



REGIONAL TRANSPORTATION COMMISSION

Metropolitan Planning • Public Transportation & Operations • Engineering & Construction

Metropolitan Planning Organization of Washoe County, Nevada

January 18, 2019

AGENDA ITEM 3.11

TO: Regional Transportation Commission

FROM: Dale Ferguson
RTC Chief Legal Counsel



Lee G. Gibson, AICP
Executive Director

SUBJECT: Resolution of Condemnation for property rights related to APN 014-251-27, necessary to construct the Virginia Street Bus Rapid Transit Extension Project

RECOMMENDATION

Approve a Resolution of Condemnation authorizing RTC’s legal counsel to commence condemnation proceedings to acquire one (1) permanent easement and one (1) temporary construction easement on APN 014-251-27 from Olsen Investments, LLC, necessary to construct the Virginia Street Bus Rapid Transit Extension Project.

SUMMARY

At the March 18, 2016, RTC Board meeting, the Commission approved Amendment No. 1 with Nichols Consulting Engineers (NCE) for to the Professional Services Agreement with NCE for Final Design for the Virginia Street Bus RAPID Transit Extension Project (the “Project”). Six months later at the September 16, 2016, RTC Board meeting, the Commission approved the Request for Proposals (RFP) for the selection of a firm to provide Right of Way Services for the Project. Paragon Partners, LTD was selected as the firm to provide the right of way acquisition services at the November 18, 2016, RTC Board Meeting. Thereafter, Paragon Partners, LTD. initiated the process of acquiring the right-of-way for the Project.

Paragon Partners LTD has been attempting to negotiate for the property rights needed for the Project. Approval of this Resolution of Condemnation for ROW will allow the RTC to initiate condemnation proceedings for these property rights for timely acquisition in the event that continued negotiations with the property owners are unsuccessful. Through an Interlocal Cooperative Agreement, dated May 24, 2016, RTC has been authorized to negotiate and/or initiate eminent domain proceeding for right-of-way acquisition when necessary for the Project. Proper notice of this agenda item has been provided to the property owner as required by Nevada Revised Statutes. In order to minimize potential delays to the Project, the proposed resolution of condemnation (see Attachment A) is requested now so that legal counsel can seek a court ordered “right-of-entry” and/or order for immediate occupancy should negotiations with property owners not conclude within a reasonable amount of time. Every effort to reach satisfactory purchase

agreements will continue to be made until a complaint in eminent domain is filed with the court. Thereafter, we will continue to negotiate a resolution that is fair and equitable, but resolution may be through court filings as opposed to a purchase agreement.

FISCAL IMPACT

The costs to acquire the subject property interests have been budgeted; however, the fiscal impact cannot be determined at this time. Aside from legal fees, there is the potential that the compensation to the property owner may increase as a result of legal settlement.

PREVIOUS ACTIONS BY BOARD

- | | |
|--------------------|--|
| November 18, 2016 | Approved the staff recommendation of Paragon Partners LTD to provide the right of way acquisition services for the Project authorize the Executive Director to negotiate and execute the final Professional Service Agreement (PSA). |
| September 16, 2016 | Approved the Request for Proposals (RFP) for the selection of a firm to provide Right of Way Services for the Project. |
| March 18, 2016 | Approved Amendment No. 1 to the Professional Services Agreement with NCE for Final Design for the Project. |
| October 16, 2015 | Acknowledged receipt of an update on the Project and approve the local preferred alternative. |
| October 17, 2014 | Approved Selection of Nichols Consulting Engineers (NCE) for Preliminary Design & NEPA; authorize the RTC Executive Director to negotiate and execute a professional services agreement with NCE. |

ADDITIONAL BACKGROUND

This project will complete the final design for multi-modal transportation improvements on the corridor from Plumb Lane to Liberty Street and Maple Street to 15th Street/North Virginia Street. The NEPA process is complete. Design team is working towards 100 percent reconstruction plans for the roadway and BRT elements of the project throughout both Midtown and UNR. It is anticipated that 100 percent design will be complete in early 2019.

ADVISORY COMMITTEE(S) RECOMMENDATION

There are no advisory committee recommendations regarding this report.

Attachment

RESOLUTION OF CONDEMNATION

WHEREAS, it is necessary for the Regional Transportation Commission of Washoe County, hereinafter referred to as "RTC," to provide regional transportation facilities which are of a quality and standard necessary to satisfactorily meet the needs of the traveling public; and

WHEREAS, in recognition of such needs, the RTC approved the Virginia Street Bus Rapid Transit Extension Project, hereinafter referred to as "Project," as part of an Interlocal Cooperative Agreement ("ICA") dated May 24, 2016; and

WHEREAS, in the ICA dated May 24, 2016, the City of Reno authorized the RTC to initiate eminent domain proceedings on behalf of the City, if required, for the acquisition of right-of-way for the Project; and

WHEREAS, Chapter 277A of Nevada Revised Statutes provides that the RTC may exercise the power of eminent domain, if the city or county which has jurisdiction over the property approves; and

WHEREAS, the current owner of record of the property interests to be acquired, insofar as is known to the RTC, is Olsen Investments, LLC.

NOW, THEREFORE, the members of the Regional Transportation Commission of Washoe County do hereby find:

1. That proper notice of the RTC's intent to consider eminent domain action to acquire the relevant property interests of the above referenced owner(s) has been given as required by NRS 241.034.
2. That RTC staff first contacted the landowner about the property interests described in Exhibit "A" and depicted on Exhibit "B," attached hereto and incorporated herein by reference, on or about October 9, 2018. While there have been discussions, proposals and offers made, all efforts to reach a mutually acceptable agreement for the acquisition of the property interests through purchase have been unsuccessful to date.
3. That the property interests to be acquired in conjunction with the above referenced Project are to be applied to a public use, to wit, the Virginia Street Bus Rapid Transit Extension Project.

4. That the property interests described herein are necessary to such public use.

Based on the aforementioned findings of fact, the RTC does hereby direct:

1. That RTC's legal counsel initiate, if needed, eminent domain proceedings on behalf of the RTC in accordance with provisions of Chapters 37 and 277A of Nevada Revised Statutes to acquire the property interests described in Exhibit "A" and depicted on Exhibit "B".

2. That said legal counsel shall commence and prosecute in the name of the RTC, eminent domain proceedings in the court having jurisdiction of the property interests described in Exhibit "A" and depicted on Exhibit "B."

3. That said legal counsel is authorized to pursue all actions deemed appropriate for the successful prosecution of this case, including but not limited to, an application to the court for an order permitting the RTC to take immediate possession of said property interests for the construction of the Project, upon complying with conditions imposed by law.

Upon motion of Commissioner _____, seconded by Commissioner _____, the foregoing Resolution was passed and adopted this 18th day of January, 2019, by the following vote of the Regional Transportation Commission:

AYES: _____

NAYS: _____

ABSTAIN: _____

Approved this 18th day of January, 2019.

REGIONAL TRANSPORTATION COMMISSION
OF WASHOE COUNTY, STATE OF NEVADA

BY _____
RON SMITH, CHAIR

STATE OF NEVADA
COUNTY OF WASHOE

The above-instrument was acknowledged before me this 18th day of January, 2019, by Ron Smith,
Chair of the Regional Transportation Commission.

Notary Public

DRAFT

EXHIBIT A

EXHIBIT "A" LEGAL DESCRIPTION OF PERMANENT EASEMENT APN: 014-251-27

A permanent easement, situate within a portion of the South West 1/4 of Section 13, Township 19 North, Range 19 East, Mount Diablo Base and Meridian, City of Reno, County of Washoe, State of Nevada, more particularly described as follows:

Beginning at the south east corner of that certain parcel of land described as Lot 24 in Block A of the Amended Plat of Continental Commercial Center in the official records of Washoe County Recorder's Office, recorded on November 18, 1989, as Document # 1365137, Tract Map # 2624, said point also being a point on the westerly line of South Virginia Street;

Thence northwesterly 16.64 feet along the east boundary line of said lot and a curve concave to the east, to which a radial line bears South 73°14'09" West, having a radius of 2540.00 feet, through a delta angle of 00°22'31" to the **true point of beginning**;

Thence northwesterly 9.28 feet along the east boundary line of said lot and the last mentioned curve, having a radius of 2540.00 feet, through a delta angle of 00°12'34";

Thence departing the east boundary line of said lot South 02°55'40" West 6.33 feet;

Thence South 48°33'01" East 3.90 feet to the **true point of beginning**, containing 10 square feet, more or less.

Basis of Bearings: NAD 83(94) Nevada State Plane Coordinate System, West Zone (2703).

Grant R. Alexander, P.L.S. 19051
Battle Born Ventures, LLC
600 Gleeson Way
Sparks, NV 89431

EXHIBIT "B"

BUDIJA ENTERPRISES, LLC.
APN: 014-251-23

OLSEN INVESTMENTS LLC.
APN: 014-251-27
LOT 24, TRACT MAP # 2624

SOUTH VIRGINIA STREET

5' PUE
PER PM # 2042

LINE TABLE		
LINE	LENGTH	BEARING
L1	6.33'	S02°55'40"W
L2	3.90'	S48°33'01"E

PERMANENT EASEMENT
AREA = 10 SQ. FT. +/-

24' ACCESS & UTILITY
EASEMENT PER PM
2042

R = 2540.00'
D = 0°12'34"
L = 9.28'

R = 2540.00'
D = 0°22'31"
L = 16.64'

S 73°14'09" W (R)

POB

SE COR
LOT 24

12'

12'

HONG FAMILY TRUST
APN: 014-251-73



BATTLE BORN VENTURES, LLC
600 GLEESON WAY
SPARKS, NEVADA 89431
www.battlebornventures.com

Land Surveyors - Civil Engineers

W.O. #: 2016_152
BY: GRA
DATE: 09/07/2017
SCALE: 1" = 20'

EXHIBIT "A"
LEGAL DESCRIPTION OF TEMPORARY CONSTRUCTION EASEMENT
APN: 014-251-27

A temporary construction easement, situate within a portion of the South West 1/4 of Section 13, Township 19 North, Range 19 East, Mount Diablo Base and Meridian, City of Reno, County of Washoe, State of Nevada, more particularly described as follows:

Beginning at the north east corner of that certain parcel of land described as Lot 24 in Block A of the Amended Plat of Continental Commercial Center in the official records of Washoe County Recorder's Office, recorded on November 28, 1989, as Document # 1365137, Tract Map # 2624, said point also being a point on the westerly line of South Virginia Street;

Thence southeasterly 71.86 feet along the east boundary line of said lot and a curve concave to the west, to which a radial line bears North 72°07'24" East, having a radius of 2284.00 feet, through a delta angle of 01°48'10" to the beginning of a reverse curve;

Thence southeasterly 4.68 feet along the east boundary line of said lot and a curve concave to the east, having a radius of 2540.00 feet, through a delta angle of 00°06'20";

Thence departing the east boundary line of said lot, South 02°55'40" West 6.33 feet;

Thence South 48°33'01" East 3.90 feet to a point on the east boundary line of said lot;

Thence southeasterly 16.64 feet along the east boundary line of said lot and a curve concave to the east, to which a radial line bears South 73°36'40" West, having a radius of 2540.00 feet, through a delta angle of 00°22'31" to the south east corner of said lot;

Thence westerly 20.38 feet along the south boundary line of said lot and a curve concave to the north, to which a radial line bears South 14°13'49" East, having a radius of 180.66 feet, through a delta angle of 6°27'48";

Thence departing the south boundary line of said lot, North 07°55'37" West 10.67 feet;

Thence North 76°37'51" East 1.80 feet;

Thence North 03°51'46" West 7.07 feet;

Thence North 05°43'57" West 5.00 feet;

Thence North 84°16'03" East 2.55 feet;

Thence easterly 5.99 feet along a curve concave to the north, to which a radial line bears South 10°53'23" East, having a radius of 19.50 feet, through a delta angle of 17°35'43";

Thence North 02°55'40" East 14.38 feet;

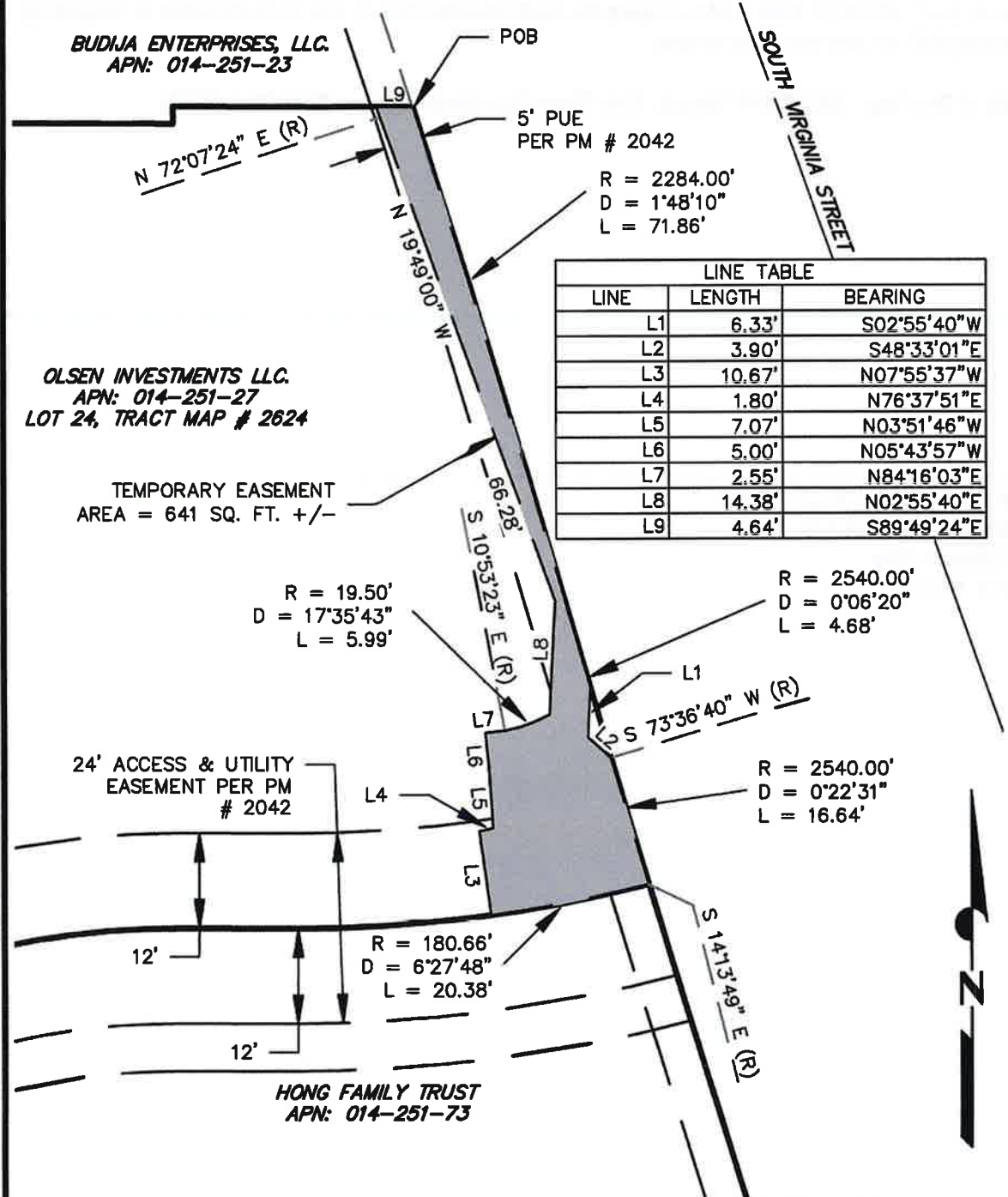
Thence North 19°49'00" West 66.28 feet to a point on the north boundary line of said parcel;

Thence South 89°49'24" East 4.64 feet along the north boundary line of said lot to the **point of beginning**, containing 641 square feet, more or less.

Basis of Bearings: NAD 83(94) Nevada State Plane Coordinate System, West Zone (2703).

Grant R. Alexander, P.L.S. 19051
Battle Born Ventures, LLC
600 Gleeson Way
Sparks, NV 89431

EXHIBIT "B"



BUDIJA ENTERPRISES, LLC.
APN: 014-251-23

OLSEN INVESTMENTS LLC.
APN: 014-251-27
LOT 24, TRACT MAP # 2624

TEMPORARY EASEMENT
AREA = 641 SQ. FT. +/-

24' ACCESS & UTILITY
EASEMENT PER PM
2042

R = 19.50'
D = 17°35'43"
L = 5.99'

R = 180.66'
D = 6°27'48"
L = 20.38'

HONG FAMILY TRUST
APN: 014-251-73

POB

5' PUE
PER PM # 2042

R = 2284.00'
D = 1°48'10"
L = 71.86'

SOUTH VIRGINIA STREET

LINE TABLE		
LINE	LENGTH	BEARING
L1	6.33'	S02°55'40"W
L2	3.90'	S48°33'01"E
L3	10.67'	N07°55'37"W
L4	1.80'	N76°37'51"E
L5	7.07'	N03°51'46"W
L6	5.00'	N05°43'57"W
L7	2.55'	N84°16'03"E
L8	14.38'	N02°55'40"E
L9	4.64'	S89°49'24"E

R = 2540.00'
D = 0°06'20"
L = 4.68'

R = 2540.00'
D = 0°22'31"
L = 16.64'



BATTLE BORN VENTURES, LLC
600 GLEESON WAY
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www.battlebornventures.com

PHONE (775) 813-4934
FAX (775) 359-4476

Land Surveyors - Civil Engineers

W.O. #: 2016_152
BY: GRA
DATE: 07/13/2018
SCALE: 1" = 20'

EXHIBIT B



NCE
 1885 S Arlington Ave. Suite 111
 Reno, Nevada 89509
 (775) 329-4958 * Fax (775) 329-5098



VIRGINIA STREET BUS RAPID TRANSIT EXTENSION PROJECT PHASE 2

RTC REGIONAL TRANSPORTATION COMMISSION
 1105 TERMINAL WAY, SUITE 108 RENO, NV 89502
 PHONE (775) 348-0171

NO.	DATE	DESCRIPTION

PROJECT NO: A173.25.14
 DRAWN BY: SEH
 CHECKED BY: SP1
 DATE: 09-05-18
 SCALE: 09-14-18

RIGHT OF WAY
 "SV" 10+00 TO "SV" 20+50

DRAWING: S.R1

SHEET 6 OF 308

