysis – 320 bridges maximum, over a 2-year period
- O'Callaghan-Tillman (Hoover Dam) and Galena Creek Signature Bridge inspections
- Structure Inventory & Appraisal Data Input/Management
- QC of bridge inspections and load rating analyses

The amendment was reviewed by task. NDOT's original estimate was \$1,719,727.91 including direct labor (14,906 man-hours of effort), overhead at 160.00 %, a 10% fee and direct expenses at \$186,000. The Consultant's original estimate was \$1,998,764.40, including direct labor (16,530 man-hours of work), overhead at 160.00%, a 10% fee and direct expenses at \$175,162. See manhour breakdown matrix, below.

**MANHOUR ESTIMATE (STATEWIDE BRIDGE INSPECTION AND ANALYSIS)**

<b>MAN HOURS AMENDMENT 1, AGREEMENT NUMBER P105-12-011</b>			
TASK	NDOT	<i>Consultant</i>	Agreed
1. Mobilization	1011	899	899
2. Inspection/Reporting/QC	12515	13759	12515
3. Load Rating Analysis	1124	1560	1040
4. Management	256	312	312
<b>TOTALS</b>	<b>14906</b>	<b>16530</b>	<b>14766</b>

The final negotiated manhours total 14,766, resulting in a total cost for this amendment, including direct labor, overhead, fee and direct expenses, of \$1,768,940.82. The overhead rate of 160.00% and the 10% fixed fee percentage are retained from the original agreement.

DAS:mp/ds

cc: M. Elicegui, Structures Division  
D. Severns, Structures Division



1263 South Stewart Street  
Carson City, Nevada 89712  
Phone: (775) 888-7440  
Fax: (775) 888-7201

## MEMORANDUM

April 7, 2014

**TO:** Department of Transportation Board of Directors  
**FROM:** Rudy Malfabon, Director  
**SUBJECT:** April 14, 2014 Transportation Board of Directors Meeting  
**Item #8:** Contracts, Agreements, and Settlements – Informational Item Only

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### **Summary:**

The purpose of this item is to inform the Board of the following:

- Construction contracts under \$5,000,000 awarded February 15, 2014, to March 24, 2014
- Agreements under \$300,000 executed February 15, 2014, to March 24, 2014
- Settlements entered into by the Department which were presented for approval to the Board of Examiners February 15, 2014, to March 24, 2014

Any emergency agreements authorized by statute will be presented here as an informational item.

### **Background:**

Pursuant to NRS 408.131(5), the Transportation Board has authority to “[e]xecute or approve all instruments and documents in the name of the State or Department necessary to carry out the provisions of the chapter”. Additionally, the Director may execute all contracts necessary to carry out the provisions of Chapter 408 of NRS with the approval of the board, except those construction contracts that must be executed by the chairman of the board. Other contracts or agreements not related to the construction, reconstruction, improvement and maintenance of highways must be presented to and approved by the Board of Examiners. This item is intended to inform the Board of various matters relating to the Department of Transportation but which do not require any formal action by the Board.

The Department contracts for services relating to the construction, operation and maintenance of the State’s multi-modal transportation system. Contracts listed in this item are all low-bid per statute and executed by the Governor in his capacity as Board Chairman. The projects are part of the STIP document approved by the Board. In addition, the Department negotiates settlements with contractors, property owners, and other parties to resolve disputes. These proposed settlements are presented to the Board of Examiners, with the support and advisement of the Attorney General’s Office, for approval. Other matters included in this item would be any emergency agreements entered into by the Department during the reporting period.

The attached construction contracts, agreements and settlements constitute all that were awarded for construction from February 15, 2014, to March 24, 2014 and agreements executed by the Department from February 15, 2014, to March 24, 2014. There was one settlement during the reporting period.

**Analysis:**

These contracts have been executed following the Code of Federal Regulations, Nevada Revised Statutes, Nevada Administrative Code, State Administrative Manual, and/or Department policies and procedures.

**List of Attachments:**

- A) State of Nevada Department of Transportation Contracts Awarded - Under \$5,000,000, February 15, 2014, to March 24, 2014
- B) State of Nevada Department of Transportation Executed Agreements - Informational, February 15, 2014, to March 24, 2014
- C) State of Nevada Department of Transportation Settlements approved at February 14, 2014 Board of Examiners meeting

**Recommendation for Board Action:** Informational item only

**Prepared by:** Administrative Services Division

# Attachment

# A

**STATE OF NEVADA DEPARTMENT OF TRANSPORTATION  
 CONTRACTS AWARDED - UNDER \$5,000,000  
 February 15, 2014 to March 24, 2014**

1. February 13, 2014, at 1:30 p.m., the following bids were opened and read related to Contract No. 800-14, Project No. SPR14 Package A, On US 93 at MP EL 77.69. Described as Coldmilling, Placing Plantmix Bituminous Surface with Open Grade and Installing a Weigh-In-Motion System, Elko County.

Titan Electrical Contracting, Inc. ....	\$234,482.20
PAR Electrical Contractors, Inc. ....	\$243,919.56
MKD Construction, Inc. ....	\$314,000.00

The Director awarded the contract March 4, 2014, to Titan Electrical Contracting, Inc., in the amount of \$234,482.20. Upon receipt of an approval bond from the contractor, the state will enter into contract with the firm.

Engineer's Estimate: \$266,157.76

2. February 13, 2014, at 2:30 p.m., the following bids were opened and read related to Contract No. 802-14, Project No. SPR14 Package C, On US 95 at MP CL 51.00. Described as Installing AVC Detector Loops, No. 5 Pull Boxes and Special M-1 Cabinet, Clark County.

Fast-Trac Electric (Nev-Cal Investors, Inc.) .....	\$35,948.00
MC4 Construction LLC .....	\$40,696.80
Las Vegas Electric, Inc.....	\$54,710.00

The Director awarded the contract March 4, 2014, to Fast-Trac Electric (Nev-Cal Investors, Inc.) in the amount of \$35,948.00. Upon receipt of an approval bond from the contractor, the state will enter into contract with the firm.

Engineer's Estimate: \$32,944.80

3. February 20, 2014, at 1:30 p.m., the following bids were opened and read related to Contract No. 808-13, Project No. NH-STP-015-1(147), Project Neon Phase 1 – Demolition Package B. Described as Demolition, Asbestos and Hazardous Materials Abatement for 9 parcels along the I-15 Corridor District 1, Clark County.

Baldwin Development, LLC. ....	\$295,295.00
Construction Group International, LLC .....	\$299,949.00
Foxy Grading and Paving .....	\$427,218.42
Environmental Assurance .....	\$443,995.52
E&N Enterprises .....	\$491,942.00

The Director awarded the contract March 4, 2014, to Baldwin Development, LLC., in the amount of \$295,295.00. Upon receipt of an approval bond from the contractor, the state will enter into contract with the firm.

Engineer's Estimate: \$705,152.00

# Attachment B

State of Nevada Department of Transportation  
Executed Agreements - Informational  
February 15, 2014 to March 24, 2014

Line No	Agreement No	Amend No	Contractor	Purpose	Fed	Original Agreement Amount	Amendment Amount	Payable Amount	Receivable Amount	Start Date	End Date	Amend Date	Agree Type	Notes
1	42113	00	DOUGLAS COUNTY	OPERATE AND MAINTAIN LIGHTING	N	-	-	-	-	2/18/2014	9/30/2033	-	Cooperative	02-18-14: FOR DOUGLAS COUNTY TO OPERATE AND MAINTAIN THE DEPARTMENT'S ADVANCED WARNING FLASHER SYSTEM, INCLUDING RADAR DETECTION, SIGNS, TYPE 7 POLE, AND LUMINAIRE LOCATED WITHIN THE DEPARTMENT'S RIGHT-OF-WAY AT THE INTERSECTION OF TRAMWAY DRIVE AND SR 207, AND TO OPERATE AND MAINTAIN THE DEPARTMENT'S PEDESTRIAN LIGHTING LOCATED WITHIN THE DEPARTMENT'S RIGHT-OF-WAY AT SHADY LANE AND EAST OF DAGGETT WAY ON SR 207, DOUGLAS COUNTY. NV B/L#: EXEMPT
2	46113	00	WASHOE RTC	REIMBURSEMENT FOR CORRIDOR SYSTEM MASTER PLAN (CSMP)	N	300,000.00	-	-	300,000.00	2/19/2014	7/31/2014	-	Cooperative	02-19-14: REIMBURSEMENT FOR WASHOE RTC'S PORTION OF THE I-80 CORRIDOR SYSTEM MASTER PLAN, WASHOE COUNTY. NV B/L#: EXEMPT
3	53713	00	NEVADA DIVISION OF STATE LANDS	MAINTENANCE OF WETLANDS	N	150,000.00	-	150,000.00	-	2/25/2014	1/1/2024	-	Cooperative	02-25-14: ENHANCEMENT, REFURBISHMENT, AND MAINTENANCE OF WETLANDS THAT WERE CREATED AS MITIGATION FOR IMPACTS TO OTHER WETLANDS AFFECTED BY VARIOUS HIGHWAY PROJECTS AT WASHOE LAKE STATE PARK, WASHOE COUNTY. NV B/L#: EXEMPT
4	03814	00	RTC OF SOUTHERN NEVADA	REPLACE EQUIPMENT AT FAST TRAFFIC MANAGEMENT CENTER	N	675,000.00	-	675,000.00	-	3/24/2014	12/30/2016	-	Interlocal	03-24-14: REPLACEMENT OF THE FREEWAY AND ARTERIAL SYSTEM OF TRANSPORTATION TRAFFIC MANAGEMENT CENTER'S (FAST-TMC) SEVERELY OUTDATED VIDEO WALL MONITORS. THE RTC WILL HIRE A CONTRACTOR TO TEST, FURNISH, INSTALL, CONFIGURE, AND INTEGRATE THE NEW WALL MONITORS ON BEHALF OF BOTH THE DEPARTMENT AND RTC, CLARK COUNTY. NV B/L#: EXEMPT
5	04214	00	DESERT RESEARCH INSTITUTE	STORMWATER MONITORING	N	139,716.00	-	139,716.00	-	2/25/2014	6/30/2015	-	Interlocal	02-25-14: DESERT RESEARCH INSTITUTE WILL CONDUCT STORMWATER MONITORING OF, AND A COMPARATIVE PERFORMANCE EVALUATION OF, THE FINE SEDIMENT REMOVAL EFFICIENCY BY TWO DIFFERENT TYPES OF COMMERCIAL STORMWATER TREATMENT VAULTS ON SR 431, WASHOE COUNTY. NV B/L#: EXEMPT

Line No	Agreement No	Amend No	Contractor	Purpose	Fed	Original Agreement Amount	Amendment Amount	Payable Amount	Receivable Amount	Start Date	End Date	Amend Date	Agree Type	Notes
6	04614	00	LAS VEGAS PUBLIC WORKS DEPT	PLACE FIBER IN NORTH LAS VEGAS	N	-	-	-	-	3/11/2014	3/31/2018	-	Interlocal	03-11-14: PLACE ONE (1) MILE OF FIBER INSIDE CONDUITS FROM LOCATION A, 416 N 8TH ST, TO LOCATION B, 304 E CARSON ST, CLARK COUNTY. NV B/L#: EXEMPT
7	55713	00	AUBURN UNIVERSITY	EVALUATE OPEN GRADED FRICTION	Y	200,000.00	-	200,000.00	-	3/4/2014	2/28/2018	-	Interlocal	03-04-14: CONDUCT A RESEARCH PROJECT TITLED: "EVALUATION OF THE BENEFITS OF OPEN GRADED FRICTION COURSE (OGFC) ON NDOT CATEGORY-3 ROADWAYS", STATEWIDE. RESEARCH BASED. NV B/L#: EXEMPT
8	51213	00	APPLIED ENGINEERING MANAGEMENT CORP	TRAFFIC PREDICTION STUDY	Y	99,903.00	-	99,903.00	-	3/4/2014	2/28/2015	-	Interlocal	03-04-14: CONDUCT A RESEARCH PROJECT TITLED: "TRAFFIC PREDICTION AND RESPONSES THROUGH DATA MINING AND DATA STREAM PROCESSING", CLARK COUNTY. RESEARCH BASED. NV B/L#: EXEMPT
9	05614	00	GARY A BEALE	TEMP ESMT S-650-WA-020.207	N	500.00	-	500.00	-	2/20/2014	4/30/2016	-	Acquisition	02-24-14: ACQUIRE A FEE ACQUISTION NEEDED FOR THE MCCARRAN PROJECT, S-650-WA-020.207, WASHOE COUNTY. NV B/L#: EXEMPT
10	05714	00	KATHLEEN ROBERTSON	TEMP ESMT S-650-WA-021.179	N	2,195.00	-	2,195.00	-	2/24/2014	4/30/2016	-	Acquisition	02-24-14: ACQUIRE A FEE ACQUISTION NEEDED FOR THE MCCARRAN PROJECT, S-650-WA-021.179, WASHOE COUNTY. NV B/L#: EXEMPT
11	05814	00	KAREN BORDEN	TEMP ESMT S-650-WA-021.253	N	700.00	-	700.00	-	2/24/2014	4/30/2016	-	Acquisition	02-24-14: ACQUIRE A FEE ACQUISTION NEEDED FOR THE MCCARRAN PROJECT, S-650-WA-021.253, WASHOE COUNTY. NV B/L#: EXEMPT
12	05914	00	STEPHEN W HARRIS	TEMP ESMT S-650-WA-020.977	N	6,231.00	-	6,231.00	-	2/24/2014	4/30/2016	-	Acquisition	02-24-14: ACQUIRE A FEE ACQUISTION NEEDED FOR THE MCCARRAN PROJECT, S-650-WA-020.977, WASHOE COUNTY. NV B/L#: EXEMPT
13	06014	00	KAREN & GEORGE LEMOS	TEMP ESMT S-650-WA-020.767	N	3,700.00	-	3,700.00	-	2/24/2014	4/30/2016	-	Acquisition	02-24-14: ACQUIRE A FEE ACQUISTION NEEDED FOR THE MCCARRAN PROJECT, S-650-WA-020.767, WASHOE COUNTY. NV B/L#: EXEMPT
14	06114	00	JULIO PEREZ & ALEJO QUINTRO	TEMP ESMT S-650-WA-019.953	N	3,020.00	-	3,020.00	-	2/24/2014	4/30/2016	-	Acquisition	02-24-14: ACQUIRE A FEE ACQUISTION NEEDED FOR THE MCCARRAN PROJECT, S-650-WA-019.953, WASHOE COUNTY. NV B/L#: EXEMPT
15	06214	00	SUSANNA MONEY REVOCABLE TRUST	TEMP ESMT S-650-WA-021.202	N	4,580.00	-	4,580.00	-	2/24/2014	4/30/2016	-	Acquisition	02-24-14: ACQUIRE A FEE ACQUISTION NEEDED FOR THE MCCARRAN PROJECT, S-650-WA-021.202, WASHOE COUNTY. NV B/L#: EXEMPT
16	06614	00	ROBERT WILSON	ACQUIRE S-650-WA-020.343	N	26,087.00	-	26,087.00	-	2/24/2014	4/30/2016	-	Acquisition	02-26-14: ACQUIRE PROPERTY FOR MCCARRAN PROJECT, S-650-WA-020.343, WASHOE COUNTY. NV B/L#: EXEMPT
17	06714	00	WILLIAM A & DENISE P NORTON	ACQUIRE S-650-WA-020.986	N	6,159.69	-	6,159.69	-	2/24/2014	4/30/2016	-	Acquisition	02-26-14: ACQUIRE PROPERTY FOR MCCARRAN PROJECT, S-650-WA-020.986, WASHOE COUNTY. NV B/L#: EXEMPT

Line No	Agreement No	Amend No	Contractor	Purpose	Fed	Original Agreement Amount	Amendment Amount	Payable Amount	Receivable Amount	Start Date	End Date	Amend Date	Agree Type	Notes
18	06814	00	KEITH & FRANCES ROSS	ACQUIRE S-650-WA-019.400	N	2,448.00	-	2,448.00	-	2/24/2014	4/30/2016	-	Acquisition	02-26-14: ACQUIRE PROPERTY FOR MCCARRAN PROJECT, S-650-WA-019.400, WASHOE COUNTY. NV B/L#: EXEMPT
19	06914	00	J&J RENTALS	ACQUIRE S-650-WA-021.134	N	2,750.00	-	2,750.00	-	2/24/2014	4/30/2016	-	Acquisition	02-26-14: ACQUIRE PROPERTY FOR MCCARRAN PROJECT, S-650-WA-021.134, WASHOE COUNTY. NV B/L#: EXEMPT
20	07014	00	JAMIE JARA-ULLOA/ROSA JARA	ACQUIRE S-650-WA-020.937	N	5,125.30	-	5,125.30	-	2/24/2014	4/30/2016	-	Acquisition	02-26-14: ACQUIRE PROPERTY FOR MCCARRAN PROJECT, S-650-WA-020.937, WASHOE COUNTY. NV B/L#: EXEMPT
21	07714	00	CHRISTINE L MCDONNELL	ACQUIRE S-650-WA-021.214	N	8,206.00	-	8,206.00	-	2/26/2014	4/30/2016	-	Acquisition	02-26-14: ACQUIRE PROPERTY FOR MCCARRAN PROJECT, S-650-WA-021.214, WASHOE COUNTY. NV B/L#: EXEMPT
22	07914	00	METRO PCS NEVADA LLC	CELL TOWER IMPROVEMENTS	Y	328,550.00	-	328,550.00	-	3/3/2014	2/28/2015	-	Acquisition	03-04-14: TENANT OWNED IMPROVEMENTS CELL TOWER I-015-CL-042.503 FOR PROJECT NEON, CLARK COUNTY. NV B/L#: NV20071501970
23	08814	00	RENO PROJECT MANAGEMENT LLC	ACQUIRE S-650-WA-021.032TE	N	700.00	-	700.00	-	3/10/2014	4/30/2016	-	Acquisition	03-13-14: ACQUIRE S-650-WA-021.032TE FOR MCCARRAN PROJECT, WASHOE COUNTY. NV B/L#: NV20121681847
24	08914	00	JUSTIN D HOUK	ACQUIRE S-650-WA-020.663TE	N	9,100.00	-	9,100.00	-	3/10/2014	4/30/2016	-	Acquisition	03-13-14: ACQUIRE S-650-WA-020.663TE FOR MCCARRAN PROJECT, WASHOE COUNTY. NV B/L#: EXEMPT
25	09114	00	DEBRA A MCCLURE/JOHN PETERSEN	ACQUIRE S-650-WA-021.017TE	N	3,400.00	-	3,400.00	-	3/12/2014	4/30/2016	-	Acquisition	03-13-14: ACQUIRE S-650-WA-021.017TE FOR MCCARRAN PROJECT, WASHOE COUNTY. NV B/L#: EXEMPT
26	09214	00	ROSEWOOD PARK LLC & BRACHA	ACQUIRE S-650-WA-020.611TE	N	12,316.00	-	12,316.00	-	3/12/2014	4/30/2016	-	Acquisition	03-13-14: ACQUIRE S-650-WA-020.611TE FOR MCCARRAN PROJECT, WASHOE COUNTY. NV B/L#: EXEMPT
27	07214	00	NV ENERGY	LINE EXTENSION PROJECT E #3000300473	Y	2,536.00	-	2,536.00	-	2/24/2014	2/28/2019	-	Facility	02-24-14: LINE EXTENSION PROJECT E-180, E LOOP CHANGE - #3000300473, LANDER COUNTY. NV B/L#: NV19831015840
28	07314	00	NV ENERGY	LINE EXTENSION PROJECT E #3000300515	Y	2,897.30	-	2,897.30	-	2/24/2014	2/28/2019	-	Facility	02-24-14: LINE EXTENSION PROJECT E-180, E LOOP CHANGE - #3000300515, LANDER COUNTY. NV B/L#: NV19831015840
29	07414	00	NV ENERGY	LINE EXTENSION PROJECT E NEW SERVICE PEDESTALS	N	558.00	-	558.00	-	2/24/2014	2/28/2019	-	Facility	02-24-14: LINE EXTENSION PROJECT E-261UE-NEW SERVICE PEDESTALS FOR A CROSS WALK NEAR PONDEROSA DRIVE, WASHOE COUNTY. NV B/L#: NV19831015840
30	07514	00	NV ENERGY	LINE EXTENSION PROJECT E #3000420615	N	547.00	-	547.00	-	2/24/2014	2/28/2019	-	Facility	02-24-14: LINE EXTENSION PROJECT E-825U-NEW SERVICE PEDESTALS FOR A CROSSWALK NEAR TRAMWAY #3000420615, WASHOE COUNTY. NV B/L#: NV19831015840
31	07614	00	NV ENERGY	LINE EXTENSION PROJECT E #3000265308	Y	1,234.30	-	1,234.30	-	2/24/2014	2/28/2019	-	Facility	02-24-14: LINE EXTENSION PROJECT E-180, E LOOP CHANGE - #3000265308, LANDER COUNTY. NV B/L#: NV19831015840

Line No	Agreement No	Amend No	Contractor	Purpose	Fed	Original Agreement Amount	Amendment Amount	Payable Amount	Receivable Amount	Start Date	End Date	Amend Date	Agree Type	Notes
32	59913	00	LINCOLN COUNTY POWER DIST 1	ELECTRIC SERVICE	N	160,000.00	-	160,000.00	-	2/18/2014	6/30/2015	-	Facility	02-18-14: LINE EXTENSION AND ELECTRIC SERVICE TO BE PROVIDED BY LINCOLN COUNTY SHALL BE FOR A COMMUNICATION SITE AND ANCILLARY EQUIPMENT LOCATED IN PARCEL 009-17-101-001, WEST OF US 93, CLARK COUNTY. NV B/L#: EXEMPT
33	08514	00	SOUTHWEST GAS CORPORATION	ACQUISITION OF MATERIALS	Y	429,899.00	-	429,899.00	-	3/6/2014	2/28/2016	-	Facility	03-12-14: ACQUISITION OF MATERIALS FOR CONSTRUCTION PROJECT 73527 WHERE CERTAIN ADJUSTMENTS WILL HAVE TO BE MADE TO UTILITY FACILITIES OWNED BY SOUTHWEST GAS, SPECIFICALLY TO ADJUST AND/OR RELOCATE A 10" HIGH PRESSURE STEEL PIPELINE LOCATED ALONG US 93/95 IN CLARK COUNTY. NV B/L#: NV19571000091
34	05114	00	ERIC REYNOSO	BIG SMOKY #1	N	2,400.00	-	-	2,400.00	2/19/2014	11/30/2017	-	Lease	02-19-14: SMOKY MAINTENANCE STATION #1 LEASE TO EMPLOYEE, NYE COUNTY. NV B/L#: EXEMPT
35	05214	00	JOSEPH CLARK	INDEPENDENCE MS #251	N	3,000.00	-	-	3,000.00	2/19/2014	1/26/2018	-	Lease	02-19-14: INDEPENDENCE MAINTENANCE STATION #251 LEASED TO EMPLOYEE, ELKO COUNTY. NV B/L#: EXEMPT
36	09414	00	ALL AMERICAN VAN & STORAGE	MOVE PCL I-015-CL-041.548 NEON	Y	5,558.35	-	5,558.35	-	3/13/2014	3/31/2014	-	Service Provider	03-17-14: MOVING EXPENSES FOR PARCEL I-015-CL-041.548 R1 PROJECT NEON FOR CHEF MAYRA'S KITCHEN, CLARK COUNTY. NV B/L#: NV19711001160-Q
37	04112	01	TERRACON CONSULTANTS, INC.	CROSS HOLE SONIC LOGGING TEST	N	250,000.00	-	250,000.00	-	6/28/2012	6/30/2016	3/6/2014	Service Provider	AMD 1 03-06-14: EXTEND TERMINATION DATE FROM 06-30-14 TO 06-30-16 TO CONTINUE TO PROVIDE CROSS HOLE SONIC LOGGING SERVICES. 06-28-12: PROVIDE CROSS HOLE SONIC LOGGING (CSL) TESTING AND ASSOCIATED TESTING SERVICES FOR DRILLED SHAFT CONSTRUCTION, STATEWIDE. NV B/L#: NV20041426032-R
38	04812	01	GML ARCHITECTS	MAINTENANCE STATION VEHICLE STORAGE BAYS	N	230,000.00	11,382.00	241,382.00	-	8/16/2012	6/30/2015	2/25/2014	Service Provider	AMD 1 02-25-14: INCREASE AUTHORITY \$11,382.00 FROM \$230,000.00 TO \$241,382.00, AND EXTEND TERMINATION DATE FROM 12-31-14 TO 06-30-15 DUE TO THE REQUIREMENT OF SEPARATING SPECIFICATIONS AND DRAWINGS INTO THREE (3) SEPARATE PROJECTS TO ALLOW FOR PERMITTING. 08-16-12: ARCHITECTURAL SERVICES FOR VEHICLE STORAGE BAY EXTENSIONS AT MONTGOMERY PASS AND FALLON MAINTENANCE STATIONS, FOR THE DEVELOPMENT OF A VEHICLE STORAGE BUILDING AT THE FERNLEY MAINTENANCE STATION, MINERAL AND CHURCHILL COUNTIES. NV B/L#: NV19981053945-R

Line No	Agreement No	Amend No	Contractor	Purpose	Fed	Original Agreement Amount	Amendment Amount	Payable Amount	Receivable Amount	Start Date	End Date	Amend Date	Agree Type	Notes
39	04914	00	ROYAL PANE	CLEANING MAINTENANCE STATIONS	N	3,600.00	-	3,600.00	-	2/19/2014	8/15/2016	-	Service Provider	02-19-14: Q3-008-14 PROVIDE CLEANING OF MAINTENANCE STATION HOUSES, ELKO AND EUREKA COUNTIES. NV B/L# NV20101425610-Q
40	05014	00	AGGREGATE INDUSTRIES	MILL AND FILL US 93 MP52	N	18,900.00	-	18,900.00	-	2/19/2014	6/30/2015	-	Service Provider	02-19-14: Q1-006-14 MILL AND FILL ON US93 MP52, CLARK COUNTY. NV B/L#: NV19701000737-Q
41	06514	00	XCEL MAINTENANCE SERVICES INC	JANITORIAL SERVICES DISTRICT YARD	N	188,052.40	-	188,052.40	-	2/26/2014	8/31/2016	-	Service Provider	02-26-14: Q1-008-14 PROVIDE JANITORIAL SERVICES FOR DISTRICT 1 YARD, CLARK COUNTY. NV B/L#: 20021426879-Q
42	22912	01	PRECISION CRANE & HOISTS	CRANE INSPECTION	N	28,040.00	23,940.00	51,980.00	-	6/18/2012	1/31/2017	3/11/2014	Service Provider	AMD 1 03-11-14: EXTEND TERMINATION DATE FROM 01-31-15 TO 01-31-17 AND INCREASE AUTHORITY \$23,940.00 FROM \$28,040.00 TO \$51,980.00 FOR CONTINUED MAINTENANCE AND INSPECTION SERVICES. 06-18-12: Q3-016-12 PROVIDE MAINTENANCE AND INSPECTION OF CRANES AND HOISTS, ELKO, EUREKA, HUMBOLDT, LANDER, AND WHITE PINE COUNTIES. NV B/L#: NV20051280421-Q

# Attachment C

**OFFICE OF THE ATTORNEY GENERAL**

TRANSPORTATION DIVISION  
1263 South Stewart Street  
Carson City, Nevada 89712  
Telephone (775) 888-7420  
Fax (775) 888-7309

CATHERINE CORTEZ MASTO  
*Attorney General*

KEITH G. MUNRO  
*Assistant Attorney General*



DENNIS V. GALLAGHER  
*Chief Deputy Attorney General*

**MEMORANDUM**

**DATE:** March 20, 2014

**TO:** Board of Directors  
Nevada Department of Transportation

**FROM:** Dennis Gallagher, Chief Deputy Attorney General / Chief Counsel

**SUBJECT:** Informational Item – Approval of Settlement for an Direct Condemnation Claim in the Matter of *State of Nevada v. Woodcock*; Case No. A-12-664399

A handwritten signature in black ink, appearing to read "D. Gallagher", written over the "FROM:" line of the memorandum.

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At their March 11, 2014 meeting, the Board of Examiners approved the settlement in the amount of \$61,500.00 to be paid from NDOT funds to resolve a direct condemnation claim.

Attached is the approved February 14, 2014 Board of Examiners Action Item and February 4, 2014 memorandum from Director, Rudy Malfabon, Senior Deputy Attorney General, Ruth Miller, and myself to the Board of Examiners setting forth a summary of the settlement.

Brian Sandoval  
Governor

OFFICE OF THE ATTORNEY GENERAL  
CARSON CITY, NEVADA

MAR 17 2014

BUREAU OF GOVERNMENT AFFAIRS  
TRANSPORTATION DIVISION



Jeff Mohlenkamp  
State Budget Director

Stephanie Day  
Deputy State Budget Director

STATE OF NEVADA  
DEPARTMENT OF ADMINISTRATION  
*Budget Division*

209 E. Musser Street, Room 200 | Carson City, NV 89701-4298  
Phone: (775) 684-0222 | [www.budget.nv.gov](http://www.budget.nv.gov) | Fax: (775) 684-0260

Date: February 14, 2014  
To: Jeff Mohlenkamp, Clerk of the Board  
Department of Administration  
From: Carla Watson, Budget Analyst  
Budget Division  
Subject: BOARD OF EXAMINERS **ACTION** ITEM

APPROVED BY THE  
BOARD OF EXAMINERS  
AT  
THEIR MAR 11 2014  
MEETING  
Initials

The following describes an action item submitted for placement on the agenda of the next Board of Examiners' meeting. An analysis of the action item and recommendation is also provided.

**APPROVAL TO PAY A CASH SETTLEMENT**

Pursuant to NRS 41.037, the State Board of Examiners may approve, settle or deny any claim or action against the State, any of its agencies or any of its present or former officers, employees, immune contractors or State Legislators.

Agenda Item Write-up:

**Department of Transportation (NDOT) – Administration - \$61,500**

The department requests settlement approval in the amount of \$61,500 to resolve an eminent domain action that NDOT brought pertaining to a portion of real property necessary for the purpose of reconstructing the I-15 freeway from Blue Diamond north to Tropicana Avenue. The sum of \$63,500 was previously deposited with the Court and released to the property owners as a condition of NDOT acquiring occupancy of the subject property. Approval of this additional amount would bring the total to \$125,000.

Additional Information:

Clark County has a no-Cut Ordinance that prohibits roads to be excavated for any reason for a period of five years. The landowner was concerned about having utilities (particularly sewer) extended to his property. Appraisals for reasonable costs and expenses as part of just compensation were conducted by both parties and negotiations resulted in the cash settlement amount of \$61,500. There will be no subrogation or any other attempt to offset the settlement amount. NDOT will seek reimbursement from the Federal Highway Administration.





STATE OF NEVADA  
OFFICE OF THE ATTORNEY GENERAL

Transportation Division  
555 E. Washington Avenue, Suite 3900  
Las Vegas, Nevada 89101

CATHERINE CORTEZ MASTO  
*Attorney General*

KEITH G. MUNRO  
*Assistant Attorney General*

GREGORY M. SMITH  
*Chief of Staff*

MEMORANDUM

RECEIVED

FEB 04 2014

DEPARTMENT OF ADMINISTRATION  
OFFICE OF THE DIRECTOR  
BUDGET DIVISION

DATE: February 4, 2014

TO: Board of Examiners  
Governor Brian Sandoval  
Attorney General Catherine Cortez Masto  
Secretary of State Ross Miller

FROM: Rudy Malfabon, Director, Nevada Department of Transportation  
Dennis Gallagher, Chief Deputy Attorney General  
Ruth Miller, Senior Deputy Attorney General

SUBJ: Proposed Settlement of an Eminent Domain Lawsuit Filed By NDOT  
*State of Nevada v. Woodcock*; Case No. A-12-664399-C

SUMMARY

NDOT requests settlement approval in the amount of \$125,000.00 (ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS). The sum of \$63,500.00 was previously deposited with the Court and released to the property owners as a condition of NDOT acquiring occupancy of the subject property. **The additional amount requested in this settlement proposal is \$61,500.00** to resolve an eminent domain action that NDOT brought pertaining to a portion of real property owned by Jack Woodcock ("Landowner") and located on the northwest corner of Warm Springs Road and Windy Street in Las Vegas, Nevada. NDOT needs to acquire a portion of the subject property in fee for the purpose of reconstructing the I-15 freeway from Blue Diamond north to Tropicana Avenue.

### **BACKGROUND OF THE SUBJECT PROPERTY**

The property is approximately 2.5 acres of vacant land of which NDOT required 7,465 square feet in fee and 1,522 square feet as a temporary easement. The property is bounded on the east by Windy Street, on the south by Warm Springs Road and on the north and west by other parcels of property. The subject property is depicted in pink borders on Attachment 1.

NDOT obtained an appraisal of the subject property that valued the fee take and temporary easement at \$63,500.00 (SIXTY THREE THOUSAND FIVE HUNDRED DOLLARS) with no damages. NDOT offered that amount to Landowner in an attempt to acquire the land through negotiation. Landowner declined the offer. Essentially, Landowner was concerned about having utilities (particularly sewer) extended to his property. Clark County has a No-Cut Ordinance that prohibits roads to be excavated for any reason for a period of five years.

In June of 2012, NDOT filed a condemnation action against Landowner in the Eighth Judicial District Court, case no. A-12-664399-C. NDOT sought immediate occupancy of the subject property and deposited the amount of the appraised value of \$63,500.00 with the clerk of court to obtain immediate occupancy.

In October of 2012, Landowner filed an answer. NDOT paid for Landowner's appraiser as NRS 37.120(3) obligates NDOT to pay for reasonable costs and expenses as part of just compensation in a direct condemnation action. Landowner's appraiser concluded just compensation to be \$153,000.00.

NDOT hired appraiser Timothy Morse to review Landowner's appraisal. Mr. Morse concluded that there are approximately \$95,995.00 in severance damages due to the No-Cut Ordinance. Mr. Morse further concluded that Landowner's property received special benefits from the project which offset the calculation of damages. He suggested that the redesign caused a change in grade at the boundary of the property which resulted in the property being at grade along the entire Warm Springs Road frontage.

### **POINTS THAT FAVOR SETTLEMENT**

NDOT has a potential liability for damages resulting from the complications of the five year No-Cut Ordinance and its effect on the Landowner's ability to extend the sewer line to his property. Landowner's appraiser found \$84,000.00 in damages, while NDOT's own appraiser valued the damages even higher at \$95,995.00 in the appraisal review. While NDOT's appraiser offset the damages with special benefits in the amount of \$123,602.00, there is still a possibility that the court may find that there are no special benefits, and that NDOT is responsible for up to \$95,995.00 in damages in addition to the \$63,500.00 for the value of the fee take and permanent easement.

Furthermore, litigation to determine the existence of special benefits will be costly, especially in light of the statutory mandate that NDOT pay the reasonable cost and expenses incurred by the landowner in litigating a direct action.

### **RECOMMENDATION**

NDOT has considered the benefits of settlement and has made the decision that settlement is reasonable, prudent, and in the public interest. NDOT requests the authority to settle the claim for the total sum of \$125,000.00, less the amount of \$63,500.00 previously deposited with the court, which amounts to \$61,500.00.

### **FISCAL NOTE STATEMENT**

NDOT will seek reimbursement from the Federal Highway Administration.

ATTACHMENT 1



6



1263 South Stewart Street  
Carson City, Nevada 89712  
Phone: (775) 888-7440  
Fax: (775) 888-7313

## MEMORANDUM

April 7, 2014

**TO:** Department of Transportation Board of Directors  
**FROM:** Rudy Malfabon, P.E., Director  
**SUBJECT:** April 14, 2014 Transportation Board of Directors Meeting  
**Item # 9:** Action Item: Condemnation Resolution No. 443  
I-15 Freeway, from Desert Inn Road to the US-95/I-515  
Interchange; Project NEON; in the City of Las Vegas; Clark County.  
1 Owner, 3 Parcels – For possible action

---

### **Summary:**

The department is acquiring property and property rights for the widening and reconstruction of the I-15 Freeway, from Desert Inn Road to the US-95/I-515 Interchange, in the City of Las Vegas, Clark County. These properties are for Phase 1 of project NEON. The department is seeking the Board's approval of condemnation action for the unresolved acquisition as described below.

### **Background:**

Las Vegas Golf and Country Club - The negotiation is unresolved for the acquisition from the Las Vegas Golf and Country Club. It is necessary to acquire three parcels which comprise the total 3.29 acre Industrial District-zoned parcel in fee simple. The parcel is improved with a 3,000 square foot office/warehouse building, a 624 square foot office building, a 2,880 square foot restaurant/office building, a 2,628 square foot warehouse building, an outdoor advertising sign, miscellaneous paving, landscaping and fencing. **The parcels in question, which are located near the southwest corner of Wall Street and Western Avenue, in the City of Las Vegas, are highlighted in green on the right-of-way plans that are part of the Condemnation Resolution (Attachment 2).** The State's initial offer of \$4,392,000.00 for the 3.29 acre holding was presented in two parts on July 25, 2013. One offer consisted of \$3,278,000.00 for the fee simple land (at approximately \$22.90 per square foot) and \$272,000.00 for the four buildings and miscellaneous minor on-site improvements. The other offer consisted of \$842,000.00 for the outdoor advertising sign structure. The property owner made a counteroffer of \$33,500,000.00 on December 13, 2013. The counteroffer included \$21,500,000.00 as compensation for lost future income. Negotiations are now at an impasse. The department is continuing to work towards settlement, but is requesting this condemnation resolution to meet construction deadlines.

### **Analysis:**

A condemnation resolution is requested so that the Department can certify the right-of-way to the Federal Highway Administration to meet the project schedule. Prior to construction all environmental testing, demolition and utility relocations must be accomplished. Pursuant to Chapter 241 of the Nevada Revised Statutes, the required notices regarding this open meeting have been served.

**Recommendation for Board Action:**

Board approval of this resolution of condemnation is respectfully requested.

**List of Attachments:**

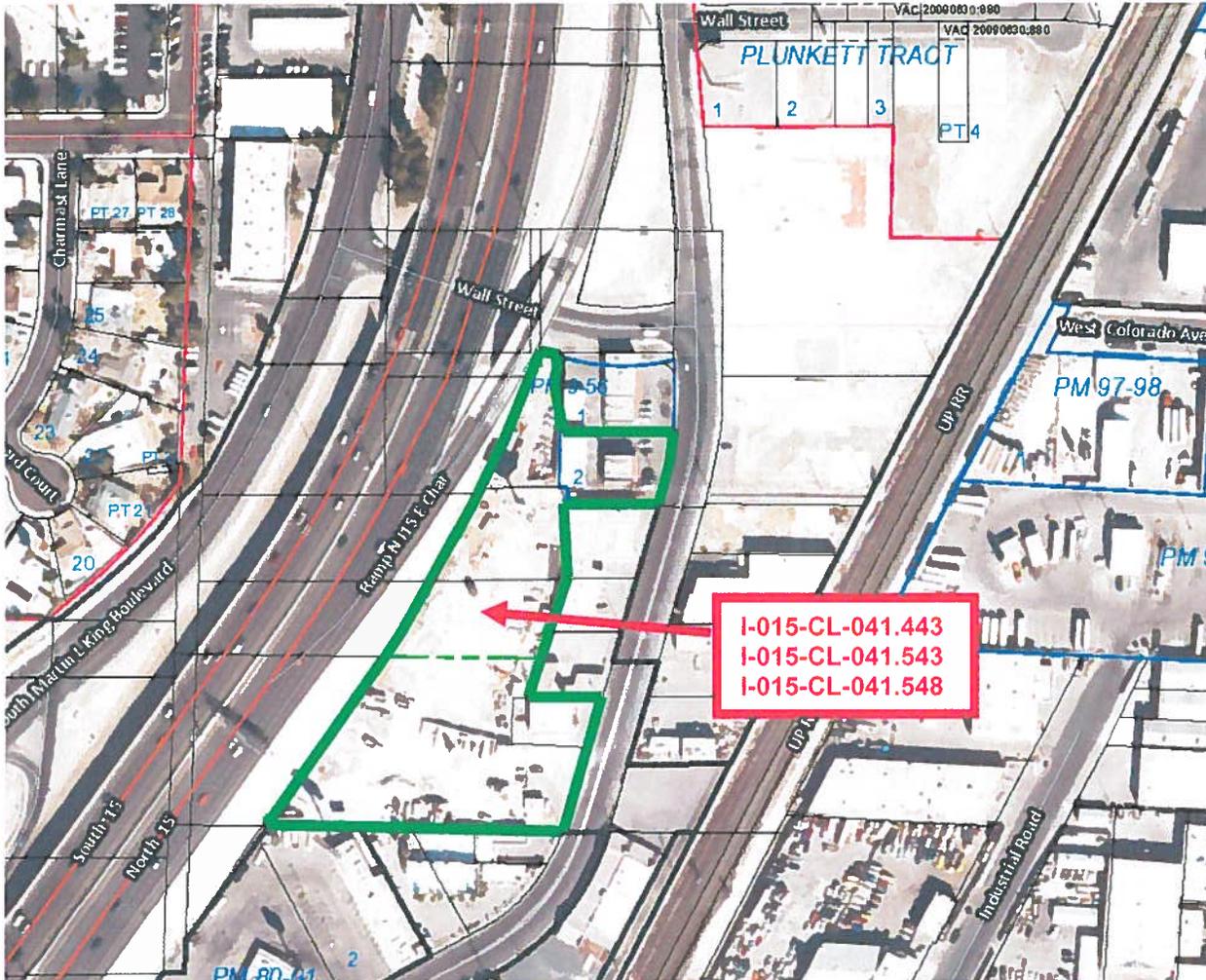
1. Location map
2. Condemnation Resolution No. 443 with Right-of-Way plans
3. Section 408.503 of the Nevada Revised Statutes
4. Section 241.034 of the Nevada Revised Statutes

**Prepared by:**

Paul Saucedo, Chief R/W Agent



# LOCATION MAP



## Condemnation Resolution No. 443

**DESCRIPTION: I-15 Freeway, From Desert Inn Road to the US-95/I-515 Interchange; Project NEON; in the City of Las Vegas, Clark County, NV.**

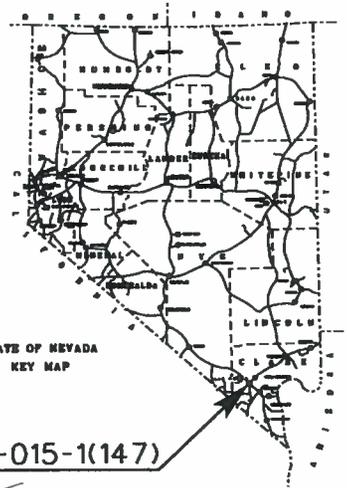


Fed. Rd. Dist. No.	State	Project No.	E.A. No.	County	Sheet No.
0	Nevada	NH-STP-015-K147	73652	CLARK	1

**INDEX OF SHEETS**

- 1 TITLE SHEET
- 2 LEGEND
- 3 SHEET INDEX
- 4-15 R/W PLAN SHEETS
- 16-24 R/W ENGINEERING SHEETS
- 25-28 PROPERTY SCHEDULE

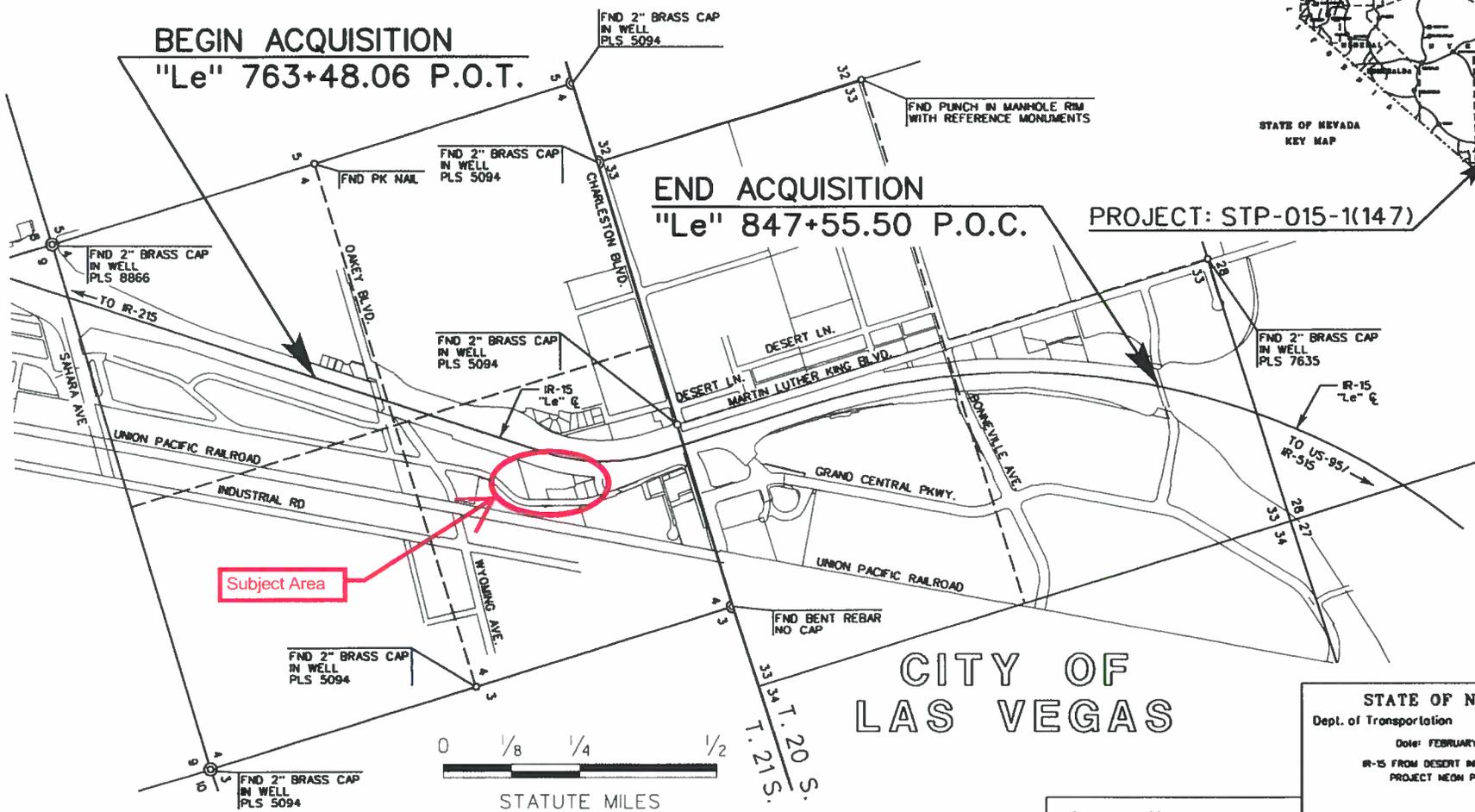
**STATE OF NEVADA**  
**DEPARTMENT OF TRANSPORTATION**  
**RIGHT OF WAY PROJECT**



**BEGIN ACQUISITION**  
**"Le" 763+48.06 P.O.T.**

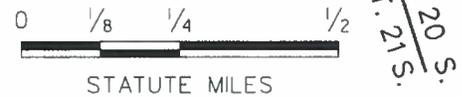
**END ACQUISITION**  
**"Le" 847+55.50 P.O.C.**

**PROJECT: STP-015-1(147)**



**Subject Area**

CITY OF  
LAS VEGAS



**STATE OF NEVADA**  
 Dept. of Transportation R/W Division  
 Date: FEBRUARY 15, 2013  
 R-15 FROM DESERT R/W TO US-95  
 PROJECT NEOM PHASE 1

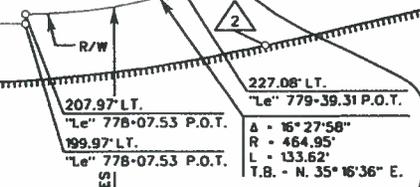
Date of last revision: \_\_\_\_\_

TRACED  
CHECKED

Par. Div. Reg. No.	State	Project No.	E.A. No.	County	Sheet No.
9	Nevada	NH-STP-015-1147	73652	CLARK	6

PARCEL NO. PREFIX: I-015-CL-

SEE SHEETS 16, 17, AND 18 FOR PARCEL DESCRIPTIONS



**041.418**

SEE SHEET 5 FOR PARCEL DETAILS

**041.454**

SEE SHEET 5 FOR PARCEL DETAILS

**041.460**

SEE SHEET 5 FOR PARCEL DETAILS

**041.508**

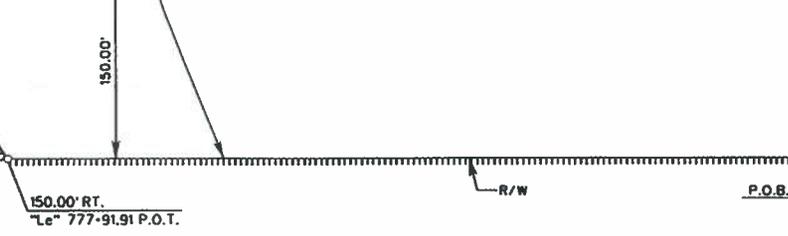
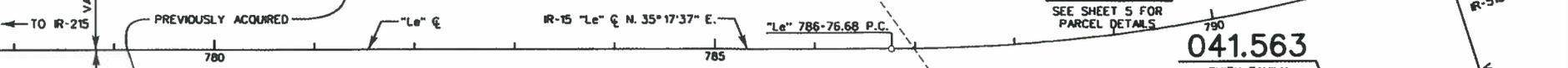
SEE SHEET 5 FOR PARCEL DETAILS

**041.500**

SEE SHEET 7 FOR PARCEL DETAILS

**041.512**

SEE SHEET 7 FOR PARCEL DETAILS



**CITY OF LAS VEGAS**

**041.386**

ANDREW T. VALDEZ, LLC

**041.443**

LAS VEGAS GOLF & COUNTRY CLUB

**041.548**

LAS VEGAS GOLF & COUNTRY CLUB

**041.563**

SMITH FAMILY TRUST

**041.560**

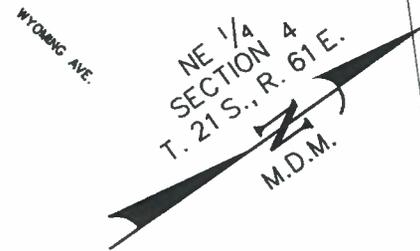
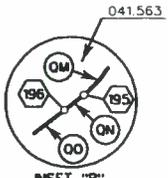
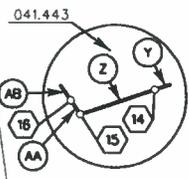
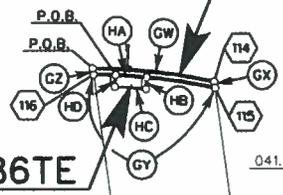
WALL STREET NEVADA, LLC ETAL

**041.505**

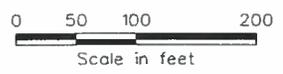
SHARPLES, JOHN & BONNIE

**041.505TE**

**041.386TE**



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CHECKED



Date of last revision: \_\_\_\_\_

**STATE OF NEVADA**  
Dept. of Transportation R/W Division  
Date: FEBRUARY 15, 2013  
R/W Plans

PARCEL NO. PREFIX: I-015-CL-

Pub. Bl. Reg. No.	State	Project No.	E.A. No.	County	Sheet No.
0	Nevada	NH-STP-015-K1471	73652	CLARK	17

041.443	
P.O.B. - 150.00' RT. "Le" 784-54.46 P.O.T. TIE: N. 56° 08' 49" W. - 2,091.46' FROM THE E 1/4 COR. SEC. 4, T. 21 S., R. 61 E., M.D.M.	
T	N. 35° 17' 37" E. - 222.22'
U	Δ - 9° 40' 27" R - 1,950.00' L - 329.25'
V	S. 89° 06' 37" E. - 112.91'
N	S. 0° 56' 24" W. - 112.63'
W	S. 16° 22' 12" W. - 183.87'
X	N. 89° 54' 03" E. - 100.59'
Y	S. 16° 24' 39" W. - 181.89'
Z	Δ - 1° 32' 37" R - 242.83' L - 6.54'
AA	N. 89° 01' 29" W. - 140'
AB	N. 89° 04' 31" W. - 400.24'

041.454	
P.O.B. - 258.44' LT. "Le" 785-13.74 P.O.T. TIE: S. 59° 33' 09" W. - 2,606.92' FROM THE NE COR. SEC. 4, T. 21 S., R. 61 E., M.D.M.	
FF	S. 89° 35' 26" W. - 128.55'
FG	N. 33° 05' 04" E. - 170.03'
FH	Δ - 43° 56' 18" R - 45.50' L - 34.89' T.B. - S. 56° 57' 14" E.
FI	S. 10° 53' 32" E. - 119.95'
FJ	S. 49° 47' 37" W. - 26.65'

041.460	
P.O.B. - 251.77' LT. "Le" 785-39.55 P.O.T. TIE: S. 59° 39' 10" W. - 2,580.65' FROM THE NE COR. SEC. 4, T. 21 S., R. 61 E., M.D.M.	
FI	N. 10° 53' 32" W. - 119.95'
FK	Δ - 44° 23' 17" R - 45.50' L - 35.25' T.B. - N. 79° 06' 28" E.
FL	S. 55° 12' 07" E. - 100.95'
FM	Δ - 6° 19' 17" R - 464.00' L - 51.19' T.B. - S. 43° 28' 23" W.
FN	S. 49° 47' 37" W. - 67.87'

041.473	
P.O.B. - 369.37' LT. "Le" 786-08.63 P.O.T. TIE: S. 62° 40' 41" W. - 2,569.80' FROM THE NE COR. SEC. 4, T. 21 S., R. 61 E., M.D.M.	
DN	N. 26° 58' 38" E. - 90.49'
DD	Δ - 192° 08' 15" R - 45.50' L - 152.58' T.B. - S. 69° 05' 29" E.

041.481	
P.O.B. - 224.71' LT. "Le" 786-55.42 P.O.T. TIE: S. 60° 11' 28" W. - 2,464.04' FROM THE NE COR. SEC. 4, T. 21 S., R. 61 E., M.D.M.	
FL	N. 55° 12' 07" W. - 100.95'
FO	Δ - 44° 38' 50" R - 45.50' L - 35.43' T.B. - N. 34° 43' 11" E.
FP	N. 80° 42' 57" E. - 98.21'
FO	S. 5° 55' 23" E. - 7.81'
FR	N. 83° 50' 51" E. - 45.62'
FS	S. 2° 13' 51" W. - 16.67'
FU	Δ - 1° 49' 22" R - 1,390.00' L - 44.22' T.B. - S. 33° 28' 15" W.
FU	Δ - 8° 10' 46" R - 464.00' L - 66.24' T.B. - S. 35° 17' 37" W.

041.491	
P.O.B. - 370.10' LT. "Le" 787-05.51 P.O.C. TIE: S. 63° 39' 34" W. - 2,489.82' FROM THE NE COR. SEC. 4, T. 21 S., R. 61 E., M.D.M.	
FZ	Δ - 33° 15' 13" R - 45.50' L - 26.41' T.B. - N. 53° 36' 17" W.
FA	Δ - 42° 41' 03" R - 30.00' L - 22.35' T.B. - N. 86° 51' 30" W.
FB	N. 44° 10' 27" W. - 5.37'
FC	Δ - 82° 52' 23" R - 15.00' L - 21.70'
FD	Δ - 17° 27' 35" R - 325.50' L - 99.19' T.B. - N. 38° 41' 56" E.
FE	S. 68° 45' 39" E. - 94.76'
FW	S. 43° 40' 31" W. - 128.32'

041.500	
P.O.B. - 208.69' LT. "Le" 787-55.56 P.O.C. TIE: S. 60° 45' 18" W. - 2,374.61' FROM THE NE COR. SEC. 4, T. 21 S., R. 61 E., M.D.M.	
ME	N. 2° 13' 51" E. - 167.18'
NE	N. 2° 13' 43" E. - 299.43'
MF	N. 89° 48' 55" E. - 28.14'
MG	S. 2° 18' 52" W. - 421.95'
MH	Δ - 2° 11' 06" R - 1,402.00' L - 53.47' T.B. - S. 32° 05' 06" W.

041.505	
P.O.B. - 504.93' RT. "Le" 787-80.55 P.O.C. TIE: N. 44° 50' 24" W. - 1,765.82' FROM THE E 1/4 COR. SEC. 4, T. 21 S., R. 61 E., M.D.M.	
ME	N. 16° 24' 39" E. - 100.08'
MF	S. 89° 03' 30" E. - 5.19'
MG	S. 16° 24' 39" W. - 100.08'
MH	N. 89° 03' 30" W. - 5.19'

041.505TE	
P.O.B. - 502.16' RT. "Le" 788-03.42 P.O.C. TIE: N. 43° 56' 34" W. - 1,775.59' FROM THE E 1/4 COR. SEC. 4, T. 21 S., R. 61 E., M.D.M.	
HA	N. 16° 24' 39" E. - 26.00'
HL	S. 73° 35' 58" E. - 10.00'
HB	S. 16° 24' 39" W. - 26.00'
HL	N. 73° 35' 58" W. - 10.00'

041.508	
P.O.B. - 226.42' LT. "Le" 787-94.52 P.O.C. TIE: S. 61° 34' 33" W. - 2,354.21' FROM THE NE COR. SEC. 4, T. 21 S., R. 61 E., M.D.M.	
FR	S. 83° 50' 51" W. - 45.62'
FO	N. 5° 55' 23" W. - 7.81'
FP	S. 80° 42' 57" W. - 98.21'
FV	Δ - 43° 42' 38" R - 45.50' L - 34.71' T.B. - N. 9° 53' 39" W.
FW	N. 43° 40' 31" E. - 128.32'
FX	S. 68° 45' 39" E. - 80.88'
FY	S. 2° 13' 51" W. - 79.41'

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STATE OF NEVADA  
Dept. of Transportation R/W Division  
Date: FEBRUARY 15, 2013  
R/W Plans

Date of last revision: \_\_\_\_\_

Sheet 17 of 28 Sheets

PARCEL NO. PREFIX: I-015-CL-

Proj. No. (Reg. No.)	State	Project No.	E.A. No.	County	Sheet No.
0	Nevada	NH-STP-015-K1471	73652	CLARK	18

041.512	
P.O.B. - 205.43' LT. "Le" 788-15.92' P.O.C. TIE: S. 61° 21' 52" W. - 2,327.36' FROM THE NE COR. SEC. 4, T. 21 S., R. 61 E., M.D.M.	
MI	N. 2° 18' 52" E. - 449.61'
ML	S. 89° 53' 14" E. - 164.43'
MK	Δ - 19° 54' 19" R - 1,402.00' L - 487.07' T.B. - S. 12° 10' 47" W.

041.523	
P.O.B. - 263.74' LT. "Le" 788-75.67 P.O.C. TIE: S. 63° 16' 01" W. - 2,314.73' FROM THE NE COR. SEC. 4, T. 21 S., R. 61 E., M.D.M.	
MY	N. 68° 45' 39" W. - 175.64'
MF	Δ - 10° 01' 51" R - 325.50' L - 56.99' T.B. - N. 21° 14' 21" E.
MG	S. 78° 47' 35" E. - 154.19'
MH	S. 2° 13' 43" W. - 40.15'
MI	S. 2° 13' 51" W. - 48.23'

041.541	
P.O.B. - 301.40' LT. "Le" 789-70.52 P.O.C. TIE: S. 65° 12' 59" W. - 2,273.25' FROM THE NE COR. SEC. 4, T. 21 S., R. 61 E., M.D.M.	
MO	N. 78° 47' 35" W. - 154.19'
MP	Δ - 8° 58' 47" R - 325.50' L - 51.07' T.B. - N. 11° 12' 30" E.
MQ	N. 2° 13' 43" E. - 8.02'
MR	N. 89° 45' 33" E. - 148.45'
MS	S. 2° 13' 43" W. - 89.29'

041.543	
P.O.B. - 150.00' RT. "Le" 789-80.61 P.O.C. TIE: S. 55° 23' 52" W. - 2,008.47' FROM THE NE COR. SEC. 4, T. 21 S., R. 61 E., M.D.M.	
MA	Δ - 6° 03' 40" R - 1,950.00' L - 206.28' T.B. - N. 25° 37' 10" E.
MB	S. 71° 07' 11" E. - 19.93'
MC	Δ - 2° 10' 43" R - 240.00' L - 9.13'
MD	S. 16° 10' 43" W. - 22.86'
ME	S. 0° 53' 03" W. - 160.72'
MF	N. 89° 06' 37" W. - 97.91'

041.548	
P.O.B. - 261.18 RT. "Le" 790-05.85 P.O.C. TIE: S. 52° 57' 49" W. - 1,930.00' FROM THE NE COR. SEC. 4, T. 21 S., R. 61 E., M.D.M.	
MG	N. 0° 56' 24" E. - 20.17'
MH	N. 89° 06' 37" W. - 15.00'
MI	N. 0° 53' 03" E. - 84.84'
MJ	S. 89° 05' 51" E. - 161.84'
MK	Δ - 10° 28' 16" R - 470.00' L - 85.90' T.B. - S. 5° 56' 23" W.
ML	S. 16° 24' 39" W. - 21.33'
MM	N. 89° 07' 18" W. - 125.83'

041.559	
P.O.B. - 335.03' LT. "Le" 790-71.02 P.O.C. TIE: S. 67° 15' 24" W. - 2,234.11' FROM THE NE COR. SEC. 4, T. 21 S., R. 61 E., M.D.M.	
MO	S. 89° 45' 33" W. - 148.45'
MP	N. 2° 13' 43" E. - 73.15'
MQ	N. 89° 48' 55" E. - 148.44'
MR	S. 2° 13' 43" W. - 73.00'

041.560	
P.O.B. - 434.42' RT. "Le" 790-67.28 P.O.C. TIE: S. 49° 15' 00" W. - 1,785.42' FROM THE NE COR. SEC. 4, T. 21 S., R. 61 E., M.D.M.	
MS	N. 16° 24' 39" E. - 4.74'
MT	Δ - 19° 02' 41" R - 530.00' L - 176.17'
MU	N. 2° 38' 02" W. - 193.27'
MV	S. 85° 17' 03" W. - 5.02'
MW	N. 4° 42' 57" W. - 239.81'
MX	Δ - 94° 33' 52" R - 20.00' L - 33.01'
MY	N. 89° 50' 55" E. - 135.62'
MZ	N. 0° 09' 05" W. - 163.00'
NA	N. 89° 50' 55" E. - 253.43'
NB	Δ - 21° 00' 28" R - 53.00' L - 19.43'
NC	Δ - 16° 48' 46" R - 100.00' L - 29.34' T.B. - S. 69° 08' 37" E.
ND	Δ - 64° 16' 16" R - 53.00' L - 59.45' T.B. - S. 88° 58' 59" E.
NE	Δ - 245° 28' 22" R - 55.00' L - 235.60' T.B. - S. 24° 42' 43" E.
NF	N. 89° 50' 55" E. - 116.13'
NG	S. 27° 47' 26" W. - 581.51'
NH	S. 27° 39' 52" W. - 364.31'
NI	N. 89° 05' 35" W. - 217.74'

041.563	
P.O.B. - 206.91' RT. "Le" 790-86.51 P.O.C. TIE: S. 55° 46' 14" W. - 1,879.54' FROM THE NE COR. SEC. 4, T. 21 S., R. 61 E., M.D.M.	
NO	N. 0° 53' 03" E. - 75.88'
NP	N. 16° 10' 43" E. - 22.86'
NQ	Δ - 20° 56' 56" R - 240.00' L - 87.75' T.B. - S. 73° 17' 54" E.
NR	N. 85° 45' 10" E. - 48.00'
NS	Δ - 91° 36' 48" R - 20.00' L - 31.98'
NT	S. 2° 38' 02" E. - 5.21'
NU	Δ - 8° 34' 25" R - 470.00' L - 70.33'
NV	N. 89° 05' 51" W. - 161.84'

041.570	
P.O.B. - 427.67' LT. "Le" 791-23.19 P.O.C. TIE: S. 69° 38' 08" W. - 2,273.07' FROM THE NE COR. SEC. 4, T. 21 S., R. 61 E., M.D.M.	
NA	S. 89° 48' 55" W. - 75.00'
NB	N. 2° 13' 43" E. - 82.62'
NC	Δ - 87° 35' 12" R - 15.00' L - 22.93'
ND	N. 89° 48' 55" E. - 60.62'
NE	S. 2° 13' 43" W. - 97.00'

041.576	
P.O.B. - 358.99' LT. "Le" 791-56.46 P.O.C. TIE: S. 68° 58' 38" W. - 2,204.28' FROM THE NE COR. SEC. 4, T. 21 S., R. 61 E., M.D.M.	
NA	S. 89° 48' 55" W. - 73.44'
NB	N. 2° 13' 43" E. - 97.00'
NC	N. 89° 48' 55" E. - 73.44'
ND	S. 2° 13' 43" W. - 97.00'

TRACED  
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**STATE OF NEVADA**  
Dept. of Transportation R/W Division  
Date: FEBRUARY 15, 2013  
R/W Plans

Date of last revision: \_\_\_\_\_

Sheet 18 of 28 Sheets

PARCEL NUMBER PREFIX: I-015-CL-

PROPERTY SCHEDULE

Pub. Bd. Reg. No.	State	Project No.	E.A. No.	County	Sheet No.
0	Nevada	NH-STP-015-K147J	73652	CLARK	25

ALL AREAS ARE SHOWN IN SQUARE FEET, UNLESS OTHERWISE INDICATED

PARCEL NO.	GRANTOR	GROSS AREA	PREV. ACQU.	NET AREA	R/W AREA	ACQUISITION RECORDING DATA				SURPLUS LAND DATA		REM. RT.	REM. LT.	REMARKS
						BK.	PG.	TYPE	DATE	AREA	DATE			
041044	MARSH, COLLEEN K. TRUSTEE	7,973		7,973	7,973									TOTAL ACQUISITION
041058	SORRELLS, GLEN R. & MARIA L.	7,968		7,968	7,968									TOTAL ACQUISITION
041071	MOORE, MEREDITH E.	7,852		7,852	7,852									TOTAL ACQUISITION
041084	VHNS, ALEXANDER AND VIRGINIA	9,876		9,876	9,876									TOTAL ACQUISITION
041111	BUTTERFIELD, STELLA	21,576		21,576	21,576									TOTAL ACQUISITION
041137	CITY OF LAS VEGAS	18,236		18,236	18,236									
041137PC	CITY OF LAS VEGAS	1,666		1,666										BRIDGE CONSTRUCTION AND MAINTENANCE
041386	ANDREW T. VALDEZ, LLC	510		510	510						25,731			TO BE DEEDED TO CITY OF LAS VEGAS
041386TE	ANDREW T. VALDEZ, LLC	260		260										SIGN CONSTRUCTION
041418	JACKSON, DARREL E. ETAL	8,461		8,461	8,461							55,588		
041443	LAS VEGAS GOLF & COUNTRY CLUB	2.67 AC		2.67 AC	2.67 AC									TOTAL ACQUISITION
041454	DNE, NORMA J. TRUSTEE	12,679		12,679	12,679									TOTAL ACQUISITION
041460	GAUCH, JESSE & TERESA	7,788		7,788	7,788									TOTAL ACQUISITION
041473	CITY OF LAS VEGAS	3,689		3,689	3,689									
041481	ZEMM, MARTIN & SUSAN	9,599		9,599	9,599									TOTAL ACQUISITION
041481	RACHELL, ALISON P.	9,086		9,086	9,086									TOTAL ACQUISITION
041500	CATELLO, CARMINE V. JR	12,353		12,353	12,353									TOTAL ACQUISITION
041505	SHAWPLES, JOHN & BONNIE	501		501	501						13,796			
041505TE	SHAWPLES, JOHN & BONNIE	260		260										SIGN CONSTRUCTION
041508	MEDINA, TRINIDAD & ADRIANA	12,980		12,980	12,980									TOTAL ACQUISITION
041512	HIGHLAND 2000-ILLC	43,785		43,785	43,785									TOTAL ACQUISITION
041523	CHEN, PETER CHE NAM	11,662		11,662	11,662									TOTAL ACQUISITION
041541	NELSON, BYRON H & SHARON D	11,099		11,099	11,099									TOTAL ACQUISITION

TRACED

CHECKED

STATE OF NEVADA  
 Dept. of Transportation R/W Division  
 Date: FEBRUARY 15, 2013  
 PROPERTY SCHEDULE

Date of last revision: \_\_\_\_\_

PARCEL NUMBER PREFIX: I-015-CL-

PROPERTY SCHEDULE

Fed. Inv. Reg. No.	State	Project No.	S.A. No.	County	Sheet No.
0	Nevada	NH-STP-015-K147)	73652	CLARK	26

STATE OF NEVADA DEPT OF TRANSPORTATION

ALL AREAS ARE SHOWN IN SQUARE FEET, UNLESS OTHERWISE INDICATED

PARCEL NO.	GRANTOR	GROSS AREA	PREV. ACQU.	NET AREA	B/W AREA	ACQUISITION RECORDING DATA				SURPLUS LAND DATA		REM. RT.	REM. LT.	REMARKS
						BK.	PG.	TYPE	DATE	AREA	DATE			
041543	LAS VEGAS GOLF & COUNTRY CLUB	11,074		11,074	11,074									TOTAL ACQUISITION
041548	LAS VEGAS GOLF & COUNTRY CLUB	5,779		5,779	5,779									TOTAL ACQUISITION
041559	EILER, ERIC G	10,838		10,838	10,838									TOTAL ACQUISITION
041560	WALL STREET NEVADA, LLC ETAL	7.04 AC		7.04 AC	7.04 AC									TOTAL ACQUISITION
041563	SMITH FAMILY TRUST	14,862		14,862	14,862									TOTAL ACQUISITION
041570	KIMREY, DEBORAH ANN	7,225		7,225	7,225									TOTAL ACQUISITION
041576	THE KEY FOUNDATION	7,117		7,117	7,117									TOTAL ACQUISITION
041616	HIGHLAND PARTNERSHIP 1980 ET AL	82,721		82,721	82,721									TOTAL ACQUISITION
041664	REFRIGERATION SUPPLIES DISTRIBUTOR	19,626		19,626	19,626									TOTAL ACQUISITION
041665	MARSHALL, EDWARD G.	3,664		3,664	3,664									TOTAL ACQUISITION
041675	CITY OF LAS VEGAS	25,755		25,755	25,755									
041690TE	LAPOUR GRAND CENTRAL, LLC	1,056		1,056										ROADWAY CONSTRUCTION
041691	LUSH, KEVIN ETAL	3,527		3,527	3,527									TOTAL ACQUISITION
041692	GENDALL, ALEXANDER & LILY TRUSTEES	45,641		45,641	45,641									TOTAL ACQUISITION
041693	ELLINGHAM, ROBERT D.	15,489		15,489	15,489									TOTAL ACQUISITION
041704	ZETOCKA, LARRY ETAL	7,834		7,834	7,834									TOTAL ACQUISITION
041708	TOWNE, ROLLAND D. & BETTY M. TRUSTEES	25,813		25,813	25,813									TOTAL ACQUISITION
041709	SUN, TAEJOUN	3,484		3,484	3,484									TOTAL ACQUISITION
041723TE	LAPOUR GRAND CENTRAL, LLC	216		216										ROADWAY CONSTRUCTION
041736	CITY OF LAS VEGAS	18,701		18,701	18,701									TOTAL ACQUISITION
041752	UNION PACIFIC RAILROAD COMPANY	4.86 AC	40,000	4.86 AC	4.86 AC									TOTAL ACQUISITION
041766	VEGAS GROUP, LLC	2.85 AC	7,114	2.85 AC	2.85 AC									TOTAL ACQUISITION
041876	SMON/CHelsea LAS VEGAS DEV. LLC	17,628	2,652	17,628	17,628						32.31 AC			TO BE DEEDED TO CITY OF LAS VEGAS

TRACED

CHECKED

STATE OF NEVADA  
 Dept. of Transportation R/W Division  
 Date: FEBRUARY 15, 2013  
 PROPERTY SCHEDULE

Date of last revision: \_\_\_\_\_

RESOLUTION OF THE BOARD OF DIRECTORS OF THE DEPARTMENT OF TRANSPORTATION AUTHORIZING ACQUISITION BY CONDEMNATION OF PROPERTY FOR THE WIDENING AND RECONSTRUCTION OF THE I-15 FREEWAY, FROM DESERT INN ROAD NORTH TO THE U.S. 95/I-515 INTERCHANGE, IN THE CITY OF LAS VEGAS, CLARK COUNTY, NEVADA.

CONDEMNATION RESOLUTION NO. 443

WHEREAS, the Department of Transportation of the State of Nevada (hereinafter the "Department") is empowered by chapter 408 of the Nevada Revised Statutes to acquire real property, interests therein, and improvements located thereon for the construction and maintenance of highways; and

WHEREAS, the Department has determined that the public interest and necessity require the acquisition, reconstruction, and completion by the State of Nevada, acting by and through the Department, of a public improvement, namely the widening and reconstruction of the I-15 Freeway, from Desert Inn Road north to the U.S. 95/I-515 Interchange, in the City of Las Vegas, Clark County, State of Nevada and that the real property hereinafter described is necessary for said public improvement; and

WHEREAS, the right-of-way plans are attached hereto and incorporated herein depicting the parcel described herein; and

WHEREAS, the Department plans to obligate federal-aid funds for this project, and let a construction contract for said project, and the real property hereinafter described will be needed for said freeway project; and

WHEREAS, pursuant to section 408.503 of the Nevada Revised Statutes, the Department shall not commence any legal action in eminent domain until the Board of Directors of the Department adopts a resolution declaring that the public interest and necessity require the highway improvement and that the property described is necessary for such improvement.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Department, pursuant to section 408.503 of the Nevada Revised Statutes:

That the public interest and necessity require the acquisition, construction, reconstruction, improvement, maintenance or completion by the State of Nevada, acting through the Department, of a public improvement, namely a freeway; and that the real property hereinafter described is necessary for said public improvement; and

That the proposed construction of said public highway improvement on and along an alignment heretofore approved is planned and located in a manner which will be the most compatible with the greatest public good and the least private injury.

BE IT FURTHER RESOLVED THAT the Department be and is hereby authorized and directed:

To acquire in the name of and in behalf of the State of Nevada, in fee simple absolute, the following described real property and interests therein by the exercise of the power of eminent domain in accordance with the provisions of chapters 37 and 408 of the Nevada Revised Statutes;

To commence and prosecute, if necessary, in the name of the State of Nevada, condemnation proceedings in the proper court to condemn said real property and interests therein; and

To make application to said court for an order permitting the Department to take possession and use of said real property as may be necessary for construction of said public highway improvement, and to pledge the public faith and credit of the State of Nevada as security for such entry or, should the Department deem such advisable, to deposit with the Clerk of such court, in lieu of such pledge, a sum equal to the value of

the premises sought to be condemned as appraised by the Department, and to acquire the following real property:

PARCEL NOS. I-015-CL-041.443, I-015-CL-041.543 and I-15-CL-041.548 owned by LAS VEGAS GOLF AND COUNTRY CLUB, a Nevada Corporation,

Said real property situate, lying and being in the City of Las Vegas, County of Clark, State of Nevada, and more particularly described as being a portion of the NE 1/4 of Section 4, T. 21 S., R. 61 E., M.D.M. and more fully described by metes and bounds as follows, to wit:

PARCEL NO. I-015-CL-041.443 to be acquired in fee simple:

COMMENCING at the east quarter corner of said Section 4, shown and delineated as a "Set Brass Cap PLS 5094 in Well Monument" on that certain RECORD OF SURVEY FOR CITY OF LAS VEGAS, filed for record as Book No. 960110, Instrument No. 01279, on January 10, 1996, File 80, Page 46 of Surveys, Official Records, Clark County, Nevada; thence N. 56°08'49" W. a distance of 2,091.46 feet to the POINT OF BEGINNING; said point of beginning described as being on the former right or easterly right-of-way line of IR-15, 150.00 feet right of and at right angles to Highway Engineer's Station "Le" 784+54.46 P.O.T.; thence N. 35°17'37" E., along said former easterly right-of-way line, a distance of 222.22 feet; thence from a tangent which bears the last described course, curving to the left, with a radius of 1,950.00 feet, through an angle of 9°40'27", an arc distance of 329.25 feet; thence departing said former easterly right-of-way line the following four (4) courses and distances:

- 1) S. 89°06'37" E. - 112.91 feet;

- 2) S. 0°56'24" W. – 112.63 feet;
- 3) S. 16°22'12" W. – 183.87 feet;
- 4) N. 89°54'03" E. - 100.59 feet to the westerly right-of-way line of Western Avenue;

thence S. 16°24'39" W., along said westerly right-of-way line, a distance of 181.89 feet; thence from a tangent which bears the last described course, curving to the right, with a radius of 242.83 feet, through an angle 1°32'37", an arc distance of 6.54 feet; thence N. 89°01'29" W., departing said westerly right-of-way line, a distance of 1.40 feet; thence N. 89°04'31" W. a distance of 400.24 feet to the point of beginning; said parcel contains an area of 2.67 acres (116,376 square feet).

It is the intent of this description to describe and it does describe all of the GRANTOR'S right, title and interest in and to all that real property described by that certain GRANT, BARGAIN, SALE DEED, filed for record on April 8, 1965, as Book 618, Instrument No. 497094, in the Office of the Recorder, Clark County, Nevada.

PARCEL NO. I-015-CL-041.543 to be acquired in fee simple:

COMMENCING at the northeast corner of said Section 4, shown and delineated as an "AL CAP PLS 5094" on that certain RECORD OF SURVEY FOR THE CITY OF LAS VEGAS, filed for record as Book No. 20031231, Instrument No. 01220, on December 31, 2003, File 135, Page 08 of Surveys,

Official Records, Clark County, Nevada; thence S. 55°23'52" W., a distance of 2,008.47 feet to the POINT OF BEGINNING; said point of beginning described as being a point on the right or easterly right-of-way line of IR-15, 150.00 feet right of and measured radially from Highway Engineer's Station "Le" 789+80.61 P.O.C.; thence from a tangent which bears N. 25°37'10" E., curving to the left, along said right or easterly right-of-way line, with a radius of 1,950.00 feet, through an angle of 6°03'40", an arc distance of 206.28 feet to the southerly right-of-way line of Wall Street; thence S. 71°07'11" E., along said southerly right-of-way line, a distance of 19.93 feet; thence from a tangent which bears the last described course, curving to the left, with a radius of 240.00 feet, through an angle of 2°10'43", an arc distance of 9.13 feet; thence departing said southerly right-of-way line the following three (3) courses and distances:

- 1) S. 16°10'43" W. - 22.86 feet;
- 2) S. 00°53'03" W. - 160.72 feet;
- 3) N. 89°06'37" W. - 97.91 feet to the point of beginning;

said parcel contains an area of 11,074 square feet (0.25 acres).

It is the intent of this document to convey and it does convey all of the GRANTOR'S right, title and interest in and to all that real property described by that certain GRANT, BARGAIN, SALE DEED, filed for record on July 22, 1971, as Book 145, Instrument No. 115727, in the Office of the Recorder, Clark County, Nevada.

PARCEL NO. I-015-CL-041.548 to be acquired in fee simple:

COMMENCING at the northeast corner of said Section 4, said point being a found 5/8" Rebar with no cap, shown and delineated as an "AL CAP PLS 5094" on that certain RECORD OF SURVEY FOR THE CITY OF LAS VEGAS, filed for record as Book No. 20031231, Instrument No. 01220, on December 31, 2003, File 135, Page 08 of Surveys, Official Records, Clark County, Nevada; thence S. 52°57'49" W. a distance of 1,930.00 feet to the POINT OF BEGINNING; said point of beginning described as being 261.18 feet right of and measured radially from Highway Engineer's Station "Le" 790+05.85 P.O.C.; thence the following four (4) courses and distances:

- 1) N. 0°56'24" E. - 20.17 feet;
- 2) N. 89°06'37" W. - 15.00 feet;
- 3) N. 0°53'03" E. - 84.84 feet;
- 4) S. 89°05'51" E. - 161.84 feet to a point on the westerly right-of-way line of Western Avenue;

thence from a tangent which bears S. 5°56'23" W., curving to the right, with a radius of 470.00 feet, through an angle of 10°28'16", an arc distance of 85.90 feet; thence S. 16°24'39" W. a distance of 21.33 feet; thence N. 89°07'18" W., departing said westerly right-of-way line, a distance of 125.83 feet to the point of beginning; said parcel contains an area of 15,779 square feet (0.36 of an acre).

It is the intent of this description to describe and it does describe all of the GRANTOR'S right, title and interest in and to all that real property described by that certain GRANT, BARGAIN, SALE DEED, filed for record as Book 960626, Instrument No. 00539, on June 26, 1996, Official Records, Clark County, Nevada.

The Basis of Bearing for these descriptions is the NEVADA STATE PLANE COORDINATE SYSTEM, NAD 83/94 DATUM, East Zone, as determined by the State of Nevada, Department of Transportation.

BE IT FURTHER RESOLVED that the Director, Deputy Director, and Chief Counsel of the Department have the power to enter into any stipulations or file any necessary pleadings in any condemnation proceeding and to bind the Department of Transportation in the completion of this project.

Adopted this \_\_\_\_\_ day of April, 2014.

ON BEHALF OF  
STATE OF NEVADA  
DEPARTMENT OF TRANSPORTATION  
BOARD OF DIRECTORS

\_\_\_\_\_  
Secretary to the Board  
William H. Hoffman

\_\_\_\_\_  
Chairman – Brian Sandoval  
Governor

APPROVED AS TO LEGALITY  
AND FORM

\_\_\_\_\_  
Dennis Gallagher, Chief Counsel  
Department of Transportation

**NRS 408.503 Eminent domain: Resolution by Board; precedence over other legal actions.**

1. The Department shall not commence any legal action in eminent domain until the Board adopts a resolution declaring that the public interest and necessity require the acquisition, construction, reconstruction, improvement or completion by the State, acting through the Department, of the highway improvement for which the real property, interests therein or improvements thereon are required, and that the real property, interests therein or improvements thereon described in the resolution are necessary for such improvement.

2. The resolution of the Board is conclusive evidence:

(a) Of the public necessity of such proposed public improvement.

(b) That such real property, interests therein or improvements thereon are necessary therefor.

(c) That such proposed public improvement is planned or located in a manner that will be most compatible with the greatest public good and the least private injury.

3. All legal actions in all courts brought under the provisions of this chapter to enforce the right of eminent domain take precedence over all other causes and actions not involving the public interest, to the end that all such actions, hearings and trials thereon must be quickly heard and determined.

(Added to NRS by 1957, 691; A 1960, 392; 1987, 1810; 1989, 1306)

**NRS 241.034 Meeting to consider administrative action against person or acquisition of real property by exercise of power of eminent domain: Written notice required; exception.**

1. Except as otherwise provided in subsection 3:
  - (a) A public body shall not consider at a meeting whether to:
    - (1) Take administrative action against a person; or
    - (2) Acquire real property owned by a person by the exercise of the power of eminent domain,
  - ↪ unless the public body has given written notice to that person of the time and place of the meeting.
  - (b) The written notice required pursuant to paragraph (a) must be:
    - (1) Delivered personally to that person at least 5 working days before the meeting; or
    - (2) Sent by certified mail to the last known address of that person at least 21 working days before the meeting.
  - ↪ A public body must receive proof of service of the written notice provided to a person pursuant to this section before the public body may consider a matter set forth in paragraph (a) relating to that person at a meeting.
2. The written notice provided in this section is in addition to the notice of the meeting provided pursuant to NRS 241.020.
3. The written notice otherwise required pursuant to this section is not required if:
  - (a) The public body provided written notice to the person pursuant to NRS 241.033 before holding a meeting to consider the character, alleged misconduct, professional competence, or physical or mental health of the person; and
  - (b) The written notice provided pursuant to NRS 241.033 included the informational statement described in paragraph (b) of subsection 2 of that section.
4. For the purposes of this section, real property shall be deemed to be owned only by the natural person or entity listed in the records of the county in which the real property is located to whom or which tax bills concerning the real property are sent.  
(Added to NRS by 2001, 1835; A 2001 Special Session, 155; 2005, 2247)



1263 South Stewart Street  
Carson City, NV 89712  
Phone: (775) 888-7440  
Fax: (775) 888-7313

## **MEMORANDUM**

**Right-of-Way Division**

**March 31, 2014**

**To: Department of Transportation Board of Directors**

**From: Rudy Malfabon, Director**

**Subject: April 14, 2014 Transportation Board of Directors Meeting**

**Item #/☉: Disposal of NDOT right-of-way located along a portion of IR-15 in the City of Mesquite, Clark County, NV.  
SUR 09-36**

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### **Summary:**

Approval is requested from the Department of Transportation Board of Directors to dispose of the above referenced right-of-way by Resolution of Relinquishment. The right-of-way parcel to be relinquished to the City of Mesquite is a portion of IR-15 in Clark County, Nevada. The parcel is irregularly shaped, extending a distance of 0.16 miles, containing 5.31 acres as depicted on the attached sketch map marked Exhibit "A".

### **Background:**

On September 23, 2009, the City of Mesquite requested the relinquishment of the above referenced portion of highway right-of-way for the purpose of including in the City's master plan for development as a park and detention facility.

### **Analysis:**

On January 30, 2014 the City of Mesquite signed a Resolution Consenting to Relinquishment and Land Transfer Agreement accepting the relinquishment of this right-of-way parcel. The release of NDOT's interest in this parcel is being made in accordance with N.R.S. 408.527. The Department owns this parcel in fee simple therefore as per N.R.S. 408.527, if the purpose of the City's use of this parcel ceases to exist, all interest reverts back to the Department.

### **Recommendation for Board Action:**

Approval of disposal of NDOT right-of-way located along a portion of IR-15 in the City of Mesquite, Clark County, NV.

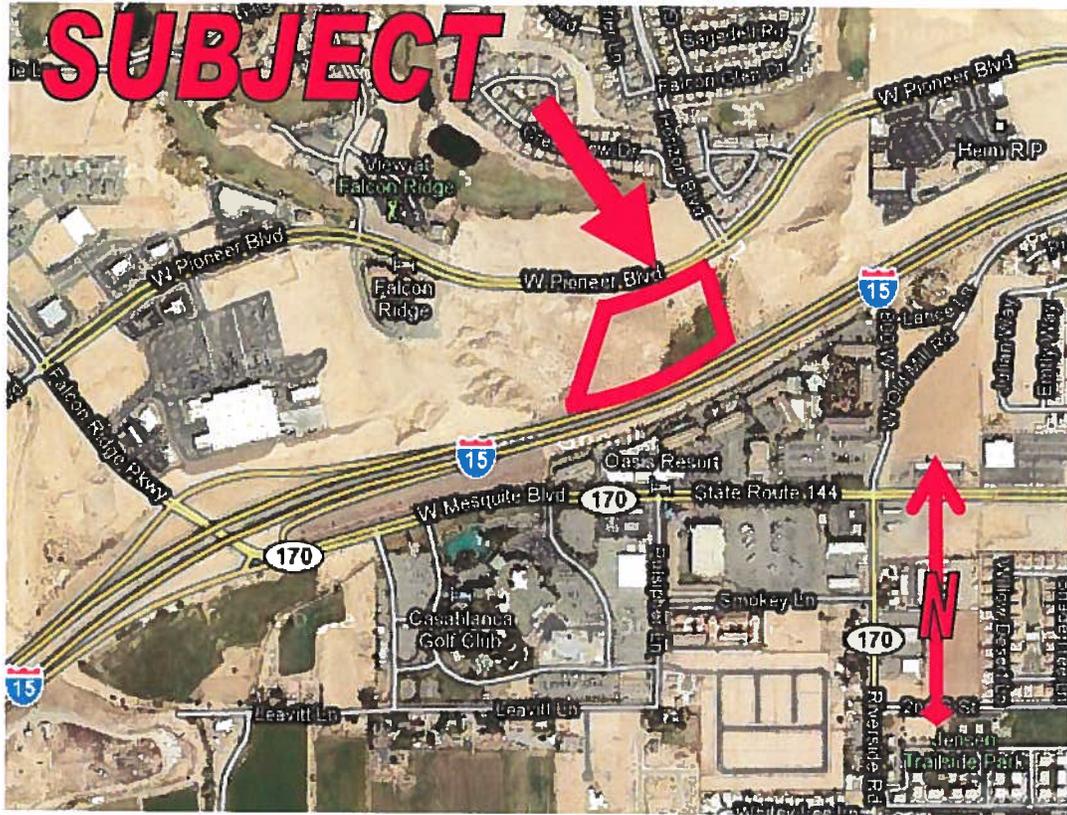
Department of Transportation Board of Directors  
March 31, 2014

**List of Attachments:**

1. Location Map
2. Copy of Resolution of Relinquishment with attached sketch map marked Exhibit "A"
3. Copy of Resolution Consenting to Relinquishment and Land Transfer Agreement with attached sketch map marked Exhibit "A"
4. Copy of City of Mesquite request letter dated September 23, 2009
5. Environmental Approval
6. FHWA Approval
7. N.R.S. 408.527

**Prepared by:** Ruth Borrelli, Deputy Chief R/W Agent 

**LOCATION MAP**



**SUR 09-36**  
**DESCRIPTION: IR-15 (City of Mesquite)**

Control Section: CL-88  
Route: IR15  
Surplus No.: SUR 09-36  
W.O. 20191  
Parcel: I-015-CL-120.900 XS1

**RESOLUTION CONSENTING TO RELINQUISHMENT  
AND LAND TRANSFER AGREEMENT**

WHEREAS, the State of Nevada, Department of Transportation, hereinafter called the Department, desires to relinquish a portion of IR15 lying within the City of Mesquite, State of Nevada, extending from Highway Engineer's Station "W" 586+04.72 P.O.C. to Highway Engineer's Station "W" 593+78.12 P.O.T., a distance of approximately 0.16 of a mile, said right-of-way is delineated by shading and identified as Parcel I-015-CL-120.900 XS1 on EXHIBIT "A", attached hereto and made a part hereof; and

WHEREAS, the City Council of the City of Mesquite, State of Nevada, desires that the aforesaid portion of said highway be relinquished to the City of Mesquite; and

WHEREAS, the City of Mesquite has requested the relinquishment of aforesaid portion of highway for the purpose of a park and detention facility; and

WHEREAS, the City of Mesquite has agreed to accept the relinquishment of said right-of-way for the aforesaid portion of IR-15 together with any and all revocable leases and licenses entered into between the Department and the adjoining owners for the multiple use of the right-of-way.

NOW THEREFORE be it resolved that the City Council of the City of Mesquite, does in consideration of the actions of the Department as set forth herein, hereby consent to the State of Nevada, Department of Transportation, Board of Directors, relinquishing to the City of Mesquite, that portion of IR15 lying within the City of Mesquite, State of Nevada, extending from Highway Engineer's Station "W" 586+04.72 P.O.C. to Highway Engineer's Station "W" 593+78.12 P.O.T., a distance of approximately 0.16 of a mile, being all that right-of-way delineated by shading and identified as Parcel I-015-CL-120.900 XS1 on EXHIBIT "A" attached hereto and made a part hereof.

The parties acknowledge that no relinquishment can occur until the Department of Transportation, Board of Directors approves of this relinquishment.



PARCEL NO. PREFIX: I-015-CL-  
EXHIBIT "A"

GOVT.  
LOT 5

CITY OF  
MESQUITE

W.O. 20181 ALL OF PARCEL:  
I-015-CL-120.900

"AE"  
A = 16° 22' 31"  
R = 5,084.00'  
L = 1,453.02'

"W"  
A = 16° 22' 31"  
R = 5,000.00'  
L = 1,429.01'

PIONEER BOULEVARD  
80.00'  
80.00'

IR-15 R/W

PARCEL 1  
P.M. BK. 100, PG. 54

ADJ. AREA  
NO. 1  
S. 37° 30' 59" E.  
372.92'

N. BNDY. TRACT 42

AP. 2

PARCEL 2  
P.M. BK. 100, PG. 54

ADJ. AREA  
NO. 2

1/18 SEC. LINE

N. 1° 25' 24" W.  
424.31'

120.900  
5.31 AC

XS1

GOVT.  
LOT 8

P.O.B. - 200.00' LT. "W" 586-04.72 P.O.C.

L.T.E. S. 65° 19' 59" W. - 4301.10' FROM THE  
N. 1/4 COR. SEC. 17, T. 13 S., R. 71 E., M.D.M.

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R-15 "AE" E

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Control Section: CL-88  
Route: IR15  
Surplus No.: SUR 09-36  
W.O. 20191  
Parcel: I-015-CL-120.900 XS1

**RESOLUTION CONSENTING TO RELINQUISHMENT  
AND LAND TRANSFER AGREEMENT**

**WHEREAS, the State of Nevada, Department of Transportation, hereinafter called the Department, desires to relinquish a portion of IR15 lying within the City of Mesquite, State of Nevada, extending from Highway Engineer's Station "W" 586+04.72 P.O.C. to Highway Engineer's Station "W" 593+78.12 P.O.T., a distance of approximately 0.16 of a mile, said right-of-way is delineated by shading and identified as Parcel I-015-CL-120.900 XS1 on EXHIBIT "A", attached hereto and made a part hereof; and**

**WHEREAS, the City Council of the City of Mesquite, State of Nevada, desires that the aforesaid portion of said highway be relinquished to the City of Mesquite; and**

**WHEREAS, the City of Mesquite has requested the relinquishment of aforesaid portion of highway for the purpose of a park and detention facility; and**

**WHEREAS, the City of Mesquite has agreed to accept the relinquishment of said right-of-way for the aforesaid portion of IR-15 together with any and all revocable leases and licenses entered into between the Department and the adjoining owners for the multiple use of the right-of-way.**

**NOW THEREFORE be it resolved that the City Council of the City of Mesquite, does in consideration of the actions of the Department as set forth herein, hereby consent to the State of Nevada, Department of Transportation, Board of Directors, relinquishing to the City of Mesquite, that portion of IR15 lying within the City of Mesquite, State of Nevada, extending from Highway Engineer's Station "W" 586+04.72 P.O.C. to Highway Engineer's Station "W" 593+78.12 P.O.T., a distance of approximately 0.16 of a mile, being all that right-of-way delineated by shading and identified as Parcel I-015-CL-120.900 XS1 on EXHIBIT "A" attached hereto and made a part hereof.**

**The parties acknowledge that no relinquishment can occur until the Department of Transportation, Board of Directors approves of this relinquishment.**

IN WITNESS WHEREOF the parties hereto have executed this agreement dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

ATTEST:

Cherry L. Lawson  
Cherry L. Lawson, C.M.C. , City Clerk

CITY COUNCIL  
W. Geno Withelder  
W. Geno Withelder, Mayor Pro-tem (for)  
Mark Wier , Mayor

REVIEWED AND RECOMMENDED BY:

[Signature]  
Chief Right-of-Way Agent

APPROVED AS TO LEGALITY AND FORM:

[Signature]  
Chief Deputy Attorney General  
Chief Counsel, Department of Transportation

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STATE OF NEVADA acting by and through its  
Department of Transportation

[Signature]  
, P.E., Director

STATE OF NEVADA  
CARSON CITY

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, personally appeared before me, the undersigned, a Notary Public in and for Carson City, State of Nevada, \_\_\_\_\_ personally known (or proved) to me to be the \_\_\_\_\_ Director of the Department of Transportation of the State of Nevada who subscribed to the above instrument for the Nevada Department of Transportation under authorization of Nevada Revised Statutes, Chapter 408.205; that he/she affirms that the seal affixed to said instrument is the seal of said Department; and that said instrument was executed for the Nevada Department of Transportation freely and voluntarily and for the uses and purposes therein mentioned.

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IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

PARCEL NO. PREFIX: I-015-CL-  
EXHIBIT "A"

GOVT.  
LOT 5

CITY OF  
MESQUITE

W.O. 20191 ALL OF PARCEL:  
I-015-CL-120.900

"AE"  
A = 16° 22' 31"  
R = 5,084.00'  
L = 1,453.02'

"W"  
A = 18° 22' 31"  
R = 5,000.00'  
L = 1,429.01'

PARCEL 1  
P.M. BK. 100, PG. 54

PIONEER BOULEVARD

ADJ. AREA  
NO. 1

S. 37° 38' 58" E.  
372.92'

N. BNDY. TRACT 42

A.P. 2

PARCEL 2  
P.M. BK. 100, PG. 54

ADJ. AREA  
NO. 2

"W" 65° 02' 28" P.O.T.  
"W" 592° 28' 94" P.T.  
A = 20° 08' 22"  
R = 1,418.09'  
L = 487.98'  
T.S. = N. 72° 28' 34" E.  
A = 7° 09' 11"  
R = 4,800.00'  
L = 589.23'

200.00' LT. "W" 593° 78' 12" P.O.T.

S. 58° 30' 38" W.  
149.78'

1/18 SEC. LINE

N. 1° 25' 24" W.  
424.31'

120.900 XS1  
5.31 AC

GOVT.  
LOT 8

TRACT 42

T. 13 S., R. 71 E.

M.D.M.

SEC. 18  
SEC. 17

COUNTY  
OF  
CLARK

IR-15 R/W

TO WEST MESQUITE  
INTERCHANGE

84.00'  
100.00'

W. BNDY. TRACT 42

IR-15 R/W

AREA TO BE  
RELINQUISHED

CONTROL OF ACCESS  
WITH FENCE OR BARRIER

CL-88 STATE OF NEVADA SUR 09-36

Dept. of Transportation R/W Division

Date: MAY 12, 2010

Sketch Map

Approved: *Holana Olalayan*  
Manager, R/W Engineering

Scale: 1" = 250' Sheet 1 of 1 Sheets

TRACED: MCD

CHECKED: *apm*

Date of last revision: \_\_\_\_\_

\\slr\slr\sur\09-36\sur 09-36.dwg

Mesquite  
Nevada

SURE 09-36  
OFFICE OF THE CITY ENGINEER  
Allen Bell, Director  
10 East Mesquite Boulevard  
Mesquite, Nevada 89027  
(702) 346-5295 Fax: (702) 346-2795  
abell@mesquitenv.gov

September 23, 2009

Susan Martinovich  
Director  
Nevada DOT  
1263 So. Stewart St.  
Carson City, NV 89712

RE: NDOT Property North of I-15  
Within Section 18, Township 13S 67E  
UnNamed Wash Outfall/Detention

Dear Ms. Martinovich:

Some years ago a request was made that this property be transferred to the City to allow planning and construction of a park and retention/detention basin. You will recall the original outlet to the property had been eliminated by NDOT many years ago. At that time of the previous request, we were told the property was in private hands and therefore could not be transferred to the City.

It was recently noted in a review of County records that the property is once again in NDOT ownership, therefore, please reinstate our request that this property be transferred to the City of Mesquite as soon as possible so that we can include in our master plan for development as a park and detention facility.

Attached are copies of previous correspondence relating to this matter.

Sincerely,



Allen Bell, P.E.  
City Engineer

Attachments

Cc: Tim Hacker  
Bill Tanner  
Kurt Sawyer  
Gale Fraiser, CCRFCD

RECEIVED

SEP 23 2009

DIRECTOR'S OFFICE

STATE OF NEVADA  
DEPARTMENT OF TRANSPORTATION

MEMORANDUM

June 4, 2010

To: Margaret E. Orci, Staff Specialist

From: Steve M. Cooke, P.E., Chief, Environmental Services *SMC*

Subject: Environmental Clearance for Transportation Board  
Surplus Property No. SUR 09-36  
Control Section: CL-88  
City of Mesquite  
Parcel: I-015-CL-120.900XS1  
Disposal of NDOT right-of-way located along a portion of IR-15 in the City  
of Mesquite, Clark County, NV  
Disposal by Relinquishment

The Environmental Services Division (ESD) reviewed the requested parcel and found it clear of any documented environmental concern for disposal.

SMC/slp

- c. Paul A. Saucedo, Surplus Property, Committee Chairman  
Halana Salazar, Surplus Property, Vice Chairman



STATE OF NEVADA  
DEPARTMENT OF TRANSPORTATION  
1263 S. Stewart Street  
Carson City, Nevada 89712

JUN - 2 2010

JIM GIBBONS  
Governor

May 26, 2010

SUSAN MARTINOVICH, P.E., Director

SUSAN KLEKAR DIVISION ADMINISTRATOR  
ATTN REBECCA BENNETT R-W PROGRAM MGR  
FEDERAL HIGHWAY ADMINISTRATION  
705 NORTH PLAZA STREET SUITE 220  
CARSON CITY NV 89701

In Reply Refer to:

**Disposal by Relinquishment**

Surplus No.: SUR 09-36

Parcel: I-015-CL-012.900 XS1

Control Section: CL-88

Description: Disposal of NDOT  
right-of-way located along a  
portion of IR15 in the City of  
Mesquite, Clark County, NV

Dear Ms. Klekar:

Enclosed are Exhibit "A" (sketch map) and one set of right-of-way plans with the location hand-sketched onto them depicting the area of surplus property to be relinquished, pursuant to N.R.S. 408.527 and 408.533. It has been determined that the property is no longer needed by NDOT. The aforementioned property is located in the City of Mesquite, Clark County, Nevada.

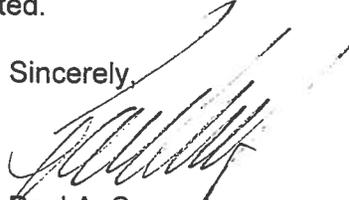
The proposal has been reviewed and it has been determined that:

1. The subject property right will not be needed for Federal-aid Highway purposes in the foreseeable future;
2. The right-of-way being retained is adequate under present day standards for the facility involved;
3. The release will not adversely affect the Federal-aid Highway facility or the traffic thereon;
4. The parcel to be relinquished is not suitable for retention in order to restore, preserve, or improve the scenic beauty adjacent to the highway consonant with the intent of 23 U.S.C. 319 and PL 89-285, Title III, Section 302-305 (Highway Beautification Act of 1965).
5. The parcel to be relinquished has been cleared through the Environmental Division in accordance with CEQ regulations 40 CFR 1508.4 and 23 CFR 771.117(d).
6. The relinquishment of this parcel is being made in accordance with N.R.S. 408.527 and N.R.S. 408.533.

SUSAN KLEKAR, DIVISION ADMINISTRATOR  
FEDERAL HIGHWAY ADMINISTRATION  
May 26, 2010

Your concurrence in this proposal is requested.

Sincerely,



Paul A. Saucedo  
Chief Right-of-Way Agent

pas/meo/dc  
Enclosures

cc: H. Salazar, Manager, Right-of-Way Engineering  
M. Orci, Right-of-Way Staff Specialist

CONCUR:



Rebecca Bennett, Right-of-Way Program Manager

6/2/2010  
Date



1263 South Stewart Street  
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Fax: (775) 888-7201

## MEMORANDUM

March 24, 2014

**To:** Department of Transportation Board of Directors  
**From:** Rudy Malfabon, P.E., Director  
**Subject:** April 14, 2014 Transportation Board of Directors Meeting  
**Item #11:** Review and Ratify the Selection of the Contractor for the Pedestrian Bridge Escalator Replacement Construction Manager at Risk (CMAR) Project in Las Vegas, Nevada, and Approve an Agreement with Whiting-Turner Contracting Company for Pre-Construction Services for this Project – *For Possible Action*

---

### **Summary:**

The Board of Directors is requested to approve the selection of the Construction Manager for the Pedestrian Bridge Escalator Replacement at the Tropicana Avenue/Las Vegas Boulevard South Intersection Construction Manager at Risk (CMAR) Project. Whiting Turner Contracting Company was selected as the Construction Manager for this CMAR Project. The selection was made after a Request for Proposals (RFP) was issued, proposals were received and evaluated to determine a short list of best qualified firms, an Invitation to Interview was issued to short listed teams, and an interview of short listed firms was conducted to determine the most qualified firm. The procurement process was in accordance with the Department's Pioneer Program Process for CMAR as approved by the Board on December 12, 2011; a confidential evaluation and selection plan; and in accordance with applicable sections of Nevada Revised Statute 338 (Attachment A).

### **Background:**

In the 1990's the Department designed and built four (4) pedestrian bridge crossings over the intersection of Tropicana Avenue and Las Vegas Boulevard South in Las Vegas, Nevada for safety and pedestrian convenience (Attachment B). The bridge crossing project included the installation of eight (8) elevators and sixteen (16) escalators along with sixteen (16) equipment rooms that were completed in January of 1995. At the outset, these escalators were of an internal/building type design and did not have the internal components for an exterior application that experiences high winds, high amounts of dust and dirt, and occasional rain. Because of this, the currently installed escalators and associated auxiliary facilities have been experiencing equipment failures causing pedestrian flow disruptions that have led to significant inconvenience to users. Additionally, these escalators have been incurring high maintenance and repair costs due to the ongoing equipment failures. To further complicate matters, some of the currently installed escalator parts are becoming obsolete, and downtime is expected to

extend longer due to all major components (e.g., gear boxes and drive systems) having to be re-built instead of purchased in new condition.

Due to the above mentioned concerns and because of the complexity of the activities involved in an escalator replacement project the Department has decided that is urgent to deliver the project via the CMAR process. The project would consist of improvements to the existing pedestrian bridges and elevators as well as the replacement of the existing sixteen (16) internal/building escalators with new American Public Transportation Association (APTA) compliant external type transit-grade design units. Typically, external transit-grade design units have a greater number of flat steps; sealed bearings; exterior type drive chains; weather tight fittings; weather tight switches, devices, and components; and self-lubricating systems. The currently installed escalators were not equipped with any of these features. In general, the Project would improve the reliability and safety of a highly visible facility that serves millions of visitors to Las Vegas each year.

On August 27, 2013, the Board approved Agreement No. R319-13-015 between the Department and the Las Vegas Convention and Visitors Authority to provide funding for the design and construction of the Project. Project design is presently at the 60% design completion stage. An important goal of this Project is to successfully complete the needed repairs and upgrades and to transfer Project ownership, maintenance, and attendant easement rights to Clark County upon completion. Negotiations are presently underway between the Department and Clark County on an Agreement to transfer the Project to Clark County upon completion. This Agreement will be presented to the Board at a future meeting.

In order to shorten the project delivery time, and to improve upon the quality and constructability of the design, the Transportation Board of Directors authorized the Department to deliver the project using the Construction Manager At Risk (CMAR) delivery method on December 12, 2011.

### **Analysis:**

The Department issued an RFP on October 30, 2013 for this Project. Proposals were evaluated by a five (5) person evaluation panel consisting of Department staff and a Clark County representative. Five (4) firms responded with Proposals and are listed below in alphabetical order as follows:

- Clark & Sullivan Construction, Inc.
- McCarthy Building Companies, Inc.
- Q&D Construction Co., Inc.
- Whiting-Turner Contracting Company

Three (3) of the Proposers were short listed based on their qualifications. Listed below, in alphabetical order, are the firms selected for the short list from the proposals.

- McCarthy Building Companies, Inc.
- Q&D Construction Co., Inc.
- Whiting-Turner Contracting Company

The Department released an invitation to interview to the short listed firms on December 10, 2013. These firms were interviewed on December 19th and 20th, 2013. The evaluation panel for the interview included the same five (5) individuals that served as evaluators on the proposal.

As specified in the RFP and in accordance with the NRS, final selection of the most qualified firm was based 100% on scoring of the interview process. Evaluations of the proposals and interviews were conducted in strict adherence to a detailed and confidential evaluation and selection criteria.

During the solicitation process and prior to the interview, proposers were afforded the opportunity to submit written questions to the Department and responses were provided.

Based on the evaluation criteria for the interview, the Evaluation Panel recommended Whiting-Turner Contracting Company to the Director as the most qualified firm.

The Director approved the Evaluation Panel's recommendation on December 20, 2013 (Attachment C). Notification of Intent to Award to Whiting Turner Contracting Company was provided to all proposers on December 26, 2013.

The Department and Whiting Turner Contracting Company have successfully negotiated an Agreement for the CMAR Pre-Construction Services which will be executed based upon approval of the Transportation Board. Please refer to the Summary of Contract Terms & Conditions (Attachment D). The conformed contract will be available for your review and approval at the Board meeting on April 14, 2014.

The Department has followed all requirements of NRS 338.169 to 388.16985, inclusive and has successfully negotiated a contract with Whiting-Turner Contracting Company.

**List of Attachments:**

- A. Pioneer Program CMAR Process (flowchart)
- B. Location of the Project
- C. Director's Selection Approval Memo (CONFIDENTIAL)
- D. Summary of Contract Terms & Conditions

**Recommendation for Board Action:**

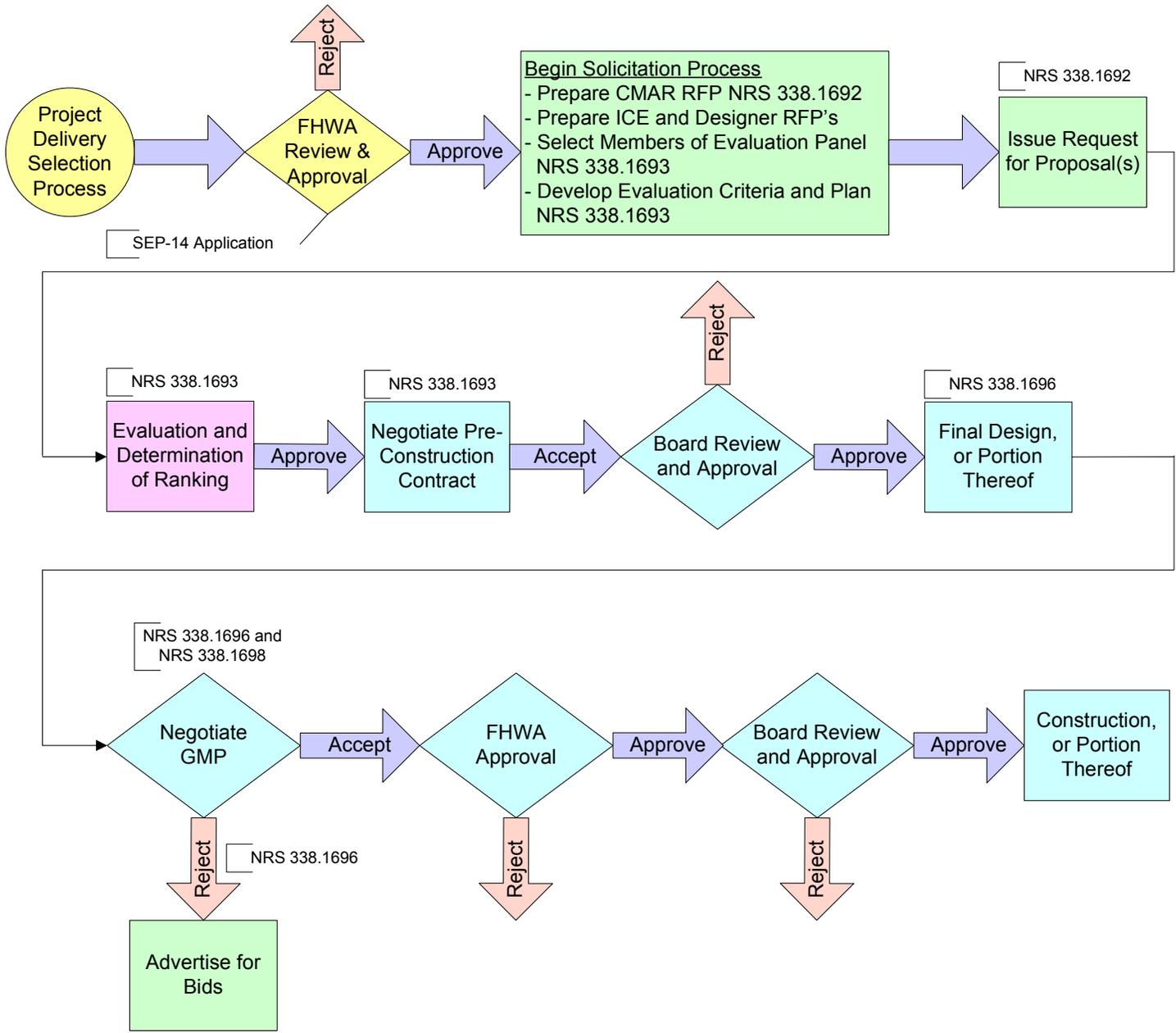
1. Ratify the Selection and Approve a Pre-Construction Services Agreement with **Whiting-Turner Contracting Company.**

**Prepared by:**

Luis Garay, Project Manager

# NDOT CMAR Process

November 7, 2011



## Legend



= Identification Phase



= Evaluation Phase



= Solicitation Phase



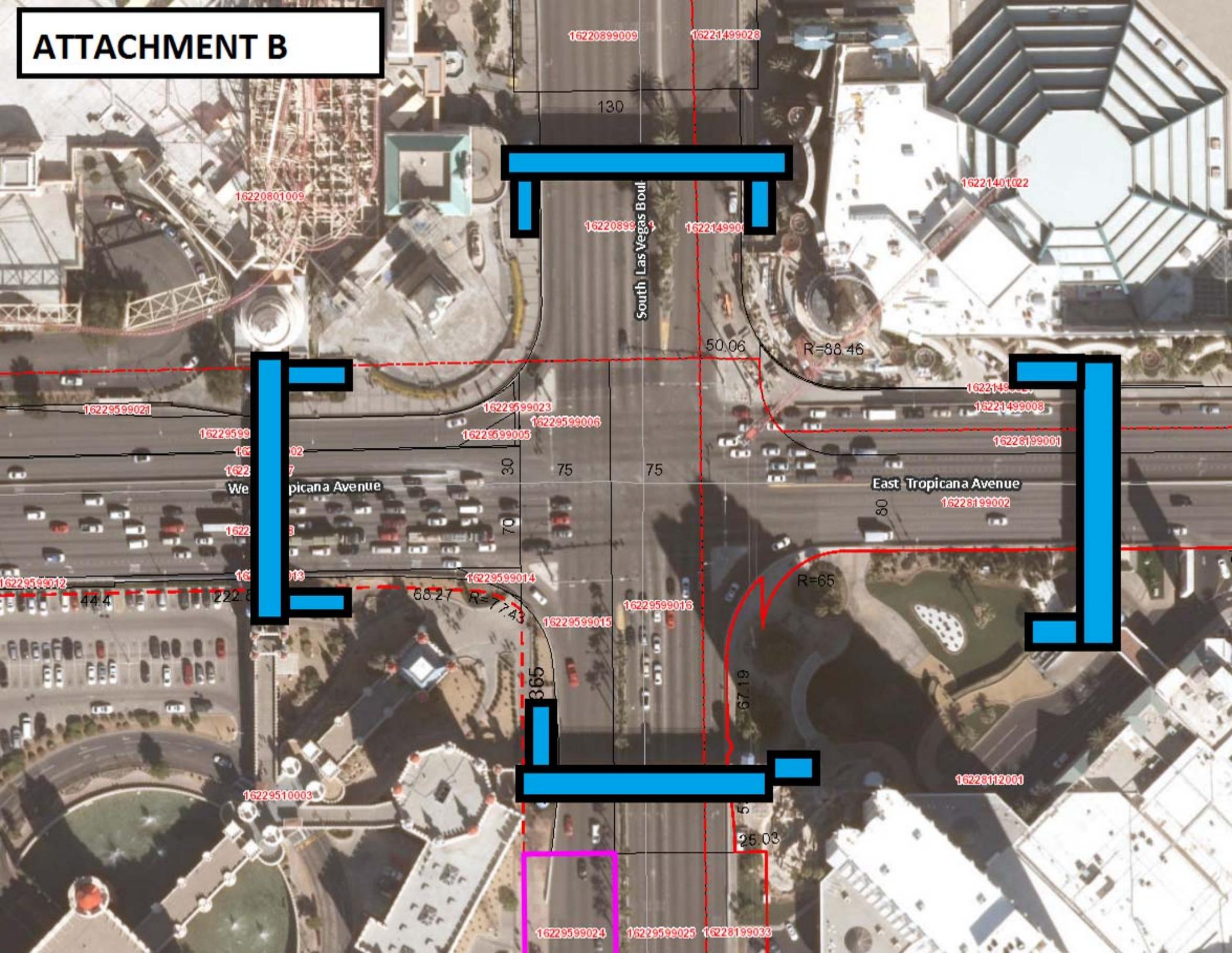
= Award/Implementation Phase

### Terminology

RFP = Request for Proposal

GMP = Guaranteed Maximum Price

# ATTACHMENT B



ATTACHMENT B

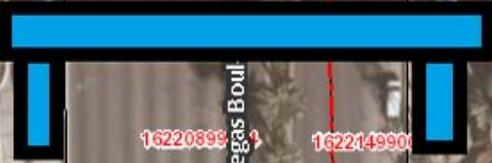
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South Las Vegas Blvd

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R=88.46

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16229599006

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02

16229599005

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07

30

75

75

West Tropicana Avenue

East Tropicana Avenue

16228199002

16229599003

03

70

80

16229599012

44.4

16229599013

13

16229599014

68.27

R=77.43

R=66

16229599018

16229599015

67.19

665

16229510003

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Item 11 - Attachment C

**CONFIDENTIAL**

# ATTACHMENT D

## Summary of Contract Terms and Conditions Construction Manager At Risk (CMAR) - Preconstruction Services Pedestrian Bridge Escalators Replacement Project Tropicana Ave./Las Vegas Blvd

### Scope of Work:

The scope of work is for preconstruction services in development of the Pedestrian Bridge Escalators Replacement Project located at the Tropicana Ave./Las Vegas Blvd Intersection. These improvements include

The project elements during preconstruction include full and active collaboration with the Department's design team (Jacobs), the Construction Manager at Risk (CMAR) and the Independent Cost Estimator (ICE) on the following items:

- Cost estimation coordination to establish agreed upon methods for quantification and communication of scope and quantities - Risk management, including identification, quantification and mitigation strategies
- Detailed and continuous design and constructability review to achieve a higher quality final design and more certain construction cost.
- Open Book Cost Estimates at the 60% and 90% design level to discuss assumptions and cost allocations with the Department.
- Detailed construction schedule estimates prepared at the 60% and 90% design levels to analyze the impacts of design elements and opportunities for improvement
- Provide a Guaranteed Maximum Price for construction services based on final engineering plans and specifications.

### Schedule:

The schedule for these preconstruction services as estimated by the Department includes a single GMP with construction beginning in Fall 2014. The Construction Manager will participate in all milestones below with the Department to develop the final plans and GMP.

Design Review No. 1/ Schedule /Opinion of Probable Construction Cost (OPCC)/Risk Assessment Meeting	May 2014
Design Review No. 2/Schedule /OPCC/Risk Assessment Meeting	May 2014
Final Design Review No.3/Schedule /OPCC/Risk Assessment Meeting	July 2014
Guaranteed Maximum Price (GMP)	October 2014
Construction Contract Award (approximately)	Fall 2014

**Price:**

The negotiated agreement price for preconstruction services will be disclosed to the Board members during the Transportation Board meeting.

**Major Terms & Conditions:**

Strong contractual controls have been placed on the work to be conducted during cost development and negotiation of GMP. Detailed information is required to be provided as to assumed production rates, overhead and profit rates and allocation and risk assumptions and contingencies. Primary to this point is the procurement of Independent Cost Estimator (ICE) to verify the costs presented by the Construction Manager. Should these cost estimates not be in agreement, the Department has the opportunity to elect to advertise the construction contract competitively.

**Prepared by:**

Luis Garay, Project Manager



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## MEMORANDUM

March 27, 2014

**To:** Department of Transportation Board of Directors  
**From:** Rudy Malfabon, Director  
**Subject:** April 14, 2014 Transportation Board of Directors Meeting  
**Item #12:** Receive an Update on the Southern Nevada High Occupancy Vehicle (HOV) Plan – *Informational Item Only*

---

### **Summary:**

The Department of Transportation is currently working on an update to the 2007 Southern Nevada High Occupancy Vehicle (HOV) Plan. The update of the HOV plan is entering the stakeholder and public involvement phase. This Board presentation is the kick-off for the public involvement phase and is an opportunity for staff to update the Board on proposed changes to the HOV system with the construction of the I-15/US 95 HOV flyover as a part of Project NEON.

### **Background:**

The HOV system in Southern Nevada began with the HOV lanes on US 95 that were included in the US 95 Environmental Impact Statement (EIS) with a Record of Decision (ROD) in 2000. Nevada's first HOV lanes were constructed as a part of the US 95, Martin Luther King (MLK) Boulevard to Craig Road project. Near the completion of the US 95 HOV lanes, NDOT began work on the 2007 Southern Nevada HOV Plan. In November 2007, the US 95 HOV lanes were opened from MLK to Rainbow Boulevard. The HOV lanes were expanded on US 95 north to Ann Road and onto Summerlin Parkway with the construction of a flyover ramp from US 95 to Summerlin Parkway.

The 2007 Southern Nevada HOV Plan provides a map for the development of the HOV system on the freeways in Southern Nevada. The HOV Plan established strategies for developing near term and long term HOV facilities. The near term system on I-15 and US 95 requires construction of the US 95/I-15 HOV connector, a major element of Project NEON.

I-15 Express lanes from Russell Road to Sahara Avenue opened in 2010. The express lanes were extended as a part of the I-15 South Design-Build project. The re-evaluation of the I-15 South Environmental Assessment extended the express lanes to Silverado Ranch Road and committed to the conversion to HOV lanes with the completion of the US 95/I-15 HOV connector (Project NEON).

The Project NEON included HOV lanes from Sahara Avenue on I-15 to the existing HOV lanes on US 95.

**Analysis:**

In 2012, the 2035 Clark County Regional Traffic Demand Model, that included the mode choice element, became available. With access to the 2035 traffic model and Project NEON imminent, NDOT proceeded to update the 2007 HOV plan. The traffic modeling and analysis phase of the plan update is nearing completion and the project is moving into the agency, stakeholder, and public involvement phase. As a kick-off to the public involvement phase, this presentation will update the Transportation Board on the HOV system.

Some of the issues to be presented in the public involvement phase include:

- a) Conversion of the I-15 express lanes to HOV lanes and connection to the US 95 HOV lanes
- b) Hours of operation of the HOV lanes – peak hour only vs. 24 hour (recommended)
- c) Ingress and egress - continuous or limited (recommended)
- d) Vehicle eligibility
- e) Direct connector interchange locations

**List of Attachments:**

- A. Figure 21. Near and Long Term Priorities for HOV Freeway Facility Implementation, 2007 Southern Nevada HOV Plan

**Recommendation for Board Action:**

Informational item only.

**Prepared by:**

John M. Terry, P.E., Asst. Director - Engineering

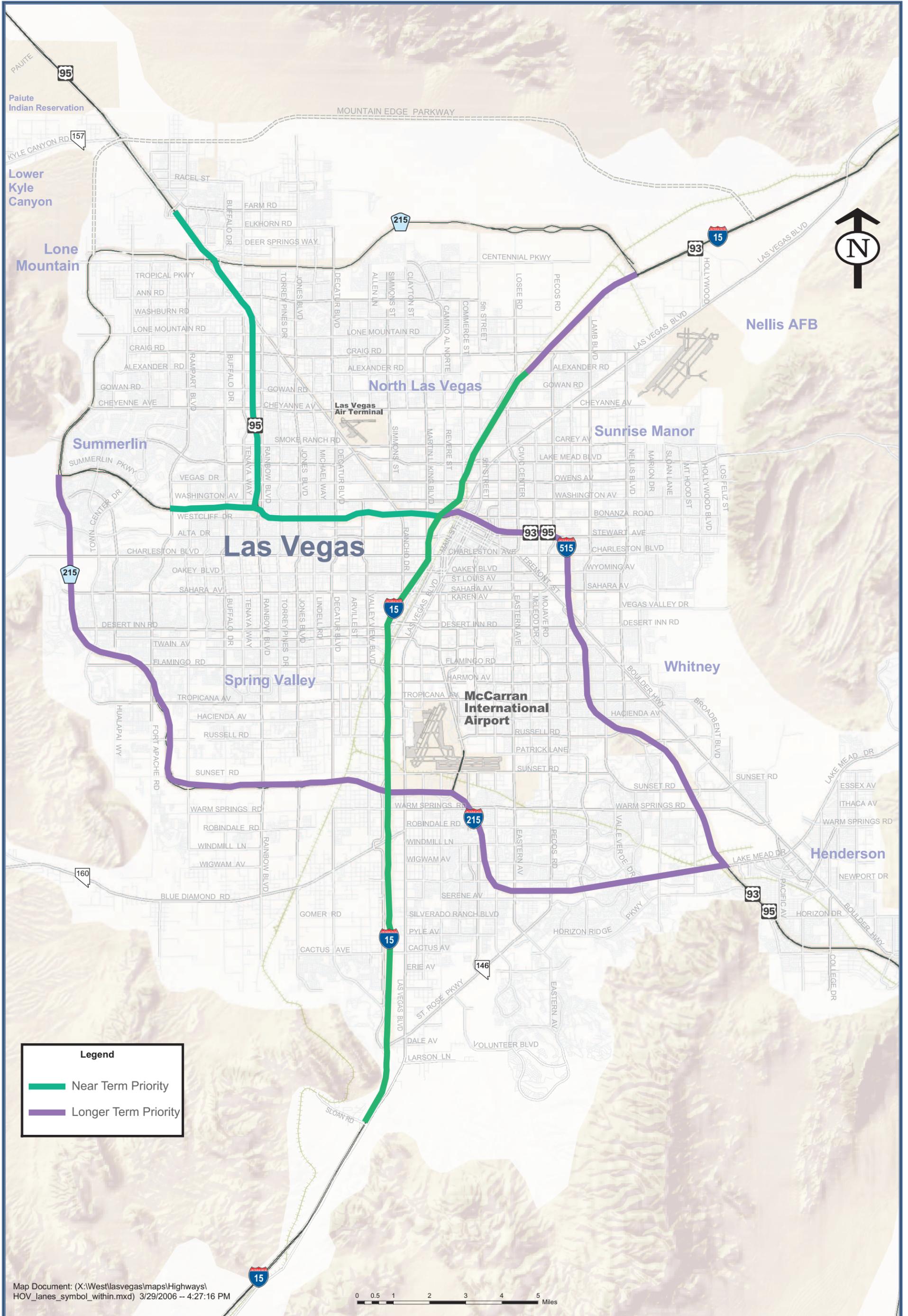


Figure 21. Near and Long Term Priorities for HOV Freeway Facility Implementation



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## MEMORANDUM

March 30, 2014

**TO:** Department of Transportation Board of Directors  
**FROM:** Rudy Malfabon, Director  
**SUBJECT:** April 14, 2014 Transportation Board of Directors Meeting  
**ITEM #13:** Receive a Report of Status of Project NEON – *Informational Item only*

---

### **Summary:**

This item is a follow up discussion from below Board Meetings:

- June 25, 2012
- November 6, 2012
- April 8, 2013
- June 10, 2013
- October 14, 2013
- January 13, 2014

The following is an update on the progress of the Public Private Partnership (P3) for Project NEON.

### Schedule

The overall procurement schedule remains the same.

### Project Improvements Since June 2013

Through refined engineering and other engineering decisions, the project team is working to include several additional project improvements. These changes have been summarized and additional costs are provided in the Analysis portion of this memo.

### **Background:**

The purpose of this agenda item is to provide an update on Project NEON progress in preparation for the May Board Meeting, where the Department will request the Transportation Boards approval to release the Request for Proposals (RFP) for Project NEON.

### **Analysis:**

#### Schedule

The Project Team, through the development of the RFP, recognizes the importance of the Transportation Board's understanding of the commitments in the Public Private Agreement (PPA). Providing this informational briefing on Project NEON to the Board in April 2014 and a more detailed presentation on the RFP in May 2014 will not delay the procurement process.

The Board will be asked to approve the release of the final RFP at the May 2014 Transportation Board Meeting.

**Major Milestones:**

May 2014 – Final Draft RFP Approval by Transportation Board  
May 2014 – Release of Final RFP to the Shortlisted Proposers  
October 2014 – Technical Proposals Due  
November 2014 – Financial Proposals Due  
December 2014 – Notification of Preferred Proposer  
February 2015 – Commercial Close  
April 2015 – Financial Close

**Project Improvements Added Since June 2013**

As presented in the January Board Meeting, Phase 2 of the project is an additional benefit to the travelling public and local businesses. The inclusion of Phase 2 in the project reduces costs and impacts to the travelling public in constructing the project sooner and taking advantage of the economy of scale the public private partnership provides. The Interlocal Agreement with the City of Las Vegas for Phase 2 has been executed.

The project team has finalized the scope and limits of the Operations and Maintenance for the P3 contract.

Through the finalization of the O&M scope, the project team has included 4 additional bridge replacements. All of these structures will reach their life expectancy during the term of the project. Including them in the project scope helps manage pricing unknowns as well as requiring the Developer to reconstruct the bridges during the original construction, reducing the impact to the travelling public, taking advantage of economy of scale, and provides the Developer with performance certainty during the term of the agreement.

Active Traffic Management Systems (ATMS) have been incorporated into the project. ATMS will allow FAST to respond to traffic incidents and to help pre-position traffic during the construction of the P3 project. FAST, the Freeway and Arterial System of Transportation, is the agency that operates the Department's traffic management devices in Southern Nevada, such as dynamic message signs, CCTV cameras and ramp meters. The ATMS will include gantries (overhead steel structures) with small digital messaging signs over each lane of traffic, which will alert traffic ahead of time of lane closures and allow FAST to adjust the speed limits of each lane in the event of an emergency or a change in traffic routing.

As a result of the connection of the High Occupancy Vehicle (HOV) lanes from US 95 to the Express Lanes on I-15, the inside lanes will be resurfaced and restriped to accommodate the necessary striping for the future system. This resurfacing will occur from the south end of the project footprint to approximately the I-15/I-215 Interchange.

**List of Attachments:**

None

**Recommendation for Board Action:**

Informational item only.

**Prepared by:** Cole Mortensen, Senior Project Manager



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(Use Local Information)

## MEMORANDUM

April 14, 2014

**TO:** Department of Transportation Board of Directors  
**FROM:** Rudy Malfabon, P.E., Director  
**SUBJECT:** April 14, 2014 Transportation Board of Directors Meeting  
**ITEM #14** Briefing on the Nevada Department of Transportation (NDOT's) Research Program – For possible action

---

### **Summary:**

NDOT, like every other State DOT, conducts a research program to identify and implement transportation innovation. Our staff of 5 is responsible for the product evaluation and research programs with a total annual budget of about \$2,000,000. The product evaluation program's main deliverable is the Qualified Product List; the research program identifies problems, selects and oversees effective study methodology, and delivers results to transportation partners. Other responsibilities of the research section under other federal programs are the Local Technical Assistance Program and the research library.

### **Background:**

FHWA oversees our compliance with 23 U.S. Code 505, which requires that each DOT shall spend no less than two percent of each annual apportionment on planning and research, and that no less than 25 percent of those funds shall be spent on research, development, and technology transfer activities. This minimum is the core of our research funding, varying slightly as each annual apportionment fluctuates, but is typically very close to \$1,700,000. Portions of these funds are transferred directly to other programs, usually without a required match of State funds. (see attachment). The remainder of the research funds are for NDOT research activities and agreements that are funded 80 percent federal funds with required 20 percent State match.

One eligible activity for these funds is our Product Evaluation program, which maintains our Qualified Products List for contractors' reference on bid items for active contracts. This task utilizes about \$100,000 annually at 80 percent federal / 20 percent State funds.

The research project selection process is documented in our Research Manual. This manual was last approved by FHWA in 2003 and is currently being updated for review and approval by FHWA. The project selection process is rigorous, calling on input from the Research Advisory Committee: subject matter experts within the Department in the fields of construction, materials, maintenance and asset management, structures, design, performance analysis, safety engineering, accounting, research, traffic information, traffic operations, and all three districts. Additionally, an FHWA representative serves as a non-voting member of the Research Advisory Committee.

The Research Coordinator solicits problem statements from NDOT staff and its transportation partners, including local public agencies. The Research Advisory Committee reviews and ranks the problem statements, and the Research Coordinator solicits proposals for the higher ranking problem statements. This proposal solicitation is an open process, shared with private industry, delivered throughout the Nevada System of Higher Education, and offered nationally through the National Cooperative Highway Research Program. Proposals are ranked by the Research Advisory Committee, and the prioritized list is forwarded to the Department's Research Management Committee, which consists of the two Deputy Directors and the four Assistant Directors. Proposals are funded based on rankings, budget availability, and the support that each potential project would lend toward the Department's mission and goals.

Research agreements are managed by the research section, and each project is overseen by a panel of subject matter experts from within the Department and other transportation partners.

Deliverables from all projects are shared internally and publicly through the Department's library, nationally at the Transportation Research Board library, and with all project stakeholders.

**Analysis:**

Research is a Federally funded and required program, which is conducted by the research unit within the planning division of NDOT. Effective conduct of the research process enables research staff to deliver problem-solving resources unavailable by routine means to other areas in the Department. This program is a benefit to the Department, our transportation partners and the State of Nevada.

**Recommendation for Board Action:**

The Department will present the research program on an annual basis to the Transportation Board for informational purposes.

**List of Attachments:**

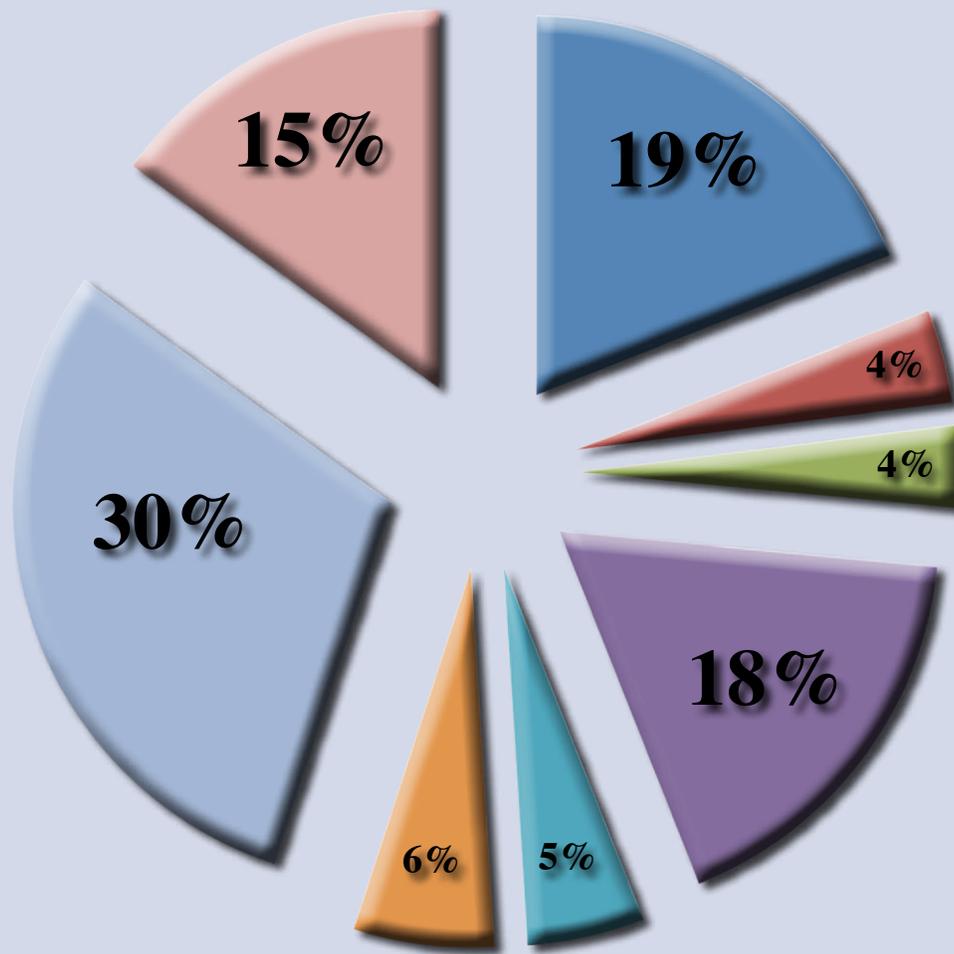
- A. List of research activities and funding amounts

**Prepared by:**

Ken Chambers, Research Chief

# Where do we spend research funds?

Total=\$2 Million Annually



	National Cooperative Highway Research Program	\$380,000 for 19%
	Transportation Research Board	\$80,000 for 4%
	Strategic Highway Research Program 2	\$70,000 for 4%
	Research Staff Salaries (2 Research, 1 Produce Evaluation, 1 Admin)	\$350,000 for 18%
	Product Evaluation	\$100,000 for 5%
	Pooled-Fund Projects (lead by other entities)	\$120,000 for 6%
	On-Going Research Projects	\$600,000 for 30%
	Available For New Projects	\$300,000 for 15%

---

**Total \$2,000,000**



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(Use Local Information)

## MEMORANDUM

April 14, 2014

**TO:** Department of Transportation Board of Directors  
**FROM:** Rudy Malfabon, P.E., Director  
**SUBJECT:** April 14, 2014 Transportation Board of Directors Meeting  
**ITEM #:15** Briefing on the University Transportation Center (UTC) – Safety and Operations of Large Area Rural/Urban Intermodal Systems (SOLARIS) Research Consortium – For possible action

---

### **Summary:**

The Research and Innovative Technology Administration (RITA) is a research agency within the U.S. Department of Transportation. RITA administers research grants to University Transportation Centers (UTCs), which are universities that conduct research in specific areas of transportation. The University of Nevada, Reno (UNR), leads a consortium of universities from Nevada, Arizona, and New Mexico. The consortium's name is SOLARIS.

This year, RITA selected SOLARIS to receive a research grant for \$2.8 million to be used for transportation research and technology transfer. The Department is requesting that the Transportation Board approve an investment of \$1 million total in State funds over the next four years to leverage a portion of the UTC federal funds for research projects to be approved by the Department.

### **Background:**

This item was previously presented at the March 10, 2014, Transportation Board meeting. Pursuant to the Transportation Board's direction, additional information is being provided in response to questions raised previously.

#### **PREVIOUS UTC EFFORTS IN NEVADA**

Under a prior federal transportation bill known as SAFETEA-LU, the University of Nevada, Las Vegas (UNLV), was approved as a UTC. NDOT provided matching funds of up to \$500,000 per year for three years for research projects for topics ranging from developing software to meet the Americans with Disabilities Act requirements, to expanding efforts to prevent cracking in concrete as it cures. The Regional Transportation Commission of Southern Nevada also provided matching funds. The UTC grant to UNLV under SAFETEA-LU has ended.

#### **CURRENT UTC EFFORTS**

In the latest application cycle, the SOLARIS application was selected by RITA for funding. This successful application relies on Nevada universities and the Desert Research Institute (DRI) to perform most of the work, while making use of academic expertise in Arizona and New Mexico as well.

### PROCESS FOR SELECTING RESEARCH PROJECTS

Technical experts from NDOT, RTC of Washoe County, RTC of Southern Nevada and fellow transportation subject matter experts comprise an 18 member advisory committee that will rank transportation research proposals. Eight advisory committee members are from NDOT, four from Nevada RTCs, and one at-large member that coincidentally serves on NDOT's Transportation Board. The appropriate Assistant Director from NDOT will be asked to provide concurrence in using matching funds for the highest ranking projects in their area.

### PROCESS FOR ADMINISTERING RESEARCH PROJECTS

The Department's Research Section will administer a project agreement and coordinate technical panels, similar to the process used for the existing research program. A master agreement for participation in the UTC program with task orders for each research project could be utilized to streamline the administrative process.

### MATCHING FEDERAL FUNDS

The members of the SOLARIS research consortium are UNR; UNLV; DRI; University of New Mexico (UNM); and Arizona State University (ASU). Although the New Mexico DOT and Arizona DOT have not committed matching funds at this time, the respective universities anticipate providing an in-kind match, estimated as follows, for research they are to perform:

- University of New Mexico: \$280,000
- Arizona State University: \$140,000

Together with the proposed Nevada match (subject to Transportation Board approval), this amounts to \$1,420,000 over 4 years to match \$1,400,000 of federal research funds granted to the SOLARIS research consortium.

### DISTRIBUTION OF RESEARCH

The following table provides a summary of 29 initial proposals which have not yet been reviewed by the advisory committee. If a proposed topic is unacceptable to the advisory committee, other topics will be solicited to ensure the research is beneficial to NDOT.

UNIVERSITY	# of PROJECTS	EST. BUDGET (includes match)
UNR	7	\$398 k
UNLV	14	\$833 k
DRI	1	\$47 k
ASU	4	\$230 k
UNM	3	\$230 k

While the proposals have not yet been selected and this does not allocate the entire amount of research funds, it provides a general sense of the anticipated distribution. The goal is that Nevada state funds support research performed by Nevada institutions.

### INDIRECT COST RATE

The agreed indirect cost rate for research conducted by Nevada universities is 23% per October 17, 2006, letters to UNR and UNLV. The federally acceptable rate is typically higher based on eligible costs; however, UNR and UNLV have agreed to conduct research at the modified, lower rate.

## RESEARCH PROJECT BENEFITS

While the actual research projects remain to be selected, the following are examples of the direct benefits that would be realized from conducting this research in the area of safety, engineering, operations and maintenance:

- Confirming recent national design standards for bridge design (LRFD)
- Improve Pedestrian Safety at Signalized Intersections
- In-Depth Analysis of High Crash Locations Involving Pedestrians, Cyclists and Motorcyclists
- Improving Rapid Repair Methods for Concrete Pavements
- Investigate Effectiveness of Surface Treatments (Cape Seal) in Northern Nevada
- Laboratory Evaluation of Thin Asphalt Overlays

In addition, there are indirect benefits such as introducing graduate students to NDOT with the intent of attracting them to our workforce. Conducting viable research can elevate the national standing of Nevada's engineering colleges. Research findings are often presented at the annual Transportation Research Board meeting, making the results accessible to a national network of academia and transportation agencies. Research also promotes the Nevada system of higher education.

### **Analysis:**

Additional state funding of \$250,000 annually over four years would leverage federal UTC grant funds, which would effectively double our research investment. The UTC advisory committee, which has a majority of NDOT representatives, will rank research proposals. Selected proposals performed by Nevada institutions will be administered by NDOT staff. By partnering with this UTC, we are better able to address our specific needs to support our mission and goals.

### **Recommendation for Board Action:**

The Department recommends approval of the use of up to \$1,000,000 of state highway funds over the next four years to support the Nevada University Transportation Center, working with the research consortium known as SOLARIS.

### **List of Attachments:**

- A. SOLARIS UTC Advisory Committee Members**
- B. Select List of Research Projects**
- C. Letters to UNR and UNLV Establishing 23% Indirect Cost Rate**
- D. Map of UTC Locations**

### **Prepared by:**

Ken Chambers, Research Chief

**SOLARIS UTC Advisory Committee Members**

<b>Name</b>	<b>Expertise</b>	<b>Position/Agency</b>
Tracy Larkin <i>(Chair)</i>	Operations, Design	Deputy Director, NDOT
Mike Fuess	Traffic Operations	Assistant District Engineering, District 2, NDOT
Ken Mammen	Safety	Chief Safety Engineer, NDOT Planning
Steve Merrill	Design/GIS	Chief Engineer, Location Division, NDOT
Troy Martin	Structure	Engineer, Bridge Division, NDOT
Nathan Morian	Pavement	Engineer, Materials Division, NDOT
Randy Travis	Traffic Information/Planning	Chief, Traffic Information, NDOT
Manju Kumar	Operations, Planning	Research Coordinator, NDOT
Jim Poston	ITS/Operations	Engineer, RTC of Washoe County
Scott Gibson	Pavement	Engineer, RTC of Washoe County
Fred Ohene	Traffic Operations	Assistant General Manager, RTC Southern Nevada
Raymond Hess	Transportation Planning	Manager, Planning Division, RTC Southern Nevada
Tom Skancke	High Speed Rail	President/CEO, Las Vegas Global Economic Alliance
Mohammad Moabed	Pavement/Traffic	Former District 2 Engineer, NMDOT
Parveez Anwar	Pavement Materials	Engineer, NMDOT
Sarath Joshua	ITS/Safety	Program Manager, Maricopa Association of Governments
Scott E. Nodes	Traffic/Design	Arizona DOT
Robert Bertini	ITS/Traffic	Professor, Portland State University

**Select List of Proposed Research Projects**  
 (Selection to be determined; excerpt of proposed projects)

<b>Proposal ID</b>	<b>Title</b>
UTC2014-01	Correlation of Shear Design between AASHTO LRFD Bridge Design Specifications and the AASHTO Guide Specifications
UTC2014-02	Effectiveness of Cape Seal Pavement Preservation Technique in Northern Nevada
UTC2014-04	Laboratory Evaluation of Thin Asphalt Overlays for Pavement Preservation in Nevada
UTC2014-05	SHRP 2 Naturalistic Driving Study Data Usage Guidance for Nevada
UTC2014-06	Safe and Efficient Pedestrian Accommodation at Coordinated Signalized Intersections
UTC2014-07	Web-Based NDOT Crash Data Query and Visualization
UTC2014-09	Concept-Stage Feasibility study of public and private partnership for high speed rail in Nevada
UTC2014-10	Developing a video based crash and incident data collection system
UTC2014-11	Developing and testing a LED system to improve pedestrian safety in Nevada
UTC2014-13	Development of Novel Cementitious Binders to Replace Portland Cement
UTC2014-14	High Early-Strength High-Performance Concrete for Rapid Pavement Repair
UTC2014-15	Use of Self-Consolidating Concrete (SCC) for Precast, Prestressed Bridge Girders
UTC2014-16	In-depth investigation of the system currently used by the Las Vegas Metropolitan Police Department to store and process crash data and all other interconnected systems
UTC2014-17	Development of a Safety Analyst Database for Nevada



KENNY C. GUINN  
Governor

STATE OF NEVADA  
DEPARTMENT OF TRANSPORTATION  
1263 S. Stewart Street  
Carson City, Nevada 89712  
October 17, 2006

RECEIVED  
OFFICE OF  
SPONSORED PROJECTS  
2006 OCT 23 AM 9:50

JEFFREY FONTAINE, P.E., Director

In Reply Refer to:  
PSD 9.09

Cindy M. Kiel, Director  
Sponsored Projects Administration/325  
206 Ross Hall  
University of Nevada, Reno  
Reno, Nevada 89557-2040

Dear Ms. Kiel:

The Nevada Department of Transportation (NDOT) has revised the policy regarding the Indirect Cost Rate for NDOT research project Agreements with all higher education institutions including the University of Nevada at Reno and the University of Nevada at Las Vegas. Starting for FY 2007 research projects, 23% of modified total direct costs shall be applied as the Indirect Cost Rate for all NDOT research Agreements in the Research, Development, and Technology Transfer (R, D&T) program.

The Indirect Cost Rate refers to the rate of facilities and administrative costs used by higher education institutions to compensate for their expenses on building, equipment, operation & maintenance, library and administrative components. The modified total direct costs consist of all salaries and wages, fringe benefits, materials, supplies, services, and travel, but shall exclude equipment, capital expenditures, tuition remission, rental costs of off-site facilities, scholarships, and fellowships as well as subgrant or subcontract. The NDOT "Billing Invoice Requirements for Research Projects" and "Standard Budget Itemization for NDOT Research Projects" are enclosed for your information.

If you have any questions concerning this policy, please feel free to contact me at (775) 888-7220 or via email at [the@dot.state.nv.us](mailto:the@dot.state.nv.us).

Sincerely,

Tie He, Ph.D.  
Research Division Chief

TH:th  
Enclosures  
cc:

Dr. Ted Batchman, UNR; Dr. Manos Maragakis, UNR; Dr. Peter Sebaaly, UNR; Dr. Tian Zong, UNR; Susan Martinovich, NDOT; Kent Cooper, NDOT; Bob Dimmick, NDOT; and Elaine Martin, NDOT





KENNY C. GUINN  
Governor

STATE OF NEVADA  
DEPARTMENT OF TRANSPORTATION  
1263 S. Stewart Street  
Carson City, Nevada 89712  
October 17, 2006

Attachment C

JEFFREY FONTAINE, P.E., Director

In Reply Refer to:  
PSD 9.09

Ms. Rochelle Athey, Executive Director  
Office of Sponsored Programs  
University of Nevada, Las Vegas  
4505 Maryland Parkway  
Las Vegas, Nevada 89154-1037

Dear Ms. Athey:

The Nevada Department of Transportation (NDOT) has revised the policy regarding the Indirect Cost Rate for NDOT research project Agreements with all higher education institutions including the University of Nevada at Reno and the University of Nevada at Las Vegas. Starting for FY 2007 research projects, **23% of modified total direct costs** shall be applied as the Indirect Cost Rate for all NDOT research Agreements in the Research, Development, and Technology Transfer (R, D&T) program.

The Indirect Cost Rate refers to the rate of facilities and administrative costs used by higher education institutions to compensate for their expenses on building, equipment, operation & maintenance, library and administrative components. The modified total direct costs consist of all salaries and wages, fringe benefits, materials, supplies, services, and travel, but shall exclude equipment, capital expenditures, tuition remission, rental costs of off-site facilities, scholarships, and fellowships as well as subgrant or subcontract. The NDOT "Billing Invoice Requirements for Research Projects" and "Standard Budget Itemization for NDOT Research Projects" are enclosed for your information.

If you have any questions concerning this policy, please feel free to contact me at (775) 888-7220 or via email at [the@dot.state.nv.us](mailto:the@dot.state.nv.us).

Sincerely,

Tie He, Ph.D.  
Research Division Chief

TH:th  
Enclosures

cc:

Dr. Eric Sandgren, UNLV; Dr. Nader Ghafoori, UNLV; Dr. Shashi Nambisan, UNLV; Dr. Harry Teng, UNLV; Susan Martinovich, NDOT; Kent Cooper, NDOT; Bob Dimmick, NDOT; and Elaine Martin, NDOT

RECEIVED  
INTERNAL AUDIT

OCT 18 2006

TRANSPORTATION DEPT.



# ATTACHMENT D

## Summary of Contract Terms and Conditions Construction Manager At Risk (CMAR) - Preconstruction Services Pedestrian Bridge Escalators Replacement Project Tropicana Ave./Las Vegas Blvd

### Scope of Work:

The scope of work is for preconstruction services in development of the Pedestrian Bridge Escalators Replacement Project located at the Tropicana Ave./Las Vegas Blvd Intersection. These improvements include

The project elements during preconstruction include full and active collaboration with the Department's design team (Jacobs), the Construction Manager at Risk (CMAR) and the Independent Cost Estimator (ICE) on the following items:

- Cost estimation coordination to establish agreed upon methods for quantification and communication of scope and quantities - Risk management, including identification, quantification and mitigation strategies
- Detailed and continuous design and constructability review to achieve a higher quality final design and more certain construction cost.
- Open Book Cost Estimates at the 60% and 90% design level to discuss assumptions and cost allocations with the Department.
- Detailed construction schedule estimates prepared at the 60% and 90% design levels to analyze the impacts of design elements and opportunities for improvement
- Provide a Guaranteed Maximum Price for construction services based on final engineering plans and specifications.

### Schedule:

The schedule for these preconstruction services as estimated by the Department includes a single GMP with construction beginning in Fall 2014. The Construction Manager will participate in all milestones below with the Department to develop the final plans and GMP.

Design Review No. 1/ Schedule /Opinion of Probable Construction Cost (OPCC)/Risk Assessment Meeting	May 2014
Design Review No. 2/Schedule /OPCC/Risk Assessment Meeting	May 2014
Final Design Review No.3/Schedule /OPCC/Risk Assessment Meeting	July 2014
Guaranteed Maximum Price (GMP)	October 2014
Construction Contract Award (approximately)	Fall 2014

**Price:**

The negotiated agreement price for preconstruction services will be disclosed to the Board members during the Transportation Board meeting.

**Major Terms & Conditions:**

Strong contractual controls have been placed on the work to be conducted during cost development and negotiation of GMP. Detailed information is required to be provided as to assumed production rates, overhead and profit rates and allocation and risk assumptions and contingencies. Primary to this point is the procurement of Independent Cost Estimator (ICE) to verify the costs presented by the Construction Manager. Should these cost estimates not be in agreement, the Department has the opportunity to elect to advertise the construction contract competitively.

**Prepared by:**

Luis Garay, Project Manager



1263 South Stewart Street  
Carson City, Nevada 89712  
Phone: (775) 888-7440  
Fax: (775) 888-7201

## MEMORANDUM

March 28, 2014

**TO:** Department of Transportation Board of Directors  
**FROM:** Rudy Malfabon, Director  
**SUBJECT:** April 14, 2014 Transportation Board of Directors Meeting  
**Item #16:** Briefing on the Nevada Pacific Parkway Project – *Informational item only*

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### Summary:

At the February 10<sup>th</sup>, 2014 Transportation Board Meeting, the Department reported on the history and status of the Nevada Pacific Parkway Project, near Fernley, Nevada. The Transportation Board asked NDOT to report back in April with answers to several questions that were asked. NDOT staff reviewed the meeting minutes from the February Transportation Board Meeting, from which, the following information was prepared and will be presented to the Board on April 14<sup>th</sup>.

### State Economic Development Funds

It was presented by Deputy Director Hoffman that State Economic Development Funds were approved for use in the amount of \$4.8M for this project by the Transportation Board on October 12<sup>th</sup>, 2005. After extensive research, it was found that State Economic Development Funds were not actually approved for use. These were State Highway “set-aside” Funds to help with rural economic development, mistakenly referred to as “State Economic Development Funds” in the original agreement. The NDOT rural set-aside program was already firmly in place in 2005 that provided State Gas Tax Funds to projects like this one.

### Control of Access Valuation

“Control of Access” openings were required on the north and south sides of the proposed interchange to allow traffic to legally access Interstate 80 at Nevada Pacific Parkway.

Control of access is a property right owned by NDOT and does have value. This value is determined by our right-of-way property appraisal process which considers the increased value to adjacent properties with improved access. The appraised value was determined to be \$5,765,000. Instead of NDOT seeking payment from the Developer in the amount of \$5.765M, it was agreed NDOT would donate the value of the access rights to the interchange project in exchange for the Developer completing the Nevada Pacific Parkway from the I-80 Interchange to US 50A.

## Project Phases and Costs

### Phase 1 – I-80 Interchange Project (Completed in 2009)

Estimated Construction Cost = \$14,500,000

Actual Construction Cost = \$10,885,329

*After further research, it was concluded that the savings from phase 1 were not, technically, rolled into phase 2 of the project. NDOT retained the roughly \$4.0M in savings and then programmed \$2.74M in eligible Federal Funds for phase 2 of the project.*

### Phase 2 – Nevada Pacific Pkwy (Northern Section) (Completed in 2012)

Estimated Construction Cost = \$2,887,824

Actual Construction Cost = \$2,859,552

### Phase 3 – Nevada Pacific Pkwy (Southern Section) (Currently Under Design)

Estimated Construction Cost = \$10M

*The Developer Agreement/Amendment between NDOT and Sonterra LLC requires construction of this phase to be completed by April 1, 2019.*

## Federal and Matching Fund Percentages

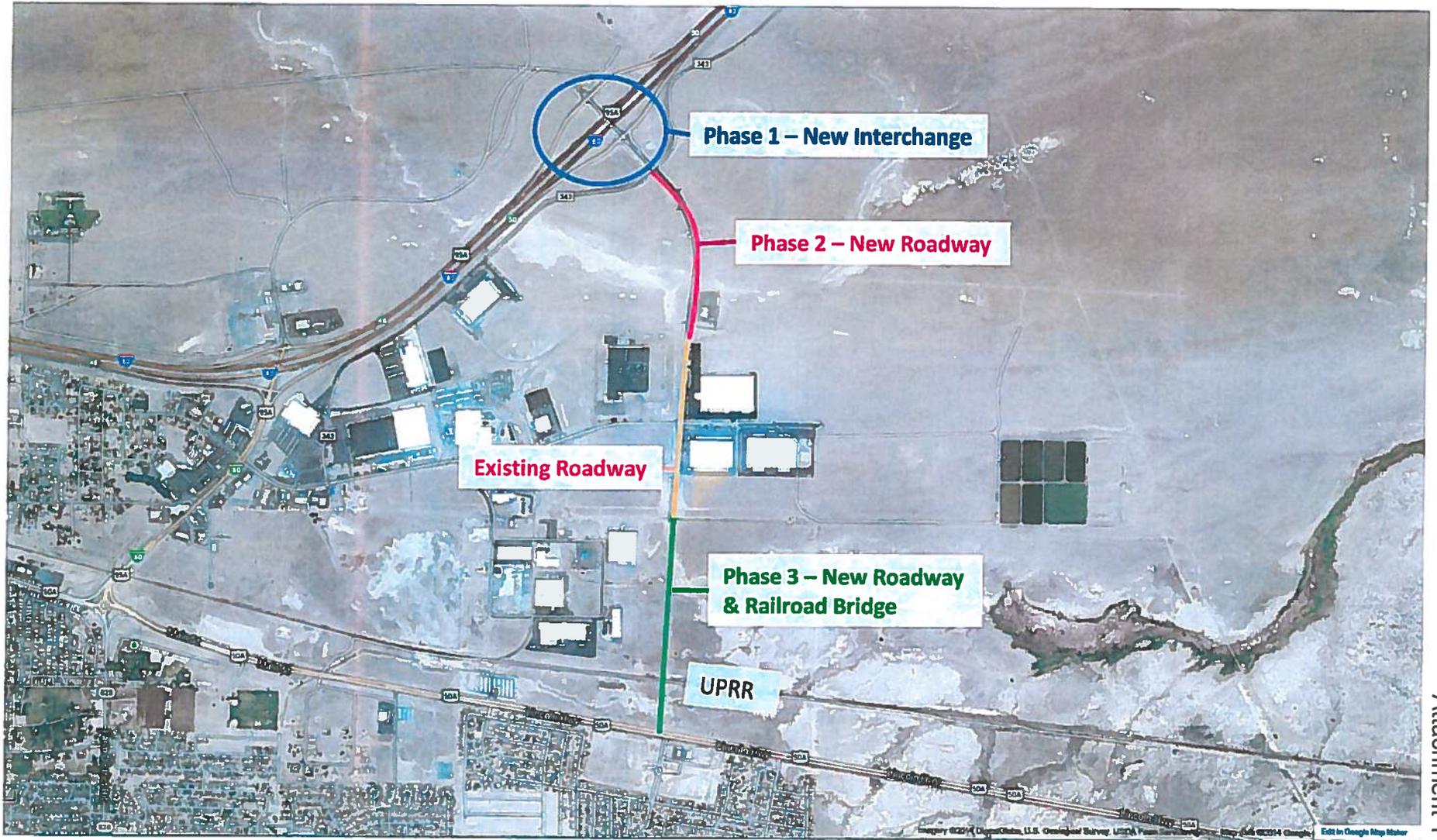
There was a total of \$ 11,459,168 in Federal Funds expended to construct phases 1 and 2. Of this amount, an earmark of \$535,608 was reimbursed at 100%, not requiring matching funds. The remainder, \$10,923,560 was reimbursed at 95% Federal, 5% matching funds.

## List of Attachments:

1. Project Phasing Map
2. Original Nevada Pacific Parkway Developer Agreement
3. Amendment to the Original Nevada Pacific Pkwy Agreement
4. Control of Access Memorandum for the 9/20/07 Transportation Board Meeting
5. September 20, 2007 Transportation Board Meeting Minutes
6. October 12, 2005 Transportation Board Meeting Minutes (refer to pages 7&8)

Prepared by: Bill Hoffman, Deputy Director

# Nevada Pacific Pkwy. Project Site Map



Agreement Number PR 348-06-01C

**DEVELOPER AGREEMENT**

This Agreement, dated this 9<sup>th</sup> day of October, 2006 by and between the STATE OF NEVADA, acting by and through it's DEPARTMENT OF TRANSPORTATION, hereinafter called the DEPARTMENT, and Sonterra Development Company, LLC (By: Wade Company, LLC and By: Lakemont Communities, LLC), 5525 Kietzke Lane, Suite 102, Reno, Nevada 89511 hereinafter called the DEVELOPER.

**WITNESSETH:**

WHEREAS, pursuant to the provisions contained in Chapter 408 of the Nevada Revised Statutes, the Director of the DEPARTMENT may enter into agreements necessary to carry out the provisions of the Chapter; and

WHEREAS, the purpose of this agreement is to set forth certain funding, design, construction, maintenance and administrative responsibilities for Interstate 80 (I-80) at the Nevada Pacific Parkway Interchange in Femley, Nevada, hereinafter called the PROJECT; and

WHEREAS, the PROJECT will be of benefit to the DEVELOPER, DEPARTMENT and to the people of the State of Nevada by providing additional access to and from I-80; and

WHEREAS, the total costs of the PROJECT are estimated to be Sixteen Million Two Hundred Fifty Thousand and 00/100 Dollars (\$16,250,000.00); and

WHEREAS, the DEVELOPER is willing and able to perform the services described herein.

NOW, THEREFORE, In consideration of the premises and of the mutual covenants herein contained, it is agreed as follows:

**ARTICLE I - DEVELOPER AGREES**

1. To pay all construction costs associated with the PROJECT in excess of Five Million Six Hundred Fifteen Thousand Eighty Five and 00/100 Dollars (\$5,615,085.00) allocated by the DEPARTMENT, consisting of Four Million Eight Hundred Thousand and 00/100 Dollars (\$4,800,000.00) in State Economic Development Funds, Four Hundred Twenty Seven Thousand Five Hundred and 00/100 Dollars (\$427,500.00) in Fiscal Year 2005 Interstate Maintenance Discretionary Funds and Three Hundred Eighty Seven Thousand Five Hundred Eighty Five and 00/100 Dollars (\$387,585.00) in Fiscal Year 2006 Interstate Maintenance Discretionary Funds. These amounts of Funding will be subject to any Fund distribution limitations that may be imposed by the Federal Highway Administration. The Funds will be distributed in accordance with Funding allocations specified for each Fund. The DEVELOPER estimates that the PROJECT construction costs, not including construction engineering costs, are Fifteen Million and 00/100 Dollars (\$15,000,000.00). This estimate does not include right-of-way or design engineering costs, for which the DEVELOPER will be responsible.

2. To be responsible for the performance of and all costs associated with the design engineering for the PROJECT. Design of the PROJECT will be to DEPARTMENT and Federal standards, specifications, regulations and policies. DEVELOPER agrees to submit design plans, right-of-way maps and legal descriptions to DEPARTMENT at several stages of completion for review and comment. The submittal stages are Preliminary Design Submittal, Intermediate Design Submittal, Discipline Review Submittal, Quality Assurance (100%) Submittal and the Plans, Specifications and Estimate (PS&E) Design Submittal. Developer agrees to incorporate DEPARTMENT review comments in all submittals. The design shall also include a drainage impact report and an electrical power source. Final plans will be submitted on or before July 14, 2007 to allow DEPARTMENT time to process the plans for advertisement on or before September 28, 2007.

3. To acquire all right-of-way necessary to provide for a full control of access facility and the DEVELOPER agrees to donate it to the DEPARTMENT. A full control of access facility includes acquisition of access and abutters rights relative to I-80 necessary for the PROJECT. Certification for the right-of-way for the PROJECT, the right-of-way maps and legal descriptions must be submitted to the DEPARTMENT on or before August 25, 2007.

4. As part of the right of way certification DEVELOPER will hire a professional land surveyor licensed in the State of Nevada to provide property surveys, prepare and contact for title reports and all parcel calculations necessary for the PROJECT, including all access and abutters rights along I-80 for the interchange ramps, permanent easements for slopes, maintenance and drainage necessary for the PROJECT. Surveyor will be responsible for all parcel calculations for the access road system to be conveyed to the appropriate County. Surveyor will prepare legal descriptions and right of way plans to DEPARTMENT standards for those property takings that will be conveyed to the DEPARTMENT.

5. On or before August 31, 2007, DEVELOPER will submit an Irrevocable Letter of Credit in the amount of Nine Million Three Hundred Eighty Four Thousand Nine Hundred Fifteen and 00/100 Dollars (\$9,384,915.00) to DEPARTMENT for the PROJECT construction costs above the DEPARTMENT'S contribution. The purpose of the deposit is to secure the DEVELOPER'S obligations hereunder. If upon completion of PROJECT, a final amount is still due, or if the funds in the account become insufficient to cover DEVELOPER'S share of the PROJECT costs, or if the low bid exceeds this amount, DEVELOPER will make a payment for the remaining balance within fifteen (15) calendar days of receipt of the billing invoice from DEPARTMENT. DEPARTMENT will not advertise PROJECT without this payment.

6. To fund the five percent (5%) match, as required by the Federal Highway Administration, for all Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) Funds allocated towards PROJECT costs.

7. To deposit an Irrevocable Letter of Credit, cashiers check or any other acceptable financial instrument acceptable to DEPARTMENT in an amount of One Hundred Thousand and 00/100 Dollars (\$100,000.00) within seven (7) calendar days of execution of this Agreement. This is the estimated in-house cost to DEPARTMENT, as a result of man-hours spent on reviewing and getting PROJECT ready to advertise, should the PROJECT not go forward. If this amount is not received within this time frame this Agreement will be terminated.

8. The access road to the PROJECT will be a public facility thus open to the general public.

9. To maintain or provide maintenance for all of the PROJECT improvements including the riding surfaces of all roads until the PROJECT improvements have been completed and accepted by the DEPARTMENT.

10. Prior to advertising, to provide written confirmation from the appropriate county or city that all the access roads to the PROJECT will be maintained as public facilities by the respective county or city or their designee

11. To be responsible for meeting all requirements and obtaining all clearances and permits for the PROJECT. These may include permits from other local, state and federal agencies.

12. To complete the National Environmental Policy Act (NEPA) requirements and to provide an Environmental Assessment document to the DEPARTMENT when completed, prior to DEPARTMENT advertising the PROJECT.

13. To complete the review of all change orders submitted by the DEPARTMENT, which pertain to the PROJECT, and return comments within Forty-Eight (48) hours excluding weekends and holidays, from service of change order request. No response from DEVELOPER within this time frame will constitute DEVELOPER'S consent and acceptance and the DEPARTMENT will proceed with change orders so as not to delay the PROJECT. The DEPARTMENT shall have final authority to approve or disapprove work completed within its Right-of-Way. No change orders involving changes in scope of work will be made without DEVELOPER'S approval.

14. Provide a bridge and retaining wall type selection report to the DEPARTMENT for review and approval prior to the Preliminary Design Submittal. Type selection reports will include all design standards proposed for the structures on this PROJECT.

15. Design the pavement structural sections for the PROJECT. The structural sections shall conform to the "State of Nevada Department of Transportation Pavement Structural Design and Policy Manual". A copy of all roadbed structural sections shall be submitted to the DEPARTMENT's Materials Division for review prior to the intermediate submittal for approval.

16. Drainage design and submittals (plans and reports) shall follow DEPARTMENT'S Drainage Manual.

17. Copies of all PROJECT documentation, calculations and correspondence shall be delivered to the DEPARTMENT upon completion of the PROJECT.

18. All reports and notes for special provisions shall be delivered to the DEPARTMENT on cd's using the most current version of WordPerfect. Delivery of a hard copy of reports and notes for special provisions shall also be required. Files converted to the most current version of WordPerfect format, from other word processing formats, will not be accepted by the DEPARTMENT.

19. To design and fund the maintenance of landscaping and aesthetics for the PROJECT in conformance with the State of Nevada Landscape and Aesthetics Master Plan and the Landscape and Aesthetics Master Plan for I-80. The DEVELOPER shall fund the maintenance, which may include assistance through either Lyon County or the City of Fernley and shall facilitate a maintenance agreement between the DEPARTMENT and either Lyon County or the City of Fernley.
20. To coordinate with Lyon County to include the PROJECT in the Lyon County appropriate fiscal year Transportation Improvement Plan prior to PROJECT advertisement.
21. To retain an engineering firm during construction of the PROJECT to provide for construction support including shop drawing reviews, requests for information, field visits and other tasks as required by the DEPARTMENT.
22. To provide utility adjustment /relocation design plans for approval. Adjustments and/or relocations must be in conformance with State Policy and Law, as well as Federal Policies and the Code of Federal Regulations.
23. To certify utility work status. Certification must identify company and if the work has been completed or will be constructed concurrent with the highway construction.
24. To designate a contact person for all design and construction related questions and actions. If for any reason this contact person can no longer continue in this capacity the DEVELOPER shall propose a replacement that is satisfactory to the DEPARTMENT.
25. All design drawings must be created and delivered to the DEPARTMENT in MicroStation ".dgn" format for archiving upon completion of the PROJECT. Drawing files converted to MicroStation format from AutoCad, or other formats, will not be accepted by the DEPARTMENT. Files must be delivered using CD-ROM (ISO 9660) or tape (QIC 80). If the files require fewer than five (5) 3.5" floppy disks, the floppy disks may be substituted in lieu of CD-ROM or the tape. Files may be delivered compressed using "WINZIP 5.5" software. Delivery of a hard copy of design drawings shall also be required. All files must adhere to the DEPARTMENT'S standards.
26. All roadway design engineering files shall be created and delivered to the DEPARTMENT in InRoads format for archiving upon completion of the PROJECT. Design files converted to InRoads format, from other formats, will not be accepted by the DEPARTMENT. Files must be delivered using CD-ROM (ISO 9660) or tape (QIC 80). If the files require fewer than five (5) 3.5" floppy disks, the floppy disks may be substituted in lieu of CD-ROM or the tape. Files may be delivered compressed using "WINZIP 5.5" software. All files must adhere to the DEPARTMENT'S standards.
27. To allow DEPARTMENT the right to occupy property for construction, inspection and maintenance of PROJECT prior to the formal conveyance of the I-80 right-of-way from DEVELOPER to DEPARTMENT.

#### ARTICLE II - DEPARTMENT AGREES

1. To advertise, award, and administer the construction of PROJECT in accordance with DEPARTMENT standards, policies, procedures and Federal Law and requirements, after receiving the deliverables from DEVELOPER as provided in ARTICLE I.

2. To program Five Million Six Hundred Fifteen Thousand Eighty Five and 00/100 Dollars (\$5,615,085.00) consisting of Four Million Eight Hundred Thousand and 00/100 Dollars (\$4,800,000.00) in State Economic Development Funds, Four Hundred Twenty Seven Thousand Five Hundred and 00/100 Dollars (\$427,500.00) in Fiscal Year 2005 Interstate Maintenance Discretionary Funds and Three Hundred Eighty Seven Thousand Five Hundred Eighty Five and 00/100 Dollars (\$387,585.00) in Fiscal Year 2006 Interstate Maintenance Discretionary Funds towards construction costs for the PROJECT. These amounts of Funding will be subject to any Fund distribution limitations that may be imposed by the Federal Highway Administration. The Funds will be distributed in accordance with Funding allocations specified for each Fund.

3. To program One Million Six Hundred Thousand and 00/100 Dollars (\$1,600,000.00) in SAFETEA-LU SECTION 1702 – HIGH PRIORITY PROJECTS Funding as approved by the United States House of Representatives and Six Million and 00/100 Dollars (\$6,000,000.00) in SAFETEA-LU SECTION 1702 – HIGH PRIORITY PROJECTS Funding as approved by the United States Senate, per the Memorandum HIPA-10 dated October 31, 2005 and per Section 1101(a)(16) SAFETEA-LU (SAFETEA-LU, P.L. 109-59), for PROJECT construction costs. These amounts of Funding will be subject to any Fund distribution limitations that may be imposed by the Federal Highway Administration. The Funds will be distributed in accordance with Funding allocations specified for each Fund.

4. To provide funding for all incurred construction engineering costs.

5. To advertise, award and administer the construction of the PROJECT in accordance with DEPARTMENT standards, policies and procedures after DEVELOPER meets all terms and conditions, as agreed in ARTICLE I -DEVELOPER AGREES.

6. The DEPARTMENT will draw upon the Irrevocable Letter of Credit, obtained by the DEVELOPER, on a bi-weekly basis or as necessary to cover the actual construction costs of the PROJECT. DEVELOPER will be notified of the actual construction costs of the PROJECT and the funds will be withdrawn from the account by DEPARTMENT by a billing invoice and a copy of the pay estimate. If the funds in the account become insufficient to cover DEVELOPER'S share of PROJECT costs, the DEPARTMENT reserves the right to request a cashiers check from DEVELOPER, and upon request, DEVELOPER will provide a cashier's check within seven (7) calendar days.

7. After the work has been performed and the DEPARTMENT has received all certificates, guarantees, releases, affidavits and any other documentation required by the Contract Specifications and Special Provisions, the DEPARTMENT will provide the DEVELOPER with a statement of all transactions processed through the DEPARTMENT and an itemized list of the actual cost of all work performed. If a balance is due, DEVELOPER will be billed within thirty (30) calendar days for the unpaid costs. Any remaining unexpended principal on the Irrevocable Letter of Credit will be released to DEVELOPER upon completion of PROJECT.

8. To review the design plans at Preliminary, Intermediate, Discipline, Quality Assurance Design, PS&E, and Final submittals and all required submittals as outlined in this Agreement and the Project Design Development Manual. Areas of concern will be directed to DEVELOPER to incorporate said comments. DEPARTMENT will prepare the Special Provisions and reproduce the contract plans.

9. To allow the DEVELOPER to observe, review, and inspect PROJECT with escort by a DEPARTMENT Resident Engineer. All items of concern will be reported to the DEPARTMENT'S Resident Engineer and not to the Contractor.

10. To submit for review all change orders to DEVELOPER. No change orders involving changes in scope of work will be made without DEVELOPER'S approval.

11. To designate a contact person for all design and construction related questions and actions.

### ARTICLE III - IT IS MUTUALLY AGREED

1. The term of this Agreement shall be from the date first written above through and including the 31st day of December, 2010 or until construction of all improvements contemplated herein have been completed and accepted by the DEPARTMENT, save and except the responsibility for maintenance as specified herein.

2. That Four Million Eight Hundred Thousand and 00/100 Dollars (\$4,800,000.00) in State Economic Development Funds and the construction engineering costs to be paid by the DEPARTMENT were approved by the Transportation Board at its October 12, 2005 meeting. A condition of receipt of the State Economic Development Funds is that the PROJECT is ready to advertise in the approved fiscal year. DEPARTMENT will recommend to the State Transportation Board that the State Economic Development Funds be moved forward to the 2007 Annual Work Program. Final approval will need to be granted by the State Transportation Board.

3. The PROJECT will advertise on or before September 28, 2007 or the STATE Economic Development Funds will be rescinded and DEPARTMENT will retain the One Hundred Thousand and 00/100 Dollars (\$100,000.00) identified within Paragraph 7 of ARTICLE I - DEVELOPER AGREES.

4. Allocation of Fiscal Year 2005 Interstate Maintenance Discretionary Funds were approved in the amount of Four Hundred Twenty Seven Thousand Five Hundred and 00/100 Dollars (\$427,500.00) for PROJECT construction costs. These amounts of Funding will be subject to any Fund distribution limitations that may be imposed by the Federal Highway Administration. The Funds will be distributed in accordance with Funding allocations specified for each Fund.

5. Allocation of Fiscal Year 2006 Interstate Maintenance Discretionary Funds were approved in the amount of Three Hundred Eighty Seven Five Hundred Eighty Five and 00/100 Dollars (\$387,585.00). These amounts of Funding will be subject to any Fund distribution limitations that may be imposed by the Federal Highway Administration. The Funds will be distributed in accordance with Funding allocations specified for each Fund.

6. Allocation of One Million Six Hundred Thousand and 00/100 Dollars (\$1,600,000.00) in SAFETEA-LU SECTION 1702 – HIGH PRIORITY PROJECTS Funding as approved by the United States House of Representatives and Six Million and 00/100 Dollars (\$6,000,000.00) in SAFETEA-LU SECTION 1702 – HIGH PRIORITY PROJECTS Funding as approved by the United States Senate, per the Memorandum HIPA-10 dated October 31, 2005 and per Section 1101(a)(16) SAFETEA-LU (SAFETEA-LU, P.L. 109-59), will be made towards PROJECT construction costs. These amounts of Funding will be subject to any Fund distribution limitations that may be imposed by the Federal Highway Administration. The Funds will be distributed in accordance with Funding allocations specified for each Fund. DEVELOPER is solely responsible for payment of all construction costs incurred prior to advertising the PROJECT, as stated in Paragraph 5 of ARTICLE I - DEVELOPER AGREES.

7. DEPARTMENT will reimburse DEVELOPER for the SAFETEA-LU SECTION 1702 – HIGH PRIORITY PROJECTS Funding at an established rate of one fifth (1/5) per year over a five (5) year period, as set forth by the Federal Highway Administration and as the appropriated funds are made available to the DEPARTMENT.

8. PROJECT costs and funding are estimated as follows:

<b>Costs</b>	
DEVELOPER P.E.	\$ 1,250,000.00
CONSTRUCTION	\$15,000,000.00
<b>Construction Funding</b>	
DEPARTMENT (State Economic Development)	\$ 4,800,000.00
DEPARTMENT (Federal)	\$ 427,500.00
DEVELOPER (Federal reimbursed by DEPARTMENT)	\$ 387,585.00
DEVELOPER (Federal reimbursed by DEPARTMENT)	\$ 1,800,000.00
DEVELOPER (Federal reimbursed by DEPARTMENT)	\$ 6,000,000.00
DEVELOPER	\$ 1,784,915.00
<b>Total Construction Costs</b>	<b>\$15,000,000.00</b>

9. The PROJECT will require a new access within the existing I-80 Control-of-Access. This access has value and must be declared as surplus by the DEPARTMENT Transportation Board of Directors. Value is determined by the comparison of the value of the adjacent property with and without access offset by any benefits to the DEPARTMENT beyond the donation or right-of-way and monetary contributions by the DEVELOPER. The DEVELOPER shall purchase this property right. DEVELOPER agrees to construct a roadway, with a minimum of five lanes, to connect Nevada Pacific Parkway southerly to US 50, including a grade separation over the Union Pacific Railroad. The DEPARTMENT and DEVELOPER will negotiate an agreed upon time frame and mechanism for assuring completion of the roadway as part of the Control-of-Access disposal. In exchange, the DEPARTMENT will recommend to the Transportation Board to consider the value of the Control-of-Access as a contribution to the PROJECT. Final approval will need to be granted by the State Transportation Board.

10. All notices or other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by telephonic facsimile with simultaneous regular mail, or mailed certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party at the address set forth below:

**FOR DEPARTMENT:** Jeffrey Fontaine, P.E., Director  
Attn: Glenn R. Petrenko, P.E.  
Nevada Department of Transportation  
Roadway Design Division  
1263 South Stewart Street  
Carson City, NV 89712  
Phone: (775) 888-7592  
Fax: (775) 888-7401  
E-mail: gpetrenko@dot.state.nv.us

**FOR DEVELOPER:** Sonterra Development Company, LLC  
c/o Wade Company, LLC  
5525 Kletzke Lane, Suite 102  
Reno, NV 89511  
Attention: Joe Wade  
Fax: (775) 348-1835

**And** Sonterra Development Company, LLC  
c/o Lakemont Communities Nevada, LLC  
140 Diamond Creek Place  
Roseville, CA 95747  
Attention: Edward Johanson  
Fax: (916) 960-0655

11. The estimate was provided by the DEVELOPER, and the DEPARTMENT does not provide any warranty that the estimate is an accurate reflection of the final cost. The DEPARTMENT disclaims any such warranty. DEPARTMENT will not award the PROJECT should the apparent low bid contract amount exceed the amount of funding available unless DEVELOPER submits an additional Letter of Irrevocable Credit for the increased amount within fifteen (15) days after the bid. The final costs may vary widely depending on the Contractor's bid prices. DEVELOPER shall be wary in its reliance on the estimates set forth in the Agreement.

12. The DEPARTMENT will award the total contract in accordance with its rules and procedures under the Standard Specifications for Road and Bridge Construction to the lowest responsive and responsible bidder. The DEPARTMENT will receive written concurrence from DEVELOPER, fifteen (15) days prior to award. The DEPARTMENT has the right to reject any and all bid proposals determined not to be in the best interest of the State. Should it be determined by DEVELOPER not to award PROJECT, the One Hundred Thousand and 00/100 Dollars (\$100,000.00) referenced in Paragraph 6 of ARTICLE I – DEVELOPER AGREES will be retained by the DEPARTMENT.

13. All or any property presently owned by either party shall remain in such ownership upon termination of the this Agreement, and there shall be no transfer of property between the two parties during the course of this Agreement, except as defined herein.

14. To the fullest extent permitted by law, the DEVELOPER shall defend, indemnify and hold harmless the State of Nevada, and the employees, officers and agents of the State of Nevada from any liabilities, damages, losses, claims, actions or proceedings, including, without limitation, reasonable attorney's fees, that are caused by the negligence, errors, omissions, reckless or intentional misconduct of the DEVELOPER or the employees or agents of the DEVELOPER in the performance of this Agreement.

15. The DEPARTMENT does not waive and intends to assert available NRS Chapter 41 liability limitations in all cases. Agreement liability of both parties shall not be subject to punitive damages. Actual damages for any State breach shall never exceed the amount of funds which have been appropriated for payment under this Agreement, but not yet paid, for the fiscal year budget in existence at the time of the breach.

16. Failure to declare a breach or the actual waiver of any particular breach of the Agreement or its material or nonmaterial terms by either party shall not operate as a waiver by such party of any of its rights or remedies as to any other breach.

17. An alteration ordered by the DEPARTMENT which substantially changes the services provided for by the expressed intent of this Agreement will be considered extra work, and shall be specified in an Amendment which will set forth the nature and scope thereof. The method of payment for extra work shall be specified at the time the amendment is written.

18. This Agreement and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Nevada. The parties consent to the exclusive jurisdiction of the Nevada district courts for enforcement of this Agreement.

19. The illegality or invalidity of any provision or portion of this Agreement shall not affect the validity of the remainder of the Agreement and this Agreement shall be construed as if such provision did not exist. The unenforceability of such provision shall not be held to render any other provision or provisions of this Agreement unenforceable.

20. It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of any part of this Agreement to create in the public or any member thereof a third party beneficiary status hereunder, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement.

21. Each party agrees to keep and maintain under generally accepted accounting principles full, true and complete records and documents pertaining to this Agreement and present, at any reasonable time, such information for inspection, examination, review, audit and copying at any office where such records and documentation is maintained. Such records and documentation shall be maintained for three (3) years after final payment is made.

22. The parties are associated with each other only for the purposes and to the extent set forth in this Agreement. Each party is and shall be a public agency separate and distinct from the other party and shall have the right to supervise, manage, operate, control and direct performance of the details incident to its duties under this Agreement.

23. Neither party shall assign, transfer or delegate any rights, obligations or duties under this Agreement without the prior written consent of the other party.

24. Pursuant to NRS 239.010, information or documents may be open to public inspection and copying. The parties will have the duty to disclose unless a particular record is confidential by law or a common law balancing of interests.

25. Each party shall keep confidential all information, in whatever form, produced, prepared observed or received by that party to the extent that such information is confidential by law or otherwise required by this Agreement.

26. This Agreement constitutes the entire agreement of the parties and such are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Agreement specifically displays a mutual intent to amend a particular part of this Agreement, general conflicts in language between any such attachment and this Agreement shall be construed consistent with the terms of this Agreement. Unless otherwise expressly authorized by the terms of this Agreement, no modification or amendment to this Agreement shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto and approved by the Attorney General.

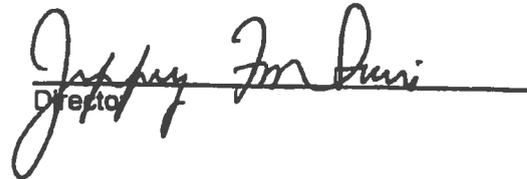
IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

Sonterra Development Company  
Nevada Limited-Liability Company

State of Nevada, acting by and through its  
DEPARTMENT OF TRANSPORTATION

By: Wade Company, LLC, a Nevada  
Limited-Liability Company

  
Joe Wade, Managing Member

  
Director

  
Patricia M. Wade, Managing Member

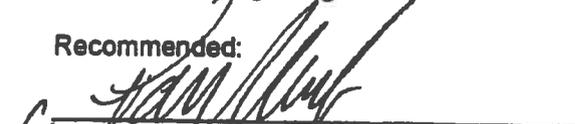
By: Lakemont Communities Nevada, LLC, a  
Nevada Limited Liability Company

  
Edward Johanson, President

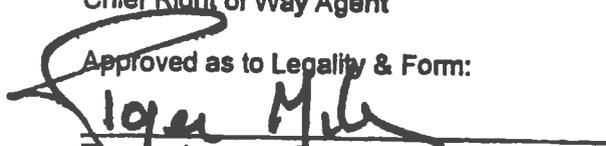
Recommended:

  
Frank Csiga  
Chief Road Design Engineer

Recommended:

  
Heidi Mireles  
Chief Right of Way Agent

Approved as to Legality & Form:

  
Deputy Attorney General

Amendment No. 1 to  
Developer Agreement Number PR348-06-010

This Agreement is made and entered into this 20<sup>th</sup> day of August, 2008, between the State Of Nevada, Department Of Transportation, hereinafter referred to as the DEPARTMENT, and Sonterra Development Company, LLC (By: Wade Company, LLC and By: Lakemont Communities, LLC), 5525 Kietzke Lane, Suite 102, Reno, Nevada 89511, hereinafter called the DEVELOPER.

WITNESSETH:

WHEREAS, on October 9, 2006 the parties entered into Developer Agreement No. PR348-06-010 to set forth funding, design, construction, maintenance and administrative responsibilities for Interstate 80 (I-80) at the Nevada Pacific Parkway Interchange, hereinafter called the PROJECT; and

WHEREAS, the purpose of this amendment is to further define the conditions of the donation of the Control-of-Access, define additional requirements concerning the Sierra Pacific Power relocation and adjust submittal dates, hereinafter called ADDITIONAL WORK; and

WHEREAS, the ADDITIONAL WORK will be of benefit to the DEPARTMENT and to the people of the State of Nevada by assuring US 50A is completed in a timely manner; and

WHEREAS, the DEVELOPER gains additional time to complete the design of the project; and

WHEREAS, the DEVELOPER is willing and able to perform the services described herein; and

NOW, THEREFORE, in consideration of the premises and of the mutual covenants herein contained, it is agreed as follows:

1. Article I, Paragraph 1, is amended by deleting it in its entirety and inserting in its place:

"1. To pay all construction for the PROJECT in excess of Thirteen Million Fifty-Eight Thousand Nine Hundred Thirty-Six and 99/100 Dollars (\$13,058,936.99) in State and Federal Funds as summarized in Article III, Paragraph 8, as amended. These amounts of Federal Funding will be subject to any Fund distribution limitations that may be imposed by the Federal Highway Administration. The DEVELOPER estimates that the PROJECT construction costs, not including construction engineering costs, are Fourteen Million and No/100 Dollars (\$14,000,000.00). This estimate does not include right-of-way, utilities or design engineering costs, for which the DEVELOPER will be responsible."

2. Article I, Paragraph 2, is amended by deleting it in its entirety and replacing the last sentence with:

"Final plans will be submitted Fifteen (15) calendar days prior to advertisement of the PROJECT to allow the DEPARTMENT time to process and reproduce the plans prior to advertisement."

3. Article I, Paragraph 3, date of right-of-way certification, shall be changed from "on or before August 25, 2007" to "thirty (30) calendar days prior to PROJECT advertisement."

4. Article I, Paragraph 5, is amended by deleting it in its entirety and inserting in its place:

"On or before twenty five (25) calendar days after the DEPARTMENT has opened bid for the PROJECT, the DEVELOPER will submit an Irrevocable Letter of Credit, a cashiers check or any other acceptable financial instrument acceptable to the DEPARTMENT for the amount of the contract to be awarded for the construction of the PROJECT and the PROJECT portion utility relocations, less the total amount of the DEPARTMENT's contributions and Federal Funds and the One Hundred Thousand and No/100 Dollars already submitted by the DEVELOPER. The amount to be submitted by the DEVELOPER is estimated to be One Million Two Hundred One Thousand Three Hundred Eighty-Four and 49/100 Dollars (\$1,201,384.49). The actual amount will be determined after bids have been opened and an apparent low bidder is identified. The purpose of this deposit is to secure the DEVELOPER'S obligations hereunder. If upon completion of the PROEJCT, a final amount is still due, or the funds in the account become insufficient to cover the DEVELOPER'S share of the PROJECT costs, DEVELOPER will make payment for the remaining balance within fifteen (15) calendar days of receipt of the billing invoice from the DEPARTMENT. DEPARTMENT will not award the project without this payment."

5. Article I, Paragraph 7, is hereby deleted.

6. Article I, Paragraph 13 is amended by deleting the first sentence and replacing it with:

"To complete the review of all bids and change orders submitted by the DEPARTMENT, which pertain to the PROJECT or the installation of the City of Fernley water line, and return comments within Forty-Eight (48) hours, excluding weekends and holidays, from service of bids or change order requests.

7. Article I, Paragraph 19 is hereby deleted.

8. Article I, Paragraph 22 is hereby deleted.

9. Article I, Paragraph 23 is hereby deleted.

10. Add the following paragraph to Article I – DEVELOPER AGREES:

"28. To complete construction of Nevada Pacific Parkway by April 1, 2019, consisting of two travel lanes in each direction and a grade separation over the Union Pacific Railroad tracks from Interstate 80 to US 50A in accordance with the recommendations set forth in the Sonterra Master Plan - Transportation Analysis, dated August 22, 2007. The date by which DEVELOPER is required to complete construction of these improvements to Nevada Pacific Parkway will be extended by delays caused either by (i) delays in obtaining any required permits and/or approvals from Union Pacific or any governmental entity having jurisdiction or (ii) any other circumstances beyond DEVELOPER'S reasonable control. If DEVELOPER fails to complete the construction of these improvements to Nevada Pacific Parkway by the date required by this Agreement, DEVELOPER shall be responsible for the damages sustained by DEPARTMENT by reason thereof, up to the value of the Control-of-Access contributed to the PROJECT by DEPARTMENT, reduced by the value of the right-of-way dedicated by DEVELOPER for these improvements to Nevada Pacific Parkway. The completion of Nevada Pacific Parkway must be recorded as an obligation to the property should ownership change."

11. Add the following paragraph to Article I – DEVELOPER AGREES:

"29. To establish a 10 foot wide utility easement outside of the Right of Way to be donated to the DEPARTMENT, as outlined in Article I, Paragraph 3, as amended, for the purpose of relocating the Sierra Pacific Power Company's existing facility. The DEVELOPER shall provide the DEPARTMENT with a copy of the recorded easement."

12. Add the following paragraph to Article I – DEVELOPER AGREES:

"30. To pay all PROJECT costs over and above the amount of Federal and State funds as shown in Article III, Paragraph 8, including, but not limited to, the cost of change orders and contractor claims, any costs due to contractor bids that exceed the DEPARTMENT's engineer's estimate and to cover any PROJECT costs not covered by Federal funds due to reductions or rescissions by Congress."

13. Add the following paragraph to Article I – DEVELOPER AGREES:

"31. To pay all PROJECT utilities relocation costs not obligated to be paid by utility companies or other governmental entities, estimated to be Three Hundred Sixty Thousand Three Hundred Twenty and 49/100 dollars (\$360,320.49). This amount may be adjusted if the City of Fernley Council agrees to pay an additional amount. The DEVELOPER must submit minutes from the Council meeting for the DEPARTMENT's records. In any case, the DEVELOPER will only pay actual incurred utility relocation costs to the PROJECT."

14. Article II, Paragraph 2, is amended by deleting the description "State Economic Development Funds" and replacing the description with "State Gas Tax Funds".

15. Article II, Paragraphs 6 and 7, the references to the Irrevocable Letter of Credit are changed to refer to the "Irrevocable Letter of Credit, cashiers check or any other acceptable financial instrument acceptable to DEPARTMENT deposited by DEVELOPER with the DEPARTMENT in accordance with Article I, Paragraph 5."

16. Article II, Paragraph 10, is amended by deleting it in its entirety and inserting in its place:

"10. To submit for review all bids and change orders to DEVELOPER which pertain to the PROJECT or the installation of the City of Fernley water line. The PROJECT will not be awarded and no change orders involving changes in scope of work to the PROJECT will be made without DEVELOPER'S approval. The DEPARTMENT will not agree to the bid or change orders on the City of Fernley water line without DEVELOPER'S concurrence.

17. Add the following paragraph to Article II – DEPARTMENT AGREES:

"12. To pay for all incurred in-house preliminary engineering costs spent reviewing and preparing the PROJECT to advertise and for in-house construction support costs. The One Hundred Thousand and No/100 Dollars (\$100,000.00) previously deposited by the DEVELOPER to cover these costs will be applied toward the DEVELOPER'S remaining portion of the PROJECT construction funding."

18. Article III, Paragraph 1, term of this Agreement shall be changed from December 31, 2010 to December 31, 2019.

19. Article III Paragraph 2, is amended by deleting the description "State Economic Development Funds" and replacing the description with "State Gas Tax Funds".

20. Article III, Paragraph 3, is hereby deleted.

21. Article III, Paragraph 7, is hereby deleted

22. Article III, Paragraph 8, is amended by deleting it in its entirety and inserting in its place:

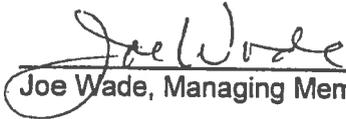
"PROJECT costs and funding are estimated as follows:

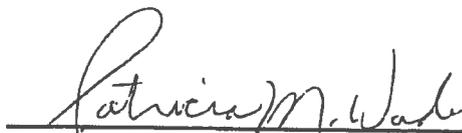
PROJECT CONSTRUCTION Costs	\$14,000,000.00
Construction Funding	
State Gas Tax Funds	\$ 4,800,000.00
2005 Interstate Maintenance Discretionary Funds	\$ 427,000.00
2006 Interstate Maintenance Discretionary Funds	\$ 387,585.00
2008 Interstate Maintenance Discretionary Funds	\$ 452,760.00
SAFETEA-LU NV056 Earmark Funds	\$ 1,368,756.00
SAFETEA-LU NV060 Earmark Funds	\$ 5,132,835.00
2008 Earmark Funds	\$ 490,000.00
DEVELOPER Funds	\$ 841,064.00
DEVELOPER Funds Already Received	\$ 100,000.00
Total Construction Costs	\$14,000,000.00

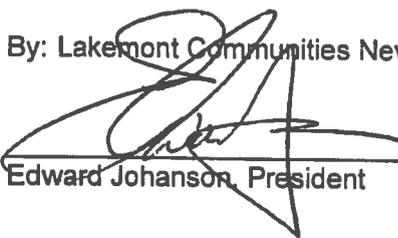
23. All of the other provisions of Agreement No. PR348-06-010 dated October 9, 2006 shall remain in full force and effect as if set forth herein.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

Sonterra Development Company, LLC  
By: Wade Company, LLC

  
Joe Wade, Managing Member

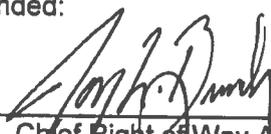
  
Patricia M. Wade, Managing Member

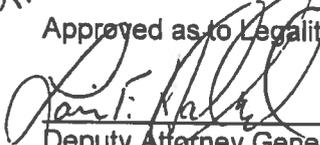
By: Lakemont Communities Nevada, LLC  
  
Edward Johanson, President

State of Nevada, acting by and through its  
DEPARTMENT OF TRANSPORTATION

  
Director

For  
Reviewed:  
  
Amir Soltani, Chief, Project Management  
Division

Recommended:  
  
Jon Bunch, Chief Right of Way Agent

Approved as to Legality & Form:  
 8-19-08  
Deputy Attorney General

STATE OF NEVADA  
DEPARTMENT OF TRANSPORTATION  
MEMORANDUM

September 19, 2007

TO: DEPARTMENT OF TRANSPORTATION BOARD OF DIRECTORS

FROM: Susan Martinovich, P.E., Director

SUBJECT: **TRANSPORTATION BOARD MEETING SEPTEMBER 20, 2007**  
Action Item: Disposal of the Control of Access Openings located on the north and south sides of Interstate 80 at the proposed East Femley Interchange (AKA Nevada Pacific Parkway Interchange) in Lyon County, Nevada  
SUR 07-34

ITEM # 8a

1. **SUMMARY:** Approval is requested from the Department of Transportation Board of Directors to dispose, by donation, two openings in the control of access to accommodate a future Interstate 80 East Femley Interchange. The access openings are located on the northwest and southeast sides of the Interstate 80 right-of-way in Lyon County, Nevada.
2. **BACKGROUND:** As described in Agreement No. PR348-06-010, the developer/requestor, Sonterra Development Company, LLC, (By: Wade Company, LLC and By Lakemont Communities, LLC) has come forward with a request to build an additional Interstate 80 interchange approximately one mile east of the existing US-95A Interchange in Femley. The new interchange will serve the developer/requestors proposed development. It is estimated that the width of the new openings will be 60 feet on the northwest side and 116 feet on the southeast side of Interstate 80.
3. **ANALYSIS:** The Department of Transportation supports the disposal, by donation, of these openings for a future public thoroughfare as described in Developer Agreement No. PR348-06-010. In this agreement the developer agrees to construct a roadway connecting the new I-80 Interchange, via Nevada Pacific Parkway, southerly to US-50A from the southeast opening. The value of the openings have been appraised and concluded to be \$5,765,000.00. Pursuant to the agreement, staff is requesting that the value of the Control of Access be considered an NDOT contribution to the interchange project for consideration of the developer building the connecting roadway in two phases. The first phase will consist of four lanes, 2 lanes in each direction, constructed by January 1, 2010. The second phase, with an unknown completion date, will provide an additional two lanes, ultimately providing for a six lane facility. This disposal is being made in accordance with N.R.S. 408.533. (FHWA approval is to be provided prior to Board meeting)
4. **RECOMMENDATION FOR BOARD ACTION:** With receipt of further information prior to Board meeting, approval of disposal of the Control of Access Openings, by donation, located on the north and south sides of Interstate 80 at the proposed East Femley Interchange in Lyon County, Nevada, is being requested.

**5. ATTACHMENTS:**

1. Location Map
2. Sketch Map of the Control of Access to be disposed of by direct sale.
3. Copy of Developer Agreement No. PR 348-06-010
4. Environmental Approval
5. FHWA Approval (Pending)
6. N.R.S. 408.533

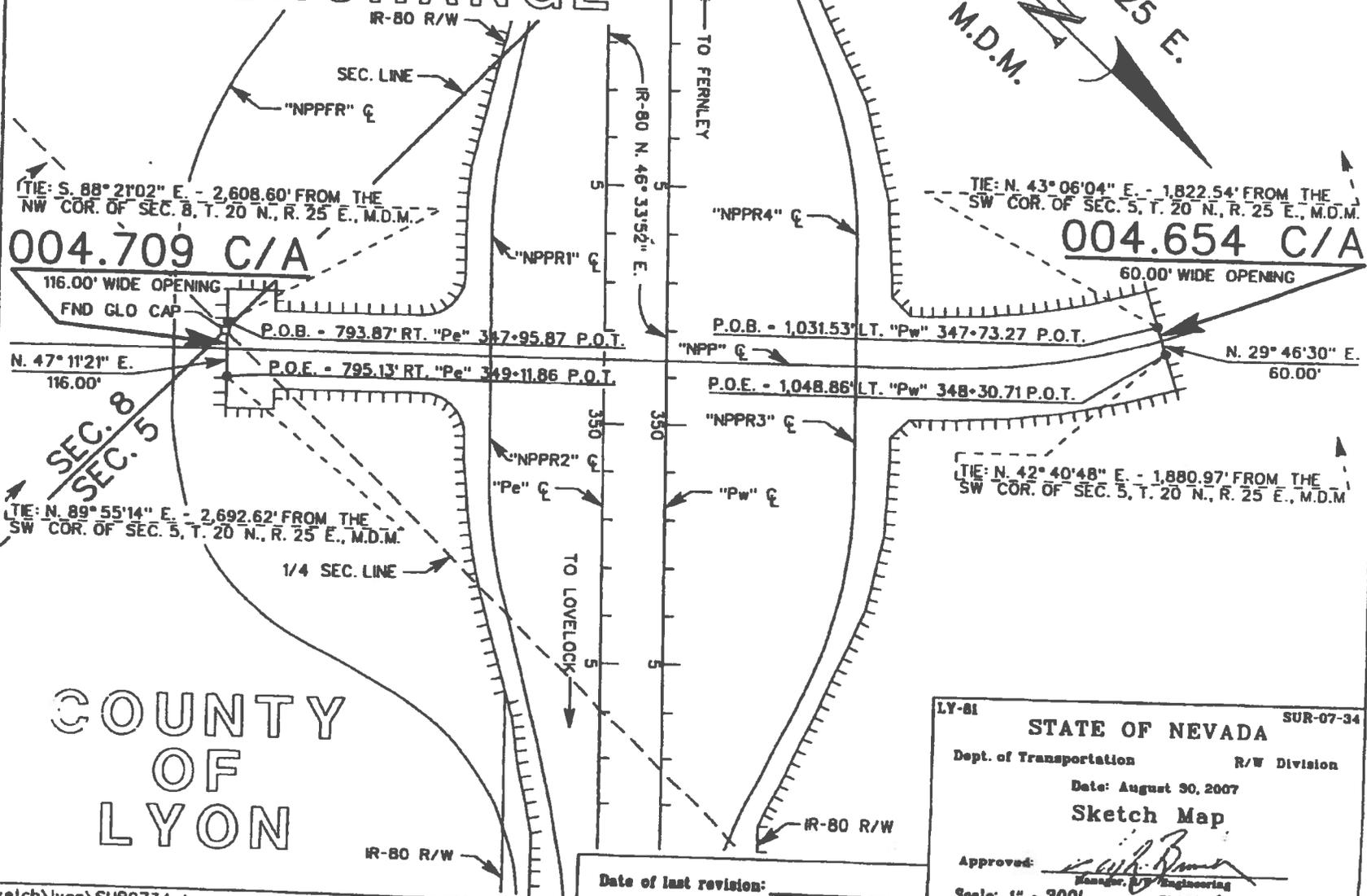
6. REPORT PREPARED BY: Heidi Mireles <sup>JY</sup> Chief RW Agent

PARCEL NO. PREFIX: I-080-LY-  
**NEVADA PACIFIC  
 PARKWAY  
 INTERCHANGE**

PROJECT: SPI-080-1(048)  
 E.A.: 72857

ACCESS OPENING  
 TO BE GRANTED BY STATE

T. 20 N., R. 25 E.  
 M.D.M.



TIE: S. 88° 21' 02" E. - 2,608.60' FROM THE  
 NW COR. OF SEC. 8, T. 20 N., R. 25 E., M.D.M.

TIE: N. 43° 06' 04" E. - 1,822.54' FROM THE  
 SW COR. OF SEC. 5, T. 20 N., R. 25 E., M.D.M.

**004.709 C/A**

**004.654 C/A**

116.00' WIDE OPENING  
 FND GLO CAP  
 P.O.B. - 793.87' RT. "Pe" 347-95.87 P.O.T.

P.O.B. - 1,031.53' LT. "Pw" 347-73.27 P.O.T.

N. 47° 11' 21" E.  
 116.00'  
 P.O.E. - 795.13' RT. "Pe" 349-11.86 P.O.T.

P.O.E. - 1,048.86' LT. "Pw" 348-30.71 P.O.T.

N. 29° 46' 30" E.  
 60.00'

SEC. 8  
 SEC. 5  
 TIE: N. 89° 55' 14" E. - 2,692.62' FROM THE  
 SW COR. OF SEC. 5, T. 20 N., R. 25 E., M.D.M.

TIE: N. 42° 40' 48" E. - 1,880.97' FROM THE  
 SW COR. OF SEC. 5, T. 20 N., R. 25 E., M.D.M.

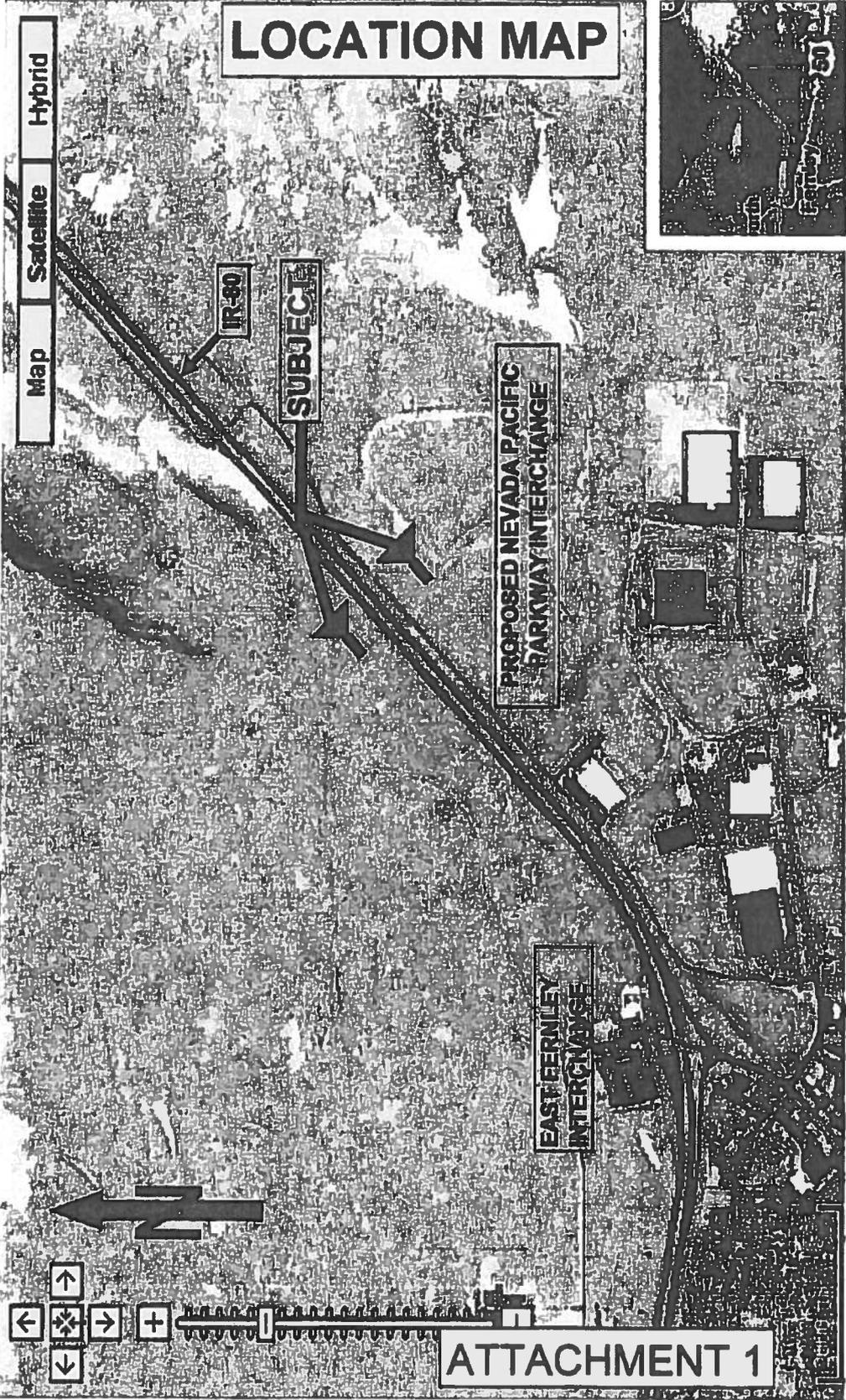
**COUNTY  
 OF  
 LYON**

LY-81 STATE OF NEVADA SUR-07-34  
 Dept. of Transportation R/W Division  
 Date: August 30, 2007  
**Sketch Map**  
 Approved:   
 Manager, R/W Engineering  
 Scale: 1" = 300' Sheet 1 of 1 Sheets

Date of last revision: \_\_\_\_\_

ATTACHMENT 2

Attachment 4



1                   NEVADA DEPARTMENT OF TRANSPORTATION  
2                                   BOARD MEETING  
3                                   SEPTEMBER 20, 2007, 10:00 A.M.  
4  
5   -oOo-  
6                                   (Beginning of agenda item 8.)  
7   \* \* \* \* \*  
8                   GOVERNOR GIBBONS: All right. We'll now  
9 undertake agenda item eight. And it has several  
10 subparts, A, B, C and D.  
11                   And, Madam Director, how do you wish to  
12 proceed?  
13                   MR. MORABITO: If I may, I have a conflict on  
14 A, D and E, because I own, or I have a lease on a piece  
15 of property in Fernley, Nevada, and I'm in discussions  
16 with the Wade Development Company to buy a piece of  
17 property. So I will be abstaining from A, D and E.  
18                   GOVERNOR GIBBONS: Okay. Very good.  
19                   Anyone else with a declaration of abstention?  
20                   Hearing none, Madam Director.  
21                   MS. MARTINOVICH: Governor, item 8-A is for the  
22 disposal of controlled access openings on the north side  
23 and south side of Interstate 80 for a new proposed  
24 freeway. The Nevada Pacific Parkway Interchange is the  
25 name of this, this new interchange.

1           And what the -- there was some X's and an  
2 incomplete write-up in your Board packet. So I will be  
3 filling that in and also making a recommendation that's  
4 a little different from the Board write-up, is that  
5 control of access is a property right that the  
6 Department has. And so we dispose of it like any other  
7 property right, even though it's just a line on a piece  
8 of paper. And so our disposal is, is that there needs  
9 to be compensation for that property right.

10           So the Department has agreed to dispose, to  
11 take action to dispose of the opening in the controlled  
12 access to allow for the interchange, with the  
13 compensation being that the development will construct a  
14 roadway between Interstate 80 and U.S. Highway 50A, that  
15 we feel that this is, this is fair compensation, because  
16 what it does is that while the interchange isn't needed  
17 per se for the interstate facility, it provides a  
18 mechanism and a system of that whole area and the making  
19 that connection and helps alleviate a lot of the impact  
20 on the current connection between U.S. 50 and I-80. So  
21 that is the compensation.

22           The developer has agreed to start that, start  
23 that roadway on -- by April 1st of 2009. And that was  
24 one of the conditions that we had, was that there was at  
25 least a starting time to, to move forward. Now, there

1 could be issues that delay that, catastrophic issues  
2 unknown. And we're, and we're willing to work with them  
3 that should something like that occur. But they are  
4 obligated through this action that they would start that  
5 roadway or start constructing that roadway by that date,  
6 by April 1st, 2009.

7 MR. 4: Within 2009, with a completion date of  
8 January 1st of 2010, with the letter agreement from the  
9 developer?

10 GOVERNOR GIBBONS: Is that agreement part of  
11 the minute materials before the Board today?

12 MS. MARTINOVICH: It's not part of the  
13 materials. It's that we would enter into a separate  
14 agreement, given that we have this on record that those  
15 are the conditions, and that would be incorporated into  
16 the agreement.

17 GOVERNOR GIBBONS: Will we be able to hear from  
18 Wade Development on this agreement?

19 MS. MARTINOVICH: Yes. They also have  
20 requested to speak on this regard.

21 GOVERNOR GIBBONS: Okay.

22 MS. MARTINOVICH: There was another item  
23 regarding the openings themselves and the widths of the  
24 openings themselves.

25 UNIDENTIFIED MAN: Is that item 10?

1 MS. MARTINOVICH: I'm sorry. What?

2 UNIDENTIFIED MAN: Item 8-A and 10 --

3 MS. MARTINOVICH: This is 8-A.

4 UNIDENTIFIED MAN: But --

5 MS. MARTINOVICH: This is 8-A.

6 UNIDENTIFIED MAN: Do -- should 8-A and 10 be  
7 looked at --

8 MS. MARTINOVICH: Not really.

9 UNIDENTIFIED MAN: -- together?

10 MS. MARTINOVICH: Not really. They're kind  
11 of -- they're two separate, yeah.

12 So on 8-A, the recommendation in your Board  
13 write-up was for an opening on the south side of 116  
14 feet and an opening on the north side of 24 feet.

15 The opening on the north side was predicated  
16 that the road, that the bridge, as gone through the NEPA  
17 document and the changing control of access document,  
18 which are both federal documents, is to accommodate two  
19 through lanes.

20 And so we were a little overzealous in the 24  
21 feet, because, in our minds, a lane is 12 feet, so two  
22 times 12 is 24. But, but reality is, is that the City  
23 of Fernley, even their own road standards are in excess  
24 of 24.

25 So the -- all of the efforts and the past

1 agreements that have gone to date have an opening of 108  
2 feet on the north side. There's been concerns, though,  
3 expressed by the Department staff and by Federal  
4 Highways that you do not want to create a  
5 structurally -- a functionally obsolete bridge on the  
6 first day of opening by having a road wider than the  
7 bridge itself.

8           So what we're recommending, and what I'm  
9 recommending to you, is that we proceed with the  
10 previous agreements and allow for an opening of 108 feet  
11 on the north side, with the condition that through  
12 Federal Highways, that they only be permitted to build a  
13 roadway to accommodate two through lanes. There may be  
14 some additional width in there to have lanes go on and  
15 off the off-ramps, but it would be a two-through-lane  
16 roadway leading into a two-through-lane bridge, and that  
17 that would be the restriction.

18           Then, in the future, should the development  
19 grow to require an additional width of roadway, that it  
20 be looked at in conjunction with the bridge, and that  
21 future developments move forward and look at the bridge  
22 with the roadway and that the widening be accommodated  
23 at that time, not putting any condition on the current  
24 developer at this time, but it would be something that's  
25 considered in the future, so that the road, within the

1 108 feet that I'm requesting, that the road today is  
2 two-lane, two-lane bridge, and the road in the future  
3 would be whatever width it is with a supporting width of  
4 the bridge.

5 GOVERNOR GIBBONS: Madam Director, I remember  
6 this from many years being in Congress, when proposals  
7 like this were made to the federal government, including  
8 this very bridge project.

9 But let me say, or I'll ask the question. The  
10 two through lanes, now, even though you're going to have  
11 a 108-foot width on the north side of the bridge, the  
12 two through lanes to that point are what width?

13 MS. MARTINOVICH: They would be -- my  
14 understanding is that -- Fernley's criteria is 60 feet  
15 as a minimum. But based on the designs that the  
16 developer has worked with the City of Fernley, there  
17 would be an additional width in there to provide for  
18 some left -- for some movement on and off of the ramps,  
19 the interchange ramps themselves. So it would be 60 to  
20 80, depending on the final design in that regard.

21 GOVERNOR GIBBONS: Okay.

22 MS. MARTINOVICH: So that's what we would be  
23 allowing this, or not, but permitting this first segment  
24 to be consistent with the width bridge.

25 GOVERNOR GIBBONS: And at a subsequent time,

1 depending upon the demand or the utilization of that  
2 road, could be expanded to 108.

3 MS. MARTINOVICH: Yes.

4 GOVERNOR GIBBONS: The agreement worked out  
5 between the Department of Transportation and the  
6 developer?

7 MS. MARTINOVICH: Yes. And that way, the  
8 developer would not have to come back to this Board to  
9 seek additional width and opening at that time.

10 Now, it still may require some federal action  
11 in the future. Because just providing additional width  
12 on a new bridge, and I'm assuming that there may be  
13 federal monies sought in that, that would require the  
14 federal action in the future. But, but at this point,  
15 the requirement isn't on the proponent seeking, the  
16 Wade, or the Frontera Development seeking this opening.

17 GOVERNOR GIBBONS: And are you representing to  
18 the Board, then, that the developer is okay with these  
19 changes, modifications in this type of an agreement?

20 MS. MARTINOVICH: That's my understanding. But  
21 I know there's a representative to speak for that. But  
22 I'll -- FHWA may have some comments on that. And, and a  
23 lot of this was in discussion as late as last night.  
24 And the reason that we kept it on the Board agenda was  
25 because of the urgency in moving forward with this

1 project.

2           So I don't -- I'm going to ask our Federal  
3 Highway Adminis -- Federal Highway representative, Greg  
4 Novak, who's in Carson City, to see if they have some  
5 concerns in this recommendation.

6           GOVERNOR GIBBONS: Okay.

7           Any comments or questions of the Director?  
8 Because then I'd like to hear from Wade Development.

9           CONTROLLER WALLIN: I just, I just have one  
10 question. So by doing this, we aren't committing the  
11 state to -- because what I don't want to have happen is,  
12 you know, two years from now, they go and they get  
13 expanded to four lanes, and then they come to the state  
14 saying "We've got to widen the road." And I don't want  
15 to --

16           MS. MARTINOVICH: That is correct. But by  
17 doing this, they are -- because of the permitted  
18 opening, and then we would do that through an  
19 encroachment permit, which we do on every single  
20 project, the permitted opening would dictate a certain  
21 width.

22           If the proponents come in and say, you know,  
23 "We really need to widen it," we then have the authority  
24 to say that "You need to contribute to widening the  
25 bridge" in that regard, yes.

1           CONTROLLER WALLIN: All right. Thank you.

2           UNIDENTIFIED MAN: And then, to further abut on  
3 Kim's comment, I mean how long into the future can we do  
4 that? I just, I know it's a standard operating  
5 procedure for you, but it's only my second meeting. So,  
6 you know, there's an obligation to the future owner of  
7 the area, or there's a -- there's a -- you know, the  
8 industrial park itself is committed to any future  
9 widening financially. But your encumbering function may  
10 not be owners in the future. I don't know how that  
11 works.

12           MS. MARTINOVICH: First of all, even though  
13 it's your second meeting, you pick things up, as all  
14 your Board members do. So.

15           The NEPA design was predicated on a 20-year  
16 design. It has to be a 20-year design. So, in theory,  
17 it shouldn't be happening out there in 20 years. And a  
18 lot of things change. But we know that because things  
19 change so rapidly, there may be that opportunity sooner.

20           It would be any proponent that comes in. And,  
21 most likely, we would like to the City of Fernley,  
22 because it -- excuse me, Lyon County, as -- part of it,  
23 because it's a Lyon County development. So we would be  
24 looking, working with them to bring a project forward  
25 into our transportation plan, if, if that came forward.

1           So we're not encumbering anybody now. But they  
2 would have to prioritize.

3           UNIDENTIFIED MAN: It's just forcing any future  
4 expansion to require outside cooperation with?

5           MS. MARTINOVICH: Yes.

6           UNIDENTIFIED MAN: Okay.

7           MS. MARTINOVICH: Yes.

8           UNIDENTIFIED MAN: All right. Thank you.

9           GOVERNOR GIBBONS: Any other questions?  
10 Mr. Fransway.

11          MR. FRANSWAY: Susan, unless I'm not reading  
12 this right, it seems to me like it's -- it's 116 feet.  
13 Is it?

14          MS. MARTINOVICH: That's on the south side.

15          UNIDENTIFIED MAN: South side.

16          MS. MARTINOVICH: The south side is not in  
17 question.

18          MR. FRANSWAY: Okay.

19          MS. MARTINOVICH: Because that's where the  
20 connection road will be, is on the south side of U.S.  
21 50A. This is primarily on the north side that hasn't  
22 been and isn't planned to be --

23          MR. FRANSWAY: Okay.

24          MS. MARTINOVICH: -- constructed at this time.

25          MR. FRANSWAY: Okay.

1           GOVERNOR GIBBONS: Any other questions,  
2 comments, of the Director?

3           We have someone here that wants to testify  
4 before the Board.

5           Patty Wade of Wade Development, welcome.

6           And, Ms. Wade, if you would give your name for  
7 the Board and, also, give us a brief history of the  
8 efforts of this project and how long it's been there,  
9 we'd appreciate it.

10          MS. WADE: I'd be happy to do that, Governor.

11          Thank you very much, Governor and all the folks  
12 on the Board for allowing me to come speak. And thank  
13 you to Susan and her entire staff for being involved in  
14 this and working with us. This has been an ongoing  
15 project. As you all know, we've gotten to know each  
16 other pretty well through this. We've been doing this  
17 for over eight years.

18          This is absolutely, I will say, and maybe this  
19 sounds wild to you, but this project is a poster child  
20 for a public-private partnership and how it ought to  
21 work. It involves several entities. It started with  
22 the federal government. And the state came in. We have  
23 (indistinct) developer involved. We got the City of  
24 Fernley involved. We got Lyon County involved. And  
25 several others from the department. And this has --

1 this project is one that, we are very happy to say, we  
2 think we're at the very tail end of (indistinct)  
3 starting to happen (indistinct) before too long.

4           We reached a definitive agreement actually  
5 several years ago. And I just want to give you a little  
6 bit of history about this so you understand where we've  
7 come and where we are today.

8           Within this agreement, the total contribution  
9 for the entire interchange, from the point of the  
10 developer -- we are the major landowner out there,  
11 although I will submit that down the line, there are  
12 going to be -- there are an awful lot of developers now  
13 that are smaller in size. But when we go through a  
14 20-year plan, which is what this is designed to be, I  
15 would guess you're going to have 15 or 20 major  
16 developers out there, because it really is going to be a  
17 regionally significant development. And because of  
18 that, when the time comes, if the time comes -- and we  
19 hope it does, because that's what this is all about,  
20 diversifying the economy and economic development and  
21 commercial development and tax base and jobs creation  
22 and all those good things we need to do -- we hope  
23 there's a whole bunch of them. We hope to grow faster  
24 and that we do need improvements faster. That's  
25 (indistinct).

1           And at that time, we will do exactly what we  
2 did this time, which was we went and we had a  
3 partnership. We put together a partnership. We talked  
4 to all the involved entities. Everybody decided to play  
5 and agreed to and were happy to.

6           So I will tell you that that exact same  
7 dynamics will happen if and when the time comes for the  
8 extension or for expanding it. And we are absolutely  
9 A-OK with that. That's how we operate. Anybody that's  
10 dealt with us over the last 20 years, 15 of which have  
11 been spent in Nevada, knows that that's how we operate.

12           Just to give you a little idea of what our  
13 contribution is, it's very substantial. Nevada Pacific  
14 Parkway, which is the arterial that Susan alluded to a  
15 little while ago in her introductory remarks, is going  
16 to cost us \$19 million, one nine million dollars, that  
17 we're funding on our own. Now, if we can get some odd  
18 financing on that, I can tell you, we're going to, we're  
19 definitely going to take advantage of that. But as it  
20 stands right now, we're committed to build that. That's  
21 a -- that's a pretty good amount of money to go in.

22           In addition to that, our design, our design of  
23 this interchange, the studies, the appraisals, all of  
24 that, is about a million and a half dollars that came  
25 out of our pocket. It's probably going to be closer to

1 two by the time we're done. The 21 acres that we are  
2 dedicating has a value somewhere in the six to seven  
3 million-dollar range. And we've already built segments  
4 of the Nevada Pacific Parkway, which will become  
5 regionally significant in this, to the tune of four or  
6 five million dollars.

7           So we're talking about \$30 million are going  
8 into this as the developer's share. That's very  
9 significant. And I've not been able to find anything  
10 close to that in terms of another developer putting in  
11 that type of money into a project like this.

12           It's always been contemplated that this project  
13 would be phased. Susan did mention that. I don't  
14 anybody to drive out there and then, you know, in  
15 another year from now expect that the whole parkway is  
16 built at once. You can't do that. But definitely we  
17 have the timeline now. And we will adhere to that  
18 timeline, save force majeure or something like that,  
19 some major action that is out of all of our control.

20           It's a tough market right now. I think, we all  
21 know that, that particularly in the residential market;  
22 and that, of course, affects the commercial and  
23 industrial markets. And so that 20 years may be a lot  
24 longer. We hope it isn't. But it may be a lot longer.

25           So we really have approached this in a very

1 responsible way, along with NDOT and all the other  
2 involved parties, to make certain that we are providing  
3 for a long-term project.

4           We really front-loaded this interchange. And  
5 adding the extra portions of the bridge when we need to  
6 expand is actually -- it's not like building a whole new  
7 project. We've set it up in such a way that it's very  
8 front-loaded. We've spent a lot of money up front. And  
9 thanks to the state and the federal government, they did  
10 participate in a big way, which made this doable.  
11 Because it is regionally significant.

12           But it is not -- my understanding is it's not  
13 going to be all that tough to continue forward and do  
14 the expansions as we need them.

15           And, again, that's reason for celebration.  
16 That is not, that's not doom sale. My gosh, we got to  
17 expand. It means we're making money. We're creating  
18 jobs. This is a good deal.

19           I think, the rest of it, now that we have come  
20 to an agreement, I won't go over the controlled access.  
21 I do have my entire team in Carson City. Carter Burgess  
22 is there. Our traffic engineers are there. Our  
23 appraiser's there. We wanted to make sure that we had  
24 everything fielded for any questions you might have.

25           But I think it's very important. This project

1 has taken a lot longer than we anticipated. It's time  
2 to go. In order not to lose the federal funding, we  
3 really need to move on this now. It needs to kind of  
4 happen today.

5 So, with that, I will answer any questions.  
6 And I, again, very much appreciate all the parties,  
7 appreciate everybody working very closely till midnight,  
8 or longer perhaps, last night --

9 UNIDENTIFIED MAN: M-hm (affirmative).

10 UNIDENTIFIED WOMAN: Yeah.

11 MS. WADE: -- in putting this together and  
12 making sure that it happens.

13 GOVERNOR GIBBONS: All right.

14 MS. WADE: Thank you.

15 GOVERNOR GIBBONS: Mr. Krolicki.

16 LIEUTENANT GOVERNOR KROLICKI: I just want to  
17 get some clarification. But, first, I want to  
18 appreciate what Wade Development and you personally,  
19 Patty, have done for economic development. Certainly,  
20 these are your private activities; but they are very  
21 important for Nevada, certainly this area of northern  
22 Nevada. And you even put, you know, your elbow grease  
23 where your mouth is on this, because you sit on the  
24 Commission for Economic Development. So I appreciate  
25 the vision --

1 MS. WADE: Thank you.

2 LIEUTENANT GOVERNOR KROLICKI: -- and the  
3 partnership that you bring to the state on these.

4 Just so I understand, on 8-A, and, I think,  
5 that's all we're discussing right now, staff, Susan, you  
6 and your team, and, Patty, you and those you are  
7 representing, are in agreement with that framework that  
8 has been described to us?

9 MS. MARTINOVICH: Yes, we are.

10 LIEUTENANT GOVERNOR KROLICKI: Okay. Thank  
11 you.

12 GOVERNOR GIBBONS: Okay.

13 MR. FRANSWAY: Mr. Chairman?

14 GOVERNOR GIBBONS: Mr. Fransway.

15 MR. FRANSWAY: I'll direct this question to  
16 you, Mrs. Wade. Are all of the rights-of-ways in place  
17 for the connection to Highway 50A?

18 MS. WADE: We own all that property. So the  
19 answer is yes.

20 MR. FRANSWAY: Okay.

21 MS. WADE: And that's part of the 21 acres that  
22 we'll be dedicating to this project.

23 MR. FRANSWAY: What about the grade crossing at  
24 the UP; has that right-of-way been acquired?

25 MS. WADE: You know, actually, I'm going to

1 have to ask my folks in Carson if that's -- if it's in  
2 process right now.

3 Carol Dotson, can you -- are you available to  
4 answer that question for us?

5 Are they there?

6 GOVERNOR GIBBONS: Yeah. She's coming. She's  
7 coming.

8 MS. WADE: Oh, okay.

9 Carol is our senior project manager for this  
10 project and several others.

11 MS. DOTSON: Yes. Good morning, Mr. Governor  
12 and members of the Board.

13 That question, we do own all the land that goes  
14 down to Highway 50. So Patty is correct that we do have  
15 easements throughout that area. We do have designs into  
16 the railroad right now. We have for approximately a  
17 year. They're reviewing all of our analyses that goes  
18 through that area. So we will have no problem getting  
19 that roadway through.

20 MR. FRANSWAY: Okay. And that's an at-grade  
21 crossing?

22 MS. MARTINOVICH: No.

23 MS. WADE: No.

24 MR. FRANSWAY: Above-grade?

25 MS. DOTSON: Actually, it goes over the -- it

1 will go over the top --

2 MR. FRANSWAY: Okay.

3 MS. DOTSON: -- of the railroad.

4 MR. FRANSWAY: Okay. Okay.

5 MS. WADE: We wish we could get an-grade  
6 crossing.

7 MR. FRANSWAY: All right. But it wouldn't work  
8 long.

9 MS. WADE: It would be a lot steeper, a lot  
10 steeper.

11 I have, I just have one question or  
12 clarification, a note that I made to myself here, just  
13 to be certain that through this process -- and, Susan, I  
14 guess, I'm directing this to you. Our funding will be  
15 forwarded into the '08 work program that is -- is that  
16 something we have to do today, or how does that work?

17 (Indistinct.)

18 MS. MARTINOVICH: Patty, no, it's not my  
19 understanding that you have to do it today. We will do  
20 it as just as part of our transportation process of our  
21 stip. But that's just an administrative issue and that  
22 we'd move to over to the appropriate time frame...

23 (End of tape 1 of 2, beginning of tape 2 of 2.)

24 MS. WADE: ...and so the 12 assets. And so I  
25 just wanted to make certain that everything that they've

1 done, all the designs, all of it has been dependent upon  
2 what was submitted, which was a 108 on the north side,  
3 116 on the south. I'd hate to go back to scratch;  
4 it'll, it'll kill the project.

5 Thank you very much.

6 GOVERNOR GIBBONS: Any questions?

7 MR. MARTINOVICH: I'd like to ask if the  
8 Federal Highway Administration in Carson City, if  
9 there's a representative there to come speak on this  
10 item.

11 (Indistinct.)

12 UNIDENTIFIED MAN: Somebody went to the chair.

13 MR. NOVAK: My name's Greg Novak, Federal  
14 Highways, and I'm from Carson City. If I was working  
15 for NDOT, I could have retired by now. I've been  
16 working with you guys for 28 years.

17 (Laughter.)

18 GOVERNOR GIBBONS: You'd get a plaque.

19 MR. NOVAK: You know, we've been involved in  
20 this project, like Patty mentioned, for eight years,  
21 where we worked back and forth. There have been a lot  
22 of negotiations, as recently as last night and this  
23 morning.

24 Yesterday, I was asked to approve a  
25 60-foot-wide opening on the north side. And that is

1 still what I am willing to approve.

2           What we have told the public, what we have done  
3 through NEPA, our design recommendations, shows a  
4 three-lane connection on the north side, one in each  
5 direction, with a left-turn pocket, and a five-lane  
6 connection on the south side. What we have said is the  
7 north side would be a local street, rural residential  
8 40-acre parcels.

9           What we're hearing now is something different.  
10 So it's unless we want to go through the process of  
11 reopening, at this point all I can agree to is 60-foot  
12 wide. And, I think, what Susan had pointed out earlier  
13 is all you would be putting in is a two-lane road at  
14 this point.

15           The concern that I have, if we approve this  
16 today or not -- it's your action -- what would prevent  
17 development on the north side of the freeway from  
18 putting in a four- or five-lane roadway? Would we have  
19 any control over that at all? Because we would want  
20 (indistinct).

21           But my position is that if we're talking about  
22 a four- or five-lane road, I would like to see a four-  
23 or five-lane bridge as well, just to prevent having to  
24 come back here.

25           If that development doesn't occur for the next

1 20 years, it's not a problem. What we've said in our  
2 approvals to date, in the future those ramps will all  
3 have traffic signals. We're not putting those in right  
4 now, because we don't need them.

5 So I just need to have some assurance that what  
6 we're agreeing to -- and, again, I will officially sign  
7 on a 60-build -- is to make sure that we don't create a  
8 bottleneck in the future.

9 MS. MARTINOVICH: Greg, in response to your  
10 question, is that that's where I felt comfortable, in  
11 working, that we would have our encroachment permit  
12 process, and that we have the police power of that, so  
13 that if there was future widening, we wouldn't be  
14 allowing it to just automatically go to a four-lane.

15 MR. NOVAK: Okay. It would be an encroachment  
16 permit process that would come back to Federal Highways  
17 and --

18 MS. MARTINOVICH: Yes.

19 MR. NOVAK: -- federal action, since this is  
20 interstate. And a traffic study and some type of NEPA  
21 analysis would be needed at that point. It's not an  
22 overly burdensome process, if you're hoping to go  
23 forward, if you change your mind, officially or  
24 unofficially, on reacting to what I see in black and  
25 white.

1 MS. MARTINOVICH: So, Greg, just for  
2 clarification, is that if this Board recommends or moves  
3 forward with the 108-foot opening on the north side,  
4 with that condition that we have the encroachment permit  
5 through Federal Highways and through NDOT for the  
6 two-lane, two-through-lane roadway connection, future  
7 actions would have to come back through NDOT and FHWA  
8 through the encroachment permit process, but it wouldn't  
9 have to come back through this Board to relinquish  
10 disposal of additional right-of-way?

11 MR. NOVAK: Correct.

12 MS. MARTINOVICH: Okay. I'm hearing that's an  
13 okay on that.

14 LIEUTENANT GOVERNOR KROLICKI: And, I think,  
15 the phasing terminology is the most appropriate here. I  
16 mean this is about phasing. We all hope to shout that,  
17 you know, everyone has more work to do in the future.  
18 But from a realistic practical standpoint, to try to  
19 jump-start and enhance economic development, you've got  
20 to, you know, use and steward your resources in ways  
21 that are reasonable. And, I think, this phrasing  
22 approach is perfect and appropriate, and it solves our  
23 problems in the near future.

24 MR. NOVAK: Susan, one of our previous comments  
25 and restrictions looked that you charge fair market

1 value for the access (indistinct).

2 MS. MARTINOVICH: And --

3 MR. NOVAK: Which would be the 108-foot, I  
4 believe.

5 MS. MARTINOVICH: Yes. And as we're moving  
6 forward with this Board, the compensation is the  
7 construction of the roadway between the two roads, U.S.  
8 50A and Interstate 80.

9 GOVERNOR GIBBONS: Any further questions? Any  
10 questions of Ms. Wade?

11 MR. FRANSWAY: Question. So we can be assured,  
12 then, that the start date for the roadway to 50A will  
13 begin April 1 of 2009 and --

14 MS. MARTINOVICH: That's the -- excuse me. I'm  
15 sorry, Commissioner.

16 MR. FRANSWAY: And end January 1 of 2010?

17 MS. MARTINOVICH: That's the proposed in the  
18 agreement. We do have that in writing from the  
19 development --

20 MR. FRANSWAY: Okay.

21 MS. MARTINOVICH: -- and will through action  
22 this meeting, and then there will be follow-up with them  
23 that that will be inclusive in that agreement.

24 GOVERNOR GIBBONS: That doesn't preclude them  
25 starting earlier?

1 MS. MARTINOVICH: Absolutely not.

2 GOVERNOR GIBBONS: As long as they don't finish  
3 later?

4 MS. MARTINOVICH: Exactly.

5 GOVERNOR GIBBONS: Correct.

6 MR. FRANSWAY: Thank you, Governor.

7 GOVERNOR GIBBONS: Any other questions?

8 MS. MARTINOVICH: Governor, I'll go ahead and  
9 go with 8-B if -- or how you want to do it, I'll -- they  
10 should be, the rest of them should be pretty smooth, and  
11 then you can --

12 MR. MORABITO: Well, I can vote on B and C but  
13 not A, D or E.

14 MS. MARTINOVICH: Okay. Then I would recommend  
15 a vote as I outlined on 8-A.

16 GOVERNOR GIBBONS: Let's do an independent vote  
17 on 8-A.

18 MR. MARTIN: I move for approval on item 8-A.

19 GOVERNOR GIBBONS: Mr. Martin's has moved  
20 for -- moved for approval.

21 LIEUTENANT GOVERNOR KROLICKI: Second.

22 GOVERNOR GIBBONS: It's been seconded by  
23 Mr. Krolicki.

24 Let me make a disclosure that Wade Development  
25 has contributed to my campaign. And that, in and of

1 itself, may give me a reason to abstain from this vote.  
2 So I will have to abstain.

3 All those in favor, signify by saying "aye."

4 LIEUTENANT GOVERNOR KROLICKI: Question on my  
5 second of that motion. And just for clarification,  
6 because this is all boards, you know, that you sit on, I  
7 sit on. But, you know, if somebody's made a  
8 contribution to a political campaign, you know, at what  
9 point does that become a -- I mean it's already been  
10 publicly disclosed. But at what point does it prohibit  
11 a commission member from participating in a vote?  
12 Because would, I'd have the same disclosure.

13 MR. WARD: Well, this is Joe Ward, for the  
14 record. If there is objective evidence that a  
15 reasonable person in your shoes would have his or her  
16 independence of judgment materially affected by that  
17 campaign contribution, you should abstain.

18 UNIDENTIFIED MAN: We should vote.

19 MR. WARD: If a reasonable person in your  
20 shoes, and this is so subjective and on a case-by-case  
21 basis, dependent, of course, on the amount of the  
22 contribution and the particular circumstances and any  
23 other relationship that you may have with the campaign  
24 contributor, you have to on a case-by-case basis decide  
25 whether it's prudent, in your own mind, to abstain or to

1 conclude that a reasonable person in your position would  
2 not be affected, and go ahead and disclose, as the  
3 Chairman has, and participate.

4 UNIDENTIFIED MAN: Mr. Ward, what you're saying  
5 is that by abstaining, you're effectively saying that  
6 the -- it's an acknowledgment that you could be  
7 influenced by the campaign, so therefore the Governor  
8 and the Lieutenant Governor should, in fact, vote,  
9 because neither one of them are, in fact, influenced by  
10 the campaign contribution?

11 MR. WARD: It is a perception of influence.

12 LIEUTENANT GOVERNOR KROLICKI: And I appreciate  
13 that at this point.

14 MR. WARD: Well, and that's a pertinent point,  
15 too. And then, of course, that's the maxim that you try  
16 to avoid even the perception of an impropriety. So --

17 UNIDENTIFIED MAN: Then you abstain.

18 MR. WARD: Pardon?

19 UNIDENTIFIED MAN: Then you abstain.

20 MR. WARD: Yeah. Yeah. It --

21 UNIDENTIFIED MAN: You know, and if I may,  
22 because, you know, I have participated in votes now,  
23 this is my ninth year. And certainly people and  
24 entities, corporations would come before the Board of  
25 Finance or now Department of Transportation Board, that,

1 you know, I think, the public disclosure is appropriate.  
2 You know, but I think we do need to have a policy. If  
3 there's any time somebody's done anything for us in  
4 our -- in our campaign activities, if that is a  
5 regulation disclosure item, please instruct us as to  
6 that. If it's not, then I would also like that  
7 instruction. I think, that protects all of us.

8           There are ethics cases surrounding this, you  
9 know, what is a material boost or assistance to a  
10 campaign that might affect a reasonable person's  
11 judgment. I think, that threshold is -- actually, they  
12 put a number on it. It was something like five percent  
13 of a total campaign, you know, fund.

14           So with that in mind, I -- and, Governor, I  
15 respect and appreciate what you just said. And I would,  
16 you know, I support what you've done. But I will  
17 participate in this vote, because, you know, this, I'm  
18 voting as I think best in my capacity and fiduciary to  
19 the State Board of Transportation as to the merits of  
20 this proposal.

21           MR. WARD: You know, and this is Joe Ward  
22 again. I was referring to an Attorney General form  
23 opinion that was drafted in 1998, which did conclude  
24 that if it's determined that the independence of  
25 judgment would not be materially affected and/or that

1 the (indistinct) or appointment says no tangible  
2 interest in a particular matter, in the particular  
3 matter, the basis for such conclusion should be  
4 carefully articulated on the record.

5           And it sounds to me like the fact that public  
6 servants who are elected get campaign contributions from  
7 many sources, is it something that -- I'm gathering from  
8 your question, is that something that should be  
9 disclosed on the record.

10           I think, the Governor went very far and above  
11 the call of duty in making that disclosure.

12           But, again, it boils down to whether or not you  
13 believe you would -- your independence of judgment would  
14 be affected by the campaign contribution.

15           UNIDENTIFIED MAN: I understand. I just think,  
16 you know, and this isn't about the item in front of us  
17 now, as a policy going forward, perhaps we can discuss  
18 with staff and the Attorney General's office --

19           MR. WARD: Yes, yes.

20           UNIDENTIFIED MAN: -- or the Board of  
21 Examiners, the Board of Finance, the State Board of  
22 Transportation.

23           MR. WARD: Great.

24           UNIDENTIFIED MAN: -- all the boards that you  
25 sit on, there should be some standard, bright line, we

1 all understand it. And so every time there's someone in  
2 the room who's done something to assist us in obtaining  
3 these jobs, it's the not this situation.

4 MR. WARD: Sure. And there could perhaps be as  
5 situation where a body might, in an overabundance of  
6 caution, freeze and not be able to act because of  
7 contributions from the applicant.

8 UNIDENTIFIED MAN: Yes. Understand. Thank  
9 you.

10 GOVERNOR GIBBONS: Any other comments?

11 MR. FRANSWAY: Mr. Chairman?

12 GOVERNOR GIBBONS: Mr. Fransway.

13 MR. FRANSWAY: Clarification, please. Does the  
14 motion facilitate a 116-foot north and 108-foot south  
15 access opening?

16 UNIDENTIFIED MAN: Just the opposite.

17 MS. MARTINOVICH: The other way around. It's  
18 118 -- excuse me.

19 UNIDENTIFIED MAN: Hundred --

20 MR. MARTINOVICH: 116 on the south and a 108 on  
21 the north.

22 MR. FRANSWAY: Okay. Thank you.

23 GOVERNOR GIBBONS: It has been moved and  
24 seconded, with two abstentions for this vote,  
25 Mr. Morabito and myself. All those in favor, signify by

1 saying "aye."

2 (Board members said "aye.")

3 GOVERNOR GIBBONS: Those opposed?

4 None. The motion passes.

5 MS. MARTINOVICH: Thank you very much.

6 Governor, item 8-B is disposal of Catalina  
7 Apartments located on U.S. 95. These were apartments on  
8 a piece of property that was purchased through -- under  
9 the U.S. 95 widening expansion project, that's going to  
10 be opening up in November. Yay. And --

11 GOVERNOR GIBBONS: Finally.

12 MS. MARTINOVICH: -- you can't just buy half  
13 a -- half an apartment complex. So we purchased the  
14 entire complex, did what we needed to do. And since we  
15 do not want to be in the property management business,  
16 that we are going to -- we declare them as surplus.

17 Under the current statute, the previous owner  
18 has the opportunity to first right of refusal and for  
19 fair market value.

20 So we determined fair market value through our  
21 appraisal. We came to an agreement with the owner in  
22 the amount of approximately \$10,960,000 and are  
23 requesting disposal by direct sale to the original  
24 property owner.

25 GOVERNOR GIBBONS: Madam Director, are you

1 comfortable with the valuation of the property?

2 MS. MARTINOVICH: Yes. In fact, Governor, I  
3 will -- my intent is never to bring you an item for  
4 disposal of this type until we have reached an agreement  
5 on the value of the price. Because we, as an agency,  
6 don't have to sell our property, just like the other  
7 property owner. If we don't come to an agreement, we  
8 don't have to sell it. So if it was to come to this  
9 Board and declared as surplus, then we've already  
10 declared it a surplus, thus meaning we should sell it.  
11 So we will always enter into an agreement with property  
12 owners on the value of the price.

13 And this has gone through an appraisal and gone  
14 through review. And so we think this is fair for both  
15 the state and the purchaser.

16 GOVERNOR GIBBONS: And this is the original  
17 property owner who sold the property to the Department  
18 of Transportation for the right-of-way?

19 MS. MARTINOVICH: Yes, it is.

20 GOVERNOR GIBBONS: Alternative would be to put  
21 it up for an open bid?

22 MS. MARTINOVICH: Correct. If the original  
23 property owner chose not to have it and chose not to  
24 initiate his first right, then it would go up to a  
25 auction, because it doesn't qualify as a direct sale to

1 anybody else, because it can be a standalone property.  
2 So it would go up as a direct sale, it would go up as an  
3 auction and out to bid, with a minimum value that we  
4 establish. And then, then we would open bids in that  
5 regard.

6 GOVERNOR GIBBONS: Okay. Any other material  
7 you want to put before us on this matter?

8 MS. MARTINOVICH: No. We think it's a good  
9 thing.

10 GOVERNOR GIBBONS: Any questions of the Board?

11 MR. FRANSWAY: Do we know that the property  
12 owner does, in fact, wish to reacquire the property?

13 MS. MARTINOVICH: Oh, yes. They've signed the  
14 agreement thing for the value, and they have signed the  
15 agreement for it, too. Yes.

16 UNIDENTIFIED MAN: Governor, I -- in my  
17 premeeting brief with Susan, we went through this  
18 particular item in detail, because I had many of the  
19 same questions about -- about underlying and original  
20 ownership and whatnot. And Susan was, was very  
21 forthright in the way that she explained it. And I'm  
22 pretty much satisfied with the way that they have  
23 conducted this thing. I examined, we examined it in  
24 great detail when we were on the phone.

25 So I would move for approval.

1 GOVERNOR GIBBONS: It's been moved for  
2 approval. Is there a second?

3 MR. FRANSWAY: Second.

4 MS. MARTINOVICH: Mr. Fransway seconds the  
5 motion.

6 Any comments or questions on the motion?

7 Hearing none, all those in favor, signify by  
8 saying "aye."

9 (Board members said "aye.")

10 GOVERNOR GIBBONS: Any opposed?

11 Hearing none, the motion passes unanimously.

12 MR. WARD: This is Joe Ward, just for the  
13 record, again. I hate to go back and revisit something  
14 that we just addressed, but.

15 GOVERNOR GIBBONS: Please do.

16 MR. WARD: But I do have to mention this. And  
17 it helps to read something that I wrote a few months  
18 ago, if you see me reading it. But there's another  
19 Attorney General Opinion that says that if a board  
20 member is also an elected official, who has filed all  
21 campaign contributions and expenditure reports required  
22 by law, the elected official does not need to disclose  
23 and abstain from voting when a person or entity who has  
24 given a campaign contribution has an item before the  
25 board.

1 GOVERNOR GIBBONS: So I've gone overboard.

2 MR. WARD: You went way above and beyond.

3 GOVERNOR GIBBONS: All right.

4 MR. WARD: I don't think that changes the  
5 outcome whatsoever. But, separate and aside from that,  
6 if there are other --

7 GOVERNOR GIBBONS: Makes some --

8 MR. WARD: -- facets to the relationship that  
9 would -- regardless of complying with disclosure --

10 GOVERNOR GIBBONS: Sure.

11 MR. WARD: -- requirements, that would keep you  
12 from acting fair, fairly and impartially and would  
13 influence you, then let your conscience be your guide.

14 UNIDENTIFIED MAN: And if I may, you know, the  
15 Governor has -- the Wade folks, and Patty in particular,  
16 have great skills and advocacies. And I know that she  
17 was a special ambassador for some of the educational  
18 issues during the Legislative Session.

19 So that above-and-beyond relationship that you  
20 have with her in your administration, Governor, I  
21 support your, you know, disclosure and, you know, not  
22 voting on the matter. And my comments, you know, are --  
23 remain the same that all of these relationships are  
24 financially and fully disclosed with other legal  
25 requirements for elected office. So I'm glad we have

1 that, and that should settle the matter going forward.

2 MR. WARD: I think so.

3 GOVERNOR GIBBONS: Okay. Thank you.

4 UNIDENTIFIED MAN: Thank you.

5 GOVERNOR GIBBONS: Any other comments?

6 We'll go on to item 8-C.

7 MS. MARTINOVICH: 8-C is a request. 8-C is a  
8 disposal of a piece of property back to the Airport  
9 Authority of Washoe County. They originally donated the  
10 property to the Department of Transportation. So we  
11 owned it. And we no longer need it for highway  
12 purposes. It was originally in anticipation of the  
13 construction of the airport ramps off of I-580. They --  
14 they would like it back for some of their coordination  
15 and private -- and partnerships with the Nevada National  
16 Guard.

17 Because we owned it, this isn't one where we  
18 just abandon, because it wouldn't really go to anybody.  
19 So what we're doing is just deeding it back through  
20 quitclaim to the Reno airport. And we are allowed to by  
21 statute because of the original donation. So that's why  
22 we're not charging a fee in that regard.

23 GOVERNOR GIBBONS: Any comments by the members  
24 of the Board, questions of the Director?

25 LIEUTENANT GOVERNOR KROLICKI: Move for

1 approval.

2 UNIDENTIFIED MAN: I have, I have one question  
3 that just dawned on me. You were talking earlier about  
4 an entity putting the property up for sale. In this  
5 case, Washoe County was the original owner. They  
6 donated it to NDOT. NDOT now is giving it back. Could  
7 Washoe County turn around and then sell that property?

8 MS. MARTINOVICH: Yes, they can.

9 UNIDENTIFIED MAN: Okay.

10 MS. MARTINOVICH: Because the property wasn't,  
11 wasn't specifically allocated for highway purposes or  
12 wasn't relinquished back to them for highway purposes.

13 GOVERNOR GIBBONS: The airport's intent with  
14 this property is to convey it to the National Guard for  
15 part of their lease to the National Guard; is that  
16 correct?

17 MS. MARTINOVICH: That's our understanding, is  
18 part of helping both agencies expand to their benefit.

19 GOVERNOR GIBBONS: Okay.

20 MR. FRANSWAY: Question.

21 GOVERNOR GIBBONS: Mr. Fransway.

22 MR. FRANSWAY: Is it going back to Washoe  
23 County or to the Airport Authority?

24 MS. MARTINOVICH: It's going back to the  
25 Airport Authority of Washoe County.

1 MR. FRANSWAY: Okay. Thank you.

2 GOVERNOR GIBBONS: Any other questions,  
3 Comments?

4 The motion has been made by Mr. Martin for  
5 approval.

6 CONTROLLER WALLIN: I'll second.

7 LIEUTENANT GOVERNOR KROLICKI: I did, I made  
8 the motion.

9 GOVERNOR GIBBONS: You made it.

10 Mr. Krolicki made the motion. Seconded by  
11 Ms. Wallin.

12 Any comments or questions on the motion?

13 Hearing none, all those in favor, signify by  
14 saying "aye."

15 (Board members said "aye.")

16 GOVERNOR GIBBONS: Is there any opposition?

17 Hearing none, it passes unanimously.

18 MS. MARTINOVICH: Governor, item 8-D and 8-E,  
19 8-D and 8-E are very similar, so I'll just, I'll talk to  
20 them both, is that the Department of Transportation had  
21 a frontage road and a parcel of property along U.S. 95A  
22 near East Newlands Drive. And because of the growth and  
23 the change of conditions out in that area, we no longer  
24 need that roadway or need that piece of property. So  
25 it's been requested that we declare it a surplus, and it

1 is surplus to our needs, so we are requesting to dispose  
2 of it.

3 Under the disposal statutes, neither parcel can  
4 be standalone properties, because it would have an  
5 impact to the adjacent properties. And so we are  
6 disposing of those properties as a direct sale. One of  
7 them is to Wells Fargo Bank in the amount of \$215,000,  
8 and the other one is to the -- is to Michael Berry in  
9 the amount of \$219,500. Both of these owners are  
10 direct, are abutting owners to the property. So.

11 GOVERNOR GIBBONS: The standalone property  
12 issue is critical to the item here.

13 MS. MARTINOVICH: And that's exactly it. If we  
14 were to auction this property, and somebody totally  
15 different bought it, they could actually prohibit access  
16 of these other adjoining property. So we look at that  
17 to make sure that when we do dispose of a property, we  
18 do it correctly so that we aren't impacting the adjacent  
19 property owners. And that's why these are direct sales  
20 as opposed to going through auction.

21 GOVERNOR GIBBONS: Okay. Any questions by a  
22 member of the Board?

23 Any comments?

24 CONTROLLER WALLIN: Move for approval of it.

25 GOVERNOR GIBBONS: Ms. Wallin's moved for

1 approval.

2 UNIDENTIFIED MAN: Second.

3 GOVERNOR GIBBONS: There's a second. And is  
4 this moving for approval on items 8-E and 8-D?

5 MS. MARTINOVICH: Yes.

6 GOVERNOR GIBBONS: So D and E?

7 CONTROLLER WALLIN: M-hm (affirmative).

8 MS. MARTINOVICH: All right. Any comments or  
9 questions on the motion?

10 Hearing none, all those in favor of approval,  
11 signify by saying "aye."

12 (Board members said "aye.")

13 GOVERNOR GIBBONS: Those opposed?

14 Hearing none.

15 MR. MORABITO: One abstaining.

16 GOVERNOR GIBBONS: And Mr. Morabito has  
17 abstained on this motion. So the motion passes. And  
18 Mr. Morabito has abstained on this motion. So there --  
19 the motion passes.

20 MS. MARTINOVICH: Governor, as you can see,  
21 these right-of-way issues can be very complicated. And  
22 it's only been through years of training and my  
23 right-of-way staff pounding these things in my head. So  
24 I do need to thank and acknowledge them, Heidi Morales  
25 and John Avick especially, for the education on these

1 right-of-way issues. They're the ones that live and  
2 breathe these daily.

3           So if you do have any questions on them,  
4 because it does get very complicated in that regard, I  
5 thank them for their information. And we would be happy  
6 to answer any questions in the future on them.

7           GOVERNOR GIBBONS: Okay.

8   \* \* \* \* \*

9   (End of agenda item number 8.)

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State of Nevada  
Department of Transportation  
Board of Directors' Meeting Minutes  
October 12, 2005

An agenda was posted on October 3, 2005 in accordance with Nevada Revised Statutes, Chapter 241, in the following locations: Governor's Office, Carson City, NDOT lobby in Carson City, the Washoe County Courthouse in Reno; the District Office in Las Vegas and the Governor's Office in Las Vegas and the NDOT office.

**Transportation Board members Present:**

Governor Guinn  
Controller Kathy Augustine  
Father Caesar Caviglia

Attorney General Brian Sandoval  
Jim Thornton  
Tom Gust

**Present from the Department of Transportation:**

Jeff Fontaine  
Rick Nelson  
Robert Kvam  
Lucy Joyce Mendive  
Heidi Mireles  
Alicia Thompson  
Joe Peltier  
Cleveland Dudley  
Kent Sears

Susan Martinovich  
Kent Cooper  
Richard Yeoman  
David Manning  
Tracy Larkin  
Dean Weitzel  
El Miranda  
Eleyabette Saeny

Ruedy Edgington  
Robert Chisel  
Ken Chambers  
Patricia Burke  
Jim Souba  
Dennis Baughman  
Tony Letizia  
Bill Snyder

**Others present:**

Tom Greco  
Marc Reynolds  
Mark Johnson  
Wayne Kinder  
Steve Goldstein

Greg Novak  
Charles Kajkowski  
John Sande IV  
Cheryl Kinder  
Penny Nitz

Greg Krause  
Daryl Capurro  
Fred Schmidt  
Brian Hutchins

**Members of the Press Present:**

Cy Ryan

Tim Anderson

October 12, 2005  
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1. Presentation of Retirement Plaques to 25 Year Employees - *Informational Item Only*

Comments: See Attachment

2. Presentation of Awards - *Informational Item Only*

Comments: See Attachment

3. Receive Director's Report - *Informational Items Only*

Comments: See Attachment

**Consent Agenda** (*Items 4 through 9 are considered by the Department of Transportation to be routine and may be acted upon in one motion. However, the Board of Directors may discuss any consent item if requested by a Board member or citizen when the consent agenda is considered for approval*) - *Action Items*

4. Approval of the June 21, 2005 State Transportation Board of Director's Meeting Minutes - *Action Item*

Motion by: Thornton Seconded by: Sandoval Vote: 6

Comments: See Attachment

5. Resolutions of Relinquishments - *Action Items*

- A. Fremont Street from 7<sup>th</sup> Street to 8<sup>th</sup> Street to the City of Las Vegas - Clark County

Motion by: Thornton Seconded by: Sandoval Vote: 6

Comments: See Attachment

- B. South Virginia Street (SR-430) from I-580 to north of Plumb Lane to the City of Reno - Washoe County

Motion by: Thornton Seconded by: Sandoval Vote: 6

Comments: See Attachment

- C. 4<sup>th</sup> Street (SR-647) from McCarran Boulevard to Galletti Way to the City of Reno - Washoe County

Motion by: Thornton Seconded by: Sandoval Vote: 6

Comments: See Attachment

October 12, 2005  
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D. Clear Acre Lane (SR-443) from Wedekind Road to North McCarran Boulevard to the City of Reno - Washoe County

Motion by: Thornton Seconded by: Sandoval Vote: 6

Comments: See Attachment

6. Condemnation Resolutions - *Action Items*

A. I-580 Freeway - Winters Ranch to Mount Rose Highway - Phase 2 - Package B - Washoe County: 5 owners totaling 10 parcels

Motion by: Thornton Seconded by: Sandoval Vote: 6

Comments: See Attachment

B. Carson City Freeway - Phase 2A - Carson City: 1 owner totaling 2 parcels

Motion by: Thornton Seconded by: Sandoval Vote: 6

Comments: See Attachment

7. Resolutions of Abandonment - *Action Item*

A. Las Vegas Boulevard at Tropicana - Rescind Resolution of Abandonment (Item #3C) as approved on April 26, 2005 and Approve a Modified Resolution of Abandonment - Clark County

Motion by: Thornton Seconded by: Sandoval Vote: 6

Comments: See Attachment

8. Surplus Property - *Action Items*

A. Property near Wildlife Road and on US-95A near Fernley - Lyon County

Motion by: Thornton Seconded by: Sandoval Vote: 6

Comments: See Attachment

B. US-50 Interchange Control-of-Access Opening - Amendment to Item #5A as Approved on June 21, 2005 - Carson City

Motion by: Thornton Seconded by: Sandoval Vote: 6

Comments: See Attachment

October 12, 2005  
Page 3 of 4

C. I-15 at Lamb Boulevard Control-of-Access Opening - Clark County

Motion by: Thornton Seconded by: Sandoval Vote: 6

Comments: See Attachment

9. Approval of Equipment Purchases in Excess of \$50,000 - *Action Item*

Motion by: Thornton Seconded by: Sandoval Vote: 6

Comments: See Attachment

**End of Consent Agenda**

10. Briefing by the Washoe County Regional Transportation Commission - *Informational Item Only*

Comments: See Attachment

11. Briefing by the Statewide Transportation Technical Advisory Committee - *Informational Item Only*

Comments: See Attachment

12. Discussion and Possible Approval of the Fiscal Year (FY) 2006 Annual Work Program and FY 2007-2015 Short and Long Range Elements, and Acceptance of the FY 2006-2008 Statewide Transportation Improvement Program - *Action Item*

Motion by: Thornton Seconded by: Caviglia Vote: 6

Comments: See Attachment

13. Discussion and Possible Approval to Authorize Lump-Sum Payments to Effect Nevada Department of Transportation Road Transfers - *Action Item*

Motion by: Thornton Seconded by: Sandoval Vote: 6

Comments: See Attachment

14. Discussion and Possible Approval to Add Two Members to the "Blue Ribbon" Task Force to Evaluate Nevada Department of Transportation Long Range Projects - *Action Item*

Motion by: Thornton Seconded by: Caviglia Vote: 6

Comments: See Attachment

October 12, 2005

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15. Briefing on Rail, Passenger Rail and Truck Freight Issues in Nevada - *Informational Item Only*

Comments: See Attachment

16. Briefing on Major Transportation Projects to be Advertised and Under Construction - *Informational Item Only*

Comments: See Attachment

17. Contracts and Agreements - *Informational Item Only*

A. Construction Contracts Awarded

Comments: See Attachment

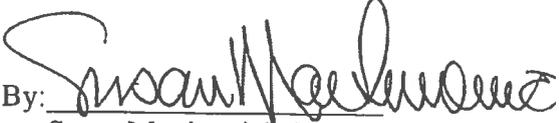
B. Agreements with Independent Contractors

Comments: See Attachment

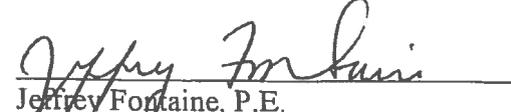
18. Public Comment

Comments: See Attachment

Respectfully Submitted:

By:   
Susan Martinovich, P.E.  
Deputy Director

Approved by:

  
Jeffrey Fortaine, P.E.  
Director

  
Governor Kenny C. Guinn  
Chairman

**State of Nevada  
Department of Transportation  
Board of Directors Meeting  
Minutes of October 12, 2005**

**Governor Guinn** called the meeting to order and all members were present except for Lt. Governor Lorraine Hunt.

**1. Presentation of Retirement Plaques to 25 Year Employees - Informational Item Only**

**Governor Guinn** presented a retirement clock to Debra Best of the Accounting Division.

**2. Presentation of Awards - Informational Item Only**

**Director Fontaine** wanted to recognize NDOT's receipt of the AASHTO Center for Environmental Excellence's Award for Best Practices in Context Sensitive Solutions for the Reno to Carson freeway (I-1580). Todd Montgomery, the Project Manager, and CH2M Hill were very instrumental in this. NDOT, along with Nevada Power and Sierra Pacific Power, for their partnership on the 800 MHZ shared radio system was awarded the UTC APEX Award which recognizes utilities for communications excellence. Wayne Kinder, who retired in July as the Department's Chief Road Design Engineer, for receiving the AASHTO Subcommittee on Design National Award for his contributions to AASHTO.

**3. Receive Director's Report - Informational Items Only**

**Director Fontaine** explained to the Board that after two years that Congress passed a federal transportation and President Bush signed the Safe, Accountable, Flexible Efficient Transportation Equity Act, a Legacy for Users (SAFETEA-LU). At \$286 billion it is the largest highway transit bill ever and for Nevada it means almost \$1.3 billion over the next five years, about a 30% increase in funding. It also contains an unprecedented number of earmarks. Nevada received \$330 million in highway earmarks and 90 million in transit. In addition to the funding provisions, there were also some policy changes including streamlining the environmental review process, a 180 day statute of limitations for filing of lawsuits after the record of decision. There are also some innovative finance mechanisms, such as encouraging and increasing the use of private activity bonds, expansion tolling provisions and for two national commissions, one to evaluate the future of surface transportation in this nation and the other to study the federal highway trust fund. The next round of bonds which are being used to pay for the acceleration of the construction of the Department's super projects is expected to be sold on October 19. Seat belt use in Nevada is up and according to preliminary figures for 2005, 95% seat belt use which would place Nevada first in the 29 states that have secondary seat belt and number two overall, after Hawaii, which has a primary seat belt. The Department will host the Western Association of State Highway Transportation Officials (WASHTO) Conference in July of 2007. The Department now has a record setting construction program in place and thanked staff for all of their efforts in making this a reality.

**Governor Guinn** expressed his appreciation also.

**Consent Agenda** (*Items 4 through 9 are considered by the Department of Transportation to be routine and may be acted upon in one motion. However, the Board of Directors may discuss any consent item if requested by a Board member or citizen when the consent agenda is considered for approval*) - *Action Items*

4. **Approval of the June 21, 2005 State Transportation Board of Director's Meeting Minutes - Action Item**
5. **Resolutions of Relinquishments - Action Items**
  - A. **Fremont Street from 7<sup>th</sup> Street to 8<sup>th</sup> Street to the City of Las Vegas - Clark County**
  - B. **South Virginia Street (SR-430) from I-580 to north of Plumb Lane to the City of Reno - Washoe County**
  - C. **4<sup>th</sup> Street (SR-647) from McCarran Boulevard to Galletti Way to the City of Reno - Washoe County**
  - D. **Clear Acre Lane (SR-443) from Wedekind Road to North McCarran Boulevard to the City of Reno - Washoe County**
6. **Condemnation Resolutions - Action Items**
  - A. **I-580 Freeway - Winters Ranch to Mount Rose Highway - Phase 2 - Package B - Washoe County: 5 owners totaling 10 parcels**
  - B. **Carson City Freeway - Phase 2A - Carson City: 1 owner totaling 2 parcels**
7. **Resolutions of Abandonment - Action Item**
  - A. **Las Vegas Boulevard at Tropicana - Rescind Resolution of Abandonment (Item #3C) as approved on April 26, 2005 and Approve a Modified Resolution of Abandonment - Clark County**
8. **Surplus Property - Action Items**
  - A. **Property near Wildlife Road and on US-95A near Fernley - Lyon County**
  - B. **US-50 Interchange Control-of-Access Opening - Amendment to Item #5A as Approved on June 21, 2005 - Carson City**
  - C. **I-15 at Lamb Boulevard Control-of-Access Opening - Clark County**
9. **Approval of Equipment Purchases in Excess of \$50,000 - Action Item**

**End of Consent Agenda**

**Member Thornton** made a motion for approval and **Attorney General Sandoval** seconded the motion.

**Governor Guinn** asked the Director about condemnation resolutions in general, as it appears that the Department is taking a significant amount of acreage and how are our needs calculated?

**Director Fontaine** explained that when the Department asks the Board for a condemnation resolution, we are asking for the acquisition of property that we need for highway purposes and that is what we are required to do under state law. He asked our Chief Right-of-Way agent, Heidi Mireles, to further explain.

**Heidi Mireles** explained that right-of-way is assessed by design features. Just some of the things that are taken into account are the actual cut, slopes, utilities, maintenance, among many other factors. She puts the designers through a lot of analysis because she has to sign an affidavit of necessity for every square foot that we take. We are constantly fine tuning and working to minimize those needs.

**Governor Guinn** asked about Item No. 8, regarding the change in access opening for Syncon Homes, where are we on everything else.

**Director Fontaine** said that we are working through the issues and believes that we have an executed agreement at this time with Syncon Homes to reflect the desires of the Board, which were made at the last meeting in regards to getting everything wrapped up and getting this project out to bid at the end of the year. This particular item is just to increase the width of the opening from Highway 50. The one issue that will come before the Board that is part of our agenda item for the Annual Work Program is to discuss the Department's proposed contribution for construction engineering, but beyond that he believes that we are working through all of the issues.

**Deputy Director Susan Martinovich** further explained that she is aware that State Lands and Syncon Homes have been working very closely to resolve the outstanding issues. NDOT Right-of-Way staff has been assisting State Lands in the appraisals and in the information regarding the control-of-access on the interchange. We have also assigned a NDOT staff person to work directly with the Syncon. As far as we know, everything is moving forward and she knows that State Lands is working diligently to resolve the issues. The design plans have been completed, there were a couple minor items to be resolved and we will be writing the specifications as we get closer to the actual advertising to be able to accommodate any last minute changes. As far as NDOT is concerned, we are just waiting for the Right-of-Way certification. We still plan on advertising the project by December 31 of this year. If the bids come in good, then we would start construction in the spring of next year.

**Governor Guinn** asked if there were any representatives of Syncon present at the meeting. When the representatives of Syncon identified themselves, he stated that NDOT staff has bent over backwards to assist with this project and anything that they wanted to say about staff, should be said directly to him. He doesn't want to see anymore of Syncon blaming staff for everything that is going on. Staff has been working very hard and are following the laws of the State of Nevada. If he, or anybody on this Board, gets one more e-mail then he is going to bring it back and just go back to the original plan. It is not fair to these people to have e-mails flying around

blaming them for not being cooperative. In the private sector, you can do what you want, but Department staff have to follow the law. This has been going on for three years now he advised sending an e-mail to one person when it takes the entire Board to make a decision. He asked Syncon to give this serious consideration because they are putting this project at risk when it has have come this far. It is just not right.

**Governor Guinn** received six votes the affirmative and declared the item passed.

**10. Briefing by the Washoe County Regional Transportation Commission -  
Informational Item Only**

**Greg Krause**, Executive Director of the Washoe County Regional Transportation Commission, thanked the Board and wanted to give a brief update on transportation issues in Washoe County. Washoe County has also been growing very rapidly and the big challenge has been accommodating this growth in the future. Significant progress has been made with projects like the I-580 extension. There are also several projects under construction that are relatively low cost that will improve conditions. He also said that the Freeway Service Patrol, which is funded by NDOT, has been very helpful for safety and keeping operations flowing. He also identified Washoe County's planned improvements for the state maintained facilities that have been adopted by the Regional Transportation Plan. There are major projects in the coming years that need to be designed now for construction that will begin beyond 2010. They have identified nearly almost \$7 billion by the year 2030. Progress is also being made on the Tahoe Pyramid link, which is a major arterial and necessary to provide an alternative to going through the Spaghetti Bowl. The key point that he wanted to leave the Board with today is when they looked at their transportation plan they identified all of the needed funds, but the key assumption in that financial plan is there will be an adjustment of local state and federal funds for inflation. That has been addressed through actions taken in 2002 and enabled by the 2003 Legislature and actually implemented in Washoe County with a local gas tax. They now have annual inflation adjustments. They also have that for their impact fee system. The state and federal gas taxes are also key to their success in making their plan become a reality. Those gas tax revenues, either from indexing or some other mechanism, are adjusted for inflation. They are really trying to contribute on a local level and not just rely upon the state and federal funds in terms of addressing Washoe County's future transportation needs. They will be proposing an increase in the impact fees for developers to assist in the mitigation of the rapid inflation. They are also exploring a variety of transit options.

**11. Briefing by the Statewide Transportation Technical Advisory Committee -  
Informational Item Only**

**Director Fontaine** advised the Board that the Statewide Transportation Technical Advisory Committee (STTAC) is advisory to the Department and to the Board and the STTAC consists of representatives of federal agencies, a variety of state agencies as well as local and tribal governments. He then introduced **Charlie Kajkowski**, the Acting Public Works Director for the City of Las Vegas, who is the current STTAC Chairman.

**Charlie Kajkowski** explained that they have had met five times this calendar year, including a special meeting in September. There are four notable issues that have been presented to the STTAC. One is the Aesthetics and Landscaping Corridor presentation. The Committee endorsed that plan and encouraged local and regional governments to pass resolutions in support of it. One

notable feature in that plan spoke of acquiring 400 feet of right-of-way on either side of a highway centerline. The idea behind that was to create more landscape areas, natural vegetation so that we would have low cross vegetation naturally occurring. They urged NDOT to acquire that land where it is still available from the BLM. The second thing that the Committee did was to form a subcommittee to review rural applications for federal funding enhancement projects and to recommend projects that would be utilizing the state's match program. The Committee and Subcommittee developed a list of eleven projects to recommend to the Department. The third thing that the Committee did was form a Subcommittee and urge NDOT to try to come up with a visionary plan for highway needs beyond 20 years. So an eye could be kept on right-of-ways, acquisition of right-of-ways and provide a road map for the future. The last thing was at the special September meeting to endorse the transportation projects that would be added into the Statewide Transportation Plan.

**12. Discussion and Possible Approval of the Fiscal Year (FY) 2006 Annual Work Program and FY 2007-2015 Short and Long Range Elements, and Acceptance of the FY 2006-2008 Statewide Transportation Improvement Program - *Action Item***

**Kent Cooper**, Assistant Director of Planning, explained that the Statewide Transportation Technical Advisory Committee is basically the committee that the Department uses to run all of our products through before it is presented to the Board. He apologized for being a little scattered on some of the details, but the President has signed the new Reauthorization Act on August 10, so his staff has been trying to clarify some of the issues as well as close out their fiscal year. So some of these things still have not been resolved completely. He asked that the Board approve the FY 2006 Annual Work Program and FY 2007-2015 Short and Long Range Elements and accept the FY 2006-2008 Statewide Transportation Improvement Program. He had also distributed the Program Development Manual to the Board and this has went a long ways in allowing the other people in the State to understand the program, how it works, how they can contact staff and how the money is allocated. There is a letter in the Board Binders from the STTAC recommending approval of this item. The federal government is always encouraging the States to improve the roadway systems without adding additional capacity. Capacity projects are very expensive. Intelligent Transportation Systems (ITS) have a lot of positives in being able to move the traffic at less expense for the transportation agencies. Having pre warning of congested areas allow motorists to make better choices. It also provides better safety and security with our signs, it improves the fuel consumption and emissions and reduces government expenditure for better goods, and increase that level of productivity and improve quality of life. We have also created a couple of additional categories of funding and availability and ways for local areas to apply to us for funding. These are included in the program manual, but he wanted to point out a process where the locals apply to us and they are evaluated to see if they are feasible or not and then we get back to the county. We have also created a category called economic development that is primarily set up for the rural areas of the state. This category can only be spent in areas that are populated in areas that are less than 5,000 people. Through this process we have allowed people to apply for projects that may not be a high priority for us, but has a local benefit on the economic development side for the State of Nevada. He gave examples of some of the specific projects.

**Governor Guinn** asked for summary sheets with totals that would help the Board Members when they are reviewing the material, especially for projects where funding is undetermined.

**Kent Cooper** responded that they would do this in the future and also pointed out one correction that he wanted to make in Washoe County and he had passed out a corrected summary sheet also. He also pointed out a new program called Safe Routes to Schools and requires a NDOT person to be a coordinator of this program. He gave a brief break down on what kinds of projects the percentages of funds are spent on and in what counties it was spent in. He highlighted some features of some of the projects under construction throughout the State.

**Governor Guinn** asked about the construction schedule of phases for the Carson City Freeway.

**Kent Cooper** explained the scheduling details of this project. He also highlighted some of the features of the FAST building.

**Governor Guinn** asked what the efficiency percentage difference will be for the FAST investment.

**Director Fontaine** responded that it is difficult to give specific percentages of efficiency, but there is no doubt that this investment in technology by putting the devices on the freeway corridors by providing information to motorists and being able to manage and operate the freeways, there is no doubt that it is a great return on our investment. If you put the \$52 million in to actual hard road construction, basically what you would get is one interchange instead what we are doing is providing technology and information to all of the freeway corridors in the Las Vegas Valley which we think will go a long ways in improving efficiency and squeezing additional capacity out of what we have today as well as improving safety and providing motorists information that they need on how to travel. The ramp metering is our initial foray into technology like that. All of the big overhead message signs across the freeways now will have, because they are all going to be connected to the FAST system, when we detect an incident on the freeway, we will immediately be able to, from that FAST center, to display a sign on that overhead message sign that will help motorists avoid the situation. We have actually installed on the ramps as well as the arterial streets in the local entities trailblazer signs that people actually detour with those electronic signs around the city streets back on to the freeway. In addition to the overhead message signs, as we move forward through this program, eventually that information will be available on web sites, personal digital assistants, maybe even on cell phones. He highlighted some of the major projects that are in different stages of the planning process.

**Kent Cooper** explained that we are evaluating right now all of the discretionary money that was placed in this bill and we will line out a plan of action for the next four or five years and those locals know what our plan of action is. Sometimes what they don't realize is that when they get a big discretionary request that we ought to spend it right now. In reality, we get that money within four or five years of the bill so we are very careful where we place those in the program. In regards to the financial aspect of it, we actually do a weekly review of our finances to determine how we are doing cash flow wise, contract wise and the whole nine yards. So if anybody wants to come in and look at so they can be reassured that we have a good handle on our finances. We are not going to overspend our budget and if there are cost increases on this project that we can control that and not go forward with projects if that is not a possibility. A part of this project evaluation process we have now, we can take a look at these rural projects and the urban projects and actually do some type of ranking so we can give the Board and the Director some indication on where that should lie in priority of things and it is rated on a number of different factors, such as economic develop, safety, etc.

**Governor Guinn** asked that the Board be kept aware of projects and public meetings.

**Director Fontaine** stated that we don't typically bring this work program to the Board until the meeting when we request approval. What we can do is as we develop the work program, we can bring the proposed work program to the Board at the same time as it is presented to the Counties. He also stated that he believed that there was a member of the public that wanted to speak on this particular agenda item.

**Patty Wade Snyder**, Wade Development, thanked NDOT for their assistance in the past. She has also been working with the federal government and going through that process. She will appreciate any and all help that she can get from the State on the new I-80 Interchange in Fernley. There has been a tremendous amount of growth in the area, this particular project has huge economic development benefit for Fernley, the region and the state. It is a top priority for this state as evidenced by the \$8.1 million they received in the transportation bill for this interchange. She gave a briefing on the industrial park itself job creation and increased tax base. Economic diversification is the key to Nevada's financial health. Wade Development has already contributed over \$8 million to date to this project. They have also spent over \$15 million out of pocket already on regional access roads and associated infrastructure. They will soon be rebuilding Highway 40. That is 2.2 miles at \$400 per foot and that will represent another \$4.65 million. They will be dedicating that to the City in phases as it is developed, taking it off of NDOT's system. They will be constructing Nevada Pacific Parkway which will connect I-80 and US-50 and when they make that connection, which will alleviate a lot of the traffic that will go on the roundabout. Fernley is now officially a City and has been for about three years and has experienced 17% growth annually and has several new industries. They have also intended to put a special assessment in place to cover any shortfall between the over \$8 million contribution that they have made and the 8.1 million that the federal government has recently made in the Transportation Bill and what they hope to get from the State. It is about \$24.5 million project and construction costs are going up. There is about \$8.5 million that is unfunded at this point and some of this will be done under the special assessment and hopefully the 10% contingency will take care of part of it as well. She is hoping to get \$6 million contribution from the State, but they will appreciate any contribution that can be made. She made a request before the Board in 2002 and she was kindly directed to go out and find some money. She went out and lined up a substantial contribution and is looking to Board to help in any way that they can.

**Director Fontaine** stated that last year the Board approved \$4.5 million out of the rural economic set aside for the Reno Tahoe Industrial Park Interchange. The total cost of that interchange far exceeds \$4.5 million, but that was the Board's approved contribution. That project was supposed to be under construction this year, so it will be under construction later this year and we are requesting that the Board carry that money from last year to this year. What we are talking about this year is the new economic development set aside program and this particular project.

What we are recommending in the work program for this year is to contribute \$2.25 million, which is almost all of the state program, to the interchange out there in Fernley. We need to hold a little back because we need to match the rest of the federal money. We cannot use the federal portion of the economic development aside of the East Fernley Interchange because it is in an area that is over 5,000 people. The other part of the contribution that we are recommending that the Board approve is for us to do the construction engineering which typically runs any where from 8

- 10%. We are saying 10% just for estimation purposes, it would be about \$1.5 million which would be total state contribution of \$3.6 or \$3.7 million towards that project. He continued that we could switch some of the funding around to come up with additional funds if that is what the Board wanted to do.

**Jim Thornton** asked if we could legally commit money from 2007 now?

**Director Fontaine** responded that the Board certainly has the discretion to do that? The only point he wanted to make is that he wanted to make sure that the funding was committed prior to advertising. He then briefly explained the process.

**Patty Wade** expressed her willingness to adhere to Department policy in this respect.

**Governor Guinn** asked if there was a motion to approve was set forth in the Annual Work Program with the consideration to allocating with exchanging some funding so that it can be applied to this project and allow staff to work with the developer regarding this project.

**Director Fontaine** stated that the motion should include as a part of this work program the construction engineering for the US-50 Interchange.

**Patty Wade** wanted to make sure she understood that the State was going to contribute approximately \$4.5 million in funds as well as provide the construction engineering.

**Member Thornton** asked if we were setting a specific number in the motion.

**Director Fontaine** responded that it would be the maximum amount allowed in the program of \$4.8 million and the construction engineering which is usually about 8 - 10% of the project cost.

**Member Thornton** made a motion to approve the 2006 Annual Work Program and approve no more than \$4.8 million and construction engineering for the Wade Project.

**Member Caviglia** seconded the motion.

**Governor Guinn** received six votes to the affirmation and no votes the negative and declared the item passed.

**13. Discussion and Possible Approval to Authorize Lump-Sum Payments to Effect Nevada Department of Transportation Road Transfers - Action Item**

**Director Fontaine** explained that it has been the policy of the Department of Transportation to transfer parallel roadways to cities and counties and relinquish roadways back to the local entities when we substantially improve and repair them. The Board has always believed that we do not have the money to maintain the local streets when we build new highways and the issue of controlling what we built. We have inventory of the system and we know what belongs on the state system, the interstate, national highway systems and some of the rural routes. We have identified over 600 miles of roadway that we believe should be transferred. To date, we have had limited success in the transfer of roads. Only 22 centerline miles. The big problem is that the

local entities are generally not interested in accepting these roads unless there is an even exchange. There was a Department of Administration Audit that addressed road transfers and there were three recommendations. 1) transfer responsibility of the road without necessarily transferring ownership 2) assign NDOT central staff to coordinate and track these 3) transfer roads with methods other than even exchanges, either lump sum payments or even abandoning the road. We agree with all of the recommendations, but do not think that the Department should be transferring maintenance responsibilities to local entities and continue to make annual payments. We think that once we relinquish those roads that we need to have the counties and cities take those over. We believe that a lump sum payment makes a lot of sense and we want to aggressively pursue that. We want to look at the cost of the road in terms of how much is costing the Department to keep it at a high level of servicablity. We would look at how much we have planned for resurfacing or rehabilitating that road and our own costs for maintaining a road and we would analyze that and then approach the local entity and offer to give them the money that we would have spent in exchange for them taking over the road. They can use the money for whatever they want to. We would start with the projects that are in the program that the Board just approved. If at the end of this if the city or county is not interested in taking over the road, we would take a serious look at whether or not that road should be abandoned. These actions would be brought back before the Board for final approval.

**Member Thornton** stated that in theory this sounds like a good idea. It is good business and we want to do it. He just thinks that it is awfully open ended. He would like the Department to come back before the Board and show the guidelines that are going to be used. He thinks that they way it was presented put a lot of the burden on staff and opens the Department up to criticism. He thinks that strict guidelines need to be developed for this process. It is so subjective.

**Director Fontaine** stated that staff would develop these guidelines and present it to the Board at the next meeting.

**Governor Guinn** agreed that this process needs to be consistent.

**Director Fontaine** stated that if the Board would consider approving this item in concept, staff would present a more detailed analysis of costs and very specific requirements at the next meeting.

**Member Thornton** made a motion for approval of the Director's recommendation and **Member Sandoval** seconded the motion.

**Governor Guinn** received six votes to the affirmative and no votes to the negative and declared the item passed.

**14. Discussion and Possible Approval to Add Two Members to the "Blue Ribbon" Task Force to Evaluate Nevada Department of Transportation Long Range Projects - Action Item**

**Member Thornton** made a motion for approval that members could be added at the discretion of the Task Force.

**Member Caviglia** seconded the motion.

**Governor Guinn** received six votes to the affirmative and no votes to the negative and declared the item passed.

**15. Briefing on Rail, Passenger Rail and Truck Freight Issues in Nevada -  
*Informational Item Only***

**Kent Cooper**, Assistant Director of Planning, stated that Nevada has rail corridors following the same alignments as I-80 and I-15. He had a map that showed the impact of national freight on the State of Nevada. Two of the heaviest traveled corridors in the nation. There are some areas that we will find it extremely difficult to widen highways and increase capacity. The railroads are trying to be more efficient and finding it difficult with the increased freight traffic and they are in competition with each other and there are other factors that play into the freight aspect of things. Nevada and California directors have met at a rail summit to discuss the difficulties faced and possible solutions. There are some major concerns as we grow and commerce is the number one factor in that. Not the transport of people as much because there are other methods to move people, but the transport of goods. The railroads are beginning to experiment with the use intelligent vehicles. He then explained some of the innovative methods and systems being considered. Just increasing roadway capacity is not going to be sufficient.

**16. Briefing on Major Transportation Projects to be Advertised and Under  
Construction - *Informational Item Only***

There were no questions on the information provided in the Board binders.

**17. Contracts and Agreements - *Informational Item Only***

**A. Construction Contracts Awarded**

**B. Agreements with Independent Contractors**

There were no questions on the information provided in the Board binders.

**18. Public Comment**

**Governor Guinn** asked there was anybody wishing to provide public comment and there was none, so he declared the meeting adjourned.



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## MEMORANDUM

March 31, 2014

**TO:** Department of Transportation Board of Directors  
**FROM:** Rudy Malfabon, Director  
**SUBJECT:** April 14, 2014 Transportation Board of Directors Meeting  
**Item #17:** Old Business

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### **Summary:**

This item is to provide follow up and ongoing information brought up at previous Board Meetings.

### **Analysis:**

- a. Report of Outside Counsel Costs on Open Matters - *Informational item only.*  
Please see Attachment A.
- b. Monthly Litigation Report - *Informational item only.*  
Please see Attachment B.
- c. Report on Settlement for a Direct Condemnation Claim in the Matter of *State of Nevada v. Woodcock: Case No. A-12-664399 – Informational item only.*  
Please see Attachment C.
- d. Fatality Report dated March 30, 2014 - *Informational item only.*  
Please see Attachment D.

### **List of Attachments:**

- a. Report of Outside Counsel Costs on Open Matters - *Informational item only.*
- b. Monthly Litigation Report - *Informational item only.*
- c. Report on Settlement for a Direct Condemnation Claim in the Matter of *State of Nevada v. Woodcock: Case No. A-12-664399 – Informational item only.*
- d. Fatality Report dated March 30, 2014 - *Informational item only.*

### **Recommendation for Board Action:**

Informational item only.

OPEN NDOT - OUTSIDE COUNSEL CONTRACTS AS OF MARCH 17, 2014						
Vendor	Case/Project Name	Contract Period	Contract and Amendment Date	Contract and Amendment Amount	Total Contract Authority	Contract Authority Remaining
Nossaman, LLP	Pioneer Program Legal and Financial Planning NDOT Agmt No. P282-09-002	9/23/09 - 7/1/13 Amendment #1 Amendment #2 Amendment #3 Amendment #4	9/23/2009 2/23/2010 10/6/2010 10/26/2010 8/31/2011	\$ 125,000.00	\$ 630,000.00	\$ 159,749.01
				\$ 80,000.00		
				\$ 30,000.00		
				\$ 30,000.00		
				\$ 365,000.00		
Nossaman, LLP	Project Neon Legal and Financial Planning NDOT Agmt No. P014-13-015	3/11/13 - 3/11/15 Amendment #1	3/11/2013 1/14/2014	\$ 1,400,000.00	\$ 3,400,000.00	\$ 2,115,634.20
				\$ 2,000,000.00		
Snell & Wilmer, LLP	Peek Construction vs. NDOT 1st JD 120C 00030 1B Contract # 3407 (Wells Wildlife Crossing) NDOT Agmt No. P082-12-004	3/1/2012 - 6/30/14 Amendment #1	3/1/2012 9/12/13	\$ 150,000.00	\$ 170,000.00	\$ 35,989.03
				\$ 20,000.00		
Snell & Wilmer, LLP	Peek Construction vs. NDOT 1st JD 120C 00032 1B Contract # 3377 (Kingsbury Grade) NDOT Agmt No. P083-12-004	3/1/2012 - 3/30/2015 Amendment #1 Amendment #2 Amendment #3	3/1/2012 2/18/13 9/12/13 1/17/14	\$ 150,000.00	\$ 1,120,000.00	\$ 645,056.44
				\$ 75,000.00		
				\$ 70,000.00		
				\$ 825,000.00		
Snell & Wilmer, LLP	Construction Claims Williams Brother, Inc. Contract # 3392 (Various in Las Vegas) NDOT Agmt No. P084-12-004	3/1/2012 - 6/30/14	3/1/2012	\$ 5,500.00	\$ 5,500.00	\$ 688.30
Chapman Law Firm	NDOT vs. Carrie Sanders 8th JD - A-12-664693-C Project Neon - Las Vegas NDOT Agmt No. P192-12-004	6/12/12 - 6/12/15	6/12/2012	\$ 541,800.00	\$ 541,800.00	\$ 421,537.51
Chapman Law Firm	NDOT vs. Gendall 8th JD - A-12-666487-C Project Neon - Las Vegas NDOT Agmt No. P325-12-004	6/12/12 - 6/12/14	6/12/2012	\$ 541,800.00	\$ 541,800.00	\$ 411,019.77
Chapman Law Firm	NDOT vs. Roberts 1981 Decedents Trust 8th JD - 12-665880-C Project Neon - Las Vegas NDOT Agmt No. P452-12-004	10/23/12 - 10/12/14	10/23/2012	\$ 475,725.00	\$ 475,725.00	\$ 437,795.81
Chapman Law Firm	NDOT vs. Catello Family Trust 8th JD - A-12-671920-C Project Neon - Las Vegas NDOT Agmt No. P476-12-004	11/16/12 - 11/30/15	11/16/2012	\$ 449,575.00	\$ 449,575.00	\$ 435,030.96
Chapman Law Firm	NDOT vs. MLK-ALTA 8th JD - A-12-658642-C Project Neon - Las Vegas NDOT Agmt No. P508-12-004	1/14/13 - 1/14/15	1/14/2013	\$ 455,525.00	\$ 455,525.00	\$ 350,628.14
Chapman Law Firm	NDOT vs. Highland Partnership 1980 8th JD - Project Neon - Las Vegas NDOT Agmt No. P507-12-004	1/14/13 - 1/14/15	1/14/2013	\$ 449,575.00	\$ 449,575.00	\$ 423,204.43

OPEN NDOT - OUTSIDE COUNSEL CONTRACTS AS OF MARCH 17, 2014						
Vendor	Case/Project Name	Contract Period	Contract and Amendment Date	Contract and Amendment Amount	Total Contract Authority	Contract Authority Remaining
Chapman Law Firm	NDOT vs. Highland 2000-I, LLC 8th JD - A-12-671915-C Project Neon - Las Vegas NDOT Agmt No. P501-12-004	1/14/13 - 1/14/15	1/14/2013	\$ 449,575.00	\$ 449,575.00	\$ 310,075.78
Laura FitzSimmons, Esq.	Condemnation Litigation Consultation NDOT Agmt No. P510-12-004	12/16/12 - 12/30/14 Amendment #1 Amendment #2	12/16/2012 8/12/2013 1/22/2014	\$ 300,000.00 \$ 850,000.00 \$ 750,000.00 \$ 1,900,000.00	\$ 1,900,000.00	\$ 454,674.64
Lemons, Grundy, Eisenberg	NDOT vs. Ad America (Appeal) 8th JD - A-11-640157-C Project Neon - Las Vegas NDOT Agmt No. P037-13-004	1/22/13 - 1/22/15	1/22/2013	\$205,250.00	\$ 205,250.00	\$ 121,226.24
Sylvester & Polednak, Ltd.	NDOT vs. Wykoff 8th JD - A-12-656578-C Warms Springs Project - Las Vegas NDOT Agmt No. P071-13-004	2/27/13 - 2/27/15	2/27/2013	\$275,000.00	\$ 275,000.00	\$ 105,351.23
Sylvester & Polednak, Ltd.	NDOT vs. Railroad Pass 8th JD - A-12-665330-C Boulder City Bypass Project NDOT Agmt No. P072-13-004	2/27/13 - 2/27/15	2/27/2013	\$ 275,000.00	\$ 275,000.00	\$ 5,798.29
Sylvester & Polednak, Ltd.	NDOT vs. K & L Dirt 8th JD - A-12-666050-C Boulder City Bypass Project NDOT Agmt No. P073-13-004	2/27/13 - 2/27/15	2/27/2013	\$ 275,000.00	\$ 275,000.00	\$ 214,642.91
Sylvester & Polednak, Ltd.	NDOT vs. I-15 & Cactus Cactus Project - Las Vegas 8th JD - A-12-664403-C NDOT Agmt No. P074-13-004	2/27/13 - 2/27/15	2/27/2013	\$ 200,000.00	\$ 200,000.00	\$ 186,289.31
Sylvester & Polednak, Ltd.	JYTYJK, LLC dba Wireless Toyz vs. NDOT 8th JD A-13-681291-C Project Neon - Las Vegas NDOT Agmt No. P127-13-004	4/19/13 - 2/28/13	4/19/2013	\$ 175,000.00	\$ 175,000.00	\$ 155,549.77
Watt, Tieder, Hoffar & Fitzgerald	Pacific Coast Steel vs. NDOT K3292 - I-580 2nd JD CV12-02093 NDOT Agmt No. P160-13-004	4/30/13 - 4/30/15	4/30/2013	\$ 275,000.00	\$ 275,000.00	\$ 60,176.66

OPEN NDOT - OUTSIDE COUNSEL CONTRACTS AS OF MARCH 17, 2014						
Vendor	Case/Project Name	Contract Period	Contract and Amendment Date	Contract and Amendment Amount	Total Contract Authority	Contract Authority Remaining
Sylvester & Polednak	Fitzhouse Enterprises (acquired title as Westcare) 8th JD - A-13-660564-C Project Neon - Las Vegas NDOT Acmt No. P201-13-004	5/31/13 - 5/31/15	5/31/2013	\$ 290,000.00	\$ 290,000.00	\$ 209,102.36
Chapman Law Firm	54 B LLC vs. Clark County & NDOT 8th JD - A-12-674009 NDOT Acmt No. P217-13-004	6/6/13 - 11/30/15	6/6/2013	\$ 250,000.00	\$ 250,000.00	\$ 213,924.73
Snell & Wilmer	Meadow Valley Public Records Request K3399 NDOT Acmt No. P273-13-004	7/18/13 - 7/30/14	7/18/2013	\$30,000.00	\$ 30,000.00	\$ 21,312.90
Kemp, Jones, Coulthard	Nassiri vs. NDOT 8th JD A672841 NDOT Acmt No. P290-13-004	7/17/13 - 6/30/15	7/17/2013	\$ 280,000.00	\$ 280,000.00	\$ 164,888.60
Chapman Law Firm	Ad America vs. NDOT (Project Neon) 8th JD A640157 NDOT Acmt No. P291-13-004	7/25/13 - 7/30/15	7/25/2013	\$ 200,000.00	\$ 200,000.00	\$ 35.02
Chapman Law Firm	Ad America vs. NDOT (Cactus Direct and Inverse) 8th JD A-10-631520-C & A-12666482-C NDOT Acmt No. P292-13-004	7/25/13 - 7/30/15	7/25/2013	\$ 250,000.00	\$ 250,000.00	\$ 196,845.99
Chapman Law Firm	Ad America vs. NDOT (South Point) 8th JD A-11-653502-C NDOT Acmt No. P293-13-004	7/25/13 - 7/30/15	7/25/2013	\$ 70,000.00	\$ 70,000.00	\$ 39,926.68
Kemp, Jones & Coulthard	NDOT vs. City of Los Angeles 8th JD A-13-687717-C Boulder City Bypass Project NDOT Acmt No. P405-13-004	9/1/13 - 9/30/15	9/1/2013	\$ 250,000.00	\$ 250,000.00	\$ 230,557.01
Sylvester & Polednak	NDOT vs. Smith Family Trust 8th JD A-13-687895-C Project Neon NDOT Acmt No. P465-13-004	9/7/13 - 9/30/15	9/7/2013	\$ 280,000.00	\$ 280,000.00	\$ 271,301.29
Chapman Law Firm	NDOT vs. LGC, 231, LLC 8th JD NDOT Acmt No. P561-13-004	12/20/13 - 12/15/15	12/20/2013	\$ 453,650.00	\$ 453,650.00	\$ 439,744.33
Laura FitzSimmons, Esq.	Risk Management Analysis for Project NEON	1/13/14 - 12/13/17	1/13/2014 1/6/1900	\$ 900,000.00	\$ 900,000.00	\$ 673,277.85
* BH Consulting Agreement	<i>Management assistance, policy recommendations, negotiation support and advice regarding NEXTEL and Re-channeling of NDOT's 800 Mhz frequencies.</i>	6/30/12 - 6/30/16	6/30/2012	\$ 77,750.00	\$ 77,750.00	\$ 76,340.00

\* Pass Through - Federally mandated 800 MHz rebanding project fully reimbursed by Sprint Nextel.

Monthly Litigation Report to the Nevada Department of Transportation - March 17, 2014				
Case Name	Nature of Case	Outside Counsel to Date		
		Fees	Costs	Total
<b>Condemnations</b>				
NDOT vs. AD America, Inc. (Cactus - Direct)	Eminent domain - I-15 Cactus	\$ 149,746.76	\$ 27,732.45	\$ 177,479.21
NDOT vs. Bawcon	Eminent domain - Elko			
NDOT vs. Catello Family Trust, Carmine V.	Eminent domain - Project Neon	\$ 13,108.25	\$ 1,435.79	\$ 14,544.04
NDOT vs. City of Los Angeles, et al.	Eminent domain - Boulder City Bypass	\$ 18,111.50	\$ 1,331.49	\$ 19,442.99
NDOT vs. Fitzhouse/Westcare	Eminent domain - Project Neon	\$ 49,025.00	\$ 31,872.64	\$ 80,897.64
NDOT vs. Gendall Trust	Eminent domain - Project Neon	\$ 109,822.55	\$ 20,957.68	\$ 130,780.23
NDOT vs. Highland Partnership 1980, LLC	Eminent domain - Project Neon	\$ 22,702.50	\$ 3,668.07	\$ 26,370.57
NDOT vs. Highland 2000-I, LLC	Eminent domain - Project Neon	\$ 121,912.61	\$ 17,586.61	\$ 139,499.22
NDOT vs. I-15 and Cactus, LLC	Eminent domain - I-15 Cactus	\$ 12,550.00	\$ 1,160.69	\$ 13,710.69
NDOT vs. Jenkins, Carrie, aka Carrie Sanders	Eminent domain - Project Neon	\$ 97,777.75	\$ 22,484.74	\$ 120,262.49
NDOT vs. Jericho Heights, LLC	Eminent domain - Boulder City Bypass	\$ 686,280.00	\$ 759,045.36	\$ 1,445,325.36
NDOT vs. K & L Dirt Company, LLC	Eminent domain - Boulder City Bypass	\$ 46,100.00	\$ 14,257.09	\$ 60,357.09
NDOT vs. KP & TP, LLC, Roohani, Khusrow	Eminent domain - I-15 and Warm Springs			
NDOT vs. MLK-ALTA	Eminent domain - Project Neon	\$ 89,336.25	\$ 15,560.61	\$ 104,896.86
NDOT vs. Railroad Pass Investment Group	Eminent domain - Boulder City Bypass	\$ 133,625.00	\$ 135,576.71	\$ 269,201.71
NDOT vs. Smith Family Trust, et al	Eminent domain - Project Neon	\$ 7,375.00	\$ 1,323.71	\$ 8,698.71
NDOT vs. Union Pacific Railroad Co.	Eminent domain - Recnstr. of SR 317			
NDOT vs. Woodcock, Jack	Eminent domain - I-15 and Warm Springs			
NDOT vs. Wykoff Newberg Corporation	Eminent domain - I-15 and Warm Springs	\$ 142,800.78	\$ 26,847.99	\$ 169,648.77
Nevada Power Company vs. Westcare, NDOT - 8	Public utility seeks permanent easement			
<b>Inverse Condemnations</b>				
54 B LLC	Inverse condemnation	\$ 29,236.53	\$ 6,838.74	\$ 36,075.27
AD America, Inc. vs. NDOT (NEON)	Inverse condemnation - Project Neon	\$ 447,494.05	\$ 104,525.51	\$ 552,019.56
JYTYJK, LLC dba Wireless Toyz vs. NDOT	Inverse condemnation - Project Neon	\$ 17,230.25	\$ 2,219.98	\$ 19,450.23
Nassiri, Fred vs. NDOT	Inverse condemnation	\$ 116,955.50	\$ 2,799.22	\$ 119,754.72
P8 Arden, LLC vs. NDOT	Inverse condemnation - Blue Diamond Road			
Robarts 1981 Decedents Trust vs. NDOT	Inverse Condemnation - Project Neon	\$ 35,988.58	\$ 1,940.61	\$ 37,929.19
<b>Cases Removed from Last Report:</b>		Disposition:		
AD America, Inc. vs. NDOT (SouthPoint)	Inverse condemnation - I-15 Cactus	Eminent domain case settled and property acquired.		

Monthly Litigation Report to the Nevada Department of Transportation - March 17, 2014				
Case Name	Nature of Case	Outside Counsel to Date		
		Fees	Costs	Total
<b>Torts</b>				
Antonio, James S. vs. NDOT	Plaintiff alleges negligence causing personal injury			
Ariza, Ana, et al. vs. Wulfenstein, NDOT	Plaintiff alleges wrongful death			
Castro, Steve vs. NDOT	Plaintiff alleges negligence causing personal injury			
Deming, Jerry Lee vs. Manha, Granite, NDOT	Plaintiff alleges negligence causing personal injury			
Discount Tire Company vs. NDOT; Fisher	Plaintiff alleges negligence and personal injury			
Francois, John A. vs. NDOT	Plaintiff alleges negligence and personal injury			
Harper, Kenneth J. vs. NDOT	Plaintiff alleges negligence/wrongful death			
Harris Farm, Inc. vs NDOT	Plaintiff alleges negligence and personal injury			
Jorgenson & Koka, LLP	Plaintiff alleges negligence causing property damage			
Lopez, Jewelee Marie vs. NDOT	Plaintiff alleges negligence and personal injury			
Marshall, Charles vs. State, NDOT	State awarded costs. Appeal of arbitration pending.			
Mullen, Janet vs. NDOT	Plaintiff alleges personal injury			
NDOT vs. Tamietti	NDOT seeks injunct. relief to prevent closing access			
Rodriguez and Martinez-Grazo vs. NDOT	Plaintiff alleges negligence causing property damage			
Slegers, Gloria vs. NDOT	Plaintiff alleges negligence and personal injury			
Windrum, Richard & Michelle vs. NDOT	Plaintiff alleges negligence and personal injury			
Zito, Adam vs. NDOT	Plaintiff alleges negligence and property damage			
<b>Contract Disputes</b>				
Peek Construction vs. State, NDOT	Plaintiff alleges delays on Contract 3377, SR 207	\$ 432,367.00	\$ 42,576.56	\$ 474,943.56
Peek Construction vs. State, NDOT	Plaintiff alleges delays on Contract 3407, US-93	\$ 129,759.50	\$ 4,251.47	\$ 134,010.97
<b>Personnel Matters</b>				
Akinola, Ayodele vs. State, NDOT	Plaintiff alleges 14th Amendment - discrimination			
Cooper, Jennifer vs. State, NDOT	Plaintiff appeals trial verdict of alleged decrimination			
Hettinger, Travis vs. State Employees	Plaintiff alleges wrongful termination			
Lau, Stan vs. State, NDOT	Nevada Supreme Court affirmed summary judgment and award of attorney fees and costs; collecting fees and costs			

Highlighted matters are new since last report.

**OFFICE OF THE ATTORNEY GENERAL**

TRANSPORTATION DIVISION  
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*Attorney General*

KEITH G. MUNRO  
*Assistant Attorney General*



DENNIS V. GALLAGHER  
*Chief Deputy Attorney General*

**MEMORANDUM**

**DATE:** March 20, 2014

**TO:** Board of Directors  
Nevada Department of Transportation

**FROM:** Dennis Gallagher, Chief Deputy Attorney General / Chief Counsel

**SUBJECT:** Informational Item – Approval of Settlement for an Direct Condemnation Claim in the Matter of *State of Nevada v. Woodcock*; Case No. A-12-664399

A handwritten signature in black ink, appearing to read "D. Gallagher", written over the "FROM:" line of the memorandum.

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At their March 11, 2014 meeting, the Board of Examiners approved the settlement in the amount of \$61,500.00 to be paid from NDOT funds to resolve a direct condemnation claim.

Attached is the approved February 14, 2014 Board of Examiners Action Item and February 4, 2014 memorandum from Director, Rudy Malfabon, Senior Deputy Attorney General, Ruth Miller, and myself to the Board of Examiners setting forth a summary of the settlement.

Brian Sandoval  
Governor

OFFICE OF THE ATTORNEY GENERAL  
CARSON CITY, NEVADA

MAR 17 2014

BUREAU OF GOVERNMENT AFFAIRS  
TRANSPORTATION DIVISION



Attachment C

Jeff Mohlenkamp  
State Budget Director

Stephanie Day  
Deputy State Budget Director

STATE OF NEVADA  
DEPARTMENT OF ADMINISTRATION  
*Budget Division*

209 E. Musser Street, Room 200 | Carson City, NV 89701-4298  
Phone: (775) 684-0222 | [www.budget.nv.gov](http://www.budget.nv.gov) | Fax: (775) 684-0260

Date: February 14, 2014  
To: Jeff Mohlenkamp, Clerk of the Board  
Department of Administration  
From: Carla Watson, Budget Analyst  
Budget Division  
Subject: BOARD OF EXAMINERS **ACTION** ITEM

APPROVED BY THE  
BOARD OF EXAMINERS  
AT  
THEIR MAR 11 2014  
MEETING  
Initials

The following describes an action item submitted for placement on the agenda of the next Board of Examiners' meeting. An analysis of the action item and recommendation is also provided.

**APPROVAL TO PAY A CASH SETTLEMENT**

Pursuant to NRS 41.037, the State Board of Examiners may approve, settle or deny any claim or action against the State, any of its agencies or any of its present or former officers, employees, immune contractors or State Legislators.

Agenda Item Write-up:

**Department of Transportation (NDOT) – Administration - \$61,500**

The department requests settlement approval in the amount of \$61,500 to resolve an eminent domain action that NDOT brought pertaining to a portion of real property necessary for the purpose of reconstructing the I-15 freeway from Blue Diamond north to Tropicana Avenue. The sum of \$63,500 was previously deposited with the Court and released to the property owners as a condition of NDOT acquiring occupancy of the subject property. Approval of this additional amount would bring the total to \$125,000.

Additional Information:

Clark County has a no-Cut Ordinance that prohibits roads to be excavated for any reason for a period of five years. The landowner was concerned about having utilities (particularly sewer) extended to his property. Appraisals for reasonable costs and expenses as part of just compensation were conducted by both parties and negotiations resulted in the cash settlement amount of \$61,500. There will be no subrogation or any other attempt to offset the settlement amount. NDOT will seek reimbursement from the Federal Highway Administration.





STATE OF NEVADA  
OFFICE OF THE ATTORNEY GENERAL

Transportation Division  
555 E. Washington Avenue, Suite 3900  
Las Vegas, Nevada 89101

CATHERINE CORTEZ MASTO  
*Attorney General*

KEITH G. MUNRO  
*Assistant Attorney General*

GREGORY M. SMITH  
*Chief of Staff*

## MEMORANDUM

RECEIVED

FEB 04 2014

DEPARTMENT OF ADMINISTRATION  
OFFICE OF THE DIRECTOR  
BUDGET DIVISION

DATE: February 4, 2014

TO: Board of Examiners  
Governor Brian Sandoval  
Attorney General Catherine Cortez Masto  
Secretary of State Ross Miller

FROM: Rudy Malfabon, Director, Nevada Department of Transportation  
Dennis Gallagher, Chief Deputy Attorney General   
Ruth Miller, Senior Deputy Attorney General

SUBJ: Proposed Settlement of an Eminent Domain Lawsuit Filed By NDOT  
*State of Nevada v. Woodcock*; Case No. A-12-664399-C

SUMMARY

NDOT requests settlement approval in the amount of \$125,000.00 (ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS). The sum of \$63,500.00 was previously deposited with the Court and released to the property owners as a condition of NDOT acquiring occupancy of the subject property. **The additional amount requested in this settlement proposal is \$61,500.00** to resolve an eminent domain action that NDOT brought pertaining to a portion of real property owned by Jack Woodcock ("Landowner") and located on the northwest corner of Warm Springs Road and Windy Street in Las Vegas, Nevada. NDOT needs to acquire a portion of the subject property in fee for the purpose of reconstructing the I-15 freeway from Blue Diamond north to Tropicana Avenue.

### **BACKGROUND OF THE SUBJECT PROPERTY**

The property is approximately 2.5 acres of vacant land of which NDOT required 7,465 square feet in fee and 1,522 square feet as a temporary easement. The property is bounded on the east by Windy Street, on the south by Warm Springs Road and on the north and west by other parcels of property. The subject property is depicted in pink borders on Attachment 1.

NDOT obtained an appraisal of the subject property that valued the fee take and temporary easement at \$63,500.00 (SIXTY THREE THOUSAND FIVE HUNDRED DOLLARS) with no damages. NDOT offered that amount to Landowner in an attempt to acquire the land through negotiation. Landowner declined the offer. Essentially, Landowner was concerned about having utilities (particularly sewer) extended to his property. Clark County has a No-Cut Ordinance that prohibits roads to be excavated for any reason for a period of five years.

In June of 2012, NDOT filed a condemnation action against Landowner in the Eighth Judicial District Court, case no. A-12-664399-C. NDOT sought immediate occupancy of the subject property and deposited the amount of the appraised value of \$63,500.00 with the clerk of court to obtain immediate occupancy.

In October of 2012, Landowner filed an answer. NDOT paid for Landowner's appraiser as NRS 37.120(3) obligates NDOT to pay for reasonable costs and expenses as part of just compensation in a direct condemnation action. Landowner's appraiser concluded just compensation to be \$153,000.00.

NDOT hired appraiser Timothy Morse to review Landowner's appraisal. Mr. Morse concluded that there are approximately \$95,995.00 in severance damages due to the No-Cut Ordinance. Mr. Morse further concluded that Landowner's property received special benefits from the project which offset the calculation of damages. He suggested that the redesign caused a change in grade at the boundary of the property which resulted in the property being at grade along the entire Warm Springs Road frontage.

### **POINTS THAT FAVOR SETTLEMENT**

NDOT has a potential liability for damages resulting from the complications of the five year No-Cut Ordinance and its effect on the Landowner's ability to extend the sewer line to his property. Landowner's appraiser found \$84,000.00 in damages, while NDOT's own appraiser valued the damages even higher at \$95,995.00 in the appraisal review. While NDOT's appraiser offset the damages with special benefits in the amount of \$123,602.00, there is still a possibility that the court may find that there are no special benefits, and that NDOT is responsible for up to \$95,995.00 in damages in addition to the \$63,500.00 for the value of the fee take and permanent easement.

Furthermore, litigation to determine the existence of special benefits will be costly, especially in light of the statutory mandate that NDOT pay the reasonable cost and expenses incurred by the landowner in litigating a direct action.

### **RECOMMENDATION**

NDOT has considered the benefits of settlement and has made the decision that settlement is reasonable, prudent, and in the public interest. NDOT requests the authority to settle the claim for the total sum of \$125,000.00, less the amount of \$63,500.00 previously deposited with the court, which amounts to \$61,500.00.

### **FISCAL NOTE STATEMENT**

NDOT will seek reimbursement from the Federal Highway Administration.



3/30/2014

TO: PUBLIC SAFETY, DIRECTOR NDOT, HIGHWAY SAFETY COORDINATOR,  
NDOT TRAFFIC ENGINEERING, FHWA, LVMPD, RENO PD.

FROM: THE OFFICE OF TRAFFIC SAFETY, FATAL ANALYSIS REPORTING SYSTEM (FARS)

SUBJECT: FATAL CRASHES AND FATALITIES BY COUNTY, PERSON TYPE, DAY, MONTH, YEAR AND PERCENT CHANGE.

	CURRENT		SAME DATE LAST YEAR			# CHANGE	
	Today	Fatals	Today	Fatals	Fatals	Crashes	Fatals
3/30/2014	1	1	3/30/2013	1	5	0	-4
MONTH	24	25	MONTH	20	24	4	1
YEAR	56	59	YEAR	63	69	-7	-10

CRASH AND FATAL COMPARISON BETWEEN 2013 AND 2014, AS OF CURRENT DATE.

COUNTY	2013 Crashes	2014 Crashes	% CHANGE	2013 Fatalities	2014 Fatalities	% Change	2013 Alcohol Crashes	2014 Alcohol Crashes	% Change	2013 Alcohol Fatalities	2014 Alcohol Fatalities	% Change
CARSON	3	1	-66.67%	3	1	-66.67%	1	0	-100.00%	1	0	-100.00%
CHURCHILL	0	1	100.00%	0	1	100.00%	0	0	0.00%	0	0	0.00%
CLARK	47	34	-27.66%	53	37	-30.19%	15	6	-60.00%	16	7	-56.25%
DOUGLAS	1	1	0.00%	1	1	0.00%	1	0	-100.00%	1	0	-100.00%
ELKO	0	2	200.00%	0	2	200.00%	0	1	100.00%	0	1	100.00%
ESMERALDA	0	0	0.00%	0	0	0.00%	0	0	0.00%	0	0	0.00%
EUREKA	0	0	0.00%	0	0	0.00%	0	0	0.00%	0	0	0.00%
HUMBOLDT	0	2	200.00%	0	2	200.00%	0	0	0.00%	0	0	0.00%
LANDER	0	3	300.00%	0	3	300.00%	0	2	200.00%	0	2	200.00%
LINCOLN	3	0	-100.00%	3	0	-100.00%	2	0	-100.00%	2	0	-100.00%
LYON	0	3	300.00%	0	3	300.00%	0	2	200.00%	0	2	200.00%
MINERAL	0	0	0.00%	0	0	0.00%	0	0	0.00%	0	0	0.00%
NYE	3	1	-66.67%	3	1	-66.67%	0	0	0.00%	0	0	0.00%
PERSHING	1	0	-100.00%	1	0	-100.00%	0	0	0.00%	0	0	0.00%
STOREY	0	0	0.00%	0	0	0.00%	0	0	0.00%	0	0	0.00%
WASHOE	5	8	60.00%	5	8	60.00%	2	0	-100.00%	2	0	-100.00%
WHITE PINE	0	0	0.00%	0	0	0.00%	0	0	0.00%	0	0	0.00%
YTD	63	56	-11.11%	69	59	-14.49%	21	11	-47.62%	22	12	-45.45%
TOTAL 13	246	----	-77.2%	267	----	-77.9%	56	----	-80.36%	63	----	-80.95%

2013 AND 2014 ALCOHOL CRASHES AND FATALITIES ARE BASED ON VERY PRELIMINARY DATA.

COMPARISON OF FATALITIES BY PERSON TYPE BETWEEN 2013 AND 2014, AS OF CURRENT DATE.

COUNTY	2013 Vehicle Occupants	2014 Vehicle Occupants	% Change	2013 Peds	2014 Peds	% Change	2013 Motor- Cyclist	2014 Motor- Cyclist	% Change	2013 Bike	2014 Bike	% Change	2013 Other moped,sc ooter,atv	2014 Other moped,sc ooter,atv
CARSON	1	0	-100.00%	2	0	-100.00%	0	1	100.00%	0	0	0.00%	0	0
CHURCHILL	0	1	100.00%	0	0	0.00%	0	0	0.00%	0	0	0.00%	0	0
CLARK	33	16	-51.52%	12	10	-16.67%	7	8	14.29%	1	0	-100.00%	0	3
DOUGLAS	1	1	0.00%	0	0	0.00%	0	0	0.00%	0	0	0.00%	0	0
ELKO	0	2	200.00%	0	0	0.00%	0	0	0.00%	0	0	0.00%	0	0
ESMERALDA	0	0	0.00%	0	0	0.00%	0	0	0.00%	0	0	0.00%	0	0
EUREKA	0	0	0.00%	0	0	0.00%	0	0	0.00%	0	0	0.00%	0	0
HUMBOLDT	0	2	200.00%	0	0	0.00%	0	0	0.00%	0	0	0.00%	0	0
LANDER	0	2	200.00%	0	1	100.00%	0	0	0.00%	0	0	0.00%	0	0
LINCOLN	3	0	-100.00%	0	0	0.00%	0	0	0.00%	0	0	0.00%	0	0
LYON	0	1	100.00%	0	1	100.00%	0	1	100.00%	0	0	0.00%	0	0
MINERAL	0	0	0.00%	0	0	0.00%	0	0	0.00%	0	0	0.00%	0	0
NYE	0	1	100.00%	1	0	-100.00%	2	0	-100.00%	0	0	0.00%	0	0
PERSHING	1	0	-100.00%	0	0	0.00%	0	0	0.00%	0	0	0.00%	0	0
STOREY	0	0	0.00%	0	0	0.00%	0	0	0.00%	0	0	0.00%	0	0
WASHOE	2	3	50.00%	1	3	200.00%	2	2	0.00%	0	0	0.00%	0	0
WHITE PINE	0	0	0.00%	0	0	0.00%	0	0	0.00%	0	0	0.00%	0	0
YTD	41	29	-29.27%	16	15	-6.25%	11	12	9.09%	1	0	-100.00%	0	3
TOTAL 13	132	----	-78.03%	70	----	-78.57%	53	----	-77.36%	7	----	-100.00%	5	----

Total 2013 267