COOPERATIVE AGREEMENT

This Agreement is made and entered into on , by and between the State of Nevada, acting by and through its Department of Transportation, hereinafter called the "DEPARTMENT", and the County of Clark, Nevada, a political subdivision of the State of Nevada, 500 South Grand Central Parkway, Las Vegas, Nevada, 89155-4000 hereinafter called the COUNTY.

WITNESSETH:

WHEREAS, a Cooperative Agreement is defined pursuant to Nevada Revised Statutes (NRS) 277.110 as an agreement between two or more public agencies for the joint exercise of powers, privileges, and authority; and

WHEREAS, pursuant to the provisions contained in Chapter 408 of the Nevada Revised Statutes, the Director of the DEPARTMENT may enter into those agreements necessary to carry out the provisions of the Chapter; and

WHEREAS, NRS 277.110 authorizes any two or more public agencies to enter into agreements for joint or cooperative action; and

WHEREAS, the parties to this Agreement are public agencies and authorized to enter into agreements in accordance with NRS 277.080 to 277.110, inclusive; and

WHEREAS, the parties previously entered into MASTER AGREEMENT FOR ROADWAY IMPROVEMENTS (NM 370-92-010) in September of 1992 (Exhibit A) hereinafter referred to as the MASTER, to which this Agreement will reference and amend, as agreed to by the parties in the Articles of this Agreement; and

WHEREAS, the DEPARTMENT desires to move forward with a design-build project involving the DEPARTMENT's reconstruction of the Tropicana Avenue Interchange at I-15 and the construction of High Occupancy Vehicle (HOV) ramps at the I-15 and Harmon Avenue grade separation; elimination of a full movement intersection at Tropicana Avenue and Dean Martin Drive making the intersection limited access with right-in/ right-out access; perpetuation of the Dean Martin Drive access to the northwest quadrant and southwest quadrant of Tropicana Avenue and Dean Martin Drive by connecting Dean Martin Drive from the north side of Tropicana Avenue to the south side of Tropicana Avenue; reconfiguration of lane markings on Harmon Avenue to a high tee lane configuration; construction of a barrier rail on the north side of the Harmon Avenue structure between the outside travel lane and sidewalk; perpetuation of existing drainage and adding additional lighting, signing, signal and ITS facilities; improvement of landscape and aesthetic features; relocation of utilities as necessary to accommodate the proposed highway improvements; overlay I-15; and design and construct sewer improvements hereinafter called the "PROJECT;" and

WHEREAS the COUNTY currently owns, operates and maintains certain right-of-way within the PROJECT limits; and

WHEREAS the parties recognize that the PROJECT will be administered as a designbuild contract and that certain of the Exhibits attached hereto are preliminary and subject to change except for Exhibit A; and

WHEREAS, the DEPARTMENT will administer the design-build contract of the PROJECT; and

WHEREAS, the purpose of this Agreement is to define the parties' responsibilities, describe the cooperation and participation of the parties during the development, analysis, design and construction of the PROJECT and to agree to what activities will take place after construction of the PROJECT; and

WHEREAS, the development and construction of the PROJECT will be of benefit to the DEPARTMENT, to the COUNTY, and to the people of the State of Nevada; and

WHEREAS, the COUNTY and the DEPARTMENT are 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 - COUNTY AGREES

- 1. To review and comment in writing on the DEPARTMENT's Request for Proposal (RFP) for the PROJECT including but not limited to Technical Provisions, Contract Drawings, and traffic control plans. The COUNTY will not impose any requirements on the DEPARTMENT or its contractor beyond those provided in the PROJECT RFP. After completion of this review and comment process on the PROJECT RFP which is anticipated to be May 17, 2021 (The Final Addendum/Setting Date for the PROJECT RFP), the RFP documents will be considered the Approved Engineering Plans for the PROJECT in accordance with Section 3.05 Review and Approval Of Engineering Plans For A Project: Permitting And Utility Relocation of the MASTER.
- 2. To allow the DEPARTMENT, its agents and contractors access to COUNTY right-of-way necessary for the construction of the PROJECT at the anticipated locations depicted on Exhibit B attached hereto and incorporated herein, but which remain subject to change, as approved by the COUNTY and upon obtainment of Approved Engineering Plans for the PROJECT in accordance with Section 3.05 (a) of the MASTER.
- 3. The COUNTY agrees to issue a no cost encroachment permit(s) that allows the DEPARTMENT and its agents and contractors access to COUNTY right-of-way necessary for the construction of the PROJECT at the anticipated locations depicted on Exhibit B, but which may change subject to review and approval by COUNTY.
- 4. That upon request from the DEPARTMENT, after it has specifically identified conflicts with utilities in COUNTY right of way, to issue notices to those utility companies having franchise agreements with the COUNTY requiring those utility companies, pursuant to the terms of such franchise agreements, to relocate the facilities in conflict or otherwise to accommodate the PROJECT at no cost to the PROJECT, the DEPARTMENT or the COUNTY. The DEPARMENT shall submit each specific request for the COUNTY to exercise its franchise agreement rights in a timely manner, but not longer than 30 calendar days after identifying the conflict. The COUNTY will not be responsible for the timeliness of the utility facility relocations, including, but not limited to, PROJECT or contractor delay, but the COUNTY agrees to assert its rights under the franchise agreements and in accordance with Section 3.05 (b) of the MASTER.
- 5. To observe, review, and inspect all work associated with the PROJECT that will be maintained by the COUNTY during construction, with the understanding that any items of

concern shall be reported to the DEPARTMENT's Resident Engineer for correction. It is understood that the DEPARTMENT will be the point of contact for all communications with the DEPARTMENT's contractor for the PROJECT, including, but not limited to, reviewing comments on plans, specifications, traffic control plans, and inspections for the COUNTY's portion of the PROJECT.

- 6. To review and comment, in writing, on the DEPARTMENT's submitted, contractor-designed, traffic control plans for the PROJECT. The COUNTY's response shall be provided within fourteen (14) calendar days of receipt of such plans by the COUNTY, unless such additional time is required by the COUNTY, in which case the COUNTY shall notify the DEPARTMENT that additional time is required. The County will give the DEPARTMENT seven (7) calendar days' notice if additional time is required. Any County request for additional time shall not exceed five (5) calendar days, for a total of nineteen (19) calendar days for review and comment of such plans by the COUNTY.
- 7. That after receipt and review of traffic control/barricade plans acceptable to the COUNTY, to issue traffic control plan approvals to the DEPARTMENT's contractor, allowing the DEPARTMENT's contractor to occupy the COUNTY's right-of-way for the purposes of providing for traffic detours, and the placing of traffic control devices needed for the purposes of constructing the PROJECT. The term of the traffic control plan approval shall be dependent on the work being performed, and the DEPARTMENT shall require its contractor to comply with all requirements of the traffic control plan approval and renew as required.
- 8. To submit in writing for the DEPARTMENT's approval all the COUNTY's requests for CHANGES to the PROJECT as CHANGES are defined below in Article I, paragraph 9.
- 9. To reimburse the DEPARTMENT for additional improvements, beyond those required by the Technical Provisions, requested by the COUNTY during construction and approved by the DEPARTMENT for portions of the PROJECT that will be maintained by the COUNTY, hereinafter referred to as "CHANGES". To pay invoices for these CHANGES within 30 days after receipt of an invoice from the DEPARTMENT.
- 10. To assign a point of contact to facilitate the review and provide comments in writing, on specific Alternative Technical Concepts (ATCs) which involve deviations related to items under COUNTY's jurisdiction. Acceptance of such ATCs requires their acceptance by both DEPARTMENT and the COUNTY. The COUNTY's response shall be received by the DEPARTMENT within fourteen (14) calendar days of the COUNTY's receipt of such ATCs. No response from the COUNTY within this time frame shall constitute the COUNTY's acceptance of such deviations requested in the ATCs and permission for the DEPARTMENT to proceed.
- 11. To the use of the standards, specifications, and procedures set forth in the DEPARTMENT design-build contract with its contractor for the development, analysis, and design of the PROJECT except where those standards, specifications, and procedures are modified as agreed upon by both parties.
- 12. To review and comment in writing, on DEPARTMENT plans and specifications which involve local street features or items under COUNTY's jurisdiction related to the PROJECT. Responses involving the COUNTY shall be received by the DEPARTMENT within fourteen (14) calendar days of the COUNTY's receipt of service of such plans and specifications. No response from the COUNTY within this time frame shall constitute the COUNTY's acceptance of the plans and specifications and permission for the DEPARTMENT to proceed.

- 13. To relay all public outreach contact it receives pertaining to the PROJECT to the Department's Public Information Office and coordinate on responses. To assist the DEPARTMENT with any PROJECT related Public Meeting or Hearing.
- 14. To convey to the DEPARTMENT the right-of-way needed by the DEPARTMENT to own and operate its PROJECT improvements, by means of a quit claim deed as generally described and depicted in Exhibit G, and to accept ownership of currently owned or acquired DEPARTMENT rights of way needed by the COUNTY to own and operate its improvements, by means of a quit claim deed as generally described and depicted in Exhibit G. The legal description will be included in the quit claim deed.
- 15. To maintain and operate traffic signals and standard roadway lighting within the PROJECT limits except when DEPARTMENT's contractor is working in the area of standard roadway lighting and except for lighting along the I-15 and the freeway on and off ramps, beyond the term of this agreement, unless otherwise modified in the to be developed separate maintenance agreement referenced in paragraph 2 under ARTICLE III- IT IS MUTUALLY AGREED.
- 16. To act as the Sponsoring Agency for review and execution of a United States Army Corps of Engineers' (USACE) 33 USC 408 (Section 408) permit for the PROJECT, which will be prepared by the DEPARTMENT and Clark County Regional Flood Control District (CCRFCD). A copy of the final permit is provided in Exhibit H.

ARTICLE II - DEPARTMENT AGREES

- 1. To fund and administer the design-build contract for the PROJECT.
- 2. To invite the COUNTY to attend PROJECT meetings, including, but not limited to, field reviews, plan review meetings, and the pre-construction conference for the PROJECT.
- 3. To name the COUNTY, its officers and employees as additional insureds on any insurance required for the design and construction of the PROJECT, and to require its consultants and contractor to defend, indemnify and hold harmless the COUNTY against all claims, actions and lawsuits, for damages or other liability arising out of the design and construction of the PROJECT.
- 4. To provide the COUNTY a final set of plans, specifications, estimates and bid documents for the COUNTY's use.
- 5. To submit to the COUNTY any design changes to local street features and items under COUNTY's jurisdiction for comment and review and to comply with any no cost encroachment permit(s) issued from the COUNTY that allows the DEPARTMENT and its agents and contractors access to COUNTY right-of-way necessary for the construction of the PROJECT at the anticipated locations depicted on Exhibit B, but which may change subject to review and approval by COUNTY.
- 6. That traffic control plan shall be submitted by the DEPARTMENT's contractor as indicated in paragraph 7 below. An executed copy of this Agreement shall be included with the application submitted by the DEPARTMENT's contractor.
- 7. To require its contractor to obtain a traffic control plan approval from the COUNTY and to maintain its traffic control devices. The term of the traffic control plan approval (s) shall be dependent on the work being performed, and the DEPARTMENT's contractor shall comply with

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all requirements of the traffic control plan approval and renew as required. The DEPARTMENT understands that the COUNTY will place conditions on the traffic control plan approval and has established fines and fees in the traffic control plan approval for the placement of unauthorized or improperly placed or maintained traffic control devices. As such, a traffic control plan approval violation notice may be issued to the contractor to pay any assessed fines or fees within thirty (30) calendar days of issuance, and any such violation may result in revocation of the concerned traffic control plan approval.

- 8. To submit a request to the COUNTY, after the DEPARTMENT has specifically identified conflicts with utilities, to issue notice to those utility companies having franchise agreements with the COUNTY, when permitted under the terms of such franchise agreements, to relocate their facilities in conflict if necessary or otherwise accommodate the PROJECT at no cost to the PROJECT, the DEPARTMENT or the COUNTY. The DEPARMENT shall submit each specific request for the COUNTY to exercise its franchise agreement in a timely manner, but not longer than thirty (30) calendar days after identifying the conflict. The COUNTY will not be responsible for the timeliness of the utility facility relocations, including, but not limited to, PROJECT or contractor delay, but the County agrees to assert its rights under the franchise agreements.
- 9. To provide the COUNTY with "as-built" drawings and final map location as soon as practicable following the completion of the PROJECT and no later than ninety (90) calendar days after such completion.
- 10. To allow the COUNTY to observe, review, and inspect all work for which COUNTY will maintain upon completion during construction with the understanding that any and all items of concern are reported to the DEPARTMENT's Resident Engineer for correction.
- 11. To schedule a final project walkthrough with the COUNTY, in accordance with the process set forth in the DEPARTMENT's design-build contract with its contractor, prior to PROJECT completion and include the COUNTY's list of required work for the PROJECT located or to be located in the COUNTY's jurisdiction in the final PROJECT punch list issued to the DEPARTMENT's Design Builder.
- 12. To review and approve those CHANGES, as defined in Article I, paragraph 9, within fourteen (14) calendar days after receipt of such submission. Such approval shall not be unreasonably withheld. For CHANGES requested by the COUNTY which result in an increase in the cost of the PROJECT, the cost will be mutually agreed to by the Parties and DEPARTMENT will invoice the COUNTY for the reimbursement.
- 13. To amend this Agreement, if necessary, to address CHANGES requested by the COUNTY and accepted by the DEPARTMENT.
- 14. To invoice the COUNTY for CHANGES requested by the COUNTY that result in a cost increase to the PROJECT, as mutually agreed to by the Parties, and to work with the COUNTY to amend this agreement if necessary, to allow the COUNTY to pay these invoices.
- 15. To convey to the COUNTY owned or acquired DEPARTMENT right-of-way needed by the COUNTY to own and operate its improvements by means of a quit claim deed as generally described and depicted in Exhibit G, and to accept ownership of any COUNTY right of way needed by the DEPARTMENT to own and operate its PROJECT improvements by means of quit claim deed as generally described and depicted on Exhibit G. The legal description will be included in the quit claim deed.

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- 16. To accept responsibility for the costs of the NV Energy relocation in the Southeast quadrant of the interchange within the COUNTY's roadway easement as depicted Exhibit C in the event the Design-Builders final design in that quadrant requires the relocation of those facilities.
- 17. To include a provision in any Interlocal Agreement for this PROJECT which DEPARTMENT enters into with Clark County Water Reclamation DISTRICT ("CCWRD") which would require CCWRD to be responsible for all costs associated with the removal of any CCWRD abandoned facilities within PROJECT boundaries if and when the DEPARTMENT determines they need to be removed.
- 18. To maintain and operate aesthetic lighting, maintain sculptures and, maintain landscape and aesthetic ground plane elements included in the PROJECT's Landscape and aesthetic treatments within the PROJECT limits, beyond the term of this agreement, unless otherwise modified in the to be developed separate maintenance agreement referenced in paragraph 2 under ARTICLE III- IT IS MUTUALLY AGREED.
- 19. To maintain and operate all project elements within the PROJECT's limits, either by the DEPARTMENT or the DEPARTMENT's Design-Build Contractor, in accordance with the terms as set forth in the DEPARTMENT's design-build contract with its contractor, including but not limited to completion of all punch list items identified in accordance with Article II, Paragraph 11. The COUNTY project elements will be maintained in accordance with COUNTY standards, specifications and requirements.
- 20. To assign to the COUNTY, at the request of the COUNTY, but limited to the related warranty, defective material, and workmanship set forth in the DEPARTMENT's design build-contract with its contractor, any rights the DEPARTMENT may have against the contractor and/or the contractor's surety with respect to defective material or workmanship affecting the PROJECT located in the jurisdiction of the COUNTY, in which case COUNTY shall accept the assignment and be responsible for the prosecution of all of the COUNTY's claims against the DEPARTMENT's contractor and/or its surety related to the construction and/or warranty of the PROJECT in the jurisdiction of the COUNTY.
- 21. To comply with all general and special conditions of the Section 408 permit provided in Exhibit H.

ARTICLE III - IT IS MUTUALLY AGREED

- 1. The term of this Agreement shall be from the date first written above until completion and acceptance of the PROJECT by the DEPARTMENT and the COUNTY.
- 2. To pursue a separate agreement for maintenance after PROJECT final acceptance when the boundaries on each Parties' facilities are known. Until such time that a separate maintenance agreement is executed, maintenance activities will be conducted in accordance with Section 3.07 of the MASTER and Article II, Section 19. The limits of anticipated maintenance areas are depicted on Exhibits D, E and F, but remain subject to change. The final design as constructed by the DEPARTMENT's contractor may require that these maintenance boundaries be adjusted.

The DEPARTMENT will perform structural inspections on the Tropicana Wash drainage facilities located within the project limits, more particularly described as follows:

- The NDOT maintained Tropicana Wash culverts from the west side of I-15 west under the freeway to the east side of the northbound Tropicana off ramp,
- The County maintained culverts from the east side of the northbound Tropicana off ramp, northeast across the Excalibur property, to the south right of way line of Tropicana,
- The NDOT maintained culverts from the south right of way line of Tropicana to the intersection of Tropicana and Las Vegas Boulevard.

All inspections performed by the DEPARTMENT shall be in accordance with current DEPARTMENT and industry standards for inspection frequency and documentation, and the DEPARTMENT shall provide Bridge Inspection Reports to the COUNTY for the COUNTY maintained facilities after inspections are complete.

Maintenance and cleaning of the above facilities, whether routine periodic cleaning or cleaning after storm events, will be performed by the COUNTY. The DEPARTMENT shall inform the COUNTY at least fourteen (14) days prior to entering the facilities to perform structural inspections so that the required access, required traffic control, or any other requirements relating to said structural inspections can be coordinated with the COUNTY. The COUNTY shall grant the DEPARTMENT permission to enter and inspect the COUNTY maintained facilities, and the DEPARTMENT shall grant the COUNTY permission to perform periodic routine cleaning and cleaning after storm events in the DEPARTMENT maintained facilities. The DEPARTMENT and COUNTY shall be responsible for repairing the structural issues within each agency's respective facilities and return the facilities to proper operating condition. Structural issues shall be determined during routine periodic inspections, after accidents, or after natural disasters, in accordance with industry bridge rating standards.

- 3. This Agreement shall not become effective until and unless approved by appropriate official action of the governing body of each party.
- 4. This Agreement may be terminated by mutual consent of the parties at any time after approval of each party's respective governing body. Further, the parties also mutually 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. If this Agreement is terminated after commencement of construction, all COUNTY right of way will be returned to a functional state as determined and agreed to between both parties at no cost or expense to the COUNTY.
- 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 email with simultaneous regular mail, or by 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: Kristina L. Swallow, P.E., Director

Attn.: Lynnette Russell, P.E., Assistant Chief Project

Management

Nevada Department of Transportation

Division: Project Management 1263 South Stewart Street Carson City, NV 89712

Phone: 702-671-6601 E-mail: lrussell@dot.nv.gov

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FOR COUNTY:

Denis Cederburg, P.E., Director Clark County, Nevada Clark County Public Works Department 500 South Grand Central Parkway, Suite 2066 PO Box 554000

Las Vegas, NV 89155-4000 Phone: 702-455-6020

E-mail: dlc@clarkcountynv.gov

- 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, the recovery of actual damages, but not including 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 DEPARTMENT or COUNTY 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, shutdown due to epidemic or pandemic, 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. Up to the limitation of law, including, but not limited to, NRS Chapter 41 liability limitations, each party shall be responsible for all liability, claims, actions, damages, losses, and expenses, caused by the negligence, errors, omissions, recklessness or intentional misconduct of its own officers and employees. The parties do not waive and intend to assert available NRS Chapter 41 liability limitations in all cases.
- 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 detail's 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 this 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, including another breach of the same provision.

- 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. Transfer of property related to this PROJECT between the parties will occur via quit claim deeds after PROJECT final acceptance based on the DEPARTMENT's contractors' design, maintenance responsibility and/or as otherwise agreed to by the parties.
- 16. Pursuant to NRS Chapter 239, 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.
- 17. 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.
- 18. 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.
- 19 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.
- 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. The recitals set forth above are and for all purposes shall be interpreted as being an integral part of this Agreement, constituting acknowledgments and agreements by and among the parties hereto, and are incorporated in this Agreement by this reference.
- 22. This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all counterparts together shall constitute a single agreement.
- 23. In connection with the performance of work under this Agreement, the parties agree not to discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, sexual orientation, or age, including, without limitation, with regard to employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff, or termination, rates of pay or other forms of compensation, and selection for training, including, without limitation, apprenticeship. The parties further agree to insert this provision in all subcontracts hereunder, except subcontracts for standard commercial supplies or raw materials.

24. 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.

CLARK COUNTY, NEVADA	State of Nevada, acting by and through its DEPARTMENT OF TRANSPORTATION
Marilyn Kirkpatrick Chair, Board of County Commissioners	Director
Attest:	Approved as to Legality & Form:
Lynn Marie Goya County Clerk	Deputy Attorney General
Approved as to Form:	
Jaura C Rehfoldt	

Deputy District Attorney

Agreement No. NM 320-92-00

MASTER AGREEMENT FOR ROADWAY IMPROVEMENTS

THIS AGREEMENT, made and entered into this 15th day of September, 1992 by and between the STATE OF NEVADA, Department of Transportation, hereinafter called STATE, and the County of Clark, a political subdivision of the State of Nevada, hereinafter called COUNTY.

The initial addresses of the parties which one party may change by giving notice to the respective other party are as follows:

COUNTY

M. J. Manning
Director of Public Works
Clark County, Nevada
6655 West Sahara Avenue, C-204
Las Vegas, Nevada 89102

STATE

Garth F. Dull, Director State of Nevada Department of Transportation 1263 South Stewart Street Carson City, Nevada 89712

WITNESSETH

WHEREAS, Clark County citizens granted popular approval for a program of transportation improvements in the COUNTY, the Nevada State Legislature enacted and the Governor approved legislation to authorize additional taxes to finance such a program; and,

WHEREAS, the transportation program will provide needed street and highway improvements as well as significant enhancements to public transit; and,

WHEREAS, transportation program improvements will be built within rights-of-way controlled by the state, and local jurisdictions, including federal arterial and highway rights-of-way under the responsibility of the STATE; and,

WHEREAS, the STATE and the COUNTY wish to improve the traffic capacity of the entire road system in Clark County through construction of quality improvements; and,

MJM 9/15/92

WHEREAS, the STATE and the COUNTY wish to join in a partnership with each other, with other involved agencies, and with the community to build the transportation improvement program with a minimum of distress to Clark County citizens; and,

WHEREAS, the STATE and the COUNTY are authorized to enter into an agreement under Chapter 277 of the Nevada Revised Statutes (NRS).

NOW, THEREFORE, for and in consideration of the premises and mutual covenants herein contained, it is agreed as follows:

ARTICLE I

DEFINITIONS

As used in this Agreement, the following terms shall have the meanings as set out below:

"Project" means a limited access highway, a designated highway, an arterial or collector street, or any other roadway that may include: rights-of-way, ramps, bridges, underpasses, overpasses, and other structures, flood control and drainage facilities, pavement, curbs and gutters, sidewalks, street and other lighting, utility installations and relocations, signals, signs, guard-rails and barriers, pavement markings and other traffic control devices, and such other construction as may be required within the rights-of-way to meet applicable minimum standards.

"Jurisdictional Interest" means an interest in a Project by a governmental jurisdiction that will expend its public funds: (a) for the construction of a Project; (b) for the ongoing operation of a Project; (c) for regulation (by license or agreement) of features or elements related to a Project; or (d) for the maintenance, repair, or replacement of the Project, in whole or in part. As an example, a "Jurisdictional Interest" may occur where a Project will intersect, cross by grade separation, or end at a right-of-way of another jurisdiction or where more than one jurisdiction maintains public infrastructure within a right-of-way held by another jurisdiction. For the purposes of this Agreement, a "Jurisdictional Interest" relates to the interests of the STATE or the COUNTY only and does not include utility agencies operating in public rights-of-way to provide water, sewer, gas, telecommunications, power, or cable television services under local franchise agreements, special licenses, or encroachment permits.

"Engineered Plans" means detailed plans and specifications prepared for the construction of a Project that incorporate the results of drainage studies, traffic studies, environmental studies, geo-technical soils investigations and studies, land and boundary surveys, utility designs, right-of-way alignment studies, and such other information required to construct a good and serviceable Project.

ARTICLE II

PUBLIC SERVICE COMMITMENT

The STATE and the COUNTY mutually agree that the public service commitment as adopted by the Clark County Board of County Commissioners by resolution on November 19, 1991 and attached as Exhibit "A" to this Agreement and made a part hereof by this reference, shall apply to all STATE and COUNTY programs of transportation improvements within the County of Clark, Nevada.

ARTICLE III

STANDARDS, CRITERIA, POLICIES, AND SPECIFICATIONS FOR DESIGN AND CONSTRUCTION OF A PROJECT

3.01 -- <u>In General</u>

Projects covered under the terms of this Agreement shall be those in which a Jurisdictional Interest exists for both the STATE and the COUNTY. Separate additional Project agreements for specific Projects may be required in addition to the terms of this Agreement to cover the detailed requirements of the Project such as cost, schedules, and other project features.

3.02 - Standards, Criteria, And Specifications For Design And Construction Of A Project

The STATE and the COUNTY mutually agree that the standards, criteria, policies, and specifications used for the design and construction of a Project shall be those adopted

by the jurisdiction having a maintenance responsibility for the Project, except for urban arterials where standards, criteria, policies, and specifications shall be jointly agreed upon. Any conflicts in standards, criteria, policies, and 'specifications shall be resolved by a separate agreement between the respective jurisdictions with Jurisdictional Interests prior to construction of the Project and such agreed to resolution shall be reflected in the Engineered Plans.

3.03 -- Selection Of Consultants For Projects

The STATE and COUNTY mutually agree that Consultants selected for Projects in Clark County when each has a Jurisdictional Interest shall be determined using COUNTY Consultant pre-qualification procedures. The STATE may participate directly in this pre-qualification procedure. Consultants will be selected from the consultant pre-qualification lists as adopted by the Clark County Board of Commissioners. Final selection of a consultant will be approved by the STATE and the COUNTY where each has a Jurisdictional Interest in the Project. In the event that federal funds administered by STATE are used for the design of a Project, STATE consultant selection procedures will apply.

3.04 -- Consultant Service Contracts

Upon selection of a consultant to provide professional services for a Project in which the STATE and the COUNTY each have a Jurisdictional Interest, a contract for the services may be jointly negotiated by the COUNTY and the STATE to assure that the area of Jurisdictional Interest of each are adequately addressed. A contract for professional services may be executed upon concurrence of the other party having a Jurisdictional Interest.

3.05 -- Review And Approval Of Engineered Plans For A Project; Permitting And Utility Relocation

The STATE and the COUNTY mutually agree that Engineered Plans for a Project shall be timely reviewed and approved by all jurisdictions with a Jurisdictional Interest in the Project prior to construction. Upon approval of Engineered Plans, such an approval shall:

- (a) Constitute a right-of-entry for access to construct improvements on the right-of-way needed for the Project within the responsibility of the jurisdiction providing such an approval.
- (b) Represent a commitment for assistance in the adjustment, removal, or relocation of utility facilities as such may be defined under NRS 408.210, under NRS 408.423, or under utility franchise agreements, licenses, or utility encroachment permits held by the jurisdiction providing such an approval.

3.06 -- Construction Contract Administration

The lead agency responsible for construction contract administration for limited access roadway projects shall be the STATE, for urban arterials the lead agency will be jointly agreed upon by COUNTY and STATE. In general, if the project is designed to COUNTY standards, specifications, and procedures, the lead for construction administration will be the COUNTY, if STATE standards, specifications, and procedures are used, the lead agency will be the STATE.

Unless otherwise agreed upon, all costs associated with construction administration will be the responsibility of the lead agency except as noted below and under Article IV, "Financial Responsibilities."

The STATE and COUNTY mutually agree to allow any jurisdiction with a Jurisdictional Interest in a Project to observe, review, and inspect Project construction in the area of its specific interest through a "designated observer," at its own expense, and to report items of concern to the jurisdiction undertaking construction of the Project. The "designated observer" shall have authority to make construction-related decisions pertaining to construction of those parts of a Project that the jurisdiction will maintain, and if necessary, the "designated observer" will work with the jurisdiction undertaking construction of the Project to halt work to assure compliance with the applicable standards as provided in Section 3.02 of this Agreement.

3.07 -- Acceptance Of A Project: Project Maintenance

The STATE and the COUNTY mutually agree to assume maintenance responsibility for their respective portions of a Project in which a Jurisdictional Interest exists provided that the construction meets all of the requirements of Article III of this Agreement.

ARTICLE IV

FINANCIAL RESPONSIBILITIES

The STATE and the COUNTY mutually agree that any expense incurred in fulfilling the terms of this Agreement shall be borne by the entity incurring such expense unless otherwise provided in a separate agreement for a specific Project. It is understood that no obligation or commitment is created under this Agreement to require the STATE or the COUNTY to fund, design, or construct, now or in the future, any Project.

ARTICLE V

TERM AND TERMINATION

This Contract shall be in force and effect from and after the day first written above and shall remain in effect until terminated by either party. The STATE and/or COUNTY may withdraw from their obligations under this Contract by giving a ten (10) day notice to the respective other party, at any time without cause. This Agreement may also be terminated, in whole or in part, by either party in the event of a failure by the respective other party to observe or perform any of its obligations under this Agreement through no fault of the terminating party and which failure continues ten (10) calendar days after receipt of a written notice to cure. Neither party shall be in default or breach if its failure to observe or perform any obligations is such that it cannot reasonably be cured in ten (10) calendar days provided that such party commences to cure such failure within ten (10) calendar days subsequent to notice and diligently pursues such cure to completion thereafter.

ARTICLE VI

MISCELLANEOUS PROVISIONS

6.01 -- Applicable Laws

This Contract is subject to the laws of the State of Nevada, the ordinances of the County of Clark, Nevada, the laws of the federal government of the United States of

America, and all of the rules and regulations of any regulatory body or officer having jurisdiction.

6.02 -- Indemnification

That subject to the limitations of liability in Chapter 41 of the Nevada Revised Statutes, the parties shall fully exonerate, indemnify, and save harmless each other and any of their respective departments, divisions, agencies, officers, employees or volunteers from and against all claims or actions, and all costs 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 act or omission of the respective parties, their agents, employees or representatives arising out of the performance of this Agreement. In the event of any claim or action, the costs shall include, but not be limited to, the amount of the judgment, court costs, litigation expenses, expert witness fees, and attorney fees.

6.03 -- Severability

That the illegality or invalidity of any provision or portion of this Agreement shall not affect the validity of the remainder of this Agreement.

6.04 -- Entire Agreement

This Agreement constitutes the entire Contract between the parties and shall not be modified unless in writing and signed by the parties.

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

ATTEST:

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

Approved as to Legality and Form:

Deputy Attorney General Department of Transportation

CLARK COUNTY

Chairman, Clark County Board

of Commissioners

Approved as to Legality and Form:

Christopher Figgins

Deputy District Attorney

County C

/iam

Reviewed _ **Agreement Coordinator**

BOARD OF COUNTY COMMISSIONERS AGENDA ITEM

SUBJECT: Primic He		-		tion Dother	Proceedings	Clerk Ref. #
PETITIONER:	JAI NAV	COLINTY MA	NACED	. ,	2	Commission Backup

RECOMMENDATION:

THAT THE BOARD OF COUNTY COMMISSIONERS APPROVE AND ADOPT A RESOLUTION DEFINING A COMMITMENT TO THE PUBLIC CONSISTENT WITH THE COUNTY'S "PARTNERS IN PROGRESS" PROGRAM RELATIVE TO ROAD AND PUBLIC WORKS' PROJECTS CONTAINED WITHIN THE CLARK COUNTY MASTER TRANSPORTATION PLAN.

FISCAL IMPACT:

None by this action

BACKGROUND:

Inherent in the County's successful development and funding of the Master Transportation Plan (MTP) was the overwhelming support of the general public. Clark County and local residents formed a partnership of effort to meet critical transportation needs, culminating in the voter approval of Question 10 on the 1990 November ballot and ultimately in State legislation approving a funding program to support mass transit and improved roads within the County.

To successfully implement the MTP's extensive schedule of road project construction, a continuing partnership between Clark County and local residents will be required. In essence, local residents have agreed to fund road improvements and to endure the unavoidable delays and inconveniences caused by major road project work. Clark County has agreed to finish road projects as quickly and economically as possible, with minimum delay and inconvenience to the traveling public, and to inform and involve local residents throughout the implementation of the Clark County Master Transportation Plan. These combined partnership efforts will be particularly important during the heavy construction period anticipated to commence during 1992.

By adopting this resolution, the Board of County Commissioners formally defines the County's commitment to the public relative to road and Public Works' projects contained within the Clark County Master Transportation Plan.

APPROVED/ADOPTED AS AMENDED TO FORMALLY ADD TO RESOLUTION THE REQUEST THAT STATE GOVERNMENT A ALL CITIES IN LAS VEGAS*

*VALLEY PARTICIPATING IN MASTER TRANSPORTATION PLAN JOIN WITH COUNTY IN THIS PROGRAM

Respectfully submitted

DONALD L. SHALM County Manager Cleared for Agenda

11/19/91 ENF

NLT:kaa

Agenda Item # 79

RESOLUTION

PUBLIC COMMITMENT RELATIVE TO THE IMPLEMENTATION OF THE CLARK COUNTY MASTER TRANSPORTATION PLAN

WHEREAS, Clark County and the general public formed a partnership of effort to meet critical transportation needs, culminating in voter approval of Question 10 on the November 1990 ballot and ultimately State legislation approving a funding program to support mass transit and improved roads within Clark County; and

WHEREAS, the public in essence has agreed to fund road and mass transit improvements and to endure the unavoidable delays and inconveniences caused by major road project work; and

WHEREAS, the County in essence has agreed to finish road projects as quickly and economically as possible, with minimum delay and inconvenience to the traveling public, and to inform and involve local residents throughout the implementation of the Clark County Master Transportation Plan.

NOW, THEREFORE, BE IT RESOLVED that the Clark County Board of Commissioners shall define as follows a commitment to the public relative to road and Public Works' projects contained within the Clark County Master Transportation Plan:

- 1. To the greatest extent possible, to perform roadwork with minimum disruption to traffic flow; and
- To the greatest extent possible, to coordinate with impacted commercial and residential property owners before and during actual roadwork; and
- 3. To the greatest extent possible, to perform roadwork in non-peak hours; and
- 4. To the greatest extent possible, to coordinate other public works projects in conjunction with roadwork projects to minimize cost and increase speed of completion; and
- 5. To the greatest extent possible, to coordinate with other public works projects to avoid subsequent additional work along newly completed road projects; and
- 6. To the greatest extent possible, to maximize funding capability, pursuing federal funds, bonding, joint ventures and other forms of financing to expedite road project completion; and

Resolution Page Two

- 7. To the greatest extent possible, to inform the public in advance of pending roadwork, and to inform the public of work status, anticipated completion dates and other important information on road projects throughout the life of the projects; and
- 8. To the greatest extent possible, to coordinate planning and plan implementation to address overall transportation needs, including but not limited to surface access improvements and mass transit demand; and
- 9. To act as responsible partners with the local community in providing adequate well planned transportation facilities, infrastructure and services; and
- 10. To address quality of life issues in transportation planning, including but not limited to air quality, access to public services, convenience and cost of public transportation, managed growth and economic stability; and

BE IT FURTHER RESOLVED that the Board of County Commissioners shall formally request the State of Nevada and all incorporated cities within Clark County to join with the County in adopting similar resolutions pledging respective commitments to the general public relative to each entity's implementation of the Clark County Master Transportation Plan.

PASSED, APPROVED AND ADOPTED this 19th day of November _____, 1991.

BOARD OF COUNTY COMMISSIONERS CLARK COUNTY, NEVADA

MY BINGHAM

Chairman

ATTEST:

OPETTA BOWMAN

County Clerk

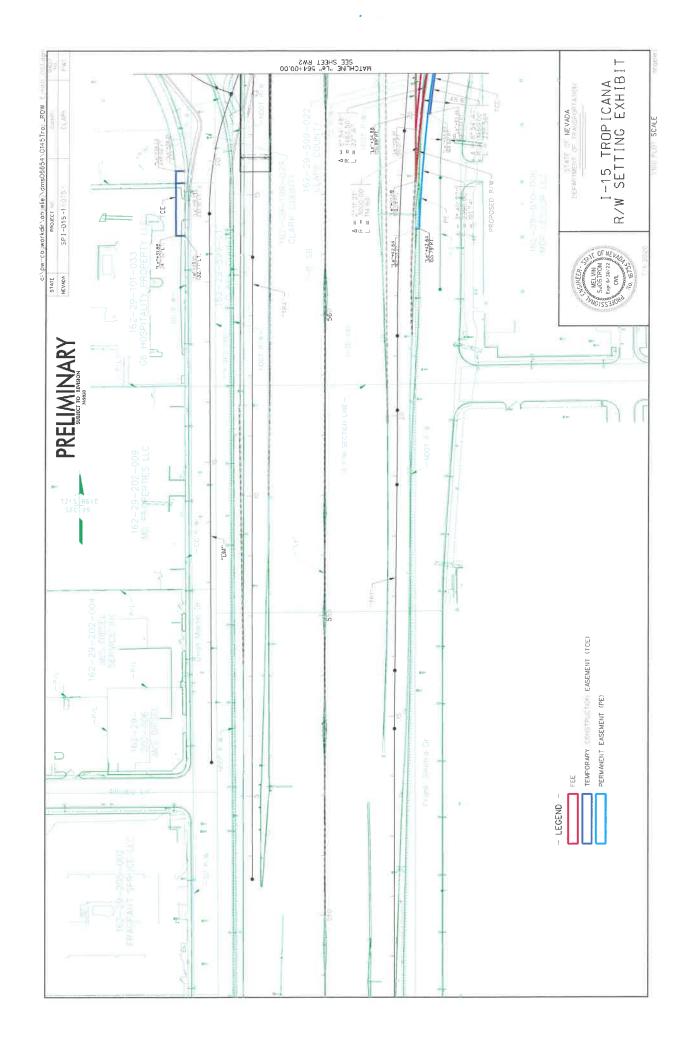
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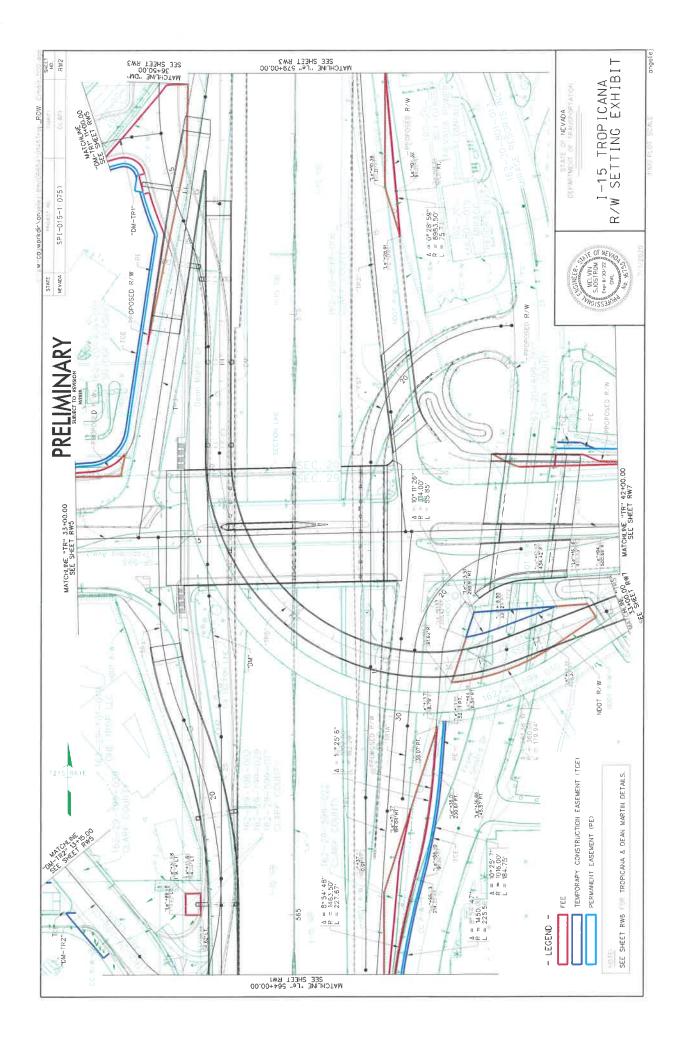
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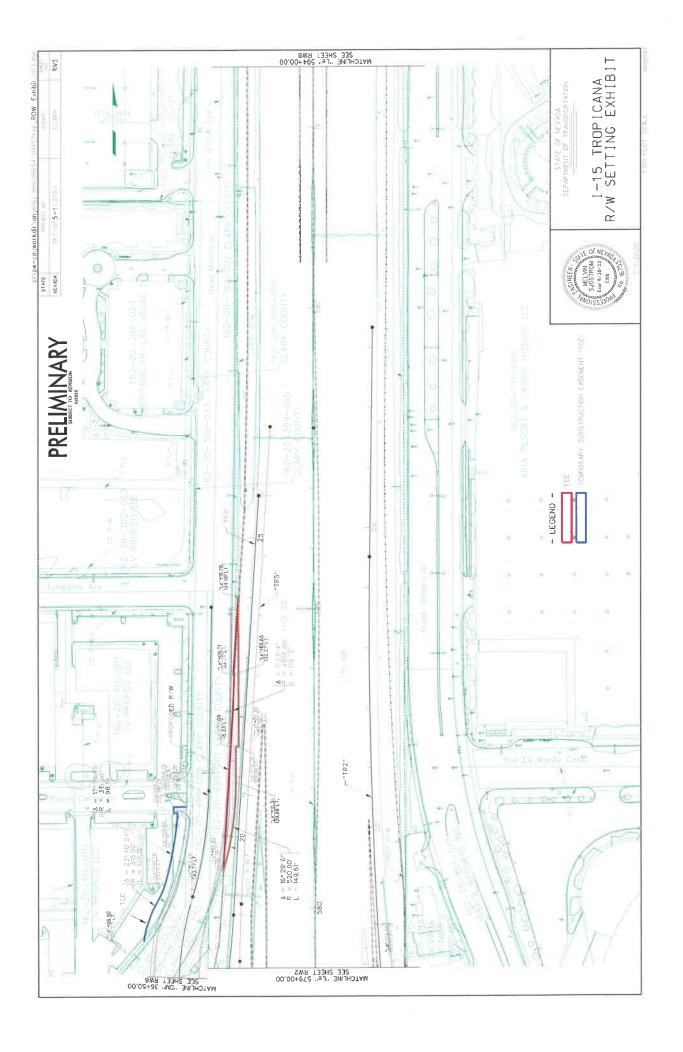
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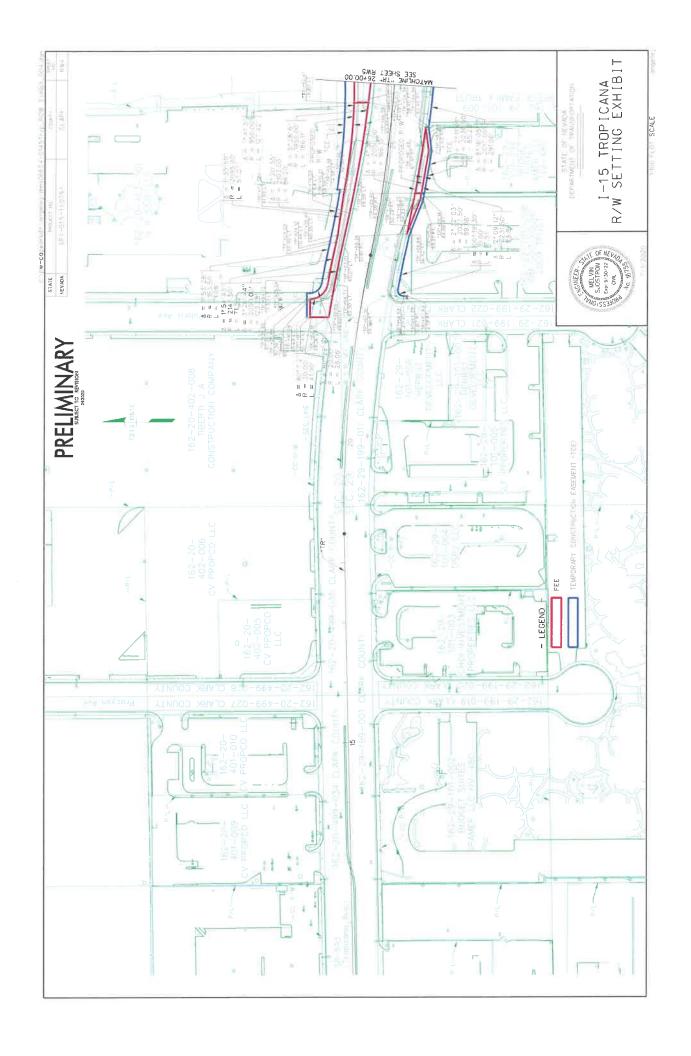
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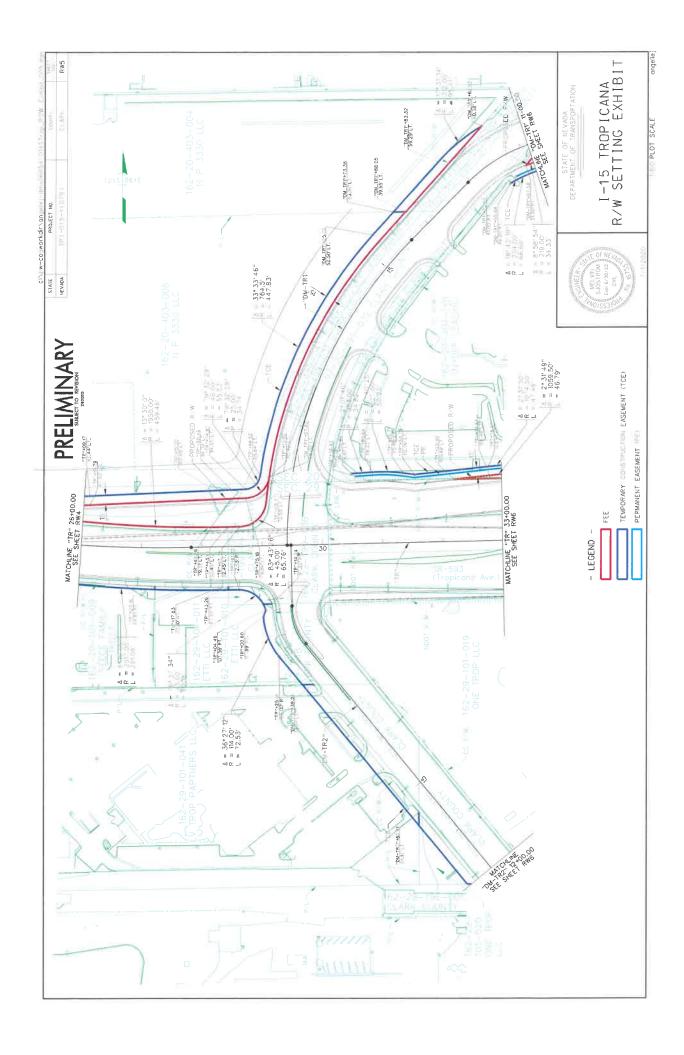
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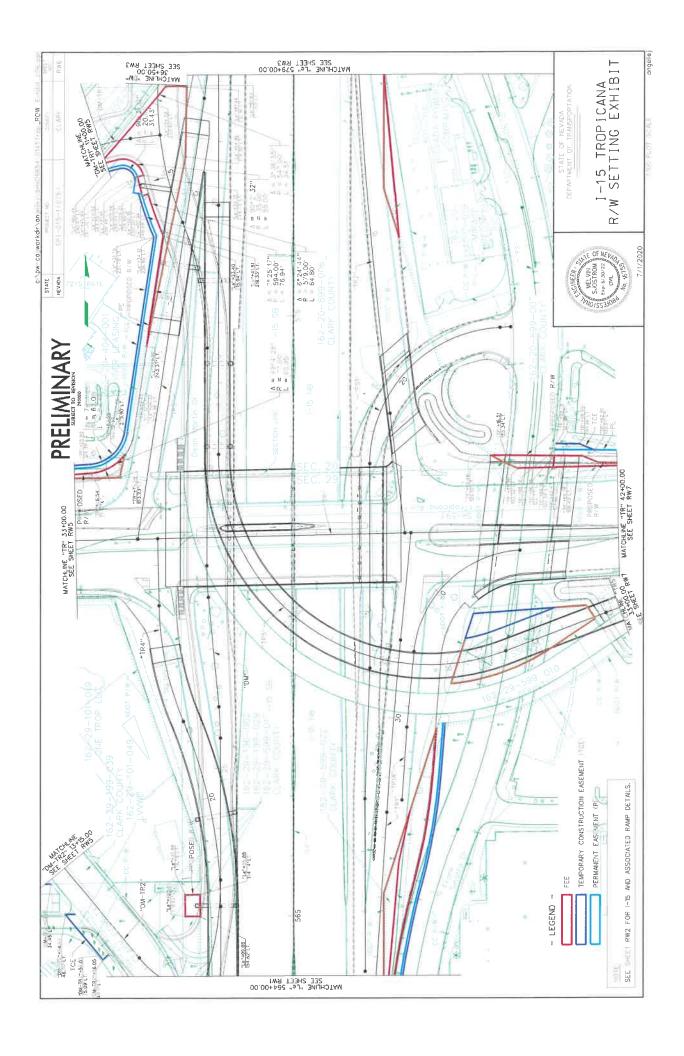


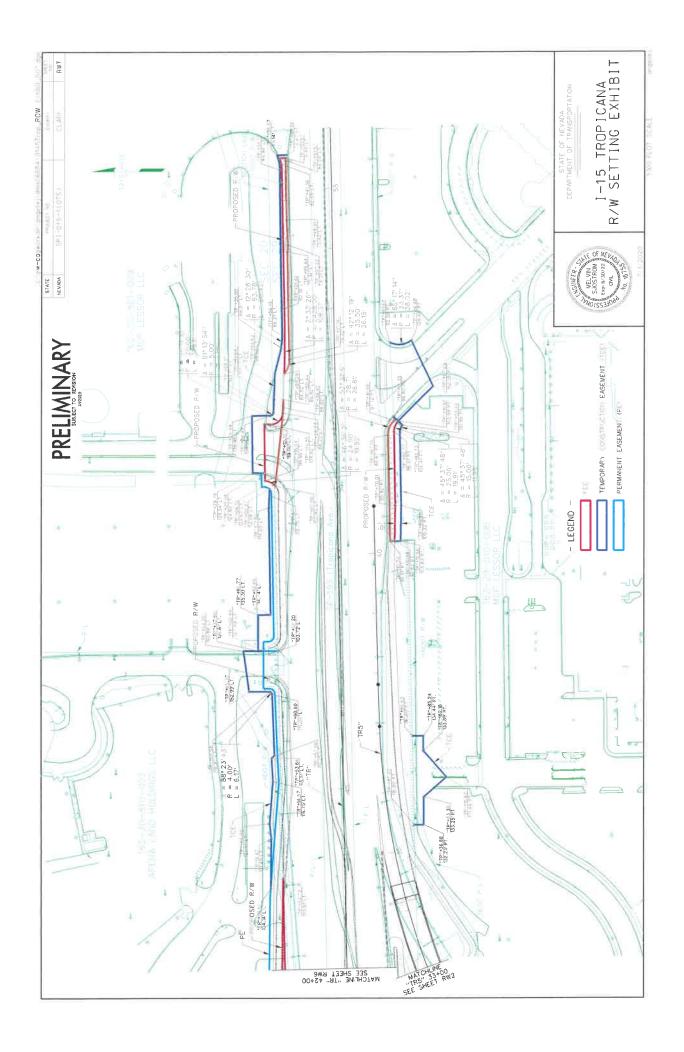


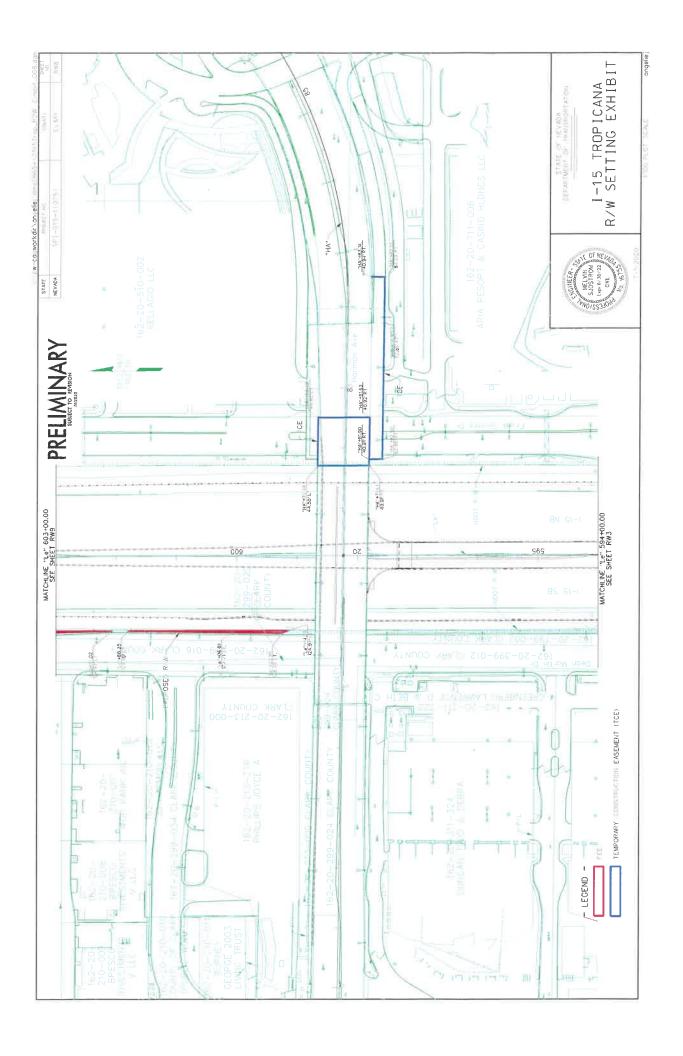


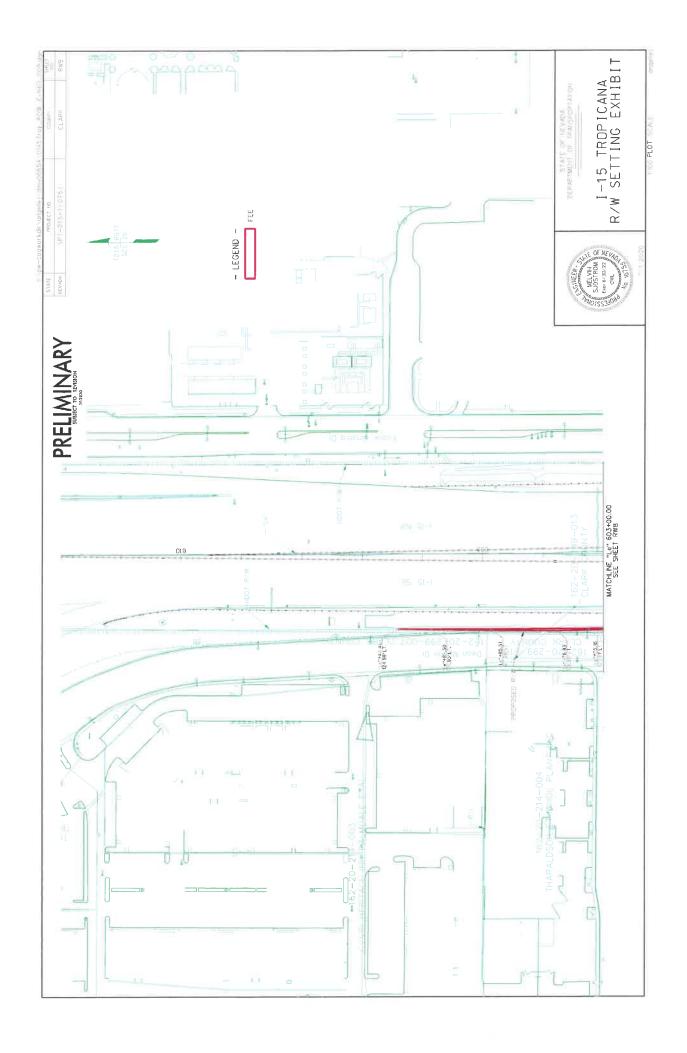


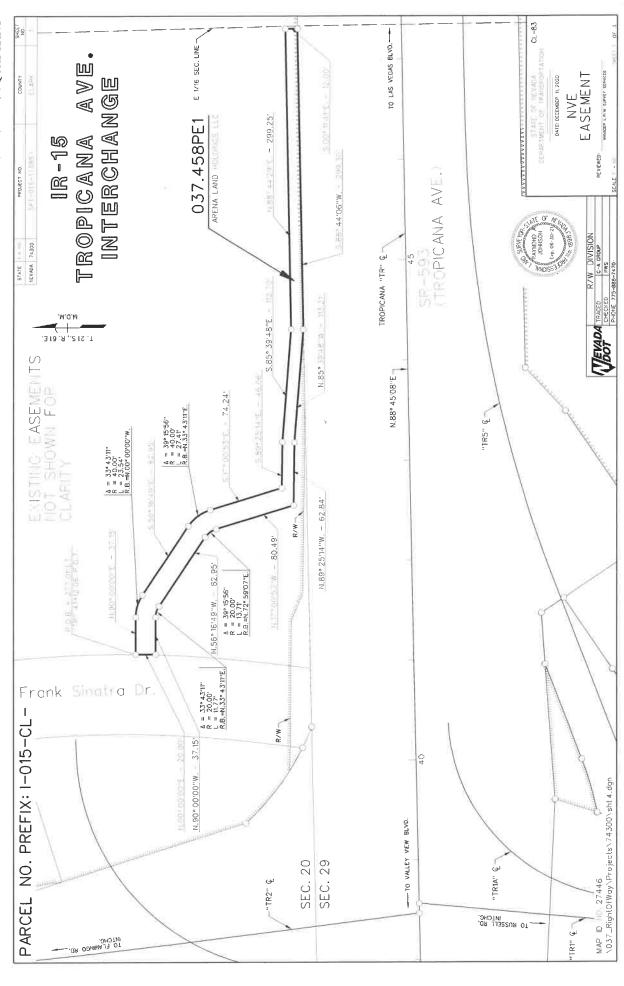


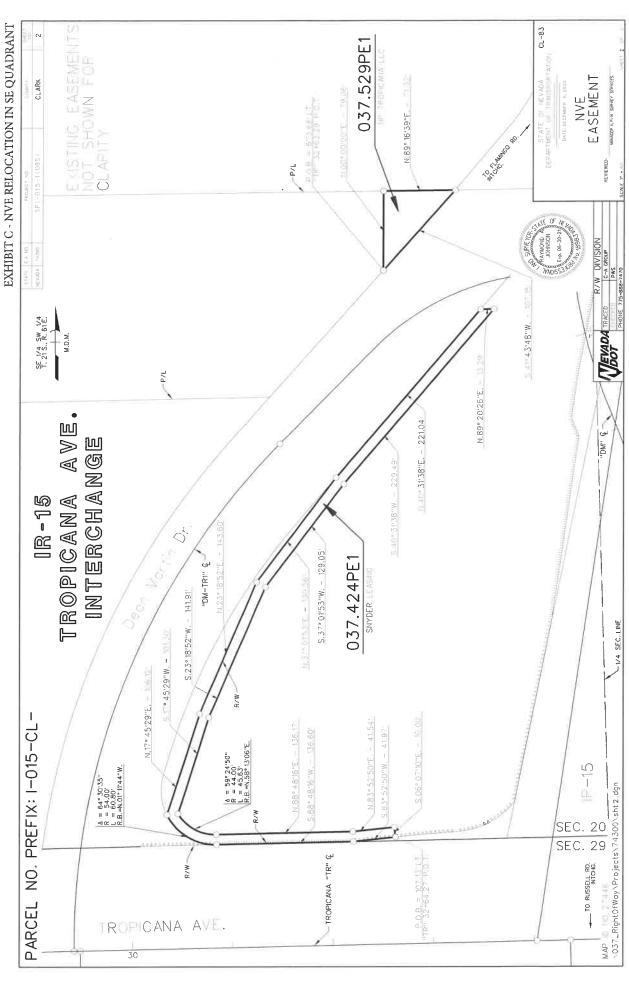


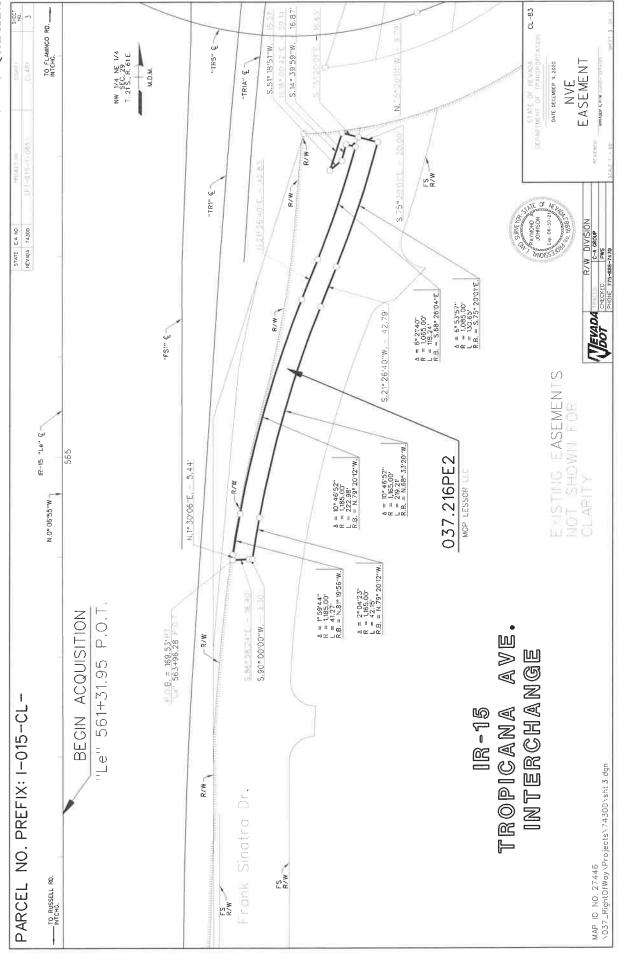


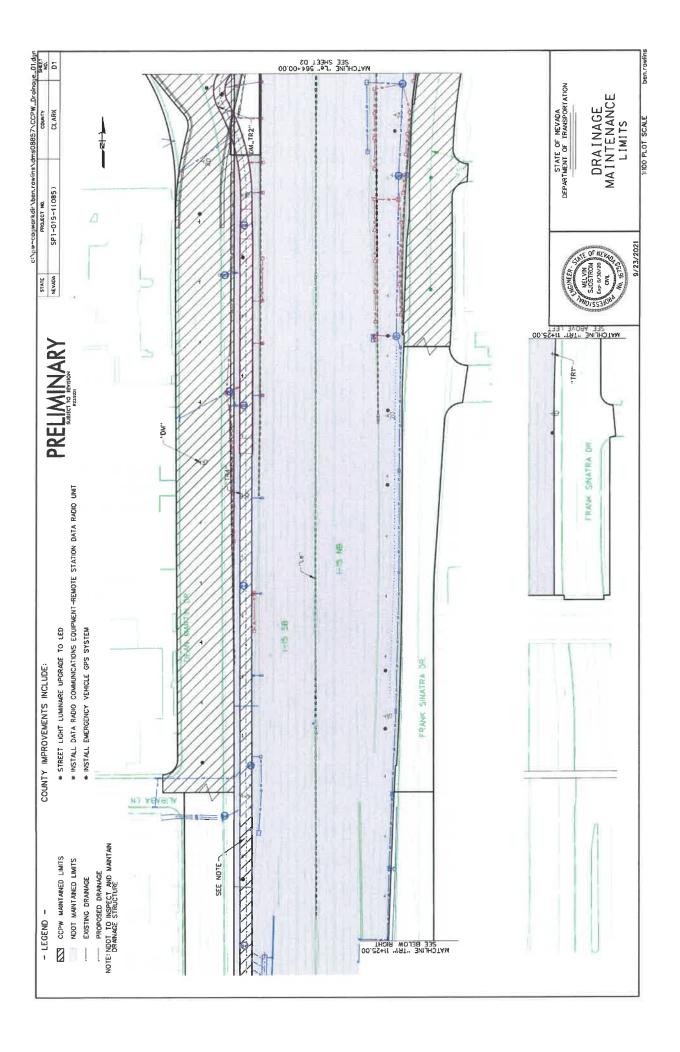


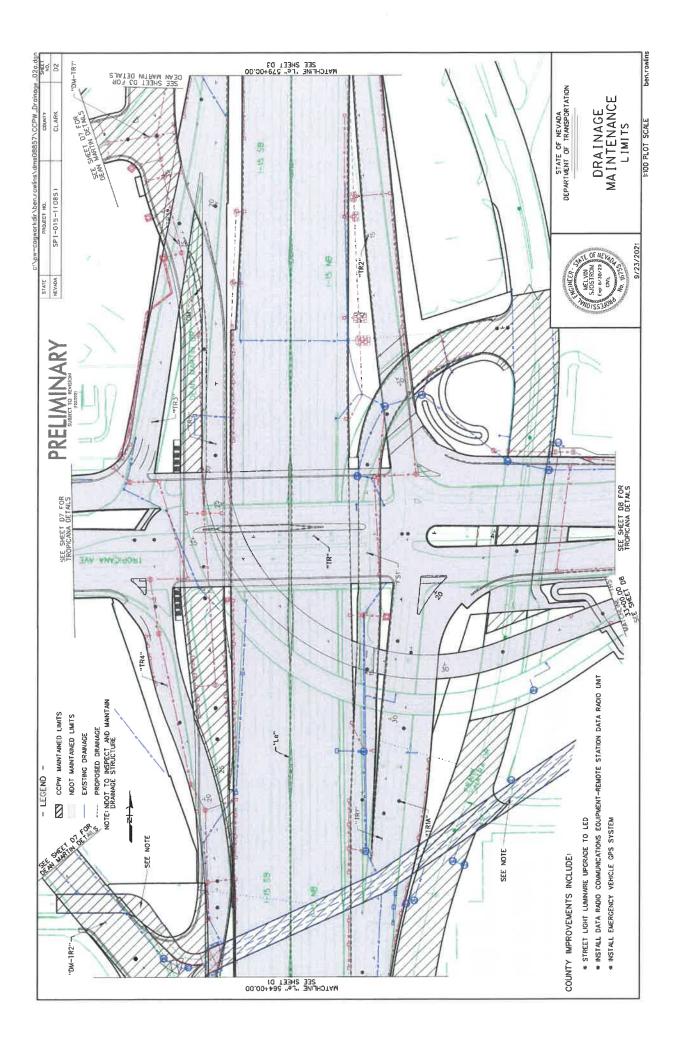


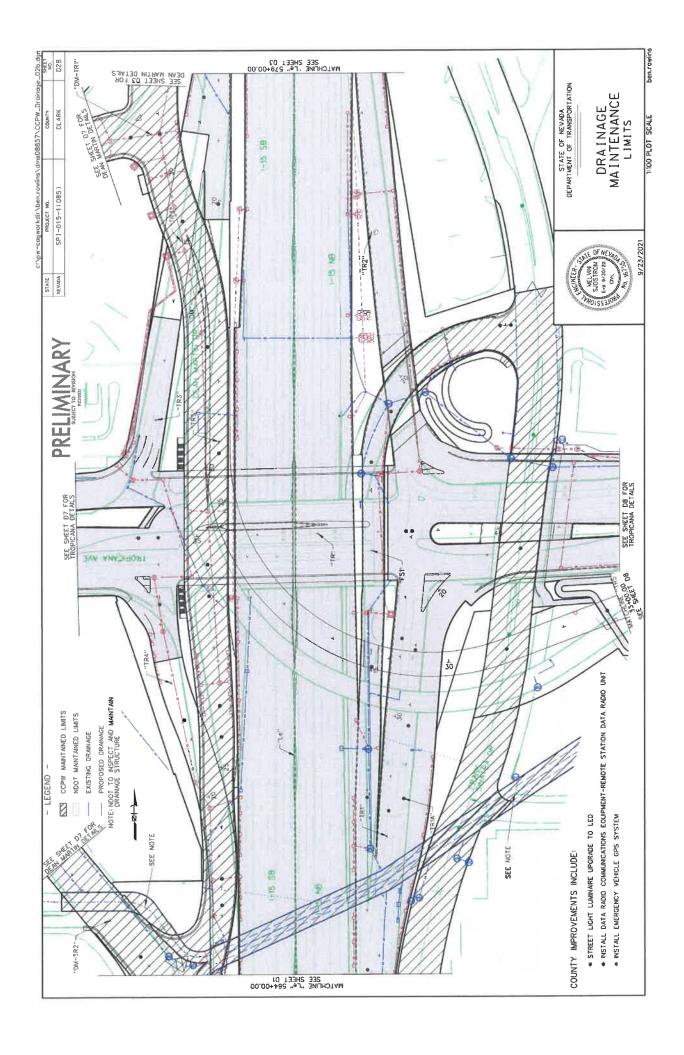


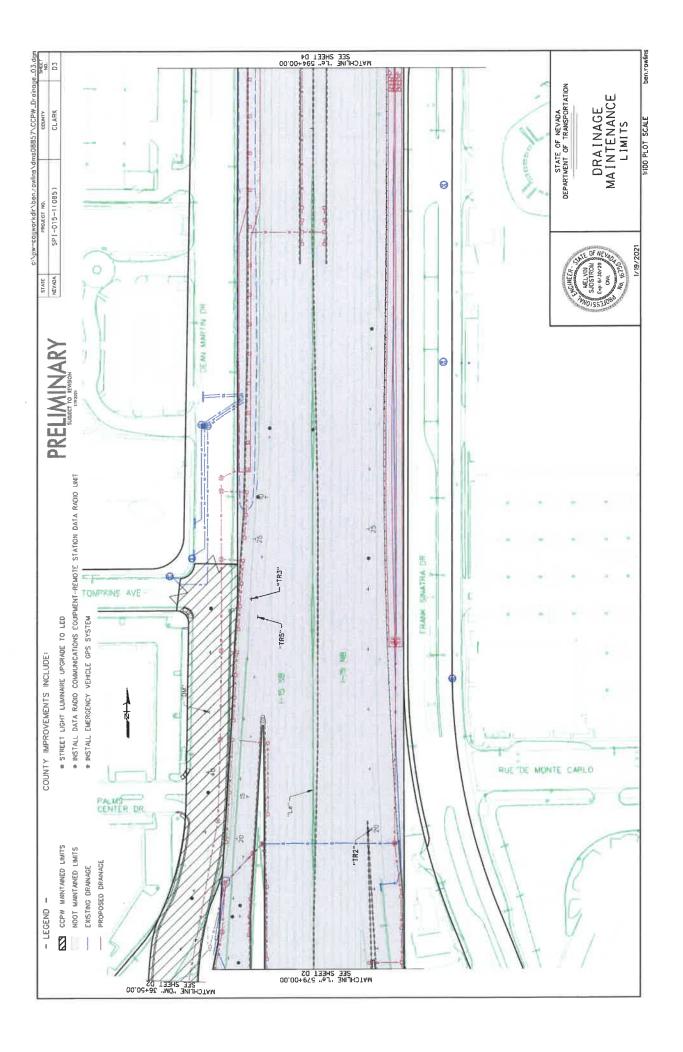


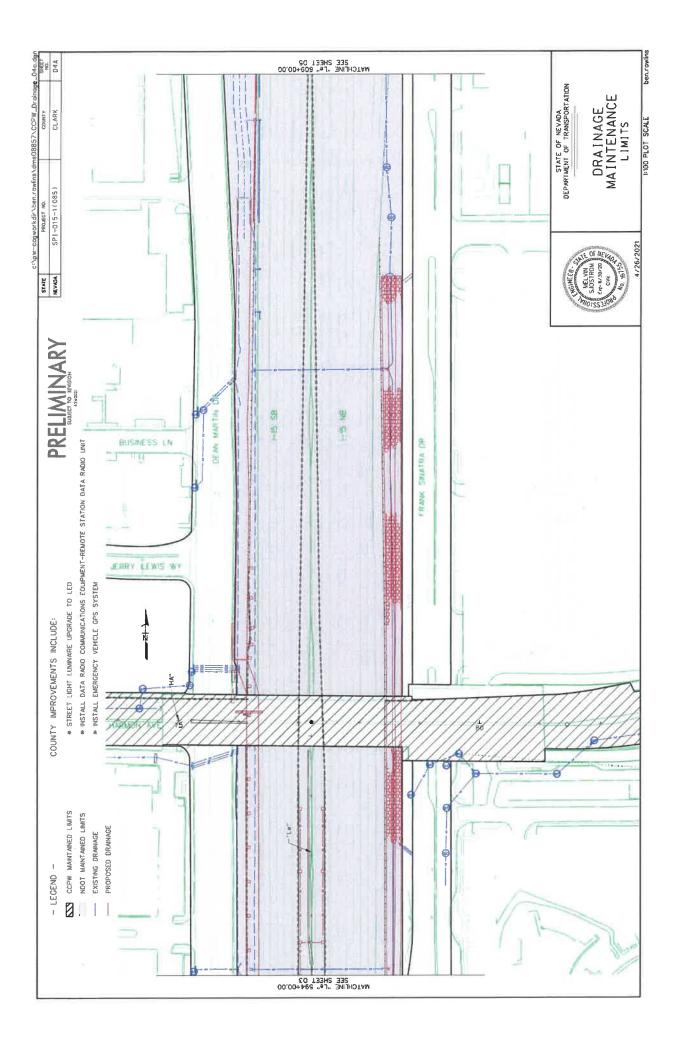


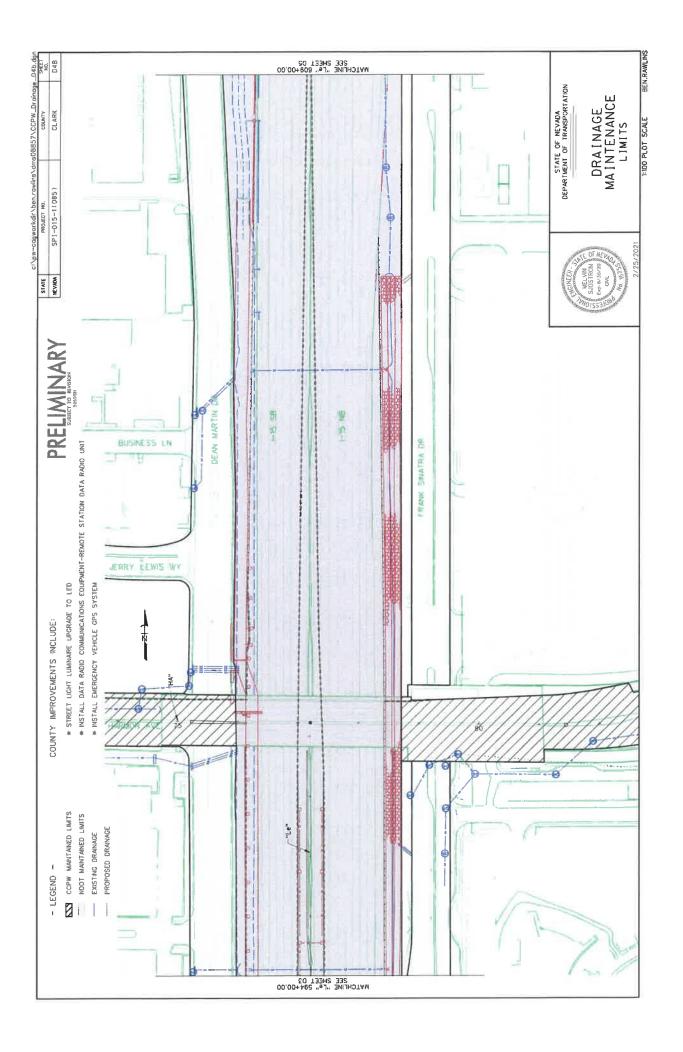


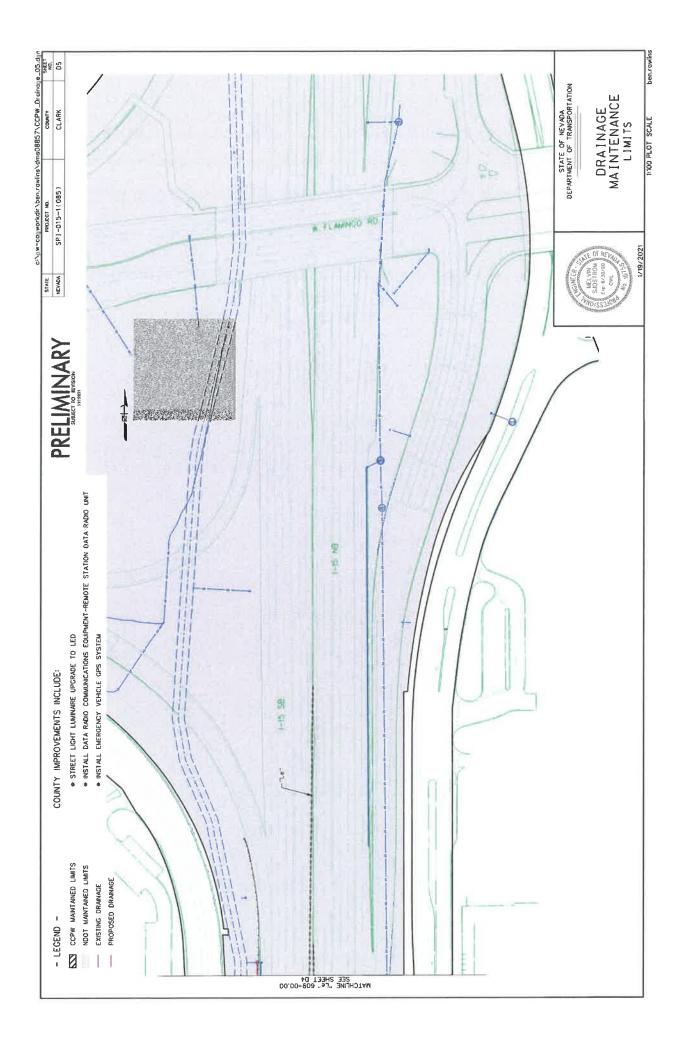


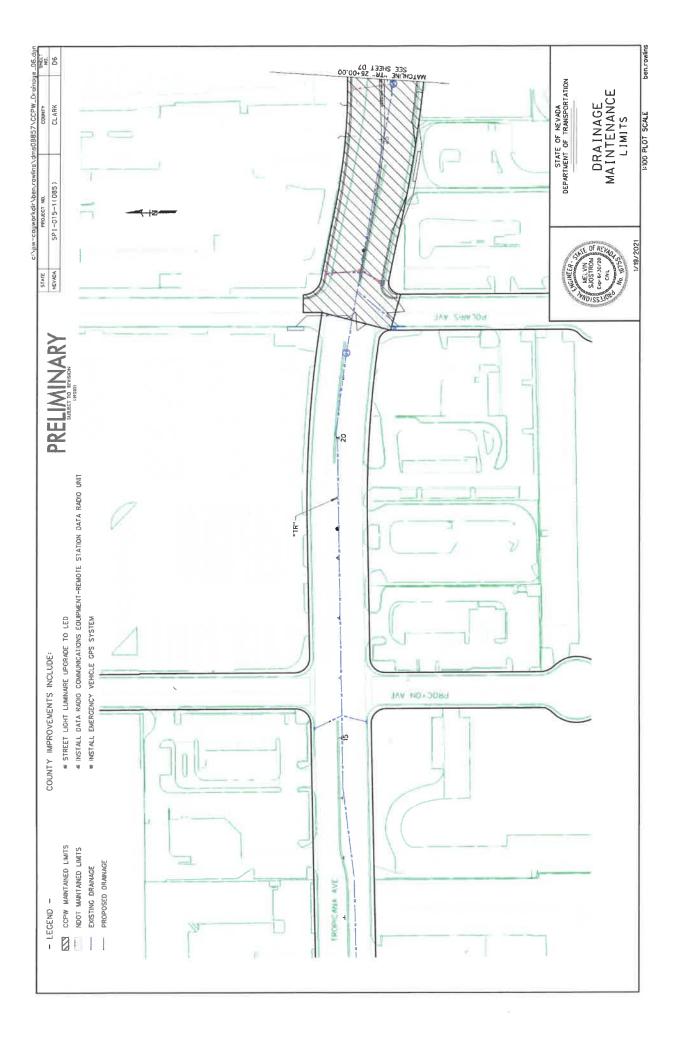


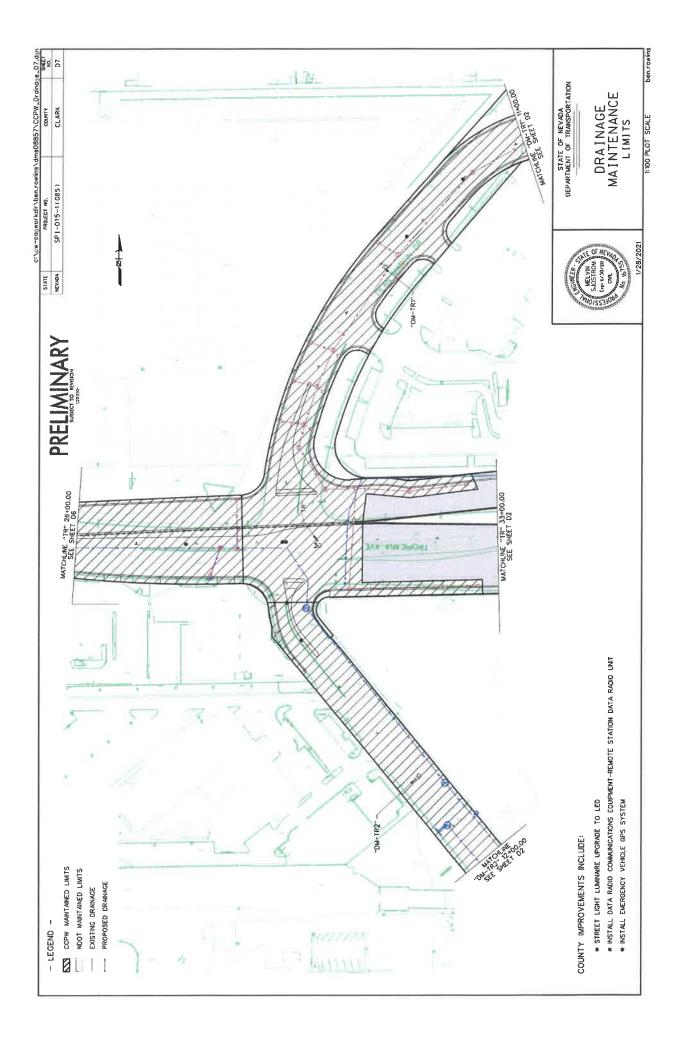


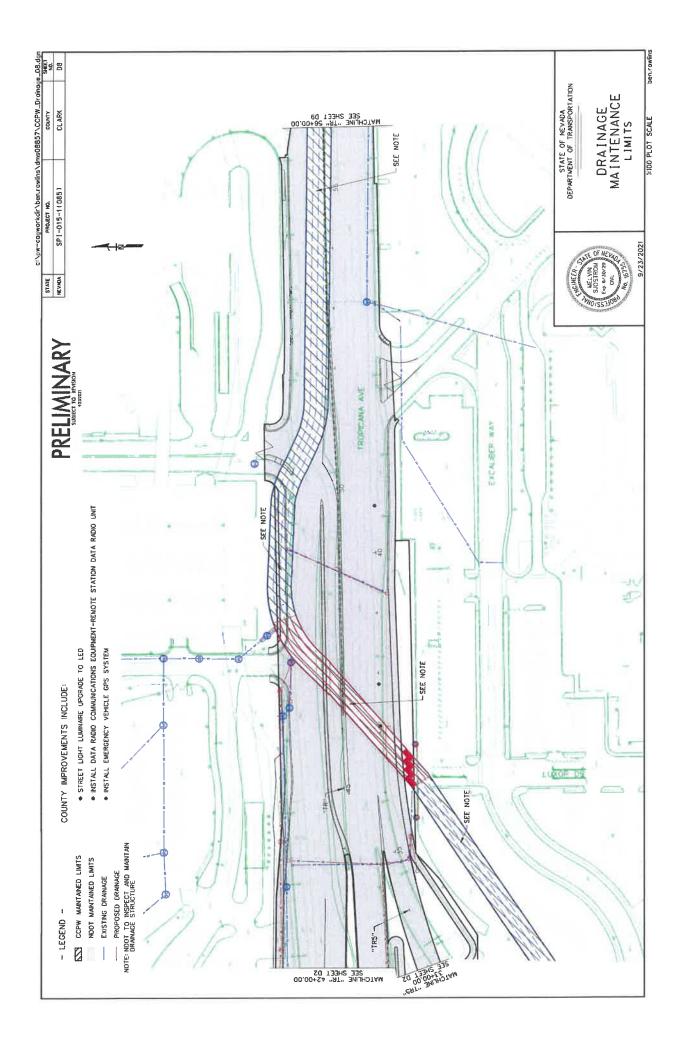


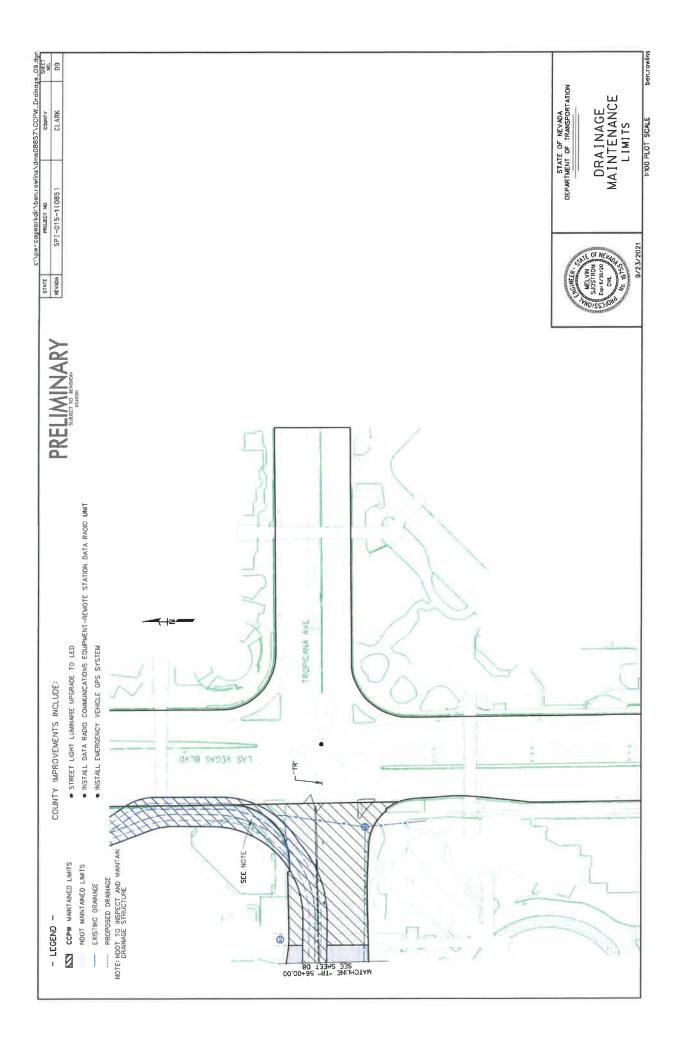


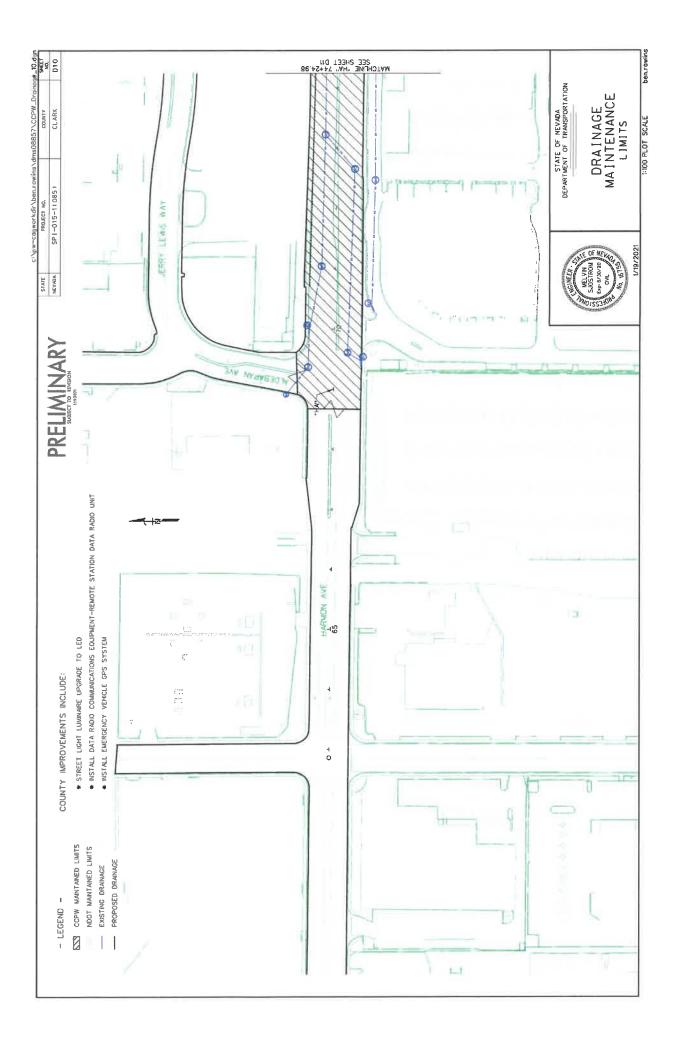


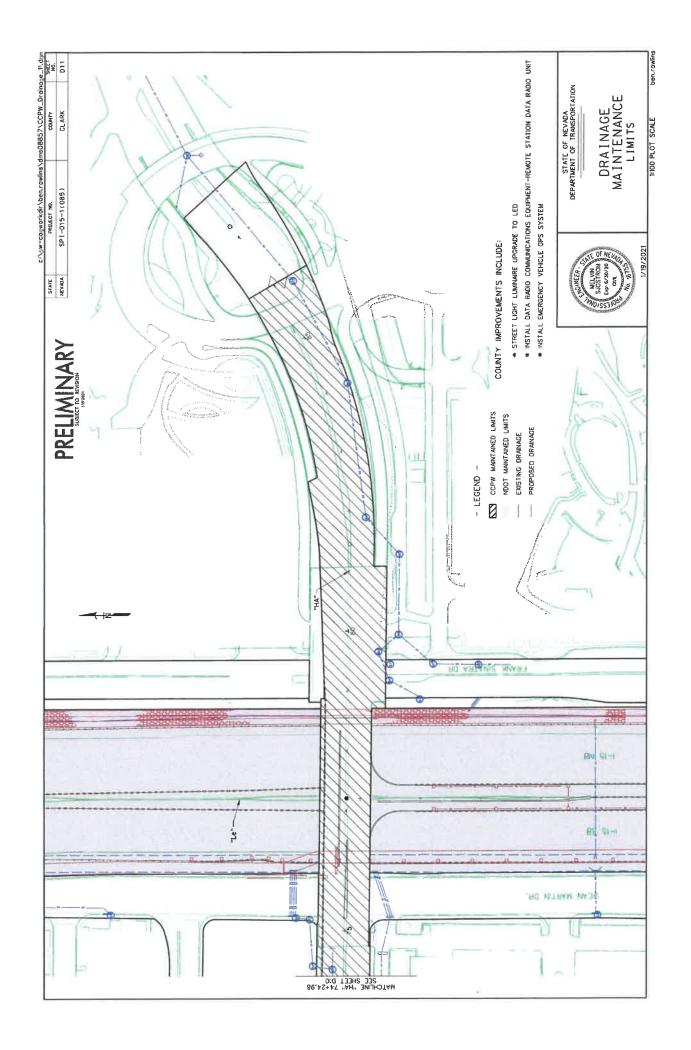


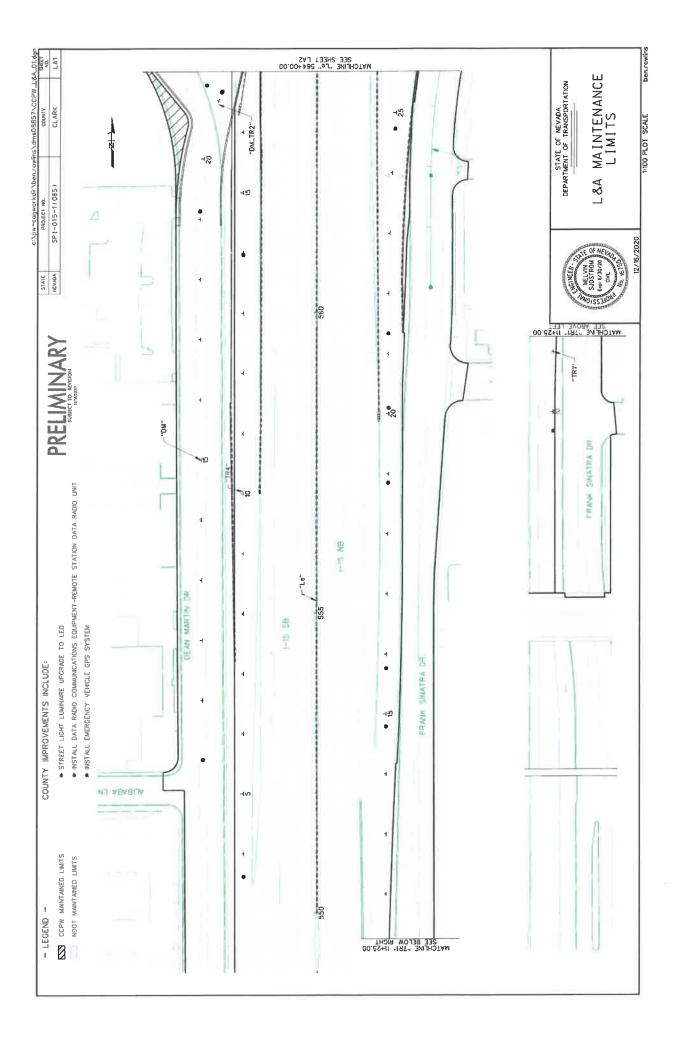


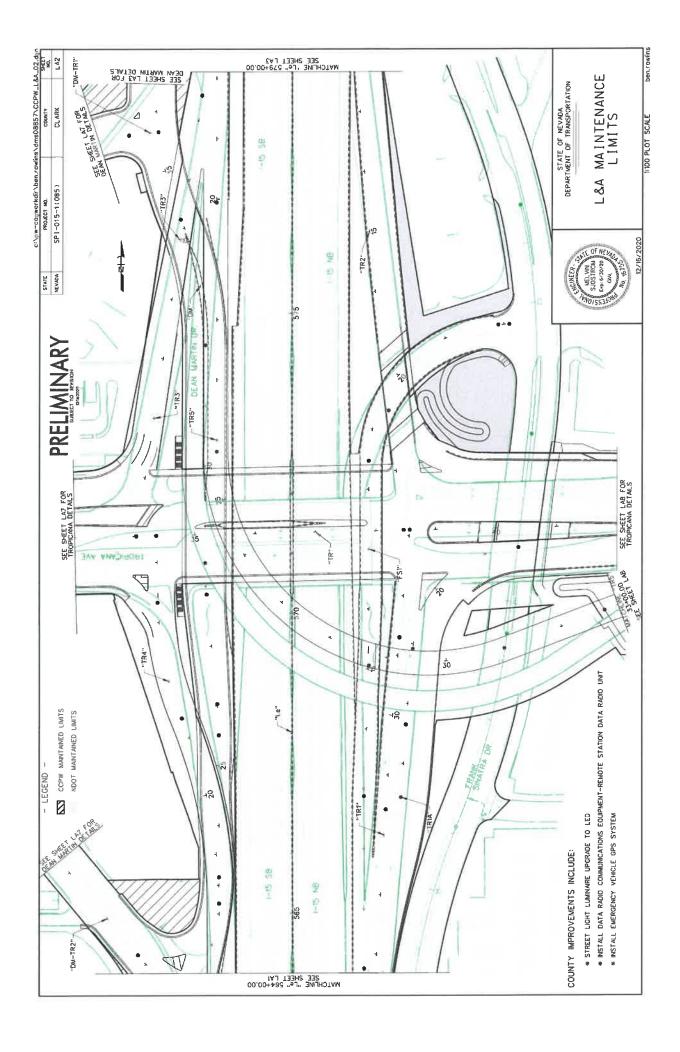


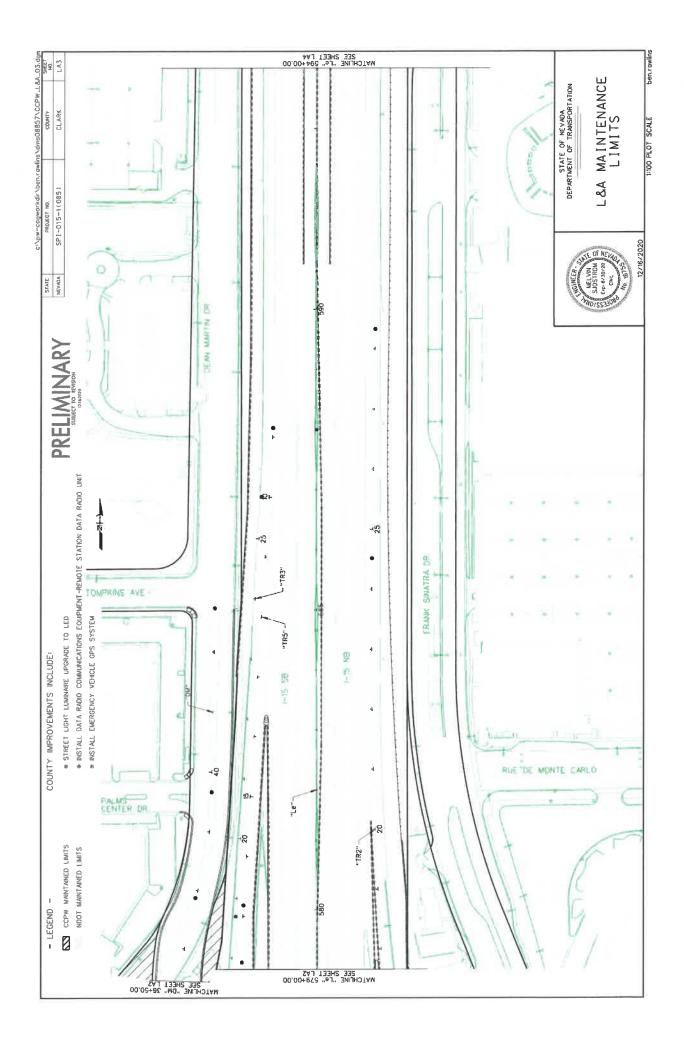


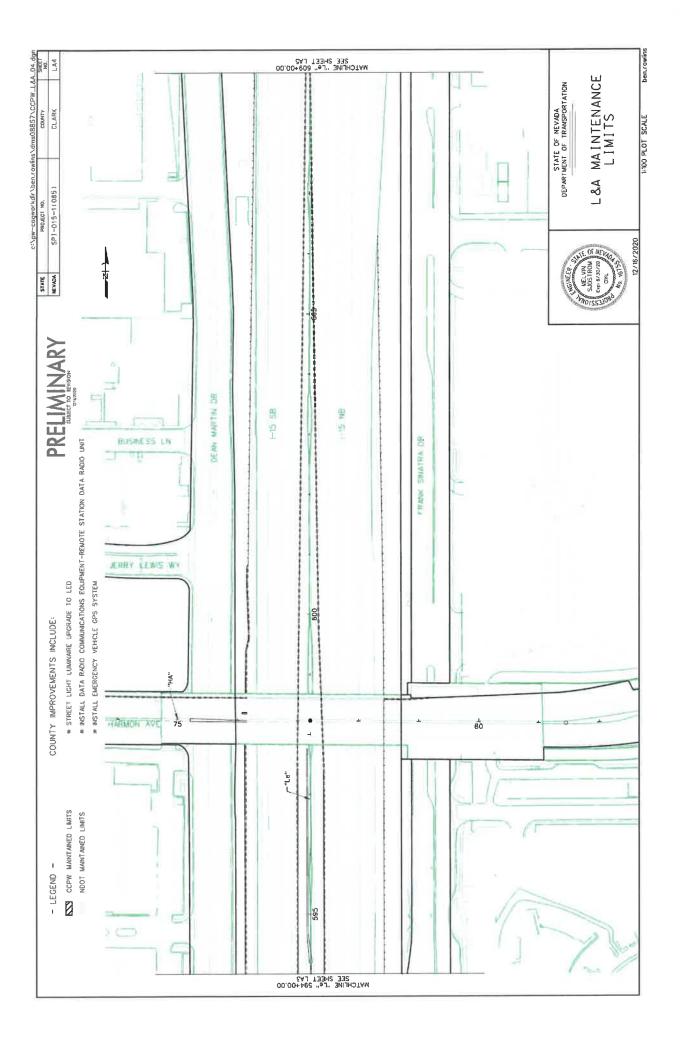


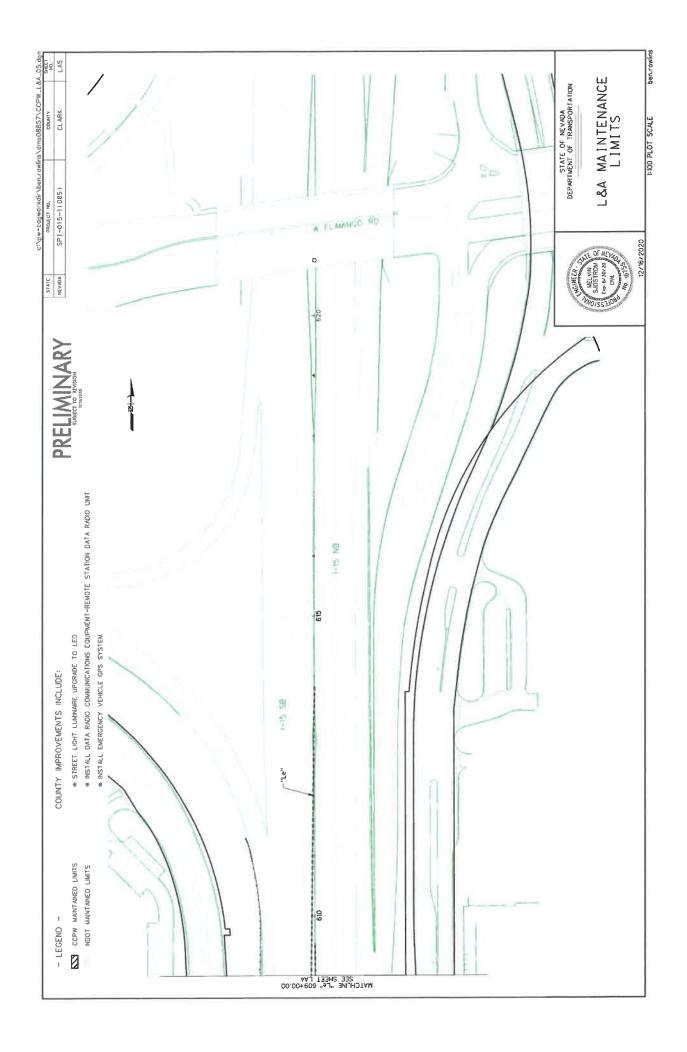


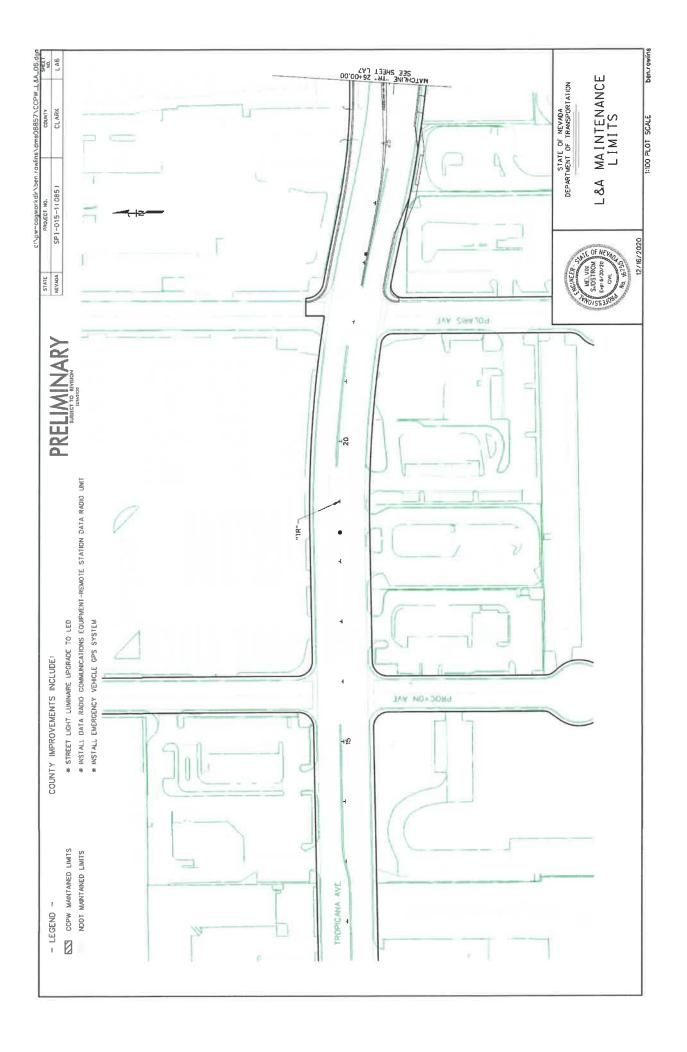


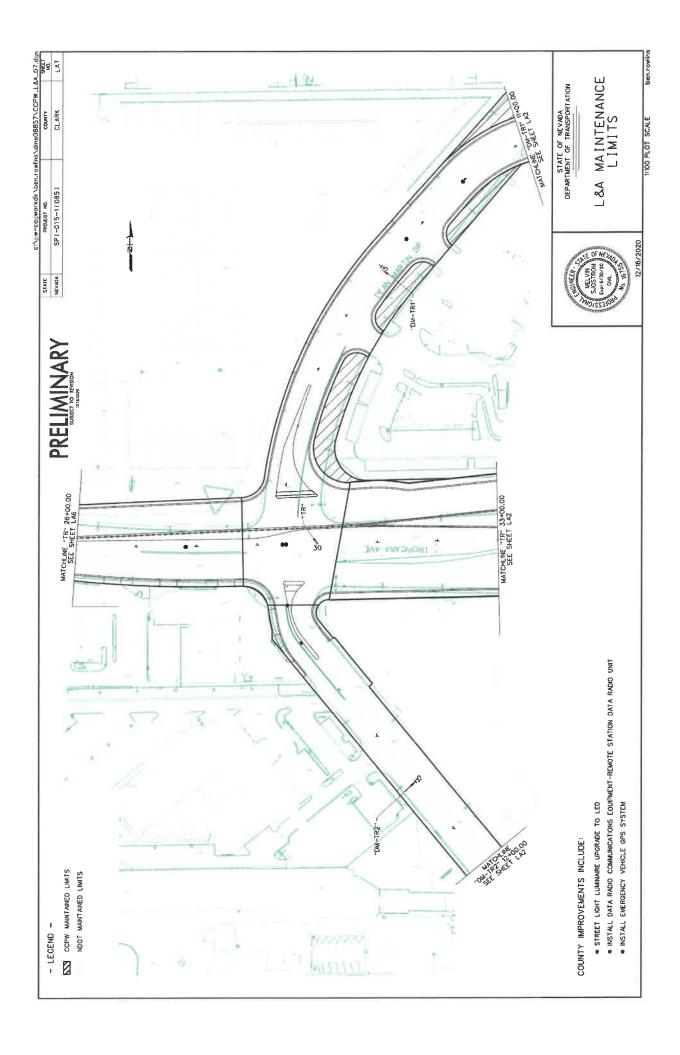


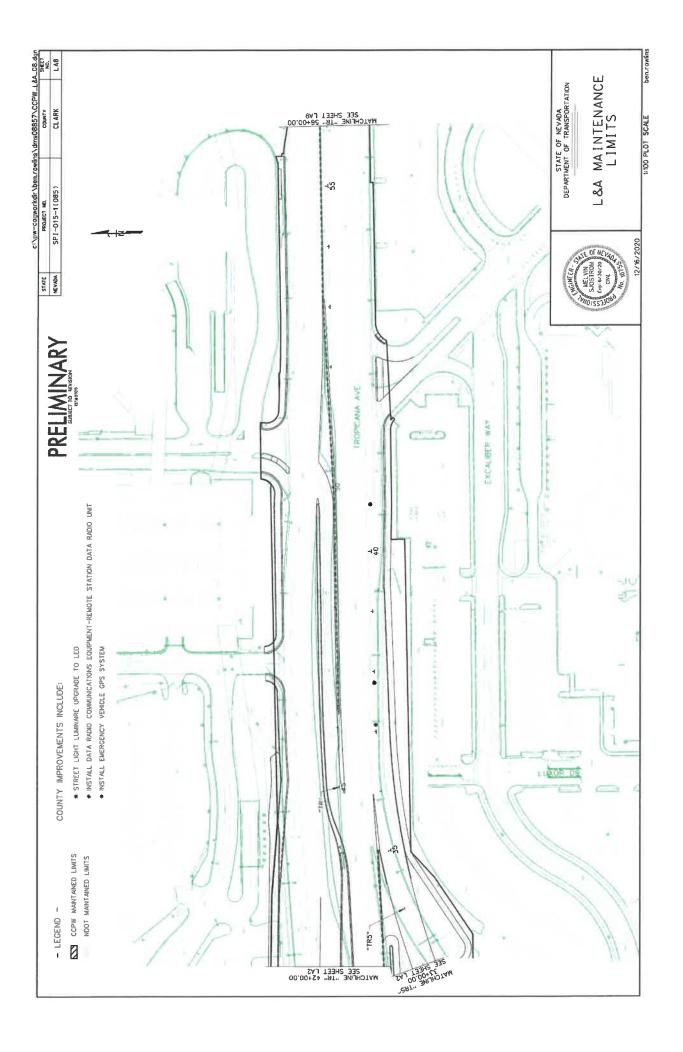


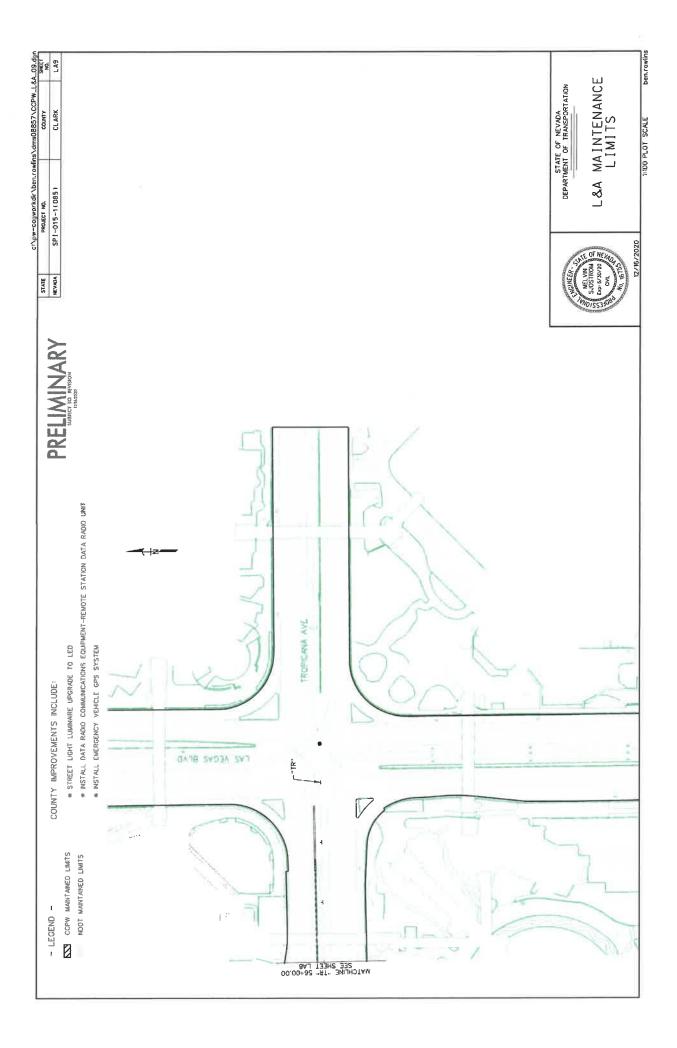


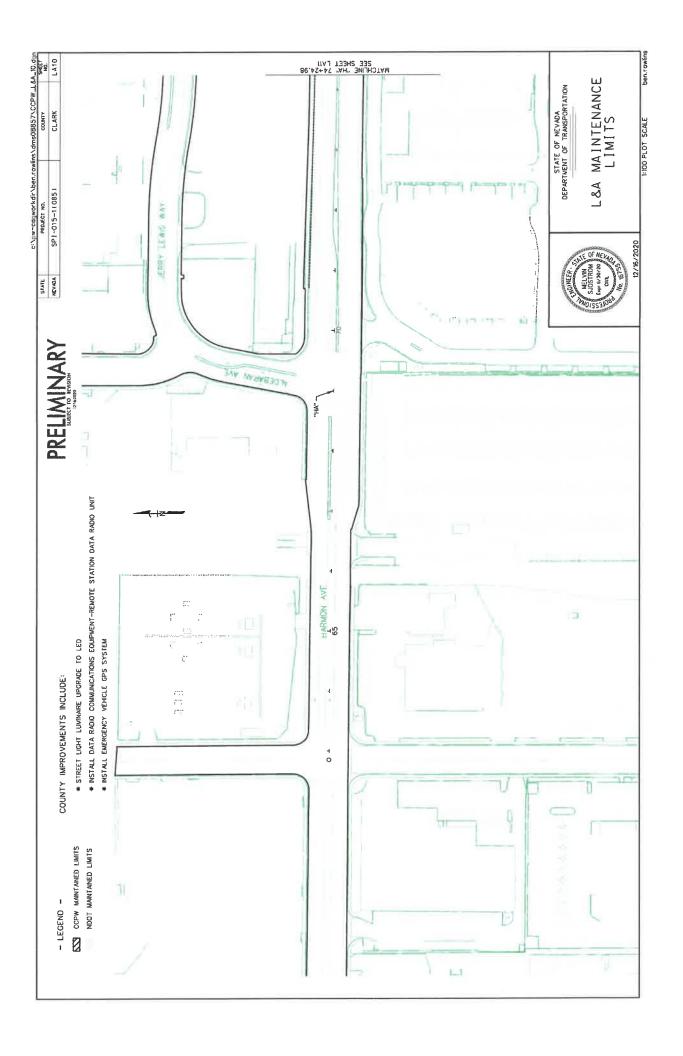


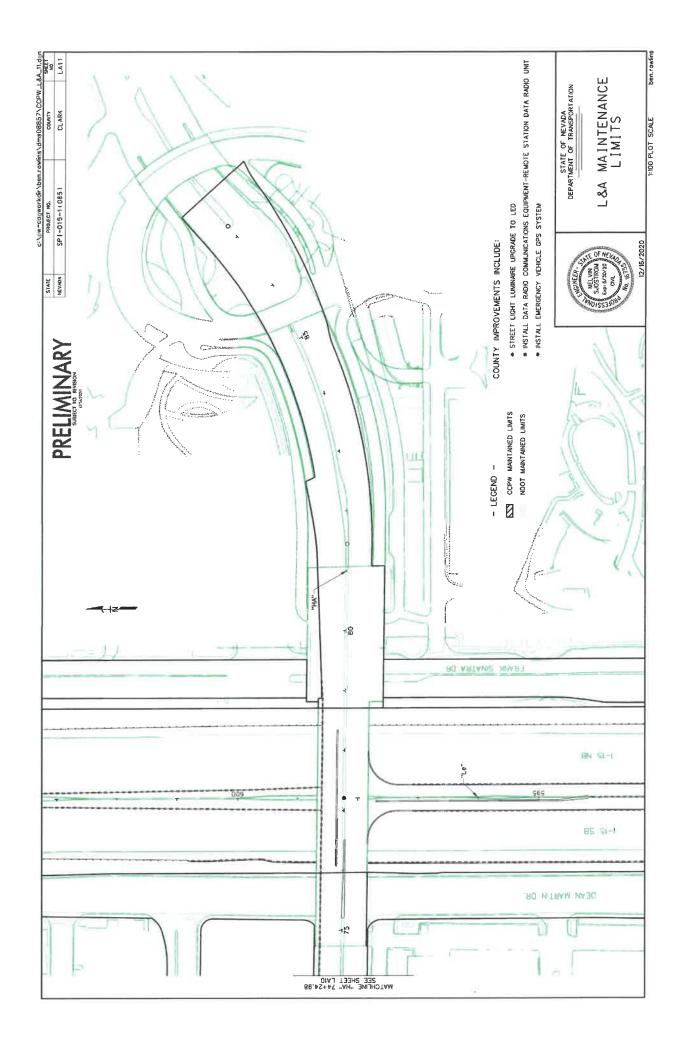


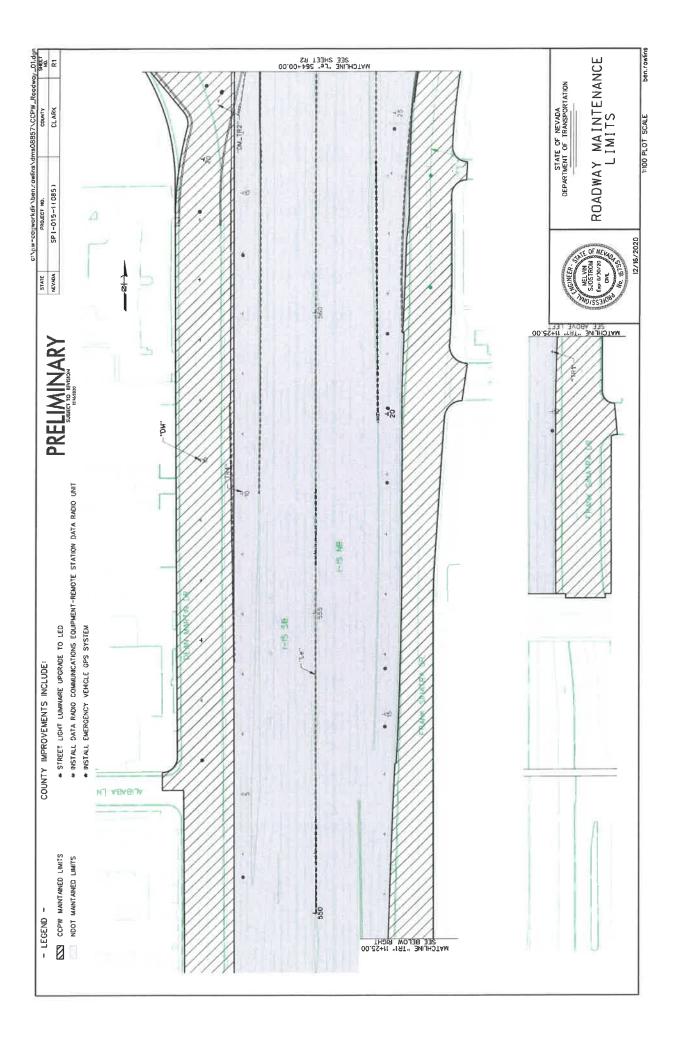


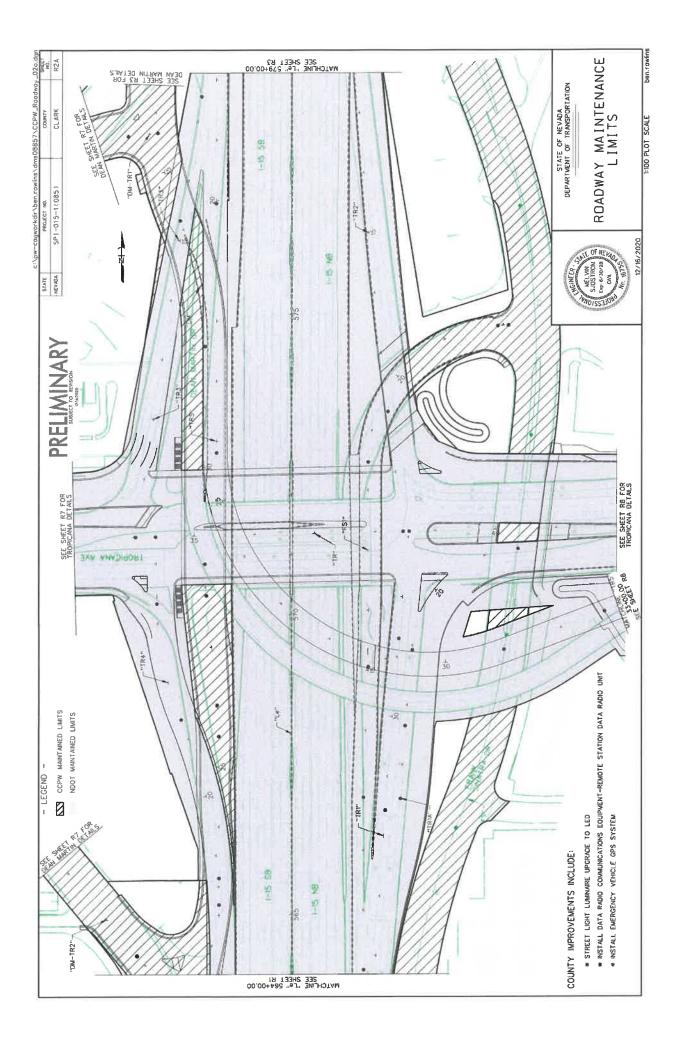


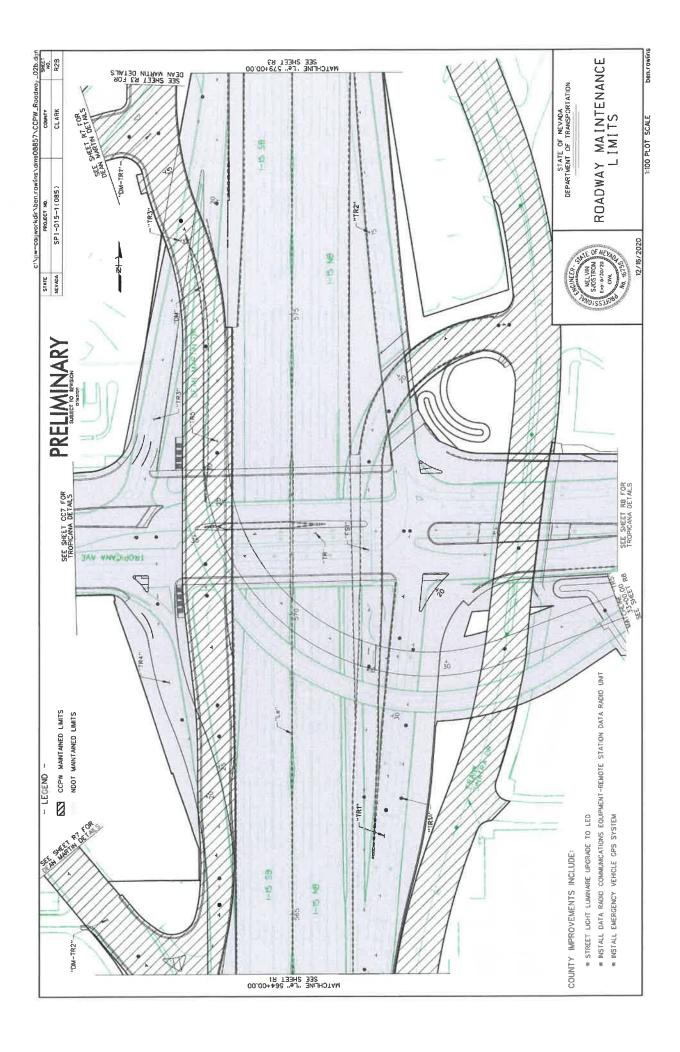


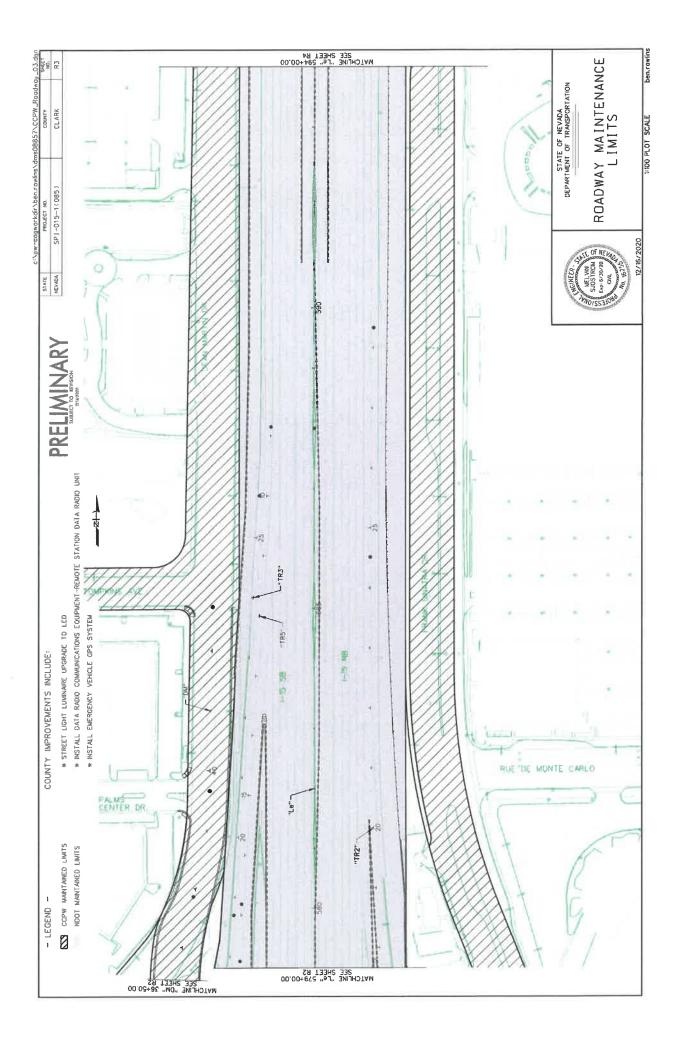


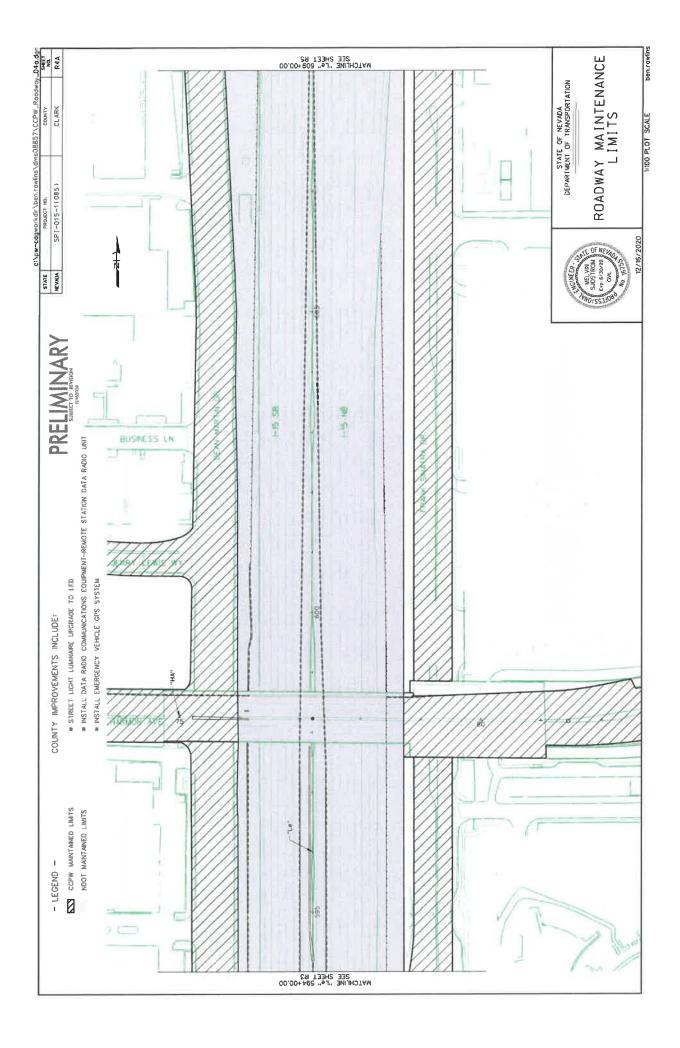


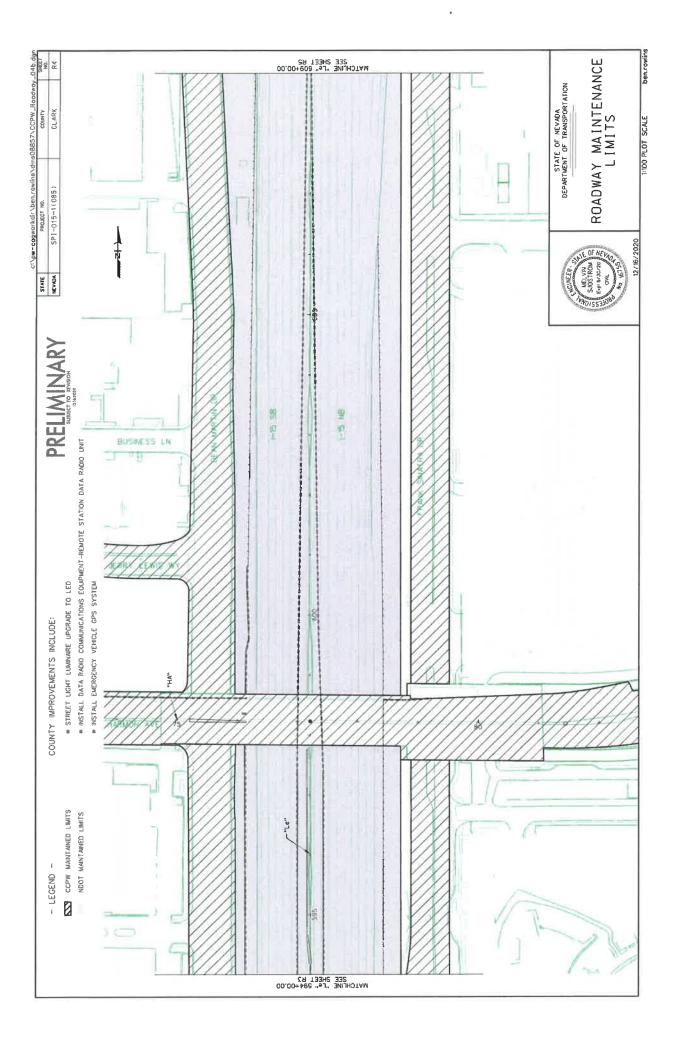


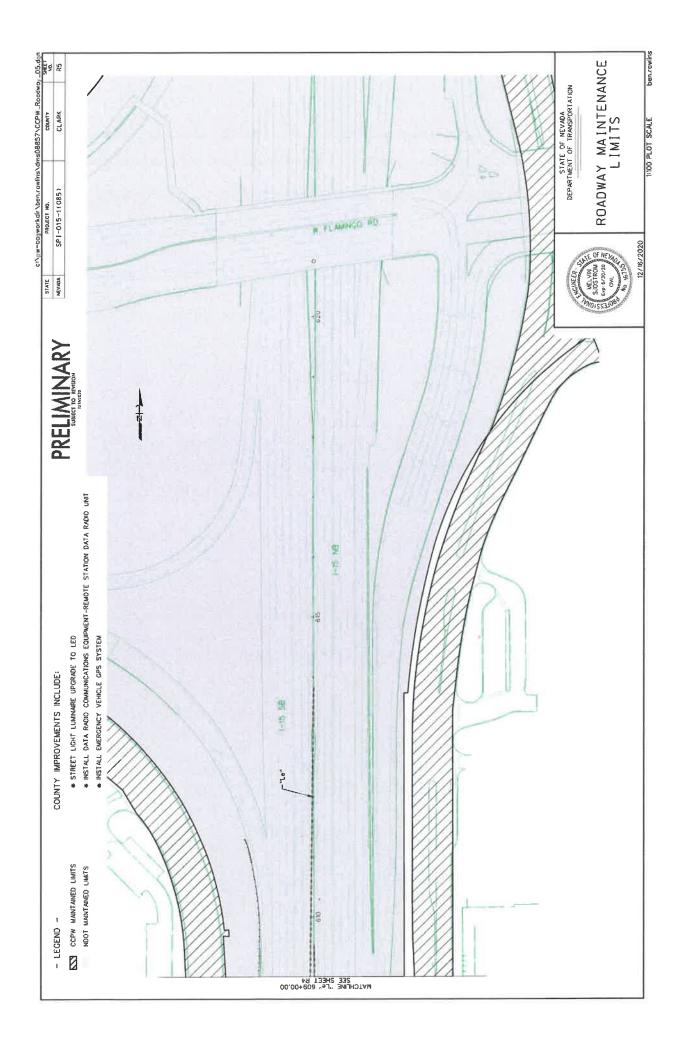


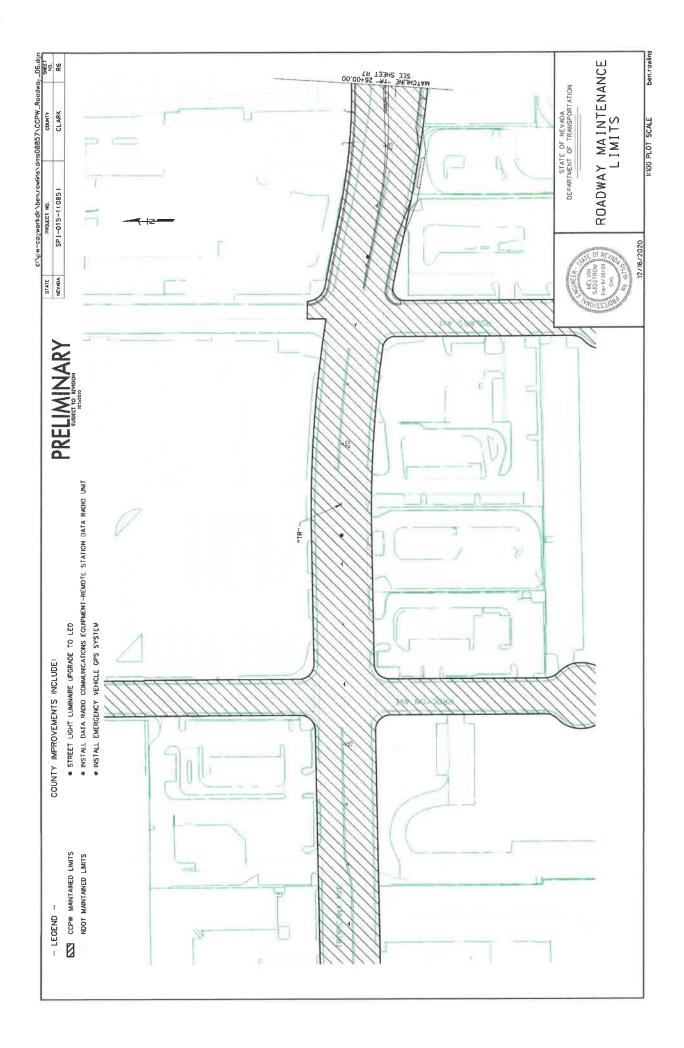


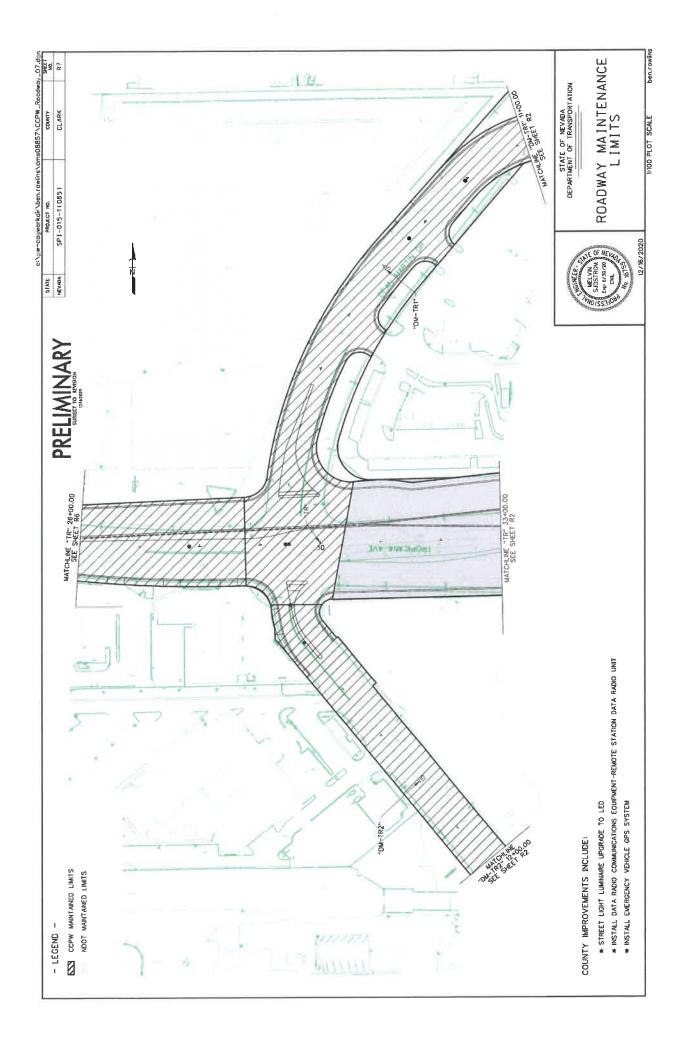


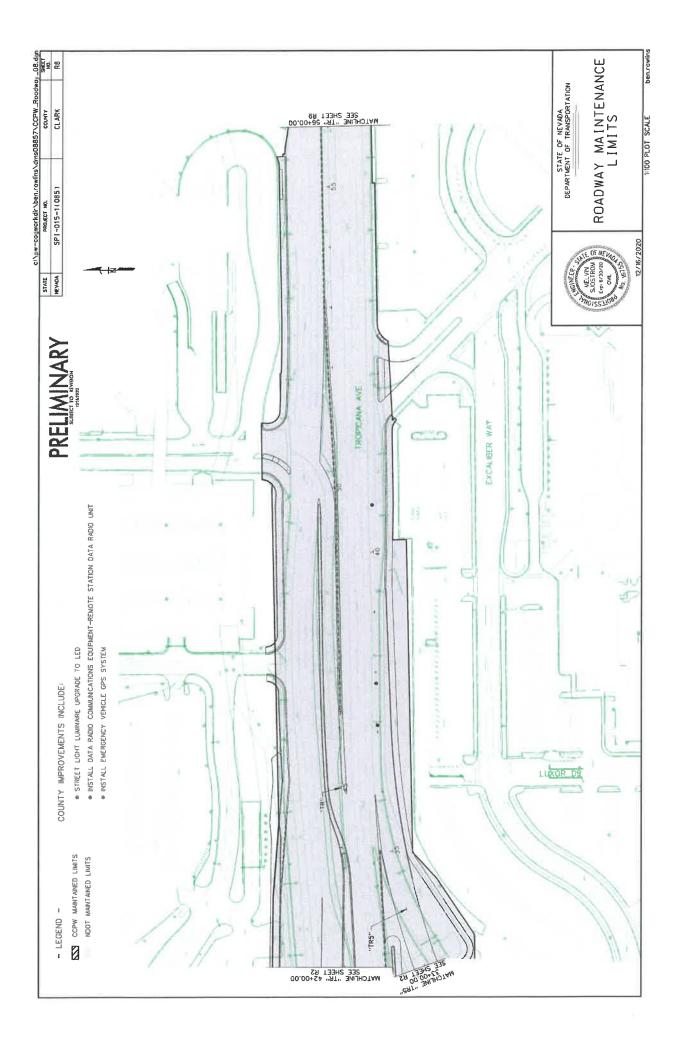


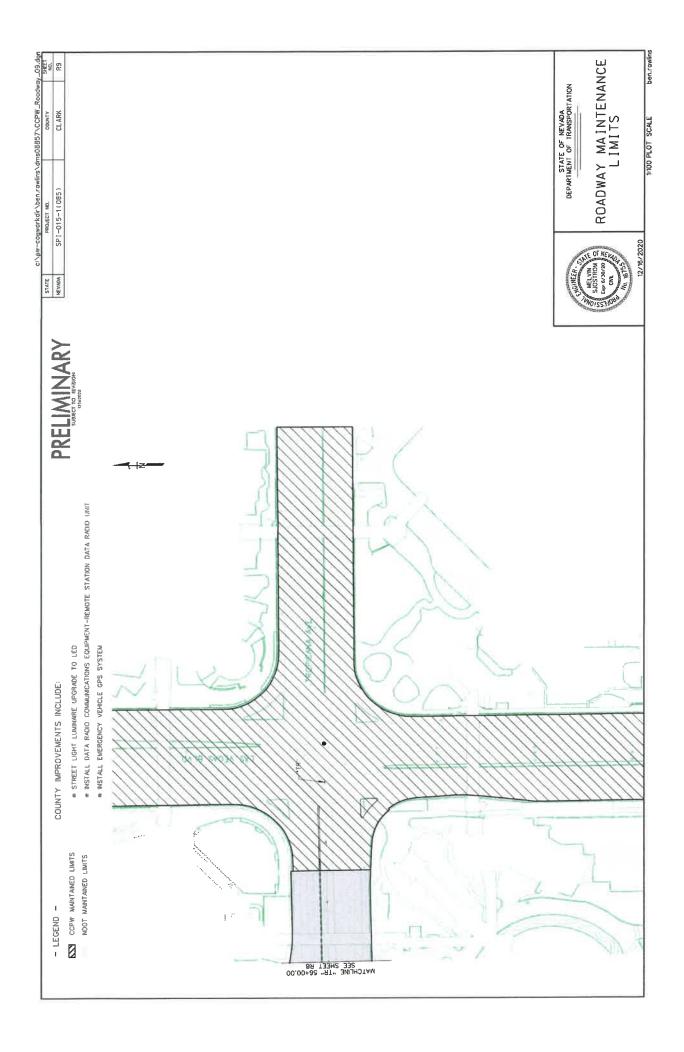


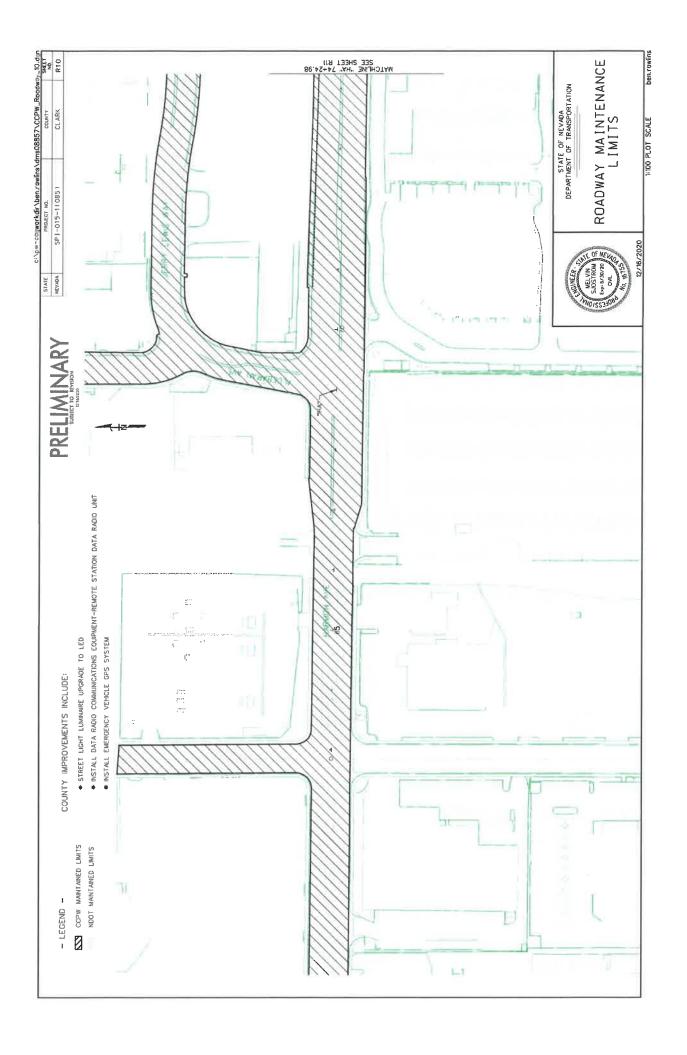


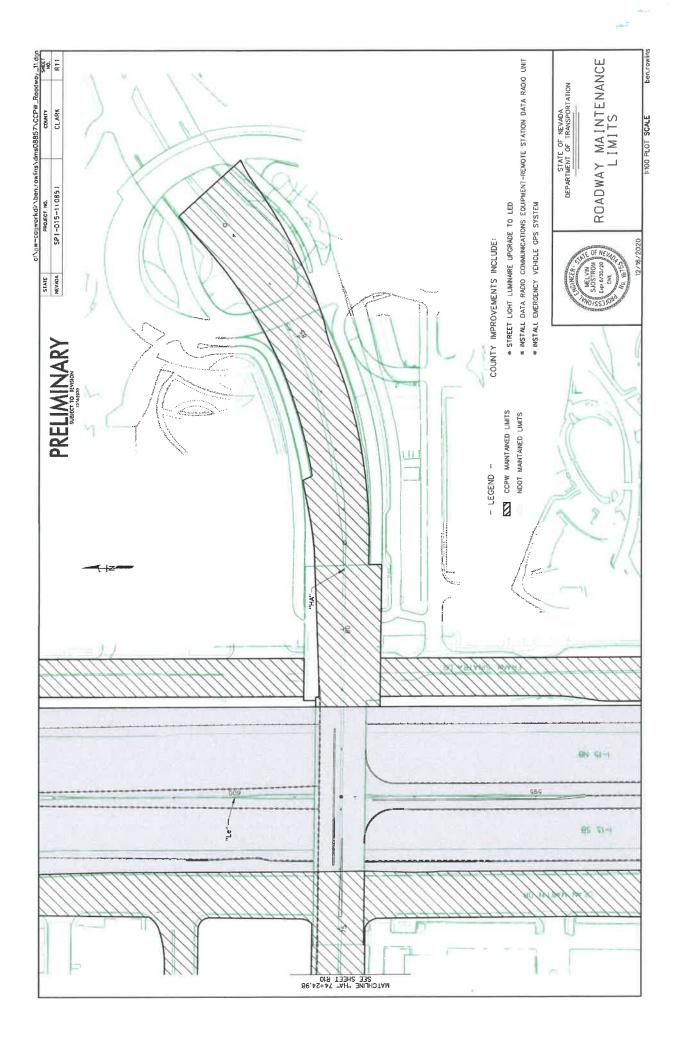


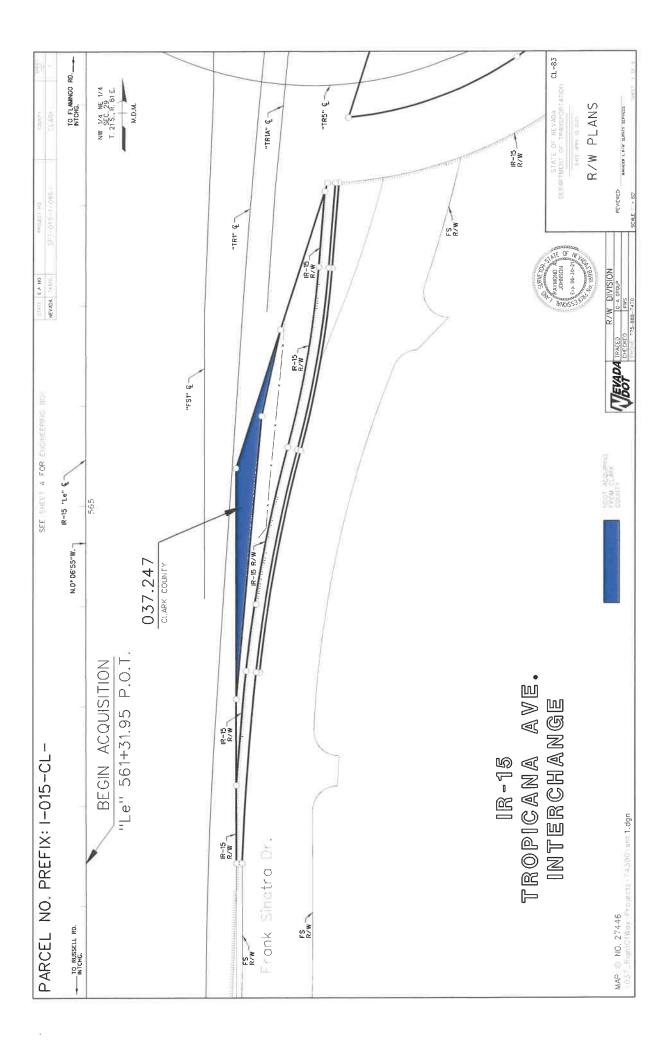


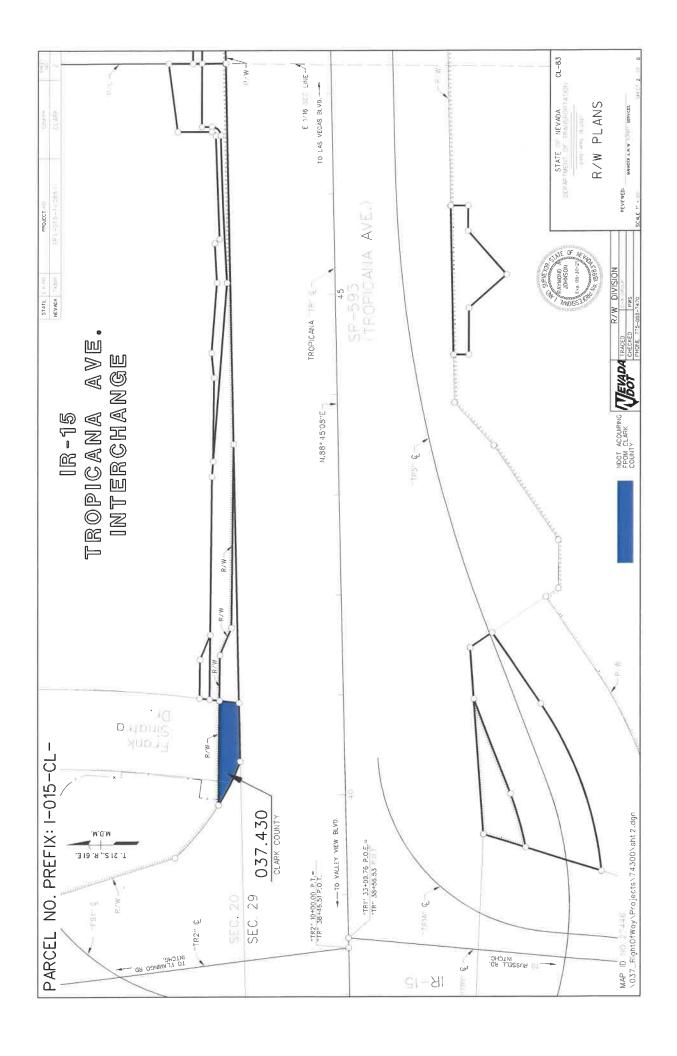


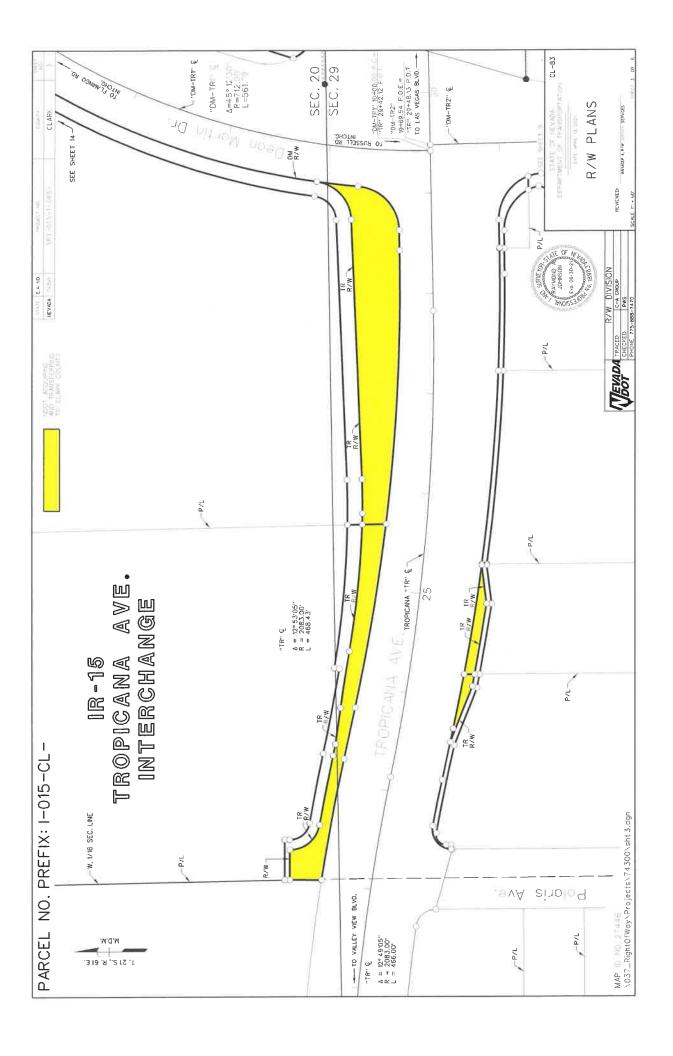


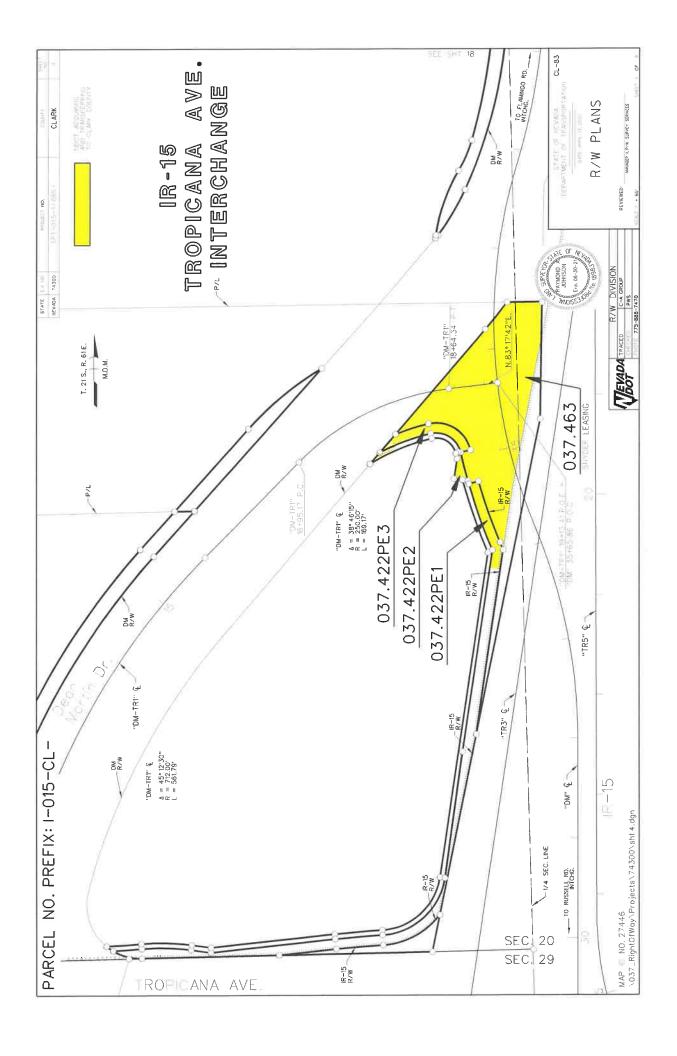


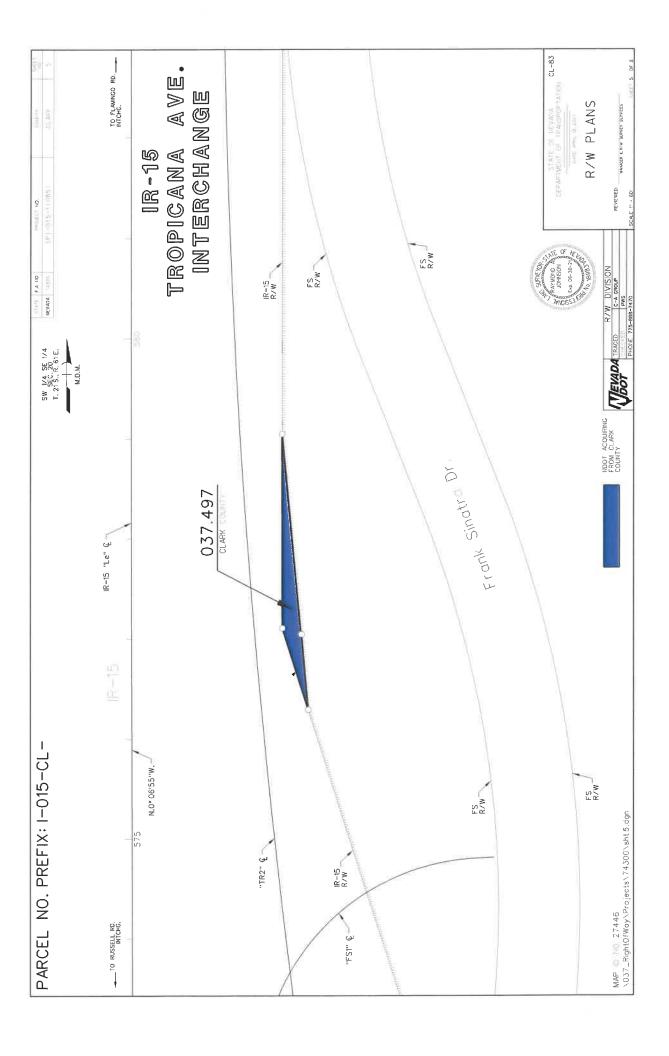


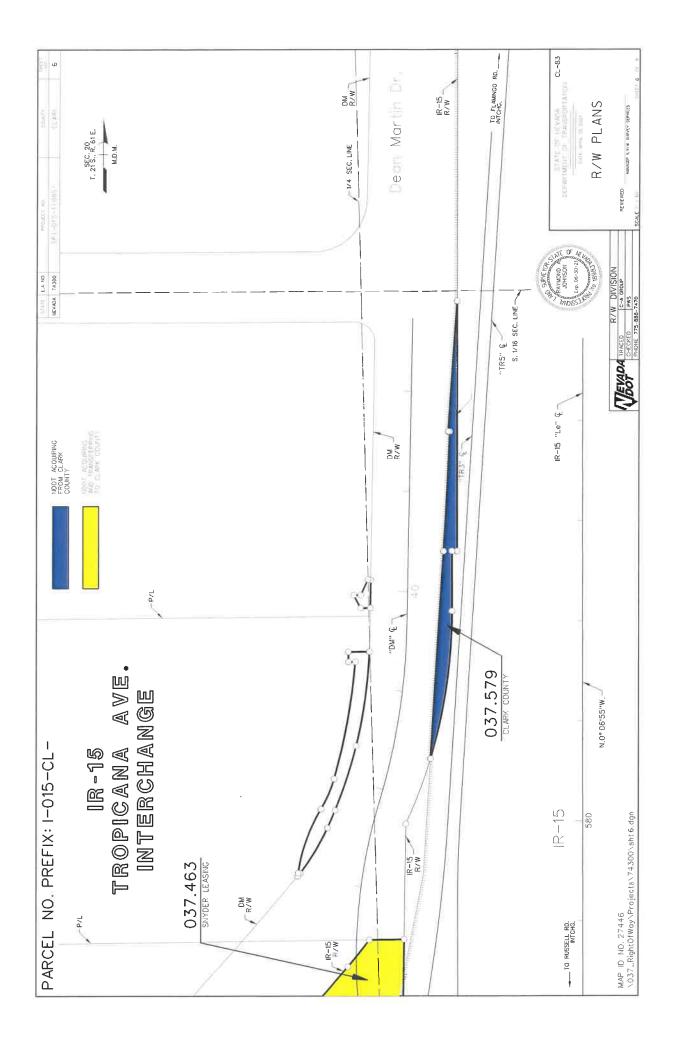


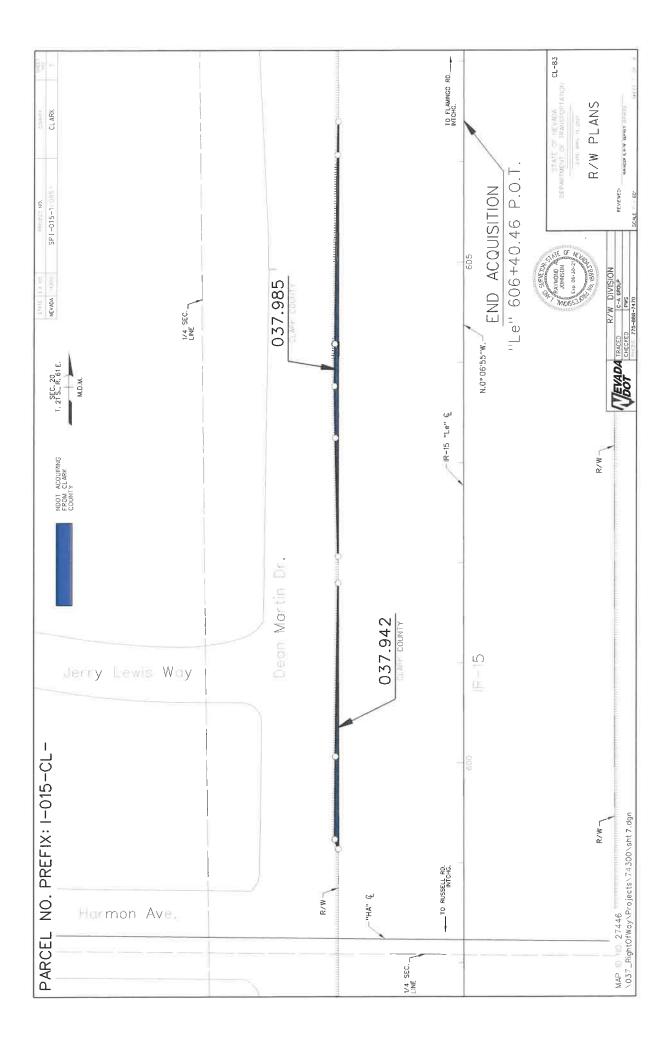


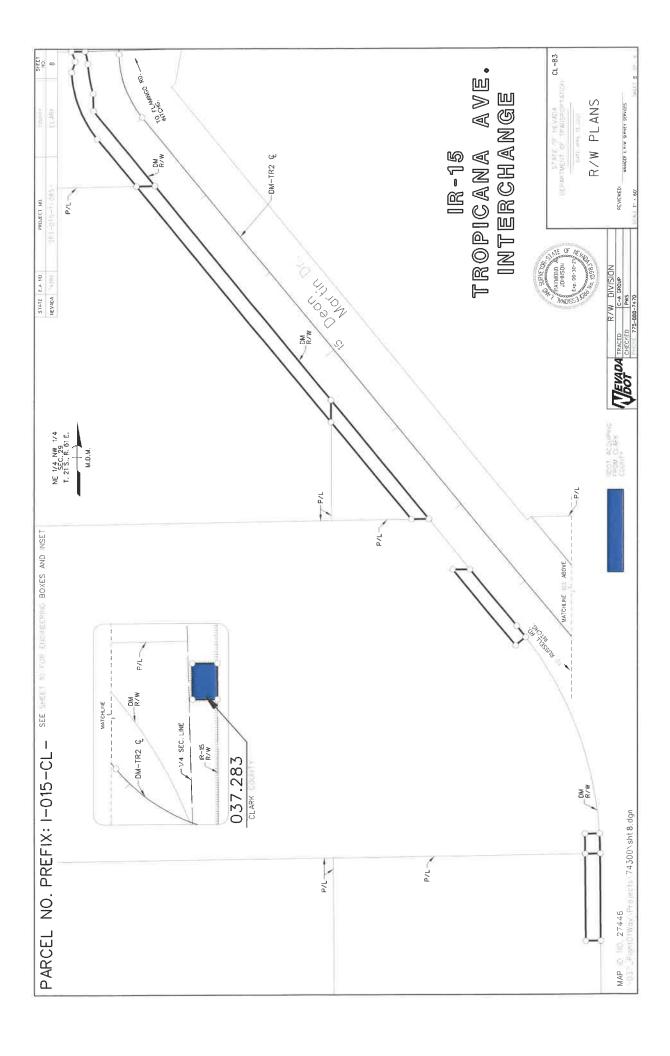














DEPARTMENT OF THE ARMY 33 U.S.C. § 408 PERMISSION

U. S. Army Corps of Engineers Los Angeles District



REQUESTER / NON-FEDERAL SPONSOR: Clark County Department of Public Works, 500 South Grand Central Parkway, Las Vegas, Nevada 89155

THIRD-PARTY PERMITTEE: State of Nevada, Department of Transportation, 123 E. Washington Avenue, Las Vegas, NV 89101

PERMISSION NUMBER: 408-SPL-2021-0008

ISSUING OFFICE: U.S. Army Corps of Engineers, Los Angeles District (USACE-SPL)

USACE-SPL PERMISSION COORDINATOR: Mr. Rafi Talukder, (213) 452-3745,

spl.408permits@usace.army.mil

AFFECTED USACE PROJECT AND DESCRIPTION: Tropicana Outlet Channel, Las Vegas Wash and Tributaries, Nevada (USACE Project)

LOCATION: LAT 36.098786° N, LONG 115.181218° W

APPROVED MODIFICATION OR ALTERATION OF THE USACE PROJECT:

Reconstruction for approximately 167 meters of existing channel and confluence structure with reinforced concrete box (RCB) structure of same height and width and located along the same existing alignment between station 10+32.606 and station 12+00 of the Tropicana Outlet Channel (Section 408 Activity).

The "approved plans and specifications," dated 05 April 2021, upon which this Permission is based are retained by USACE-SPL and filed under the Permission Number listed above.

I. General Conditions

1. USACE-SPL acknowledges that the Section 408 Activity shall be carried out by the Third-Party Permittee and that this Permission is being issued to the Requester, pursuant to the Requester's obligations under any applicable U.S. Army Corps of Engineers (USACE) project agreement(s) and as codified in 33 U.S.C. 2213 (j). The Requester shall ensure compliance with and enforce all requirements referenced in General Condition 3 and Special Conditions, below, against the Third-Party Permittee by separate agreement or permit. USACE-SPL reserves the right to enforce all conditions stated herein against the Requester

directly. This Permission shall not diminish the overall responsibility of the Requester to operate and maintain the USACE Project as described in the USACE Project's Operation and Maintenance (O&M) Manual. The Requester, Third-Party Permittee, and their contractor(s), shall comply with all General Conditions and Special Conditions detailed herein.

- 2. In the event the Third-Party Permittee fails to maintain the Section 408 Activity in good condition and in conformance with the terms and conditions of this Permission or the agreement or separate permit referenced in General Condition 3 and Special Conditions, below, the Requester shall be responsible for taking any and all actions necessary to prevent or mitigate any interference with the operation and maintenance of the USACE Project that may result from the Third-Party Permittee's failure, in accordance with the following:
 - a. Except when immediate action is necessary to prevent or minimize injury to persons or damage to property or the environment, the Requester shall, prior to commencing any such actions other than the Section 408 Activity, provide notice to USACE-SPL of the proposed actions and obtain USACE-SPL's approval.
 - b. When the Requester takes immediate action to prevent injury to persons or damage to property or the environment, the Requester shall notify the USACE-SPL Permission Coordinator of such actions as soon as reasonably practicable and shall obtain USACE-SPL's approval of any additional actions reasonably necessary to prevent or mitigate the interference with the operation of the USACE Project.
 - c. In the event that the Requester fails to prevent interference or potential interference with the operation of the USACE Project resulting from modifications or alterations by the Third-Party Permittee, the Requester then shall be responsible to remove the Section 408 Activity in a manner acceptable to USACE-SPL. Removal shall be conducted only after consultation with USACE-SPL and upon modification or amendment of this Permission.
- 3. The Requester shall be bound by the following requirements, and prior to the commencement of any construction related to the Section 408 Activity, the Requester shall enter into an agreement with, or issue a separate permit to, the Third-Party Permittee which shall impose the following requirements on the Third-Party Permittee:
 - a. This Permission only authorizes the Third-Party Permittee and the Requester to undertake the Section 408 Activity described herein under the authority provided in Section 14 of the Rivers and Harbors Act of 1899, as amended (33 U.S.C. 408). This Permission does not obviate the need to obtain other federal, state, or local authorizations required by law. This

Permission does not grant any property rights or exclusive privileges, and the Third-Party Permittee and the Requester must have appropriate real estate instruments in place prior to construction and/or installation.

- b. The time limit for completing the Section 408 Activity ends two (2) years after the effective date of this Permission. If the Third-Party Permittee finds that it requires more time to complete the Section 408 Activity, the Requester shall submit a request for a time extension to USACE-SPL for consideration at least one month before the above time limit is reached. Should construction activities fail to commence within two (2) years after the effective date of this Permission, this Permission shall be immediately revoked.
- c. Without prior written approval of the USACE, the Third-Party Permittee and the Requester must neither transfer nor assign this Permission nor sublet the premises or any part thereof, nor grant any interest, privilege, or license whatsoever in connection with this Permission. Failure to comply with this condition will constitute noncompliance for which the Permission may be revoked immediately by the USACE.
- d. The Third-Party Permittee and the Requester understand and agree that, if future operations by the United States require the removal, relocation, or other alteration of the Section 408 Activity herein authorized, or if, in the opinion of the Secretary of the Army or an authorized representative, said work will cause unreasonable conditions and/or obstruction of the USACE Project authorized design, the Third-Party Permittee and the Requester will be required upon due notice from the USACE, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim can be made against the United States on account of any such removal or alteration.
- e. The United States will in no case be liable for:
 - any damage or injury to the structures or work authorized by this
 Permission that may be caused or result from future operations
 undertaken by the United States, and no claim or right to compensation
 will accrue from any damage; or
 - 2. damage claims associated with any future modification, suspension, or revocation of this Permission.
- f. The United States will not be responsible for damages or injuries which may arise from or be incident to the construction, maintenance, and use of the project requested by the Third-Party Permittee or by the Requester, nor for damages to the property or injuries to the Third-Party Permittee's or the Requester's officers, agents, servants, or employees, or others who may

be on the Third-Party Permittee's or the Requester's premises or project work areas or the USACE Project(s) rights-of-way. By accepting this Permission, the Third-Party Permittee and the Requester hereby agree to fully defend, indemnify, and hold harmless the United States and USACE from any and all such claims, subject to any limitations in law.

- g. Any damage to the water resources development project or other portions of any USACE Project(s) resulting from the Third-Party Permittee's activities must be repaired at the Third-Party Permittee's expense. The repairs shall be accomplished to the satisfaction of USACE-SPL.
- h. The determination that the activity authorized by this Permission would not impair the usefulness of the USACE Project and would not be injurious to the public interest was made in reliance on the information the Requester and Third-Party Permittee provided.
- i. USACE-SPL, at its sole discretion, may reevaluate its decision to issue this Permission at any time circumstances warrant, which may result in a determination that it is appropriate or necessary to modify or revoke this Permission. Circumstances that could require a reevaluation include, but are not limited to, the following:
 - 1. the Third-Party Permittee or Requester fails to comply with the terms and conditions of this Permission;
 - 2. the information provided in support of the Requester's Section 408
 Permission request proves to have been inaccurate or incomplete; or
 - significant new information surfaces which this office did not consider in reaching the original decision that the activity would not impair the usefulness of the water resources development project and would not be injurious to the public interest.
- j. The Third-Party Permittee is responsible for implementing any requirements for mitigation, reasonable and prudent alternatives, or other conditions or requirements imposed as a result of environmental compliance.
- k. Work/usage allowed under this Permission must proceed in a manner that avoids interference with the inspection, operation, and maintenance of the USACE Project.
- In the event of any deficiency in the design or construction of the Section 408 Activity, the Requester and Third-Party Permittee are responsible for taking remedial action to correct the deficiency.

- m. The right is reserved to the USACE to enter upon the premises at any time and for any purpose necessary or convenient in connection with government purposes, to make inspections, to operate and/or to make any other use of the lands as may be necessary in connection with government purposes, and the Third-Party Permittee and the Requester will have no claim for damages on account thereof against the United States or any officer, agent or employee thereof.
- n. The Requester must provide copies of pertinent design, construction, and/or usage submittals/documents. The USACE may request that survey and photographic documentation of the alteration work and the impacted project area be provided before, during, and after construction and/or installation.
- o. The Third-Party Permittee and the Requester may be required to perform an inspection of the USACE Project with the USACE-SPL, prior to the Requester's use of the structure, to document existing conditions.
- p. The USACE shall not be responsible for the technical sufficiency of the alteration design nor for the construction and/or installation work.
- q. If the scope of the Section 408 Activity changes from the approved plans and specifications upon which this Permission is based, the Requester must resubmit the Section 408 Permission request with the Permission Number and revisions clearly identified. Work associated with the Section 408 Activity that does not pertain to the revised portion of the project may continue while the revisions are being reviewed unless USACE-SPL indicates otherwise. If USACE-SPL determines that changes in scope or details have an impact outside approved alteration area, a new Section 408 Permission request will be required.
- r. The Third-Party Permittee shall notify USACE-SPL Permission Coordinator and the Requester of the start date for construction and submit a copy of the construction schedule at least two (2) weeks prior to starting. Updated construction schedules shall be made available upon request. Construction activities shall not impair USACE-SPL access to perform maintenance services, inspections, and patrolling activities. An invitation shall be sent to USACE-SPL for any kick-off meetings and final walk-through, as applicable.
- s. Upon completion of construction of the Section 408 Activity, the Third-Party Permittee shall submit to USACE-SPL and the Requester electronic copies of the as-built plans showing the new work as it relates to identifiable feature of the USACE Project. The as-built plans must be signed by the Third-Party Permittee's engineer of record. Electronic copies of the as-built

- plans shall be submitted in .pdf format to the Requester and USACE-SPL. As-built plans must be provided within 180 days of construction completion.
- t. O&M Manual Updates. The Requester is responsible for O&M of this reach of Tropicana Outlet Channel, Las Vegas Wash and Tributaries. However, the Third-Party Permittee will be responsible for the O&M of the proposed Section 408 Activity. The Requester and Third-Party Permittee will have their own O&M agreement for the proposed alteration.
- u. The Third-Party Permittee and the Requester must maintain the Section 408 Activity in good condition and in conformance with the terms and conditions of this Permission. The Third-Party Permittee and the Requester shall not be relieved of this requirement even if the Section 408 Activity is abandoned. Should the Third-Party Permittee or the Requester wish to cease to maintain the Section 408 Activity or desire to abandon it, the Requester must obtain a modification or amendment of this Permission from USACE-SPL and may be required to perform additional construction activities prior to abandonment of the facility.

II. Special Conditions

- 1. The Third-Party Permittee shall submit a shoring plan thirty (30) days prior to construction to the Requester for review and approval if shoring is required during construction.
- 2. If previously unknown historic or archeological remains are discovered while carrying out the Section 408 Activity, the Third-Party Permittee shall immediately cease activity and protect the site in conformance with 36 C.F.R. § 800.13. Within 24 hours of the discovery, the Requester shall notify USACE-SPL Permission Coordinator. The Third-Party Permittee shall not resume construction or activity in the area containing the potential cultural resources until USACE-SPL issues a notice to proceed to the Requester.
- 3. The Third-Party Permittee must implement Best Management Practices (BMPs) as necessary to reduce air quality impacts from fugitive dust and/or particulate matter, including road watering if wind speed exceeds 20 mph. The construction equipment shall be properly maintained to minimize release of diesel and hydrocarbon effluent into the atmosphere. All permit requirements, including those regarding emissions, fuel use, and fuel consumption shall be adhered to during construction activities. All construction equipment shall be permitted as required under state law, well maintained, and all internal combustion engines properly tuned to avoid excessive diesel smoke generation. Mitigation measures, as identified in the 2019 Environmental Assessment for I-15 Tropicana Avenue interchange reconstruction, shall be implemented to mitigate/reduce air quality impacts from fugitive dust and/or particulate matter generated by the proposed

action.

- 4. The Third-Party Permittee and any contractors must have in place accidental spill prevention and response plan for all hazardous materials that may be used on site. In the event of a spill or release of hazardous substances at the site, the spill and/or release shall be immediately contained, excavated, and treated per federal and state regulations developed by the U.S Environmental Protection Agency as well as local hazardous waste ordinances.
- 5. The Third-Party Permittee must implement BMPs as necessary to ensure that water quality is not adversely affected by the Section 408 Activity in compliance with federal, state, and local ordinances. Construction debris and material would be removed from the channel immediately. Best Management Practices (BMPs) such as sediment control and erosion control measures shall be implemented as necessary in compliance with federal, state and local ordinances.
- 6. The Third-Party Permittee shall post "Construction Zone" and detour signs for vehicular traffic and pedestrians per local Ordinances.
- 7. To reduce noise to the maximum feasible extent, the Third-Party Permittee shall maintain construction equipment with properly functioning mufflers on all internal combustion and vehicle engines used during construction. Construction must comply with local noise ordinances.
- 8. Geotechnical completion reports, signed and stamped by the geotechnical consultant, including testing results, geotechnical maps, and final as-built conditions should be provided to USACE-SPL upon completion.

Nothing in this Permission shall be construed as abrogating or otherwise diminishing the responsibility of the Requester and the Third-Party Permittee to hold and save the USACE, its officers and agents, free and harmless from all liability and damages of any nature arising from construction, operation, maintenance, repair, rehabilitation, or replacement of the USACE Project and any alterations or modifications, including any alteration or modification approved herein, except to the extent caused by the fault or negligence of USACE-SPL.

By signing this Permission, the signatory to this Permission hereby represents and warrants that they are duly authorized to execute and bind the Clark County Department of Public Works to the terms and conditions contained within this Permission. This Permission shall become effective upon signature below by USACE-SPL official.

Denis L. Cederburg, P.E.

Date

Director of Public Works and County Engineer
Clark County Department of Public Works

LOVASZ.PAMELA.J. Digitally signed by

LOVASZ.PAMELA.J.1143912678

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Date: 2021.09.21 18:52:27 -07'00'

Pamela J. Lovasz, P.E., P.G. Chief, Engineering Division Los Angeles District U.S. Army Corps of Engineers Date