

**INTERLOCAL AGREEMENT**

This Agreement, made and entered into the 6<sup>TH</sup> day of June, 2007, by and between the STATE OF NEVADA, acting by and through its Department of Transportation, hereinafter called the DEPARTMENT, and the City of Las Vegas, Nevada, acting by and through its Public Works Department, hereinafter called the CITY.

**WITNESSETH:**

WHEREAS, an Interlocal Agreement is defined as an agreement by public agencies to "obtain a service" from another public agency; and

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, NRS 277.180 authorizes any one or more public agencies to contract with any one or more other public agencies to perform any governmental service, activity or undertaking which any of the public agencies entering into the agreement is authorized by law to perform and refers to such as an Interlocal Contract, hereinafter called an Agreement; and

WHEREAS, the DEPARTMENT is preparing a project that will reconstruct I-15 from the US-95 Interchange extending north to Craig Road in Las Vegas, Nevada, subject to receiving environmental clearance from the Federal Highway Administration, hereinafter called PROJECT; and

WHEREAS, the CITY desires transportation improvements linking D and F Streets between Bonanza Road and D Street along a re-aligned Wilson Avenue, near the F Street under-crossing of I-15, and roadway improvements on D Street between Bonanza Road and Wilson Avenue, hereinafter called IMPROVEMENTS, and described in more detail in Attachment A; and

WHEREAS, the DEPARTMENT and the CITY recognize in the interest of public safety, convenience, and project economy and quality, they have a mutual interest in combining the construction of the CITY'S IMPROVEMENTS with the DEPARTMENT'S PROJECT; and

WHEREAS, the DEPARTMENT is willing to construct the IMPROVEMENTS on behalf of the CITY at the DEPARTMENT'S expense.

WHEREAS, the cost savings to the DEPARTMENT is greater than the IMPROVEMENTS construction costs, by allowing the elimination of bridge structures, a reduction in the acquisition of right of way and reduced pavement construction; and

WHEREAS, the PROJECT and the IMPROVEMENTS will require the acquisition of right-of-way, and relocation of utilities; and

WHEREAS, the DEPARTMENT will use the Design-Build method of project delivery to design and construct the PROJECT. Once a Design-Build Contractor is selected, they will complete the final design and administer the construction of the PROJECT and IMPROVEMENTS, including quality control. Said Design-Build contractor will hereinafter be referred to as the Contractor; and

WHEREAS, Subsurface Utility Engineering has identified City owned facilities within the limits of the DEPARTMENT'S PROJECT and within the limits of the CITY'S IMPROVEMENTS which may necessitate the relocation, protection or adjustment of said facilities; and

WHEREAS, it is the desire of the CITY and the DEPARTMENT to have the Contractor include in its construction plans, items of work for relocating and adjusting the CITY'S facilities in accordance with the provisions of the Federal Highway Administration's 23 CODE OF FEDERAL REGULATIONS, Part 645, Subpart A, Utility Relocations, Adjustments and Reimbursement; and

WHEREAS, as part of the PROJECT, the DEPARTMENT will be acquiring fee title for the PROJECT facilities and will be acquiring right-of-way from the CITY; and

WHEREAS, the DEPARTMENT will acquire the right-of-way necessary for the construction of the CITY'S IMPROVEMENTS and, will deed those areas not required for the DEPARTMENT'S PROJECT to the CITY upon completion of the CITY'S IMPROVEMENTS, as shown in more detail in Attachment B; and

WHEREAS, the CITY is willing to reimburse the DEPARTMENT for its right of way acquisition costs necessary for construction of the CITY'S IMPROVEMENTS; and

WHEREAS, the CITY is willing to deed property that it judges to be surplus which was vacated by the construction of the CITY'S IMPROVEMENTS, lying between the newly re-aligned Wilson Avenue and the Las Vegas Rescue Mission, to the Las Vegas Rescue Mission as shown on Attachment B, upon completion of the IMPROVEMENTS; and

WHEREAS, the purpose of this Agreement is to allow for the DEPARTMENT to construct its PROJECT and incorporate the construction of the CITY'S IMPROVEMENTS into the DEPARTMENT'S PROJECT. It will also allow the DEPARTMENT to be reimbursed for its costs to acquire right-of-way necessary for the construction of the CITY'S IMPROVEMENTS. It will also allow the DEPARTMENT to acquire the right-of-way necessary for the construction of its PROJECT from the CITY. It will also provide for the CITY to invoke any franchise rights it might have to require conflicting utilities to be relocated to accommodate the construction of the DEPARTMENT'S PROJECT and the CITY'S IMPROVEMENTS. It will also, allow the DEPARTMENT'S Contractor to relocate and adjust any CITY owned facilities in order to accommodate the construction of the DEPARTMENT'S PROJECT and the CITY'S IMPROVEMENTS. It will also allow, upon completion of the DEPARTMENT'S PROJECT and the CITY'S IMPROVEMENTS for a portion of the newly constructed D to F Street Connector, described as Wilson Avenue, to permanently occupy the DEPARTMENT'S right-of-way. It will also provide for the CITY to require the property owner located at 600 West Bonanza Road, Las Vegas Nevada, 89106 to remove all appurtenances and property that currently encroach onto the CITY'S Bonanza Road right of way and conflict with the planned IMPROVEMENTS; and

WHEREAS, the DEPARTMENT 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 - CITY AGREES:

1. To provide the DEPARTMENT with preliminary engineering drawings of sufficient detail that will allow the DEPARTMENT to prepare final design drawings, engineering for utility

relocations, and legal descriptions sufficient for acquiring right of way and subsequently constructing the CITY'S IMPROVEMENTS.

2. To review and provide a response to all PROJECT notifications, correspondence, change orders, requests for information, design, contract and construction related documents received from DEPARTMENT within ten (10) calendar days of receipt for those items which the CITY will assume ownership or maintenance responsibility. Said responses shall be deemed to have been duly given if delivered personally in hand, by telephonic facsimile or electronic mail with simultaneous regular mail, or mailed postage prepaid on the date posted. If served by mail, said response shall be deemed served on the date of postmark.

3. At no cost to the DEPARTMENT, should it desire to do so, perform inspection of the work covered herein. The CITY's engineer and/or inspector shall work with and through the DEPARTMENT'S Project Manager, and shall give no orders directly to the Contractor unless authorized in writing to do so. It is agreed that the Contractor will accomplish the work covered herein on CITY'S facilities in accordance with the approved plans and specifications, to include changes or additions to said plans and specifications which are approved by the parties hereto, and that the CITY through its inspection of said work will provide the DEPARTMENT'S Project Manager with information covering any problem or concerns the CITY may have with acceptance of said facilities upon completion of construction.

4. To notify the DEPARTMENT'S Project Manager upon arriving and leaving the project site.

5. The CITY will require Forty-eight (48) Hours notice prior to beginning work on any of the CITY'S facilities to schedule inspection personnel.

6. To be responsible for and to perform all necessary right-of-way engineering and property descriptions necessary to transfer by quitclaim deed, areas it judges to be surplus after the completion of the CITY'S IMPROVEMENTS which lie between the newly re-aligned Wilson Avenue and the Las Vegas Rescue Mission property, to the Las Vegas Rescue Mission.

7. To transfer by quitclaim deed to the DEPARTMENT, at no cost to the DEPARTMENT, those parcels necessary for the construction of the DEPARTMENT'S PROJECT as shown on Attachment B. Those parcels are numbers 043.137, 043.177, 043.226 and 043.305.

8. To require, if allowed by Franchise Agreement, those utility companies having franchise agreements with the CITY to relocate their facilities to accommodate the CITY'S IMPROVEMENTS and the DEPARTMENT'S PROJECT at no cost to the DEPARTMENT.

9. To reimburse the DEPARTMENT within thirty (30) days of receipt of invoice for the DEPARTMENT'S costs to acquire the parcel number's 043.277, 043.222, 043.327 and 043.168, as shown in Attachment B, a total amount not to exceed One Hundred Fifty Thousand and No/100 (\$150,000.00) Dollars.

10. To reimburse the DEPARTMENT within thirty (30) days of receipt of invoice for the DEPARTMENT'S costs to relocate the existing billboard located on the parcel number 043.327 as shown on Attachment B, at the southeast corner of the D Street I-15 Northbound off-ramp and D Street, an amount not to exceed Fifty Thousand and No/100 (\$50,000.00) Dollars.

11. To be responsible for ownership and maintenance of IMPROVEMENTS upon completion of the PROJECT.

12. To grant the DEPARTMENT'S contractor right of entry on the local CITY owned streets for the purposes of erecting traffic control devices, relocating or adjusting utilities and performing all other construction activities necessary to complete the DEPARTMENT'S PROJECT and the CITY'S IMPROVEMENTS.

13. To provide notice to the owner of the Latinos Auto & Glass/J & G Auto Parts located at 600 West Bonanza Road, Las Vegas Nevada, 89106, of its encroachment into the CITY'S right of way, and to require it to remove all appurtenances and other property that occupy the CITY'S right of way prior to the DEPARTMENT beginning work on the CITY'S IMPROVEMENTS. The property limits and the referenced encroachments are shown on Attachment B and labeled as "City of Las Vegas Right-of-way to be cleared of adjacent owners materials".

14. That, upon completion of construction, to accept, own, and maintain the facilities covered herein at no further cost to the DEPARTMENT. The CITY further agrees to relieve the DEPARTMENT from responsibility or liability that may result from its new facilities or the operation thereof, to the extent it may lawfully do so, the CITY further agrees to relieve the DEPARTMENT from any responsibility or liability that may result from its new facilities or the operation thereof.

#### ARTICLE II - DEPARTMENT AGREES:

1. To prepare legal descriptions and acquire all right-of-way necessary for the construction of the DEPARTMENT'S PROJECT and the CITY'S IMPROVEMENTS.

2. To be responsible for and to perform or have performed by others, the preliminary engineering, including but not limited to, final design engineering, preparation of right-of-way plans, preparation of all land conveyance documents, utility engineering coordination, and relocation of utilities, right-of-way appraisal and acquisition, hydraulic engineering, environmental mitigation, geotechnical engineering, construction, construction engineering, inspection, testing, survey and related work necessary for the DEPARTMENT'S PROJECT and the CITY'S IMPROVEMENTS, except as noted under "CITY AGREES:" above.

3. To provide the CITY with preliminary plans and specifications for review and comment, and to invite the CITY to comment on the plans and specifications relating to the construction of the CITY'S IMPROVEMENTS.

4. To construct the CITY'S IMPROVEMENTS including, but not limited to roadway, drainage, traffic signals, traffic signal interconnect, street lights, utility relocations and other appurtenant items to complete the CITY'S IMPROVEMENTS shown in Attachment A as part of the DEPARTMENT'S PROJECT.

5. To provide the CITY with as-constructed plans, in a format specified by the CITY, upon completion of the IMPROVEMENTS including any required utility relocation or adjustment work.

6. To deed the following parcel's as shown on Attachment B, to the CITY, at no cost to the CITY, parcel numbers 043.168, 043.222, 043.277 and 043.327.

7. To include as part of the IMPROVEMENTS, an 8-foot wrought iron fence around the perimeter of the Las Vegas Rescue Mission property similar to their existing wrought iron fence as shown on Attachment C. The estimated length of said fence is 1,376 Linear Feet.

8. To invoice the CITY for the DEPARTMENT'S right of way acquisition costs necessary for the construction of the CITY'S IMPROVEMENTS upon final completion and acceptance of the IMPROVEMENTS by the CITY, an amount not to exceed One Hundred and Fifty Thousand and No/100 (\$150,000.00) Dollars.

9. To invoice the CITY for the DEPARTMENT'S costs to relocate the existing billboard located on the parcel number 043.327 as shown on Attachment B, at the southeast corner of the D Street I-15 Northbound off-ramp and D Street, an amount not to exceed Fifty Thousand and No/100 (\$50,000.00) Dollars.

10. To allow the CITY'S D to F Connector Street, called Wilson Avenue, constructed as part of the CITY'S IMPROVEMENTS to partially occupy a portion of the DEPARTMENT'S right of way at no cost to the CITY. The CITY will be responsible for the ownership and maintenance of all areas of Wilson Avenue located within the DEPARTMENT'S right of way.

#### ARTICLE III - IT IS MUTUALLY AGREED:

1. This Agreement shall not become effective until and unless approved by appropriate official action of the governing body of each party.

2. The term of this Agreement shall be from the date first written above through and including the \_\_\_ day of \_\_\_, \_\_\_ or until the construction of all improvements contemplated herein have been completed and accepted by the DEPARTMENT, whichever occurs last save and except the responsibility for maintenance as specified herein.

3. The parties agree to allow each other to observe, to inspect project construction and to review applicable change orders in a timely manner which prevents project delay. It is the intention of the parties that this review does not constitute a joint exercise of powers pursuant to NRS 277.080 to 277.170.

4. This Agreement may be terminated by either party prior to the date set forth above, provided that a termination shall not be effective until thirty (30) days after a party has served written notice upon the other party. This Agreement may be terminated by mutual consent of both parties or unilaterally by either party without cause. The parties expressly agree that this Agreement shall be terminated immediately if for any reason federal and/or State Legislature funding ability to satisfy this Agreement is withdrawn, limited, or impaired.

5. 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: Susan Martinovich, P.E., Director  
Attn.: Jeff Hale, P.E.  
Nevada Department of Transportation  
Project Management Division  
1263 South Stewart Street  
Carson City, NV 89712  
Phone: (775) 888-7319  
Fax: (775) 888-7322

FOR CITY:

Charlie Kajkowski, P.E.  
Public Works Director  
400 E. Stewart Avenue  
Las Vegas, NV 89101  
Phone: (702) 229-6276  
Fax: (702) 382-0848

6. Each party agrees to keep and maintain under generally accepted accounting principles full, true and complete records and documents (written, electronic, computer related or otherwise) 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 are maintained. Such records and documentation shall be retained for three (3) years after final payment is made.

7. Failure of either party to perform any obligation of this Agreement shall be deemed a breach. Except as otherwise provided for by law or this Agreement, the rights and remedies of the parties shall not be exclusive and are in addition to any other rights and remedies provided by law or equity, including but not limited to actual damages, and to a prevailing party's reasonable attorney's fees and costs.

8. The parties do not waive and intend 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.

9. Neither party shall be deemed to be in violation of this Agreement if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including without limitations, earthquakes, floods, winds or storms. In such an event the intervening cause must not be through the fault of the party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of the Agreement after the intervening cause ceases.

10. To the fullest extent of NRS Chapter 41 liability limitations, each party shall indemnify, hold harmless and defend, not excluding the other's right to participate, the other from and against all liability, claims, actions, damages, losses, and expenses, including but not limited to reasonable attorney's fees and costs, arising out of any alleged negligent or willful acts or omissions of the party, its officers, employees and agents. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity, which would otherwise exist as to any party or person, described herein. This indemnification obligation is conditioned upon service of written notice to the other party within 30 days of the indemnified party's notice of actual or pending claim or cause of action. The indemnifying party shall not be liable for reimbursement of any attorney's fees and costs incurred by the indemnified party due to said party exercising its right to participate with legal counsel.

11. 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. Nothing contained in this Agreement shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for one agency whatsoever with respect to the indebtedness, liabilities, and obligations of the other agency or any other party.

12. 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.

13. 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 or provisions shall not be held to render any other provision or provisions of this Agreement unenforceable.

14. Neither party shall assign, transfer or delegate any rights, obligations or duties under this Agreement without the prior written consent of the other party.

15. 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.

16. 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.

17. 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.

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. Should this Agreement be terminated by the CITY prior to completion of the IMPROVEMENTS, the CITY will reimburse the DEPARTMENT for all costs incurred up to the point of Agreement termination, and all costs incurred by the DEPARTMENT because of the Agreement termination.


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. 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 by the Attorney General.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

City of Las Vegas, Nevada

State of Nevada, acting by and through its  
DEPARTMENT OF TRANSPORTATION

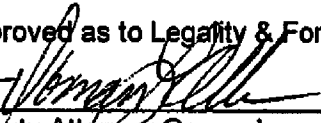
  
Name (Print)


OSCAR B. WOODMAN, Mayor  
Title (Print)

Approved as to Form:

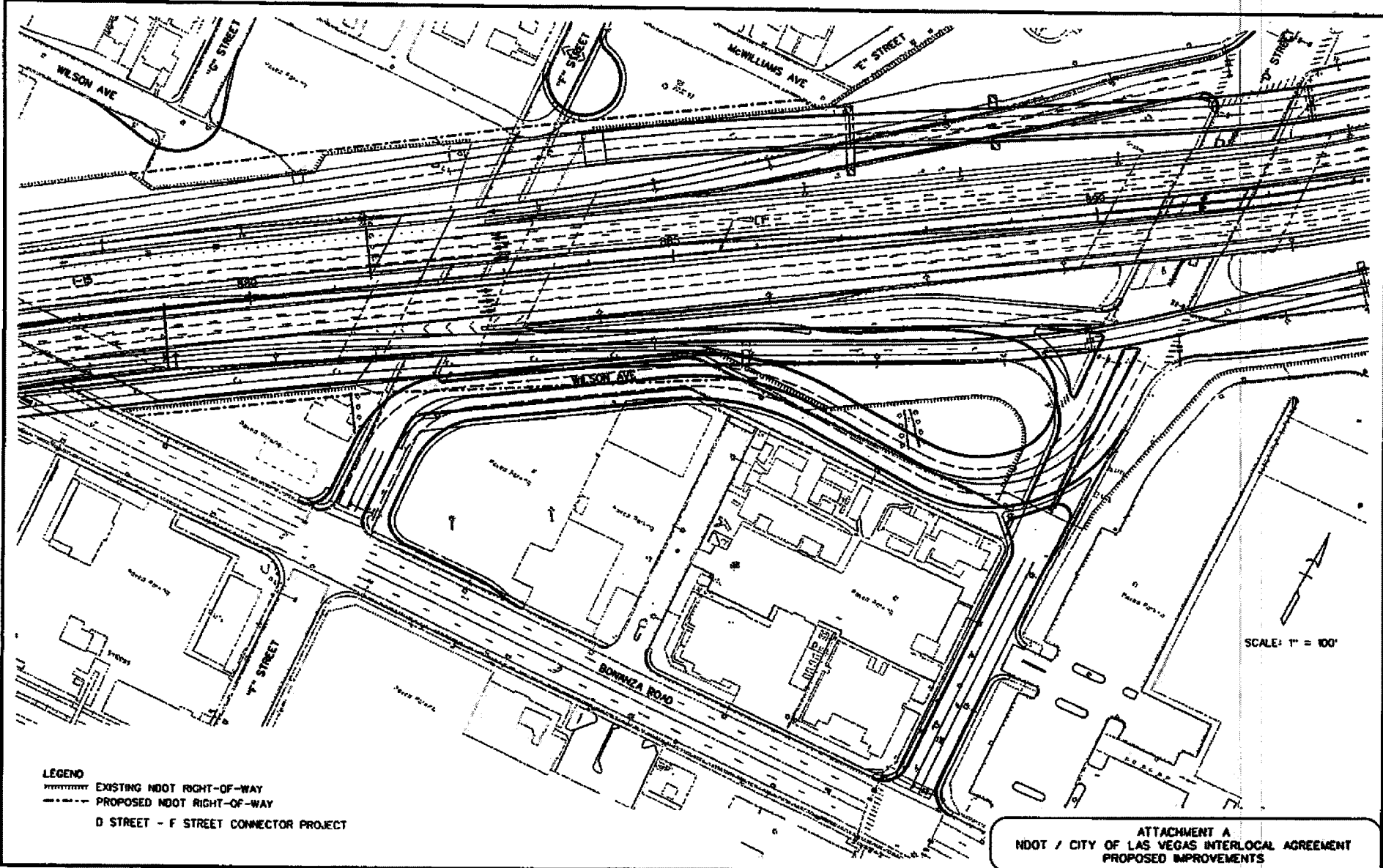
  
Director  
For

Approved as to Legality & Form:

  
Deputy Attorney General

  
Attorney

Attest: By   
BEVERLY K. BRIDGES, CMC, City Clerk



**LEGEND**  
 - - - - - EXISTING NDOT RIGHT-OF-WAY  
 - - - - - PROPOSED NDOT RIGHT-OF-WAY  
 D STREET - F STREET CONNECTOR PROJECT

SCALE: 1" = 100'

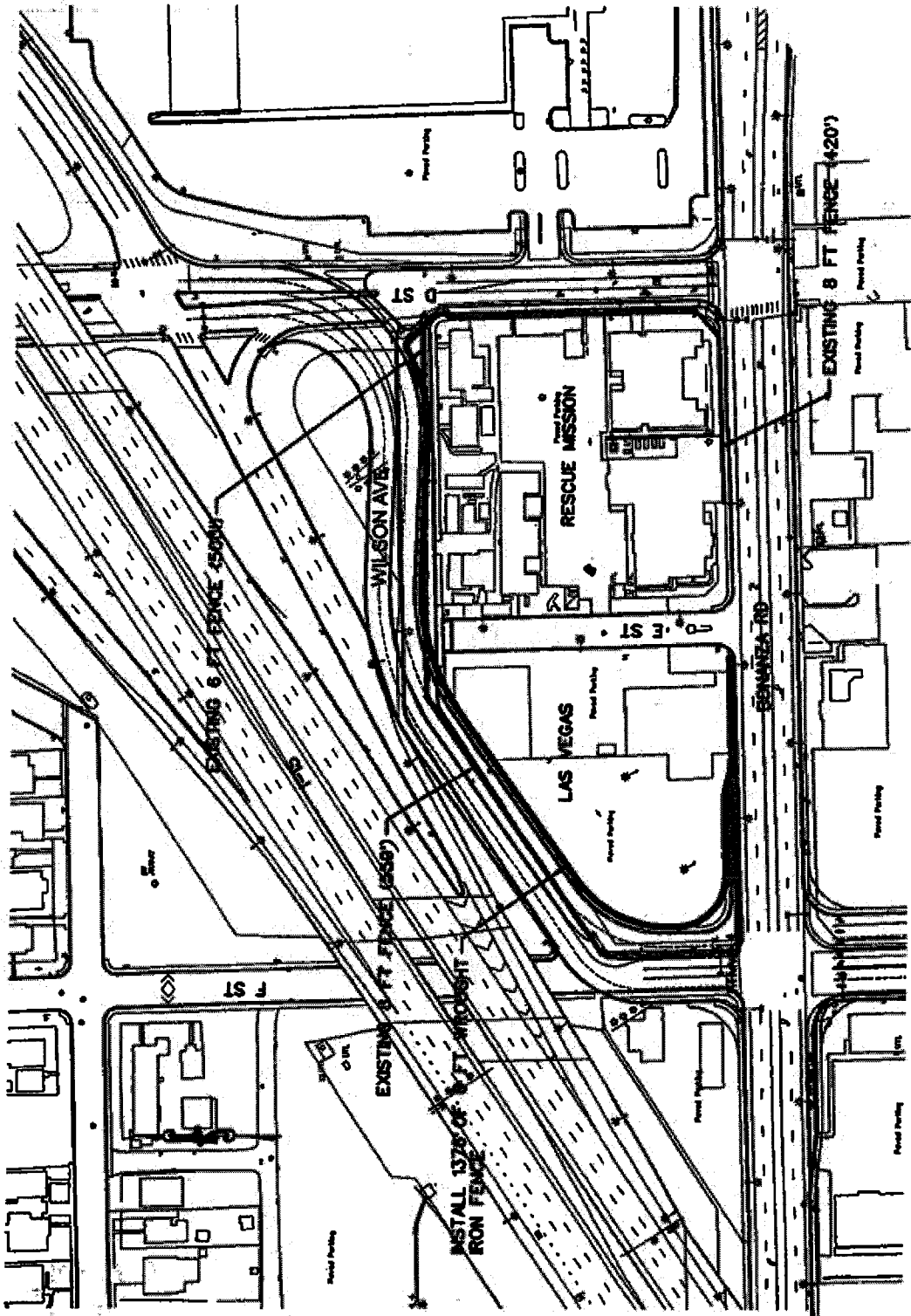
ATTACHMENT A  
 NDOT / CITY OF LAS VEGAS INTERLOCAL AGREEMENT  
 PROPOSED IMPROVEMENTS



**Legend**

- — PROPOSED RIGHT-OF-WAY LINE
- PROPOSED RIGHT-OF-WAY ACQUISITION
- PROPOSED TEMPORARY EASEMENT (CONSTRUCTION)
- PROPOSED RIGHT-OF-WAY ACQUISITION TRANSFER TO CITY OF LAS VEGAS
- CITY OF LAS VEGAS RIGHT-OF-WAY TRANSFER TO ADJACENT OWNER
- PERMANENT EASEMENT (CONSTRUCTION & MAINTENANCE)
- PROPOSED RIGHT-OF-WAY ACQUISITION (RIGHT) OCCUPIED BY CITY OF LAS VEGAS ROADWAY UNDER JOINT USE AGREEMENT
- RIGHT RIGHT-OF-WAY OCCUPIED BY THE CITY OF LAS VEGAS ROADWAY UNDER JOINT USE AGREEMENT
- CITY OF LAS VEGAS RIGHT-OF-WAY TO BE CLEARED OF ADJACENT OWNERS MATERIALS

**ATTACHMENT B**  
**NDOT / CITY OF LAS VEGAS INTERLOCAL AGREEMENT**  
**RIGHT OF WAY ACQUISITION**



**LEGEND**

- PROPOSED WROUGHT IRON FENCE
- EXISTING CHAIN LINK FENCE TO BE REMOVED
- EXISTING WROUGHT IRON FENCE TO REMAIN

ATTACHMENT C - INTERLOCAL AGREEMENT  
 D STREET TO F STREET  
 PROPOSED FENCE IMPROVEMENT