Agenda Item No: 12.A



STAFF REPORT

Report To: Board of Supervisors **Meeting Date:** January 20, 2022

Staff Contact: Darren Schulz, Public Works Director

Agenda Title: For Possible Action: Discussion and possible action regarding a Grant of Highway

Easement Deed ("Easement") at no cost from the United States of America, acting by and through the Department of Transportation, Federal Highway Administration ("FHWA"), to Carson City for approximately 6.24 acres within APN 007-061-26 that is necessary for the Kings Canyon Road and Trailhead Federal Lands Access Program ("FLAP") Project ("Project"). (Dan Stucky, DStucky@carson.org; Robert Nellis, RNellis@carson.org;

Christopher Martinovich, CMartinovich@carson.org)

Staff Summary: The Easement covers approximately 6.24+/- acres of land and allows the City to use that land for the purposes of reconstruction, operation and maintenance of public highway, trails, trailheads and all associated trail features. The FHWA has executed

this Easement, without consideration, for these purposes.

Agenda Action: Formal Action / Motion Time Requested: Consent

Proposed Motion

I move to approve, and authorize the Mayor to sign, the Easement as presented.

Board's Strategic Goal

Sustainable Infrastructure

Previous Action

The Project has been presented to the Board of Supervisors ("Board") and Regional Transportation Commission ("RTC") at the following meetings:

At the November 27, 2017 RTC meeting, the RTC approved submission of the FLAP Grant for the Project.

At the August 8, 2018 RTC meeting, the RTC approved a FLAP Memorandum of Agreement for the Project and Reimbursement Agreement Modification 001 with a total agreement amount of \$3,707,000, of which the City was obligated to pay a 5% local match totaling \$185,350.

At the March 10, 2021 RTC meeting, the RTC approved Reimbursement Agreement Modification 002 increasing the total agreement amount to \$5,110,000, including increasing the City's 5% local match to \$255,500, plus an additional \$30,000 in costs not eligible for federal funding, for a total local match of \$285,500.

At the April 1, 2021 Board meeting, the Board approved a permanent roadway and drainage easement from a private landowner to the City on APN 007-071-13 for the Project.

At the April 15, 2021 Board meeting, the Board approved four permanent roadway and drainage easements from private landowners to the City for APNs 007-081-04, 007-071-04, 007-071-23 and 007-071-02 for the Project.

At the May 6, 2021 Board meeting, the Board approved the reservation of a permanent right-of-way easement and dedication of a public utility easement on City-owned property, APN 007-071-10, for the Project.

Background/Issues & Analysis

(Vote Recorded By)

In 2018, Carson City was awarded a FLAP grant for the Project. This is a federally funded project to reconstruct approximately one mile of roadway and to design and construct a formal trailhead parking area to improve the access and management of the existing trailhead. The roadway and trailhead are in a state of disrepair. The roadway pavement is deteriorating due to old age and erosion from inadequate roadside drainage, creating safety concerns, and routine maintenance needs. The current trailhead is undersized, lacks access control and amenities, and is rapidly deteriorating due to stormwater erosion and parking along the shoulder. These issues are creating chaotic conditions which could hinder first responders and are having a negative impact to the quality of life for residences along Kings Canyon Road. The Project is currently under construction with completion planned for the winter of 2022, weather permitting.

Coordination occurred between Carson City, the FHWA, and USFS. The Easement formalizes Carson City's use of the area allowing for the long-term operation and maintenance of the trailhead parking area.

Applicable Statute, Code, Policy, Rule or Regulation NRS 244.270	
Financial Information Is there a fiscal impact? No	
If yes, account name/number: N/A	
Is it currently budgeted? No	
Explanation of Fiscal Impact: N/A	
Alternatives Do not approve the Easement and/or provide alternative direction to staff.	
Attachments: FHWA Highway Easement Deed.pdf	
Board Action Taken: Motion: 1) 2)	Aye/Nay



Central Federal Lands Highway Division

December 2, 2021

12300 West Dakota Avenue Suite 280 Lakewood, CO 80228

In Reply Refer To: HFHD-16

Chris Martinovich Transportation/Traffic Engineer Public Works Department Carson City 3505 Butti Way Carson City, NV 89701

Dear Mr. Martinovich:

Enclosed please find a Department of Transportation Highway Easement Deed for NV FLAP 39(1), also known as Kings Canyon Road.

This deed was reviewed, signed by the Central Federal Lands Acting Division Director, and notarized. Once the deed has been signed by the authorized city official and recorded, please return a scanned copy of the recorded document to me.

If you have any questions or concerns, please contact me directly at 720-963-3694.

Sincerely yours,

Ray Golden

Ray Golden

Right of Way Specialist

ray.golden@dot.gov

Enclosures:

Highway Easement Deed for NV FLAP 39(1)

APN 007-061-26)
**)
RECORDING REQUESTED BY)
AND RETURN TO)
Carson City)
Attn: Real Property Manager)
3505 Butti Way)
Carson City, NV 89701)

HIGHWAY EASEMENT DEED

THIS DEED, made this 15 day of November, 2011, by and between the United States of America, acting by and through the Department of Transportation, Federal Highway Administration, hereinafter referred to as the Department, and Carson City, Nevada, a consolidated municipality and political subdivision of the State of Nevada, hereinafter referred to as the Grantee, and as the Highway Agent after its acceptance of the highway:

WITNESSETH:

WHEREAS, the GRANTEE has filed application under the provisions of the Act of Congress of August 27, 1958, as amended (23 U.S.C. Section 317), for the right of way of a highway over certain land owned by the United States of America in the State of Nevada, which is under the jurisdiction of the Department of Agriculture, National Forest Service; and

WHEREAS, the Administrator of the Federal Highway Administration, pursuant to delegation of authority from the Secretary of Transportation, has determined that an easement over the land covered by the application is reasonably necessary for a right of way for Kings Canyon Road, herein after referred to as the Highway;

WHEREAS, the United States Department of Agriculture, acting by and through the National Forest Service, has agreed to the transfer of a right of way easement by the Department, over the land to the Grantee;

NOW THEREFORE, the Department as authorized by law, does hereby grant to the Grantee, a non-exclusive right of way easement for (1) the reconstruction, operation and maintenance of the said highway and use of the space above and below the established grade line of said highway for highway transportation purposes, and (2) the reconstruction, operation and maintenance of trails, trailheads, and all associated trail features, across, and upon the following described land owned by the United States of America within the Humboldt Toiyabe National Forest, Carson City, State of Nevada, and being situated upon portions of land within the following Township and Range of the Mount Diablo Meridian:

Township 15 North, Range 19 East, Section 23

The easement for Kings Canyon Road is more particularly described and depicted in the attached Exhibit 2A and Exhibit 2B.

If any subsequent survey of said highway shows that any portion crosses National Forest Service land, not described herein, this Highway Easement Deed shall be amended to include the additional lands traversed.

Subject to the following terms, conditions, and covenants:

- 1. This right of way easement is subject to existing rights as of the date of this grant and the Grantee shall obtain additional rights as may be necessary relating to any such outstanding valid claims.
- 2. The Grantee shall maintain the right of way and highway facilities to acceptable standards of repair, orderliness, neatness, sanitation and safety.
- 3. Consistent with AASHTO highway safety standards, the Grantee shall:
 - a. Comply with all Federal, State and local laws and regulations existing, or hereafter enacted or promulgated, concerning any hazardous material that will be used, produced, transported or stored within the right of way. Promptly and properly clean up, mitigate, and remedy, if necessary, all spills of petroleum products, hazardous materials, or other chemical or biological products;
 - b. Grantee shall not use the right of way for disposal of toxic or hazardous material, including asphalt.
- 4. The Grantee does hereby covenant and agree that it shall not transfer or assign any interest granted hereby without the prior written consent of the Department, to be granted or withheld in its sole discretion.
- 5. The Grantee will provide an opportunity for the Forest Supervisor to review plans for any significant realignment or reconstruction of the highway within the easement.
- 6. The Grantee, in consideration of the grant of this easement, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns that the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 242) shall be complied with in that:

- a. No person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed;
- b. The Grantee shall use said easement and right of way so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation, effectuation of Title VI of the Civil Rights Act of 1964, and said regulations as may be amended.
- 7. The discovery of a use by the Grantee incompatible with that described in this deed may terminate the easement and vest title in the United States. Upon notification of such termination, the Grantee shall reasonably restore the land subject to the easement to the condition which existed prior to the transfer and be responsible for its protection and maintenance until such time as the Grantee executes and records a quitclaim deed documenting the termination of the easement and the vesting of title in the United States.
- 8. The Grantee shall reestablish or restore public land monuments, other land monuments identifying property corners or witness markers disturbed or destroyed by construction, reconstruction, or maintenance according to instructions of the Bureau of Land Management, Department of the Interior or in accordance with standards established by applicable federal and state law.

AND further subject to the following terms, conditions, and covenants attached herewith and made a part thereof as stated in Exhibit 01.

IN WITNESS, WHEREOF, I,
any Tax
Federal Highway Administration
Division Director Central Federal Lands
. *
County of Jefferson State of Colorado, Before me personally appeared said Amy Fox and acknowledged the foregoing instrument to be his free act and deed this day of November, 202).
(Seal)
JODY FORMAN Notary Public – State of Colorado Notary ID 20184001776 My Commission Expires Jan 10, 2022 My commission expires Jan 10, 2022

In compliance with the conditions set forth in the foregoing I consolidated municipality and political subdivision of the State of and by the acceptance of this Deed, accepts the right of way over ce agrees for itself, its successors and assigns forever to abide by the carrier that the interest in real property conveyed by the summary of the United States of America, acting by and Transportation, Federal Highway Administration to Grantee is Grantee's Board of Supervisors on and Grantee by its duly authorized officer.	Nevada ("Grantee"), certifies, ertain land herein described and onditions set forth in said Deed. within Deed or grant dated through the Department of hereby accepted by order of
	T AC
Carson City Mayor and Chairperson of the Carson City Board of Supervisors	Date
ATTEST:	
Carson City Clerk	Data
CAISON CHY CICIK	Date

EXHIBIT 01

OPERATION, MAINTENANCE, AND CONSTRUCTION STIPULATIONS

This transfer being subject to the following terms and conditions as per FHWA and FS MOU:

- 1. Outstanding valid claims, if any, existing on the date of this grant, and the Grantee shall obtain such permission as may be necessary on account of any such claims.
- 2. The right-of-way should be nonexclusive with the FS retaining all rights to issue authorizations for uses not inconsistent or incompatible with highway use. The FS shall consult with the Highway Agent on appropriate stipulations to protect the roadway facility prior to the issuance of such authorization.
- 3. The FS will retain the right to any merchantable timber and all other resource materials not specifically appropriated, within the boundaries of the appropriation. The Highway Agent will notify the FS which timber or other resource materials within the appropriation are scheduled to be removed and the FS will determine whether a timber sale or other authorization for removal is appropriate.
- 4. All signing within the right-of-way will be installed and maintained by the Highway Agent. The Highway Agent will provide signs to mark National Forest boundaries (both for entering and leaving), intersecting Forest Service roads, directional signs to nearby National Forest information facilities which are staffed throughout the year, and signs to geographic or recreation areas. All signing will be in accordance with the Manual on Uniform Traffic Control Devices. Where feasible, the Highway Agent will install displays (panels or posters), furnished by the FS, at Interstate rest stops near National Forest.
- 5. The FS may provide conditions protecting the adjacent National Forest System lands from construction and maintenance activities which may cause off-right-of-way adverse effects, such as wildfire, chemical control of vegetation and animals, runoff drainage, and revegetation with nonnative species.
- 6. The Grantee and the Regional Forester shall make determination as to the necessity for archeological and paleontological reconnaissance and salvage within the right-of-way, and such reconnaissance and salvage to the extent determined necessary because of construction of the highway facility, is to be undertaken by the Grantee in compliance with the acts entitled An Act for the Preservation of American Antiquities, approved June 8, 1906 (34 Stat. 225, 16 U.S.C. 432-433), the Archaeological Resources Protection Act of 1979 (93 Stat. 721, 16 U.S.C. 470aa-470ll), and State laws where applicable.

- 7. The easement herein granted is limited to use of the described right-of-way and the space above and below the established grade line of the highway pavement for the purpose of operation and maintenance of an existing highway and does not include the grant of any rights for non-highway purposes or facilities: Provided, that the right of the Forest Service to use or authorize the use of any portion of the right-of-way for non-highway purposes shall not be exercised when such use would be inconsistent with the provisions of Title 23 of the United States Code and of the Federal Highway Administration regulations issued pursuant thereto or would interfere with the free flow of traffic or impair the full use and safety of the highway, and, in any case, the Grantee and the Federal Highway Administration shall be consulted prior to the exercise of such rights; and Provided further, That nothing herein shall preclude the Forest Service from locating National Forest and other United States Department of Agriculture information signs on the portions of the right-of-way outside of construction clearing limits.
- 8. Consistent with highway safety standards, the Grantee shall:
 - a. Protect and preserve soil and vegetative cover and scenic and esthetic values on the right-of-way outside of construction limits.
 - b. Provide for the prevention and control of soil erosion within the right-of-way and adjacent lands that might be affected by the construction, operation, or maintenance of the existing highway, and shall vegetate and keep vegetated with suitable species all earth cut or fill slopes feasible for revegetation or other areas on which ground cover is destroyed where it is deemed necessary during a joint review between the Regional Forester and the Grantee prior to completion of the highway and the Grantee shall maintain all terracing, water bars, leadoff ditches, or other preventive works that may be required to accomplish this objective. This provision shall also apply to slopes that are reshaped following slides which occur during or after construction.
- 9. The Grantee shall establish no borrow, sand, or gravel pits; stone quarries, permanent storage areas; sites for highway operation and maintenance facilities, camps, supply depots, or disposal areas within the right-of-way; unless shown on approved construction plans, without first obtaining approval of the Regional Forester.
- 10. The Grantee shall maintain the right-of-way clearing by means of chemicals only after consultation with the Regional Forester. Consultation must address the time, method, chemicals, and the exact portion of the right-of-way to be chemically treated.
- 11. The Grantee will notify the Forest Service when the need for the appropriation no longer exists. Upon notification Forest Service will either (1) accept the highway as is, or (2) require rehabilitation standards that the Grantee must complete. Upon completion of the rehabilitation and acceptance of same by the Forest Service, the Grantee will notify the Department, in writing, of the relinquishment. Upon receipt of this notice of relinquishment, by the Department, the lands appropriated will immediately revert to the Forest Service without further legal action.
- 12. In advance of any clearing of the right-of-way, construction, or operation and maintenance of the highway commences, the Grantee shall prepare, in cooperation with the Humboldt-Toiyabe National Forest, a fire protection/precaution plan that sets forth

in detail the fire prevention, pre-suppression, and suppression measures that will be taken by the Grantee, its employees, contractors, subcontractors, and the representatives in all operations during the construction/reconstruction, operation, and maintenance of the Highway. The fire plan shall be made available to all bidders prior to letting contract and the Grantee shall cause its contractors to comply with all provisions of the fire plan.

Exhibit 2A

Description in USA Lands Managed by the USFS

Federal Highway Administration Central Federal Lands Highway Division Project FLAP NV 39(1)

Common Name: Kings Canyon Road

Carson City, Nevada

All bearings and distances are shown in grid, based upon the NV WEST 2703 Zone.

Basis of Bearings: The bearing is measured from FHWA Control Point 2002 (a found 3 %" Aluminum cap stamped USDA) to FHWA Control Point 2001 (a set 2 1/2" Aluminum cap stamped FHWA). The measured bearing from this survey is N 69° 37' 28" E.

Description prepared by: U.S Department of Transportation Federal Highway Administration Central Federal Lands Highway Division Denver, Colorado

Project: NV FLAP 39(1)

Date of Field Work: OCT 2018

Date of Final Adjustment: OCT 2018

Project Units: US Survey Foot Name: United States/State Plane 1983 Datum: NAD 1983 (Conus) Zone: NV WEST 2703

Epoch: 2010.0000 (from OPUS) Geoid: GEOID12B (Conus) Vertical datum: NAVD88

441	STATE PLANE COORDINATES			STATE PLANE COORDINATES GEO COORDINATES				
POINT NUMBER	NORTH	EAST	ELEV	LATITUDE	LONGITUDE	ELLIPSOID HEIGHT	STATION	OFFSET
2001	14730144.69	2278592.83	5064.59	39°09'25.88400"N	119°48'13.75200"W	4984.75	141+02.73	14.9
2002	14728861.36	2275137.56	5434.07	39°09'12.74400"N	119°48'57.42000"W	5354.34	104+42.72	-232.6

USFS Parcel

Commencing at a Federal Highways Control Point 2002 (a found 3 ¼" Aluminum cap stamped USDA)located 233 feet westerly of the road centerline at FHWA Plan Station 104+42.72, Whence a FederalHighways Control Point 2001 (a set 2 1/2" Aluminum Cap stamped FHWA) bears N 69° 37' 28" E, a distance of 3685.89 feet (Basis of Bearing – assumed); Thence N 85° 29' 12" E, a distance of 157.79 feet to the intersection of the westerly Kings Canyon Road right of way and the United States Forest Service (USFS) Boundary Line, said intersection being the POINT OF BEGINNING;

Thence along the USFS Boundary Line, N 89° 43' 14" W a distance of

196.22 feet; Thence S 00° 16' 46" W, a distance of 530.00 feet;

Thence S 89° 43' 14" E, a distance of 512.66 feet;

Thence N 00° 16' 46" E, a distance of 530.00 feet to the USFS Boundary Line;

Thence along the USFS Boundary Line N 89° 43′ 14″ W, a distance of 316.44 feet to the POINT OF BEGINNING and end point of this parcel description.

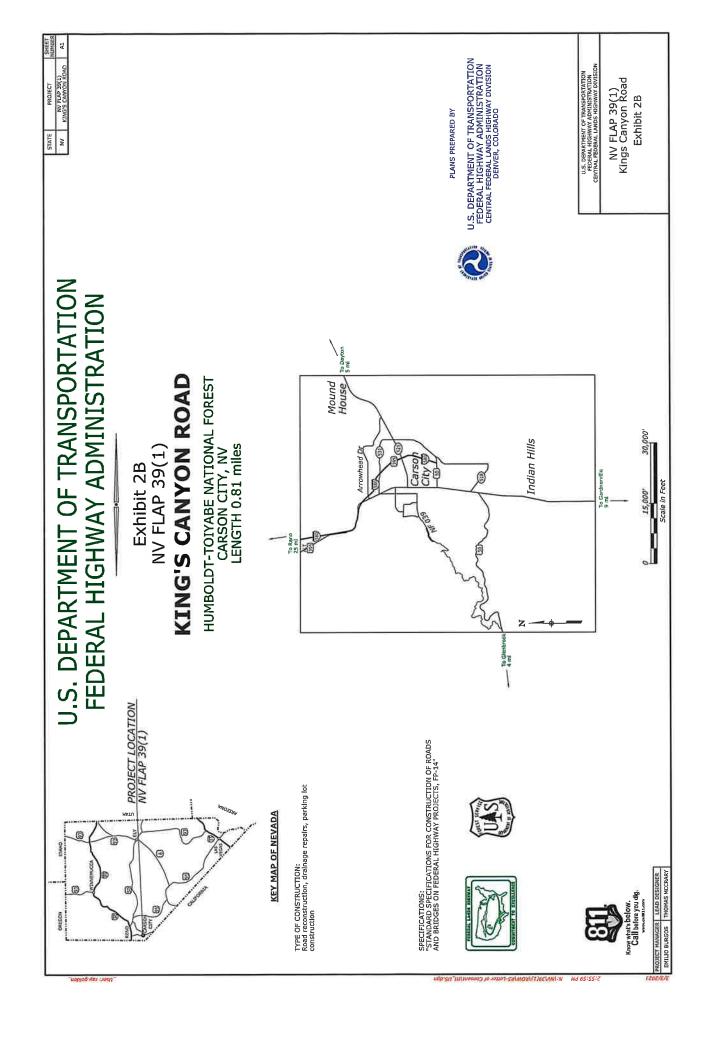
Containing 6.24 acres, more or less.

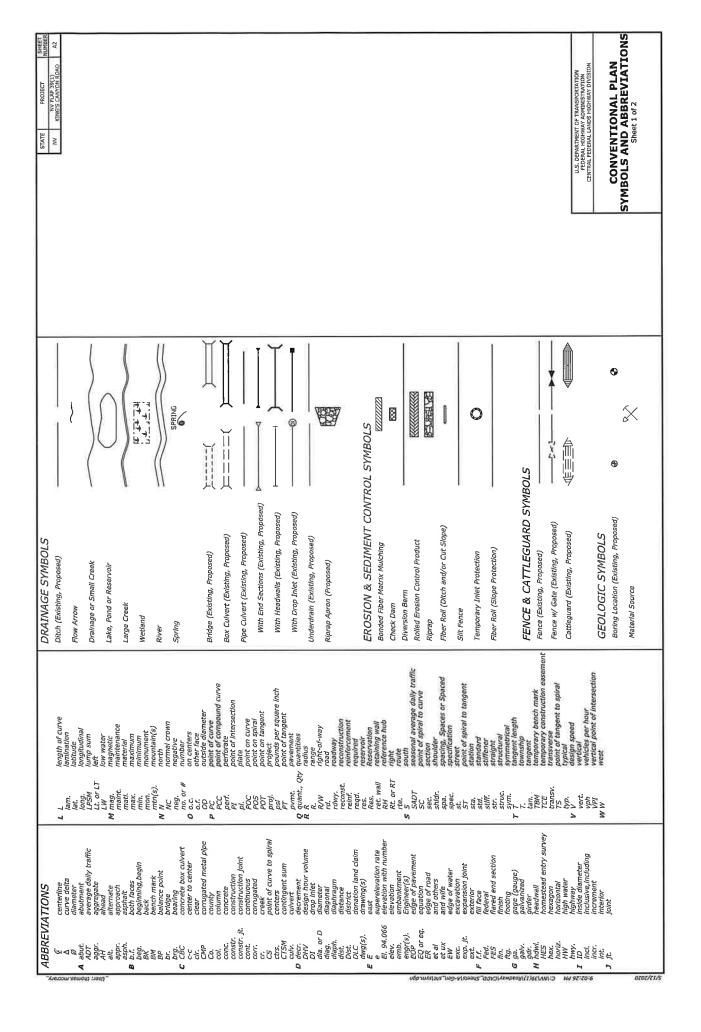
Together with the above described parcel:

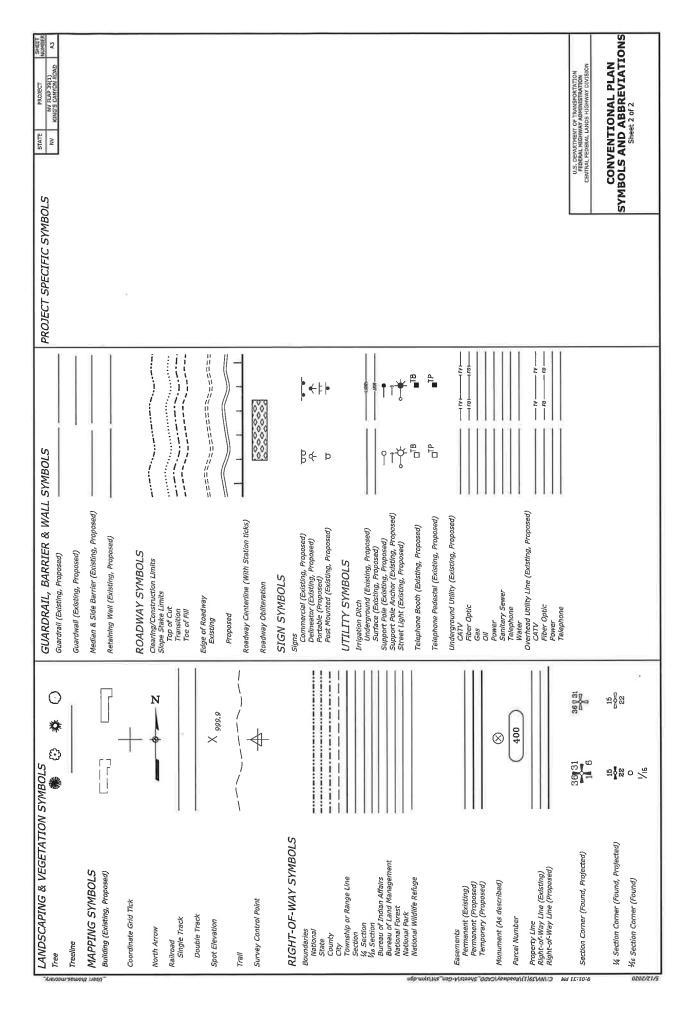
Any and all man-made features, including cut and fill slopes and drainage structures adjacent to andappurtenant to said Highway.

Excepting therefrom:

Any portion of said easement upon non-USFS land.







SHEET MUMBER AS SURVEY CONTROL SHEET U.S. DEPARTMENT OF TRANSPORTATION FEDERAL HIGHWAY ADMINISTRATION CENTRAL FEDERAL LANDS HIGHWAY DIVISION PROJECT STATE Ľ. DATE CARSON CITY CAP DESCRIPTION USDA AC DESCRIPTION REVISIONS (OR CHANGE NOTICES) OFFSET -232,6 14.9 141+02.73 Š. STATION COMBINED -0°46'16" 0.99979865 -0°46'41" 0.99978373 0.99979119 MAPPING PROJECT AVERAGES = ELLIPSOID HEIGHT 4984.75 Review FP14, Section 152.02 119°48'13.75200"W LONGITUDE GEO COORDINATES NOTE: TO PRECISELY CHECK DISTANCES BETWEEN POINTS AS MEASURED ON THE GROUND: INVERSE THE STATE PLANE COORDINATES AND DIVIDE THE COMPUTED DISTANCE BY A MEAN COMBINED FACTOR OF THE TWO POINTS. 39°09'25.88400"N 39°09'12.74400"N LATITUDE TO COMPUTE GEODETIC AZIMUTHS USE THE FOLLOWING FORMULA : GEODETIC AZIMUTH = GRID AZIMUTH + MAPPING ANGLE ELEVATION 5064.59 Alignment: STATE PLANE COORDINATES 2278592.83 2275137.56 EAST Project Units: US Survey Foot
Name: United States/State Plane 1983
Datum: MAD 1983 (Conus)
Zone: NV WEST 2703
Epoch: 2010.0000 (from OPUS)
Geold: GEOID12B (Conus)
Vertical datum: NAVD88 Date Of Field Work: OCT 2018 Date Of Final Adjustment: OCT 2018 14730144.69 NORTH Project: NV FLAP 39(1) Gpk File Dated: Gpk File Name: POINT NUMBER 2002 2/15/2020 9:05:10 PM C:WVI39(1)IRoadway/CADD_Sheets/A-Gen_shewy 39(1)_control_sheet.dgn

