

## MEMORANDUM

**TO:** Board of Trustees

**THROUGH:** Indra Winquest  
Interim General Manager

**FROM:** Joseph Pomroy, P.E.  
Director of Public Works

Nathan Chorey, P.E.  
Engineering Manager

**SUBJECT:** Review, discuss, and possibly direct Staff to explore a partnership with the Nevada Department of Transportation (**NDOT**) to allow for the possible replacement of up to 1,000 linear feet of Export Pipeline on State Route 28 in 2021

**STRATEGIC PLAN:** Long Range Principle 5 – Assets and Infrastructure

**DATE:** May 28, 2020

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### **I. RECOMMENDATION**

That the Board of Trustees moves to direct Staff to explore a partnership with the Nevada Department of Transportation (**NDOT**) to allow for the possible replacement of up to 1,000 linear feet of Export Pipeline on State Route 28 in 2021.

### **II. DISTRICT STRATEGIC PLAN**

Long Range Principle #5 – Assets and Infrastructure – The District will practice perpetual asset renewal, replacement, and improvement to provide safe and superior long term utility services and recreation activities.

- The District will maintain, renew, expand, and enhance District infrastructure to meet the capacity needs and desires of the community for future generations.
- The District will maintain, procure, and construct District assets to ensure safe and accessible operations for the public and the District's workforce.

### **III. BACKGROUND**

The District has been approached by the Nevada Department of Transportation (**NDOT**) to partner on a **NDOT** drainage project which would allow us to possibly relocate up to

1,000 feet of Segment 2 Effluent Export Pipeline. The project is located where Marlette Creek crosses under State Route 28 just south of the driveway for the Thunderbird Lodge. This request from **NDOT** is occurring prior to the selection and hiring of a Project Manager for the Effluent Export Project. Therefore, Staff is requesting approval from the Board to explore the partnership with **NDOT**.

A figure of the proposed work location follows this memorandum. **NDOT** is proposing drainage, stormwater and other highway improvements at this location and anticipates construction to occur in 2021. Partnering with **NDOT** could reduce the cost of relocating this section of pipe as the District would share the cost of pavement maintenance and traffic control with the **NDOT**. If the District contracted the project, the District would pay for all pavement maintenance, traffic control, and permitting.

The amount of pipeline to be replaced will be less than 1,000 feet in length. The new pipe would be relocated in State Route 28 and parallel the current export pipeline. The proposed Central Corridor Multi-Use Path deviates from State Route 28 in this location because of Marlette Creek and any potential co-location would require installing this section of new export pipeline to occur in State Route 28. This proposed partnership is **not** with the Tahoe Transportation District and is not part of the Central Corridor Multi-Use Path.

It has been discussed with the Board of Trustees the potential replacement of all 29,700 linear feet of effluent export pipeline in the Lake Tahoe Basin. This potential replacement is on Segment 2, which has been scheduled for replacement in the near future after replacement of the high priority Segment 3. This would essentially replace a section of pipeline today and move this ahead in the priority replacement schedule.

## **V. FINANCIAL IMPACT AND BUDGET**

The financial impact and budget is not known at this time. The Effluent Export Pipeline Project in 2020-21 has a budget of \$2,000,000. Agreements for design and construction of improvements would be with **NDOT**. The District last entered into an Interlocal Agreement with **NDOT** in August 2017 with a base amount of \$1,002,600 for construction of effluent export pipeline repairs as part of the State Route 28 Shared Use Pathway Project. A sample **NDOT** Adjustment of Utility Facilities Agreement follows this memorandum.

If authorized to explore a partnership, Staff would work with **NDOT** to finalize the design and define the Interlocal Agreement process. The final approval of the construction Interlocal Agreement would be brought to the Board. Information is preliminary at this point and Staff is requesting authority to explore this partnership.

The District is looking at this opportunity as it will allow us to work with NDOT under their permit and share in the construction costs rather than undertaking those costs alone at some point in the future.

## **VI. ALTERNATIVES**

1. Reject this opportunity to do exploration.
2. Proceed in another direction outlined by the Board of Trustees.

## **VII. COMMENTS**

At the February 26, 2020 Board of Trustees meeting, Staff presented two design scopes of work for the proposed Effluent Export Pipeline and Effluent Pond Lining projects. Both scopes of work were to complete design level documents ready for public advertising for construction for the 2021 construction season beginning May 1, 2021. Both scopes of work were not approved at the meeting and the Board provided direction to Staff to hire a Project Manager to perform a review of the work completed to date by various consultants and contractors and to have a project manager that will manage the design and construction of projects in the future. The final direction provided was that two Trustees would assist the General Manager in preparing a Scope of Work for hiring a professional project manager. The scope of work would be completed and brought back to the full Board by the General Manager at a future Board Meeting. Due to the complexity and size of the potential Project Manager Contract, it was recommended that a Request for Proposals be advertised and selection managed by the General Manager. The Board of Trustees approved the Request for Qualifications and submittals are due on June 5, 2020.

## **VIII. BUSINESS IMPACT**

This item is not a "rule" within the meaning of Nevada Revised Statutes, Chapter 237, and does not require a Business Impact Statement.

### Attachments

- Sample Agreement
- Vicinity Map
- Pipeline Schematic

Project:  
E.A.:  
Hwy. Agr. #:  R

AGREEMENT FOR THE ADJUSTMENT  
OF UTILITY FACILITIES REIMBURSABLE TO STATE

THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the STATE OF NEVADA acting by and through its DEPARTMENT OF TRANSPORTATION, hereinafter referred to as "STATE", and \_\_\_\_\_, whose mailing address is \_\_\_\_\_ hereinafter referred to as "COMPANY".

WHEREAS, in the course of construction of Project \_\_\_\_\_, E.A. \_\_\_\_\_, certain adjustments will have to be made to utility facilities owned by COMPANY; specifically, STATE or STATE's Contractor shall adjust and/or relocate insert description of facility located along route \_\_\_\_\_ from left/right of Highway Engineer's Station \_\_\_ to left/right of Highway Engineer's Station \_\_\_ herein referred to as FACILITIES. Relocations and/or adjustments will be performed by STATE's contractor in accordance with COMPANY's plans and specifications as provided to the STATE for approval and attached hereto as EXHIBIT "B", and made a part hereof; and,

WHEREAS, COMPANY has not established a compensable interest in and to the FACILITIES needing relocation and/or adjustment; STATE and COMPANY shall execute a Revocable Permit for all of the facilities needing relocation and/or adjustment in the form attached hereto as EXHIBIT "C" and made a part hereof.

WHEREAS, STATE has selected or shall select a project contractor technically qualified to perform the required work for Project \_\_\_\_\_ E.A. \_\_\_\_\_ in accordance with state law and shall incorporate COMPANY's plans attached hereto as EXHIBIT "B" into STATE's Project plans for STATE's contractor to perform the necessary relocation/adjustment to COMPANY's FACILITIES.

NOW, THEREFORE, STATE and COMPANY hereby agree as follows:

1.

(A) COMPANY's signature on this Agreement hereby authorizes STATE's contractor to proceed with the necessary relocation and/or adjustment of COMPANY's facilities per approved plans and specifications provided by COMPANY. STATE shall cause its contractor to perform said work in a good workman like manner to the reasonable satisfaction of COMPANY. Said work further, will be performed in accordance with the provisions of Title 23 Part 645, Subpart A, of the Code of Federal Regulations (CFR), hereinafter referred to as 23 CFR Part 645, Subpart A, such federal regulations being incorporated by reference, and Nevada law.

(B) Company or its assigned subcontractor, will be responsible to perform field inspection of work performed by the STATE's contractor for compliance with COMPANY's standards.

(C) COMPANY is responsible for acceptance of STATE contractor's relocation and adjustments of COMPANY's FACILITIES. COMPANY must inspect and accept such work. STATE shall obtain COMPANY's written approval of all change orders or extra work, if any, subsequent to the execution of this Agreement. All work installed by STATE's contractor under this Agreement shall become property owned, maintained, and controlled by COMPANY after COMPANY's acceptance.

(D) In the event COMPANY discovers what its inspector believes to be a discrepant condition with regard to the relocation and/or adjustment of its FACILITIES, COMPANY shall immediately contact the STATE's Resident Engineer or Project Manager and provide him/her with oral notice of the discrepancy, followed by written notice as soon thereafter as reasonably practicable. COMPANY shall not contact the contractor in effort to stop contractor's work.

(E) COMPANY agrees to indemnify and hold harmless the STATE from any future liability for work done to or around COMPANY's FACILITIES during this Project.

(F) STATE does not warrant any of the work performed by its contractor in relocating and/or adjusting COMPANY's FACILITIES. STATE on behalf of COMPANY shall require its contractor to repair or replace any defective workmanship within the working-day contract period for the Project.

(G) Under the STATE's contract with its contractor, the contractor is required to adhere to the STATE's STANDARD Specifications for Road and Bridge Construction (2010 edition). As such, within the contract period, should any damage occur to COMPANY's FACILITIES within the scope of the Project, STATE's contractor will be responsible to remedy the defect(s) to COMPANY's reasonable satisfaction.

(H) STATE's contractor is responsible for repairing or replacing any defective work during the Project's construction period. If STATE's contractor fails to honor its warranty obligations, COMPANY may, at its option, remedy the defect in materials or workmanship that develops during the particular construction period. The option and obligation to repair extends to any damage to FACILITIES or work caused by the particular defect or repair of the defect. Should COMPANY be required to remedy a defect, STATE shall reimburse COMPANY any resulting amounts it incurred.

(I) STATE's contractor will provide COMPANY with forty-eight (48) hour notice for on-call inspection. A COMPANY inspector shall be present at all times that STATE's contractor is working on COMPANY's FACILITIES. Design changes may be requested by COMPANY at any time and shall be submitted in writing to STATE's Resident Engineer or Project Manager for final approval. STATE's response of approval or denial shall be in writing. STATE shall provide said response to COMPANY within five (5) business days. Design changes requested by STATE shall be submitted in writing to COMPANY's Engineer for review and approval prior to execution of an appropriate change order. COMPANY shall reply in writing to STATE within five (5) business days. If STATE does not receive a reply, either approving or disapproving the requested changes by the end of the five (5) business day period, it will be deemed that COMPANY approves the requested changes. If COMPANY disapproves the requested design change, then the relocation shall be placed on hold, the parties will discuss revising the design and scope of the relocation, and amend the change order as necessary. Changes that delay the Project, increase Project costs, or impact STATE facilities or other utilities will be evaluated on a case-by-case basis.

2. CHOOSE ONE OF THE FOLLOWING:

Prior to the commencement of work, field inspection, excavation, construction, and or installation activities upon and or occupancy of the STATE right-of-way under this Agreement, COMPANY shall furnish STATE with an Insurance Policy Endorsement and Certificate of Liability and Property Damage Insurance with a single limit of One Million Dollars (\$1,000,000.00) naming the STATE as an additional insured and shall maintain such insurance for the entire period during which COMPANY shall occupy and or conduct field inspection, excavation, construction, and or installation activities within STATE's right-of-way.

The policies shall include a provision requiring a thirty (30) calendar day advance written notice of any modification or cancellation of said policies. The insurance provider shall furnish STATE with Insurance Policy Endorsements and Certificates of Insurance, evidencing such insurance prior to commencement of work, field inspection, excavation, construction, installation, and or occupancy of said right-of-way. STATE and COMPANY agree that the cost of this insurance coverage shall be borne entirely by COMPANY and shall not be charged to STATE. All insurance shall be with a company having an A.M. Best and Company, Inc., policyholder rating of A-VII or better. This insurance policy shall remain in full force and effect until one year after COMPANY's completion of work, including but not limited to excavation, construction, and installation activities upon and/or cessation of the COMPANY's occupancy of STATE's right-of-way under this Agreement.

OR

2. The parties hereto recognize COMPANY is a self-insured entity and COMPANY hereby agrees to fully exonerate, indemnify, defend, and hold harmless the State of Nevada, and its departments, divisions, agencies, officers or employees from and against all claims or actions and all expenses incidental to the defense of any such claims or actions, based upon or arising out of damage or injury (including death) to persons or property due to any error, negligence, omission or act of COMPANY or any person employed by COMPANY, or any others for whose acts COMPANY is legally liable. The sums shall include, in the event of any actions, the amount of the judgment, court costs, expenses of litigation, expert witness fees, and reasonable attorney fees.

3. Should COMPANY elect to utilize an outside contractor to perform field inspection within the work-site, COMPANY shall require said contractor to maintain, at its own or COMPANY's expense, worker's compensation and general liability insurance with a single limit of One Million and No/100 Dollars (\$1,000,000.00) naming the STATE as an additional insured and to maintain such insurance for the entire period during which the contractor occupies and or conducts field inspection, excavation, construction, and or installation activities within STATE's right-of-way under this Agreement.

The insurance policies shall include a provision requiring a thirty (30) calendar day advance written notice of any modification or cancellation of said policies. All insurance shall be with a company having an A.M. Best and Company, Inc., policyholder rating of A-VII or better. The insurance provider, COMPANY's insurance broker, or COMPANY shall furnish the STATE with insurance policy endorsements, declarations page, and certificates of insurance evidencing such insurance before commencement of field inspection, excavation, construction, installation, and or occupancy of said right-of-way.

4. The total estimated cost for performing the adjustments on behalf of COMPANY is \_\_\_\_ AND \_\_\_\_/100 DOLLARS (\$\_\_\_\_). \_\_\_\_ AND \_\_\_\_/100 DOLLARS (\$\_\_\_\_) is attributable to salvage credits and \_\_\_\_ AND \_\_\_\_/100 DOLLARS (\$\_\_\_\_) is attributable to voluntary betterments undertaken by COMPANY. Details of the estimated costs are set forth in EXHIBIT "\_\_\_\_" attached hereto and made a part hereof. Actual costs might exceed this estimated amount. STATE in its sole discretion may charge up to SEVENTEEN percent (17%) Construction Engineering to all or part of the above adjustment costs.

COMPANY shall pay STATE's invoices in accordance with Paragraph 6 below. Under this Agreement, cost or costs include without limitation those items provided for in NRS 408.407, NAC 408.303 through 408.379, inclusive, and 23 CFR § 645.117.

5. The parties designate that the method of developing the adjustment costs shall be actual direct and related indirect costs to be accumulated in accordance with an approved work order accounting system or procedure prescribed by the applicable Federal or State regulatory body in accordance with the provisions of 23 CFR Part 645, Subpart A.

6. STATE shall submit to COMPANY the original plus one (1) copy of a detailed, itemized statement showing all the costs for which STATE is claiming reimbursement in connection with a final billing or progress billing. COMPANY shall reimburse STATE for all appropriate charges in accordance with the provisions of 23 CFR Part 645, Subpart A. COMPANY shall, within sixty (60) calendar days after it receives the monthly progress billing, pay STATE the amount of that billing. During that 60-day period, COMPANY's assigned inspector may verify that the work has been performed and the items for which the monthly billing applies have been purchased for use on the described Project.

7. The accounts and records of COMPANY and STATE pertaining to the adjustments shall be subject to audit by representatives of STATE and/or the Federal Highway Administration for a period of three (3) years after STATE closes its Project or if 100% state funded use STATE has received final payment. COMPANY shall retain the financial records relating to the adjustments and shall make the records available for inspection by representatives of STATE and/or the Federal Highway Administration upon request during the course of the adjustments and for a period of not less than three (3) years after STATE has provided COMPANY with written notification of the Project's closure or if 100% state funded use received final payment.

8. COMPANY shall not pass over or through the freeway access control fence for purposes of maintenance, repair, replacement, inspection or operation of its facilities, and shall instead achieve access from freeway interchanges, frontage roads, cross streets or other access roads. Access is not permitted from the freeway main-traveled way or ramps.

9. Notwithstanding the provisions of Paragraph 8 above, in the case of an extreme emergency involving COMPANY's facilities, in accordance with NAC 408.461(3) COMPANY shall have reasonable use of the freeway for performing emergency maintenance. COMPANY shall notify STATE within twenty-four (24) hours after beginning excavation.

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 STATE: STATE OF NEVADA  
DEPARTMENT OF TRANSPORTATION  
Name, Assistant Chief R/W Agent  
1263 S. Stewart Street  
Carson City, NV 89712  
Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_  
E-mail: \_\_\_\_\_

FOR COMPANY: Name \_\_\_\_\_  
Agency/Company \_\_\_\_\_  
Mailing Address, City, State Zip Code \_\_\_\_\_  
Physical Address, City, State Zip Code \_\_\_\_\_  
Phone: (\_\_\_\_) \_\_\_\_-\_\_\_\_  
Fax: \_\_\_\_\_  
E-mail: \_\_\_\_\_@\_\_\_\_\_

11. 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 state district courts for enforcement of this Agreement.

12. 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.

13. The Parties hereto represent and warrant that the person executing this Agreement on behalf of each Party has full power and authority to enter into this Agreement and that the Parties are authorized by law to perform the services set forth herein.

14. This Agreement constitutes the entire agreement of the Parties and such is 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 as to the legality and form by the Attorney General.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by their officials, thereunto duly authorized, on the date first above written.

COMPANY

REVIEWED AND RECOMMENDED BY:

By: \_\_\_\_\_, District Engineer  
NAME, Title

APPROVED AS TO LEGALITY AND FORM:

\_\_\_\_\_

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

This instrument was acknowledged before me on \_\_\_\_\_ of \_\_\_\_\_ as \_\_\_\_\_ of \_\_\_\_\_

\_\_\_\_\_  
(Notary)

\_\_\_\_\_  
Name, Chief Right-of-Way Agent

APPROVED AS TO LEGALITY AND FORM:

\_\_\_\_\_  
, Deputy Attorney General



STATE OF NEVADA, acting by and through its  
DEPARTMENT OF TRANSPORTATION

\_\_\_\_\_  
, 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 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.

S  
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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.

\_\_\_\_\_

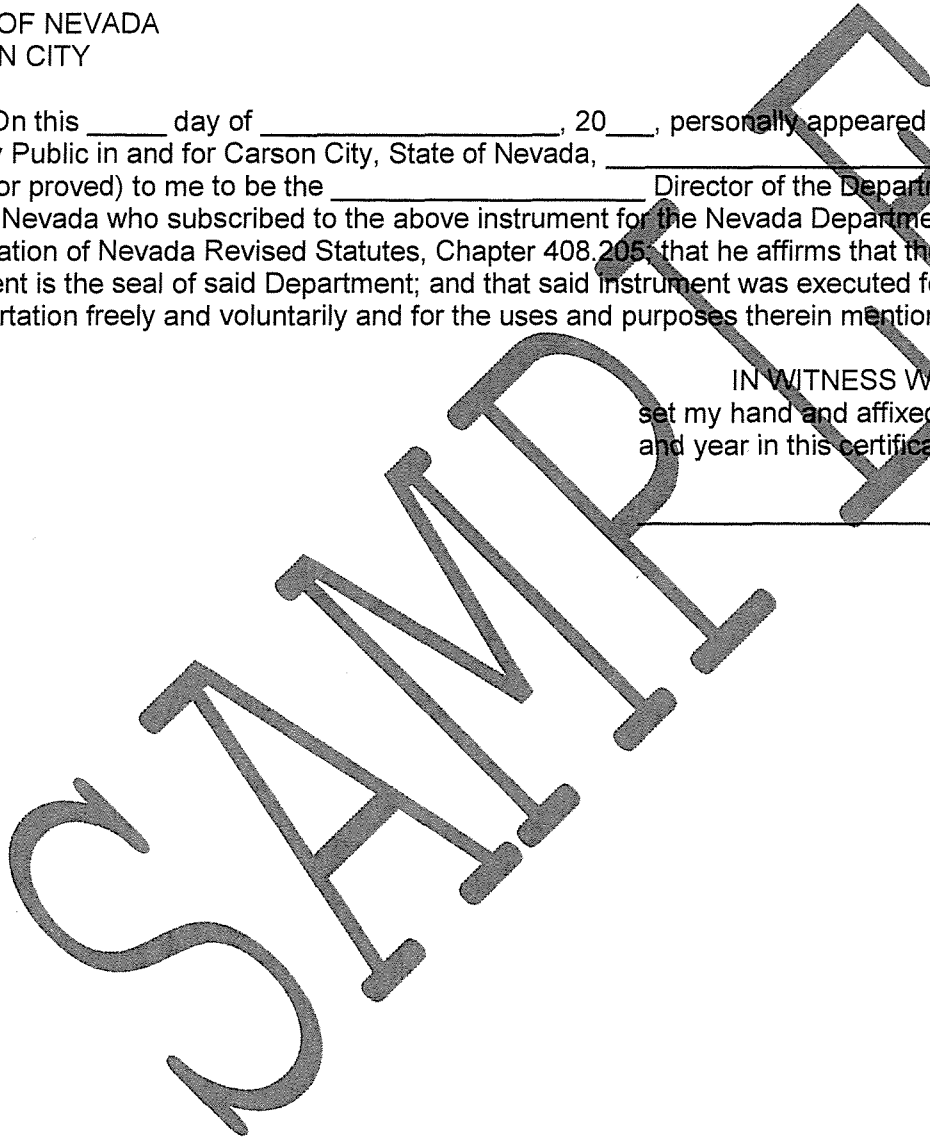


EXHIBIT "A"

**Estimated Costs**

(attached separately)

SAMPLE

EXHIBIT "B"

**Drawings**

(attached separately)

SAMPLE

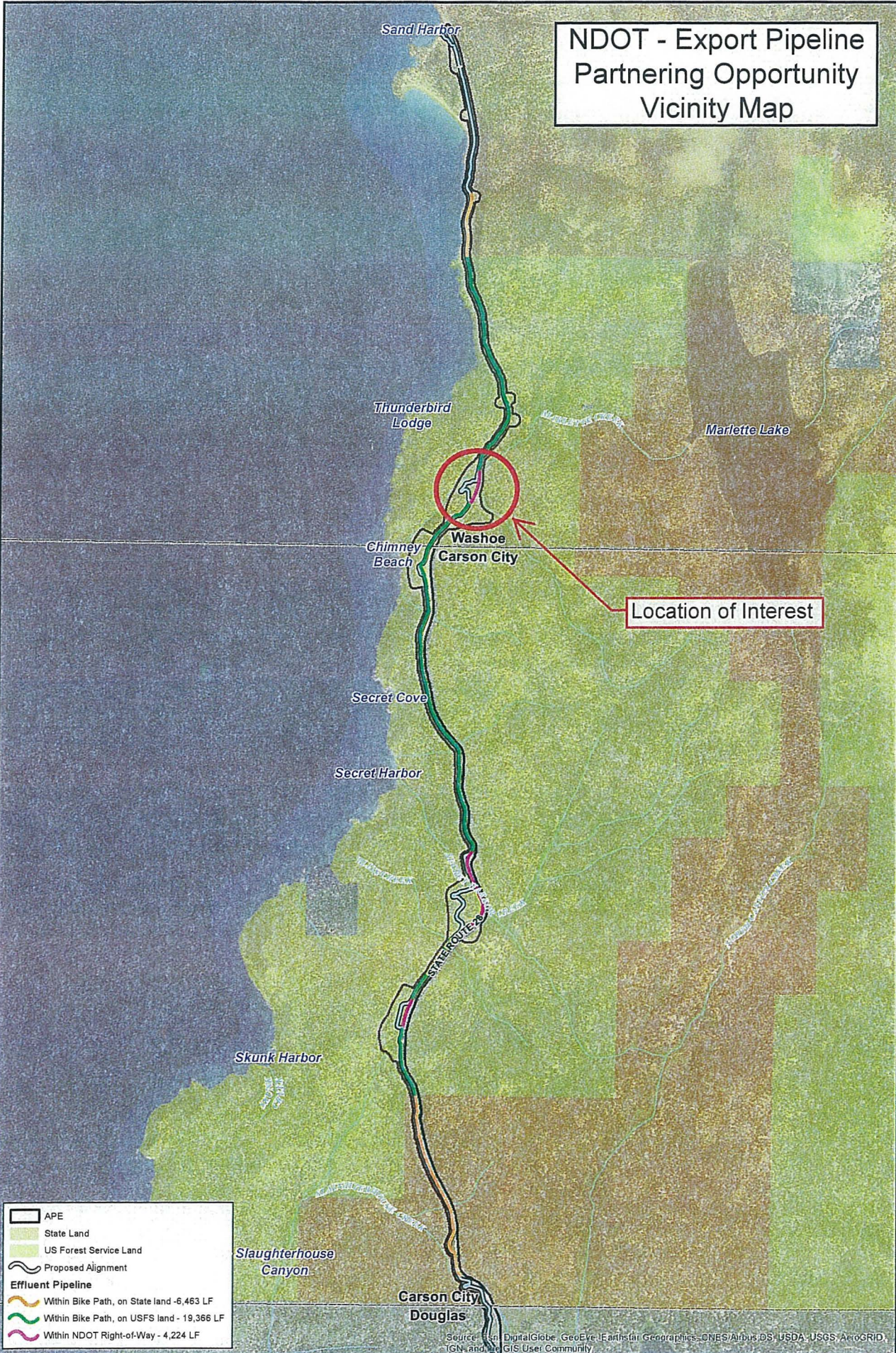
EXHIBIT "C"

**FORM**  
**Revocable Permit**

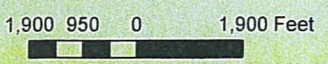
(attached separately)

SAMPLE

# NDOT - Export Pipeline Partnering Opportunity Vicinity Map



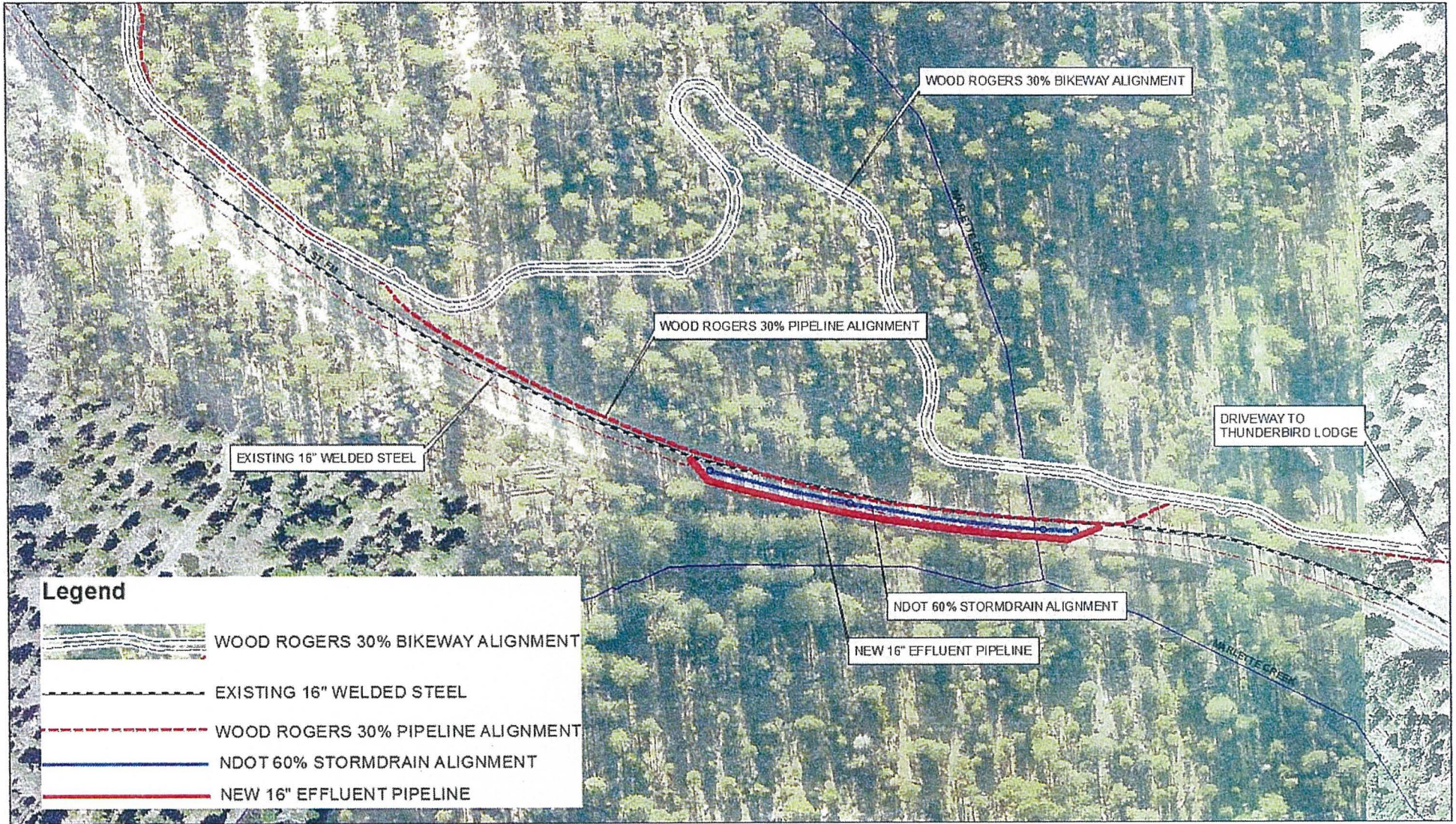
	APE
	State Land
	US Forest Service Land
	Proposed Alignment
<b>Effluent Pipeline</b>	
	Within Bike Path, on State land - 6,463 LF
	Within Bike Path, on USFS land - 19,366 LF
	Within NDOT Right-of-Way - 4,224 LF



**Nevada Stateline to Stateline Bikeway Phase 3**  
 Effluent pipeline location  
 September, 2019

**WOOD RODGERS**  
 BUILDING RELATIONSHIPS ONE PROJECT AT A TIME  
 1261 CORPORATE BOULEVARD  
 Reno, NV 89502      Tel: 775.825.4068      Fax: 775.825.4068

# NDOT - EXPORT PIPELINE SCHEMATIC



## Legend

-  WOOD ROGERS 30% BIKEWAY ALIGNMENT
-  EXISTING 16" WELDED STEEL
-  WOOD ROGERS 30% PIPELINE ALIGNMENT
-  NDOT 60% STORMDRAIN ALIGNMENT
-  NEW 16" EFFLUENT PIPELINE

2021 NDOT MARLETTE CREEK STORM DRAIN

