

## **BOARD OF REGENTS BRIEFING PAPER**

### 1. **AGENDA ITEM TITLE:** University of Nevada, Reno- MSFL Conservation Easement

Parameters

**MEETING DATE:** March 5-6, 2020

### **2. BACKGROUND & POLICY CONTEXT OF ISSUE:**

At the December 5/6, 2019 Board of Regents meeting, University of Nevada, Reno President Marc A. Johnson provided an update on the status of the development of a conservation easement on the approximately 762 acres of the University's Main Station Field Lab (MSFL). Since that update, administrators from the University of Nevada, Reno College of Agriculture, Natural Resources, and Biotechnology (CABNR), University Real Estate, University General Counsel, as well as the President, Executive Vice President and Provost, and the Vice President of Administration and Finance, aided by the consulting firm Resource Concepts Incorporated (RCI), have completed the analysis of recommended initial parameters to be included within a Conservation Easement. These take into consideration the prior discussions regarding the purpose of the easement, internal and external stakeholder feedback, and the September 2019 MSFL master plan completed by CABNR.

The recommended initial parameters are outlined in Exhibit A. Exhibit B includes maps depicting the MSFL in general as well as the approximate building envelopes that will be recognized in the Conservation Easement.

As the Conservation Easement will exist in perpetuity to preserve the availability of the property for agricultural use and to protect certain natural resources, and for agricultural and natural resource education, research, and outreach by the University and to preclude the use of the property for high density residential and/or commercial purposes beyond the usual commercial activities related to those education, research and outreach activities conducted on the property, support of these initial conservation values is now requested to begin soliciting the Easement.

The attached Exhibit A recommendations are consistent with the language of NRS 111.410 and structured to ensure it will not limit the University's discretion to employ its choices of agricultural and natural resource education, research, outreach and agricultural uses and management practices, consistent with the permitted and excluded uses outlined in Exhibit A. Likewise these recommendations are intended to balance the anticipated interest in the Easement to potential conservation partners with stewardship of University assets such as water rights.

While it is not anticipated that the University will transfer any deeds for water rights to the conservation easement holder, the easement will identify 2,600 acre feet of water rights, sufficient to irrigate, as needed, 650 acres of irrigable land of the easement at an application rate of 4 acre-feet per acre to be reserved for the purposes of supporting necessary irrigation and related uses in support of the purpose of the easement. The University will seek to lease or otherwise monetize the identified water rights when they aren't needed to maintain the purposes of the easement

#### **Next Steps:**

Incorporating agreed upon conservation values, the University will immediately initiate a public solicitation, in the form of a Request for Interest-Information (RFI), in order to obtain offers and award a contract to an entity to hold the easement and raise funds for the sale. From preliminary due

diligence, the University has determined that there are several different approaches to designing a Conservation Easement and orchestrating the necessary funding from a variety of public, private, and non-profit sources. Likewise, there are different types of local and national entities that may be interested in participating. The University believes an RFI-type solicitation will provide the opportunity for any/all interested parties, including consortiums, to submit a response and be fairly evaluated. The criteria for evaluation would include such things as the proposer's description of how they would meet the stated objectives, the references provided that demonstrate the proposer's abilities, and a track record in successfully negotiating similar agreements, and financial analysis of the proposer's qualifications. Conducting such a solicitation will satisfy the institution's need for open business dealings and provide the best financial returns without inadvertently limiting potential approaches.

It should be noted that University research and RCI guidance has concluded that development of a Conservation Easement is an iterative process driven by the potential Conservation Easement holder's objectives, the grantor's needs, and the funding available. As such the conservation values as directed by the Board of Regents today will form the initial offering; however, it is likely different parameters may be part of subsequent negotiations. As negotiations proceed, the University expects to obtain an independent appraisal and as with any sale of interests in property, the Conservation Easement and final terms will be subject to this Board's approval.

**SPECIFIC ACTIONS BEING RECOMMENDED OR REQUESTED:**

University of Nevada, Reno President Marc Johnson requests Board of Regents' approval of the initial conservation values outlined in Exhibit A in order to begin solicitations and negotiations with potential Easement purchasers.

**4. IMPETUS (WHY NOW?):**

Initial agreement on conservation values is necessary for continued development of the Conservation Easement.

**5. CHECK THE NSHE STRATEGIC PLAN GOAL THAT IS SUPPORTED BY THIS REQUEST:**

- Access (Increase participation in post-secondary education)
- Success (Increase student success)
- Close the Achievement Gap (Close the achievement gap among underserved student populations)
- Workforce (Collaboratively address the challenges of the workforce and industry education needs of Nevada)
- Research (Co-develop solutions to the critical issues facing 21<sup>st</sup> century Nevada and raise the overall research profile)
- Not Applicable to NSHE Strategic Plan Goals

**INDICATE HOW THE PROPOSAL SUPPORTS THE SPECIFIC STRATEGIC PLAN GOAL**

Development of the Conservation Easement ensures education, research and outreach activities at the MSFL are protected in perpetuity

**6. BULLET POINTS TO SUPPORT REQUEST/RECOMMENDATION:**

- Board direction on proposed conservation values is the next and final step prior to soliciting potential easement holders.

**7. POTENTIAL ARGUMENTS AGAINST THE REQUEST/RECOMMENDATION:**

None have been brought forward.

**8. ALTERNATIVE(S) TO WHAT IS BEING REQUESTED/RECOMMENDED:**

N/A – agreed upon initial conservation values are required for continued development of the Conservation Easement

**9. RECOMMENDATION FROM THE CHANCELLOR’S OFFICE:**

**10. COMPLIANCE WITH BOARD POLICY:**

- Consistent With Current Board Policy: Title # \_\_\_\_\_ Chapter # \_\_\_\_\_ Section # \_\_\_\_\_
- Amends Current Board Policy: Title # \_\_\_\_\_ Chapter # \_\_\_\_\_ Section # \_\_\_\_\_
- Amends Current Procedures & Guidelines Manual: Chapter # \_\_\_\_\_ Section # \_\_\_\_\_
- Other: \_\_\_\_\_
- Fiscal Impact: Yes \_\_\_\_\_ No X \_\_\_\_\_

Explain: Approval is sought of initial conservation easement values for the purposes of soliciting interest and beginning negotiations regarding a conservation easement at Main Station Field Laboratory.

**Purpose:** The Purpose of placing a Conservation Easement will be to preserve the availability of the property for agricultural use and to protect certain natural resources, and for agricultural and natural resource education, research, and outreach by the University and to preclude the use of the property for high density residential and/or commercial purposes beyond the usual commercial activities related to those education, research and outreach activities conducted on the property; the easement is not intended to limit the University's discretion to employ its choices of agricultural and natural resource education, research, outreach and agricultural uses and management practices, consistent with the permitted and excluded uses.

**Inclusions:** The proposed easement would include the following real property:

- Six whole parcels of property, and one portion of a seventh parcel (less 40 acres previously approved for sale) totaling approximately 762 total acres. **See attached map entitled "University of Nevada, Reno; Main Station Field Laboratory (MSFL); Draft Proposed Conservation Easement."**
  - A minimum of 38 Acres of the Easement would be designated as "Building Envelope". These are areas that contain existing structures and/or are located in areas that are least affected by flooding, and include:
    - 20 Acres around Wolf Pack Meats and the Feedlot Area;
    - 14.0 Acres around Dairy Hill; and,
    - 4.0 Acres around existing Student Housing.

The "Building Envelope" designation would allow for maintenance or expansion of existing structures and/or allow for new structures within the designated envelope that are consistent with the purpose of the easement: to preserve the availability of the property for agricultural use and to protect certain natural resources, and for agricultural and natural resource education, research, and outreach by the University and to preclude the use of the property for high density residential and/or commercial purposes, all without limiting the University's discretion to employ its choices of agricultural and natural resources education, research, outreach and agricultural and natural resources uses and management practices.

- The University will not transfer any deeds for water rights to the conservation easement. The conservation easement will identify 2,600 acre feet annually of water rights, sufficient to irrigate, as needed, 650 acres of irrigable land of the easement at an application rate of 4 acre-feet per acre to be reserved for the purposes of supporting necessary irrigation and related uses in support of the purpose of the easement. The University will seek to lease or otherwise monetize the identified water rights when they aren't needed to maintain the purposes of the easement.
- The Conservation Easement shall not include any interests in subsurface oil, gas, and minerals; associated access for extraction of any oil, gas or minerals shall be reserved to Grantor as provided herein.

#### EXHIBIT A



- The conservation value for the easement under NRS 111.410 is to assure the availability of real property for agricultural use, to protect certain natural resources, and for agricultural and natural resource education, research, and outreach by the University and to preclude the use of the property for high density residential and/or commercial purposes beyond the usual related commercial activities conducted on the property. Other values may be considered so long as they are compatible with the easement's purpose.

**Permitted Uses of the Property:** It is the intention of the easement not to limit the University's discretion to employ its choices of agricultural use, certain natural resources protection, and agricultural and natural resource education, research, outreach uses and management practices, including but not limited to appropriate building and infrastructure construction, so long as those uses and practices are consistent with the purpose of the easement. Changes in economic conditions, in agricultural technologies, in accepted farm and ranch management practices, in the University's agricultural and natural resource education, research, and outreach, and in the University's situation may result in an evolution of agricultural and natural resource education, research, outreach uses, agricultural uses, and protection of certain natural resources of the property, provided such uses are consistent with the easement.

The permitted uses are as follows:

- Treated Effluent Irrigation and Lease Agreement: completion of the existing lease with agreement including option periods, with the City of Reno, possible extensions, thereof, and possible similar leases;
- Agricultural and Other Activities: farming and ranching as well as research, teaching and outreach.
- Agricultural Structures: such as barns, sheds, corrals, wells, etc.
- Agricultural and Research Practices: acceptable practices required for agriculture and research (i.e. use of pesticides, herbicides, fertilizers, etc. and tillage / field leveling). This also includes the allowance for security fencing, netting, greenhouses and gardens.
- Grazing: of livestock using typical industry practices that prevent deterioration of conservation values.
- Fencing: including installation, maintenance and repair.
- Education, Research, and Outreach Equipment: such as weather stations, soil probes, irrigation and monitoring equipment, etc.
- Flood protection and mitigation efforts undertaken for the benefit of the University, consistent with the purpose of the easement that do not decrease the usable acreage of the easement, do not decrease the building envelopes of the easement, and are approved by the easement grantor and grantee in their sole discretion.
- Roads, Driveways, Ditches and Diversions: maintenance, repair, replacement of existing infrastructure and development of new infrastructure in a manner that maintains conservation values.

- Paving, driveways and utilities: similar to above.
- Wolfpack Meats and Feedlot Area: maintenance, repair, remodeling and replacement of existing structures as well as expansion of Wolfpack Meats.
- Dairy Hill and Farm Housing: maintenance, repair, remodeling and replacement of existing structures.
- New Research, Education and Outreach Facilities: such as rainout shelters, pavilion areas, and teaching facilities may be constructed within designated building envelopes.
- The temporary transfer, lease, or other severance of water rights in excess of those needed to maintain the conservation values of the easement.
- Tree Removal and Weed Management: Trees, shrubs, and weeds may be cut or removed to achieve permitted uses or control insects and disease, flooding, etc.

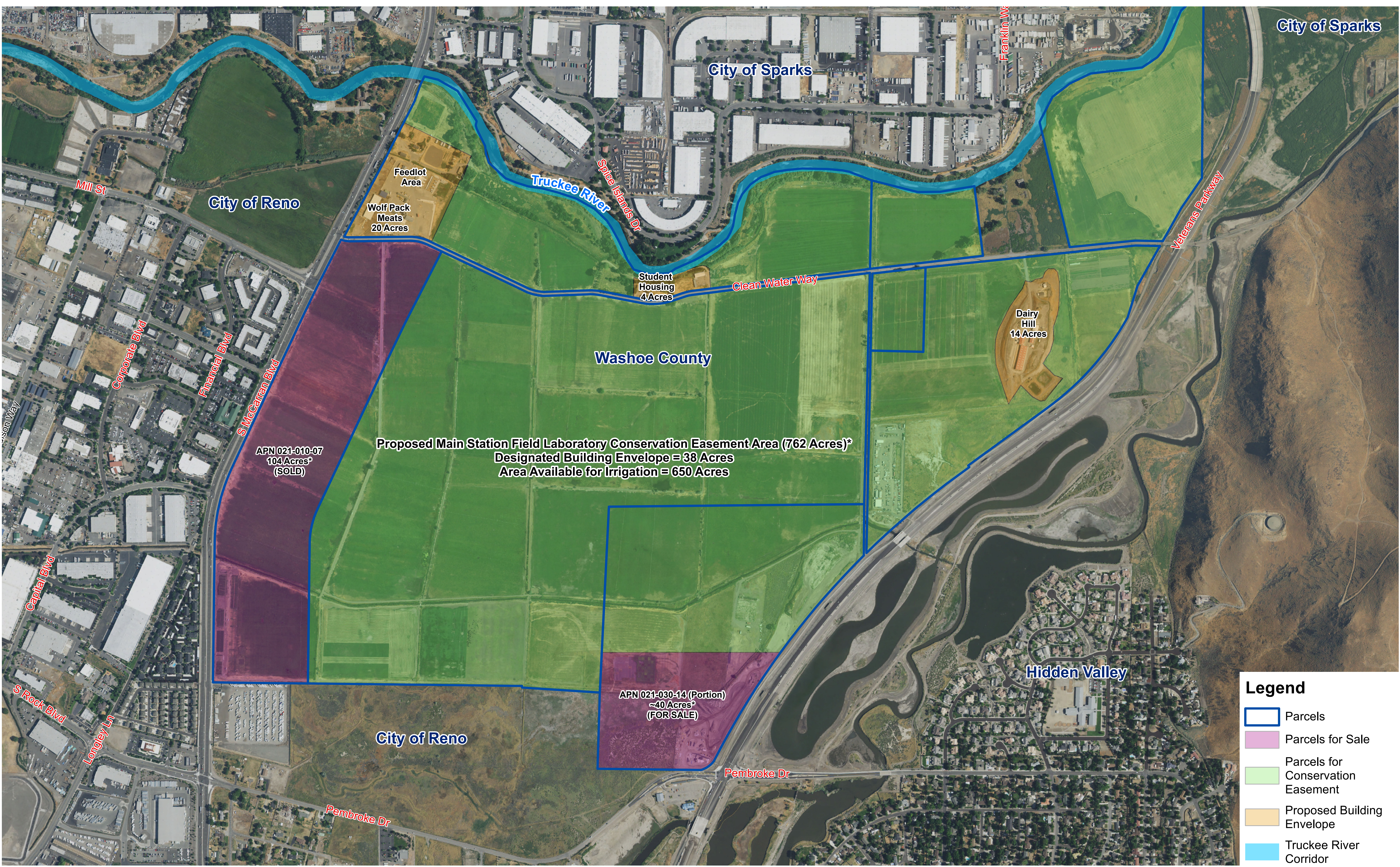
**Prohibited Uses of the Property:** The prohibited uses are as follows:

- Structures, Buildings or Improvements: construction or placement of any structures, buildings or improvements on the Property is prohibited except as otherwise provided.
- Subdivision: the Property shall be owned and conveyed subject to the terms of this Easement. Any other partition, division or subdivision of the Property, whether by physical or legal process, is prohibited. This does not preclude sale of undivided interests in the Property; however, all co-owners are subject to the prohibition on subdivision in this Easement and the other terms and conditions of this Easement.
- Commercial and Industrial Activities: the Property shall not be used for industrial activities, or for commercial activities other than those uses related to farming, ranching and agriculture, and natural resources and/or teaching, research and outreach related to agriculture and natural resources.
- Boundary Line Adjustments: no boundary line adjustment shall be allowed which results in any increased density of development on the Property.
- Roads: no roads shall be constructed, maintained, repaired, or improved except as permitted by Grantor.
- Signs and Billboards: no commercial signs, billboards, awnings, or advertisements shall be displayed or placed on the Property.
  - 1.1. Mining: The mining or extraction of oil, natural gas, fuel, or any other mineral substance, of any kind or description, is permitted on or under the Property so long as it is accomplished in a manner which is consistent with the purpose of this Easement and does not substantially diminish or impair the Conservation Value, and has a limited and localized impact on the Property.; at the completion of such mining or extraction, the Property shall be returned to the condition the Property was in prior to the undertaking of the mining or extraction to the extent possible. The mining or extraction of soil, sand, gravel, rock, stone, or decorative stone is prohibited on or under the Property, Notwithstanding anything to the contrary in this paragraph, soil, sand, gravel or rock may be extracted without further permission from Grantee so long

as such extraction is solely for use on the Property, for non-commercial purposes, is in conjunction with activities permitted herein, is accomplished in a manner which is consistent with the purpose of this Easement and does not substantially diminish or impair the Conservation Value, and has a limited and localized impact on the Property. Any such soil, sand, gravel, rock, stone, or decorative stone extraction shall be limited to not more than one (1) acre in size in total at any given time.

- Topographical Changes: any alteration of the topography of the Property or other natural features of the Property other than for construction of the improvements permitted, and other than for agricultural and natural resource teaching, research or outreach permitted uses or as otherwise permitted herein.
- Trash: dumping or uncontained accumulation of trash or refuse on the Property is prohibited.
- Hazardous Materials: storage, dumping or other disposal of “Hazardous or Toxic Materials” or of non-compostable refuse on the Property is prohibited unless temporary storage is necessary for teaching, research and outreach related to agriculture and natural resources.
- Hunting, and Trapping: Hunting and trapping are permitted on the Property for the sole purpose of management associated with agriculture, education, research and outreach, allowed at the discretion of Grantor.
- Motorized Vehicles: use of motorized vehicles off of roads, except as necessary or appropriate for natural resources and agricultural, teaching, research, outreach and property maintenance purposes, is prohibited.
- Harvesting of Timber Harvesting of timber for sale off Property (commercial timber harvesting) is prohibited.
- Water rights: The University will not transfer any deeds for water rights to the Conservation Easement. The conservation easement will identify 2,600 acre feet of water rights, sufficient to irrigate, as needed, 650 acres of irrigable land, as identified by CABNR, of the easement at an application rate of 4 acre-feet per acre to be reserved for the purposes of supporting necessary irrigation and related uses in support of the purpose of the easement. The University will seek to lease or otherwise monetize the identified water rights when they aren’t needed to maintain the purposes of the easement. **Other Key Easement Provisions:**
- Public Access. No general right of access by the public to any portion of the Property is conveyed by the easement.





City of Reno

City of Sparks

City of Sparks

Washoe County

Hidden Valley

APN 021-010-07  
104 Acres\*  
(SOLD)

Feedlot Area  
Wolf Pack Meats  
20 Acres

Student Housing  
4 Acres

Dairy Hill  
14 Acres

Proposed Main Station Field Laboratory Conservation Easement Area (762 Acres)\*  
Designated Building Envelope = 38 Acres  
Area Available for Irrigation = 650 Acres

APN 021-030-14 (Portion)  
~40 Acres\*  
(FOR SALE)

**Legend**

- Parcels
- Parcels for Sale
- Parcels for Conservation Easement
- Proposed Building Envelope
- Truckee River Corridor

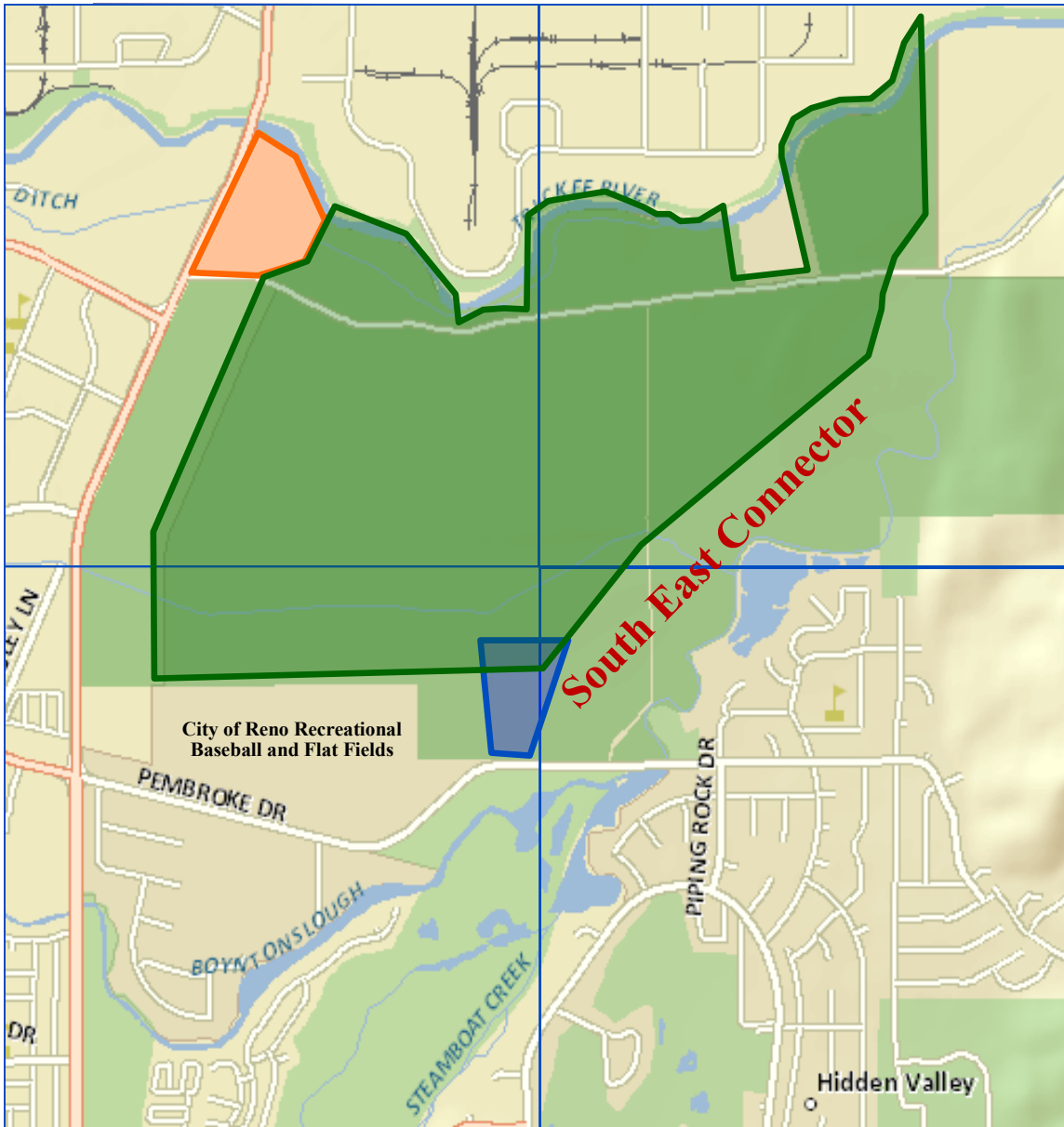
0 125 250 500 Feet  
Aerial Layer Credits: 2017 NAIP Imagery  
1 inch = 400 feet  
\*Note: Acreage from Washoe County Assessor's Online Parcel Database, Accessed Sept. 28, 2018

**University of Nevada, Reno  
Main Station Field Laboratory (MSFL)  
Proposed Conservation Easement**

**Exhibit B-1**



# Exhibit B-2



*University of Nevada  
Main Station  
Field Laboratory*

|                                                                                      |                                                                |              |
|--------------------------------------------------------------------------------------|----------------------------------------------------------------|--------------|
|   | <b>Pembroke Parcels</b>                                        | 40+/- Acres  |
|   | <b>Wolf Pack Meats &amp; CABNR<br/>Building Operations</b>     | 20+/- Acres  |
|  | <b>Main Station Field Laboratory<br/>Conservation Easement</b> | 762+/- Acres |