



**REGIONAL TRANSPORTATION COMMISSION**

*Metropolitan Planning • Public Transportation & Operations • Engineering & Construction*

Metropolitan Planning Organization of Washoe County, Nevada

January 18, 2019

**AGENDA ITEM 3.12**

**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 011-226-34, necessary to construct the Virginia Street Bus Rapid Transit Extension Project**

**RECOMMENDATION**

Approve the attached 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 011-226-34 from Ponderosa Hotel, Inc., a Nevada corporation, 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 15<sup>th</sup> 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 Ponderosa Hotel, Inc., a Nevada corporation.

**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 EASEMENTS APN: 011-226-34

All those permanent easements, situate within a portion of the South East 1/4 of Section 11, 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:

### PERMANENT EASEMENT 1

**Beginning** at the south west corner of that certain parcel of land described in deed as Parcel 3, recorded in the official records of Washoe County Recorder's Office on October 05, 1998, as Document File # 2264327, said point also being a point of intersection with the easterly line of Forest Street and the northerly line of Tahoe Street, said point also being the south west corner of Lot 6 in Block D of the Crampton's Addition to Reno, recorded on November 16, 1903, as Tract Map # 15;

Thence North 00°09'30" West 5.18 feet along the west boundary line of said parcel;

Thence departing the west boundary line of said parcel, South 27°50'03" East 5.85 feet to a point on the south boundary line of said parcel;

Thence South 89°51'29" West 2.72 feet along the south boundary line of said parcel to the **point of beginning**, containing 7 square feet, more or less.

### PERMANENT EASEMENT 2

**Beginning** at the north east corner of that certain parcel of land described in deed as Parcel 1, recorded in the official records of Washoe County Recorder's Office on October 05, 1998, as Document File # 2264327, said point also being a point of intersection with the southerly line of California Avenue and the Westerly line of South Virginia Street, said point also being the north east corner of Lot 1 in Block 2 of the Marsh's Addition to Reno, recorded on April 24, 1877, as Tract Map # 76;

Thence South 19°56'29" East 11.97 feet along the east boundary line of said parcel;

Thence departing the east boundary line of said parcel, North 69°26'08" West 18.49 feet to a point on the north boundary line of said parcel;

Thence North 70°14'14" East 14.06 feet along the north boundary line of said parcel to the **point of beginning**, containing 84 square feet, more or less.

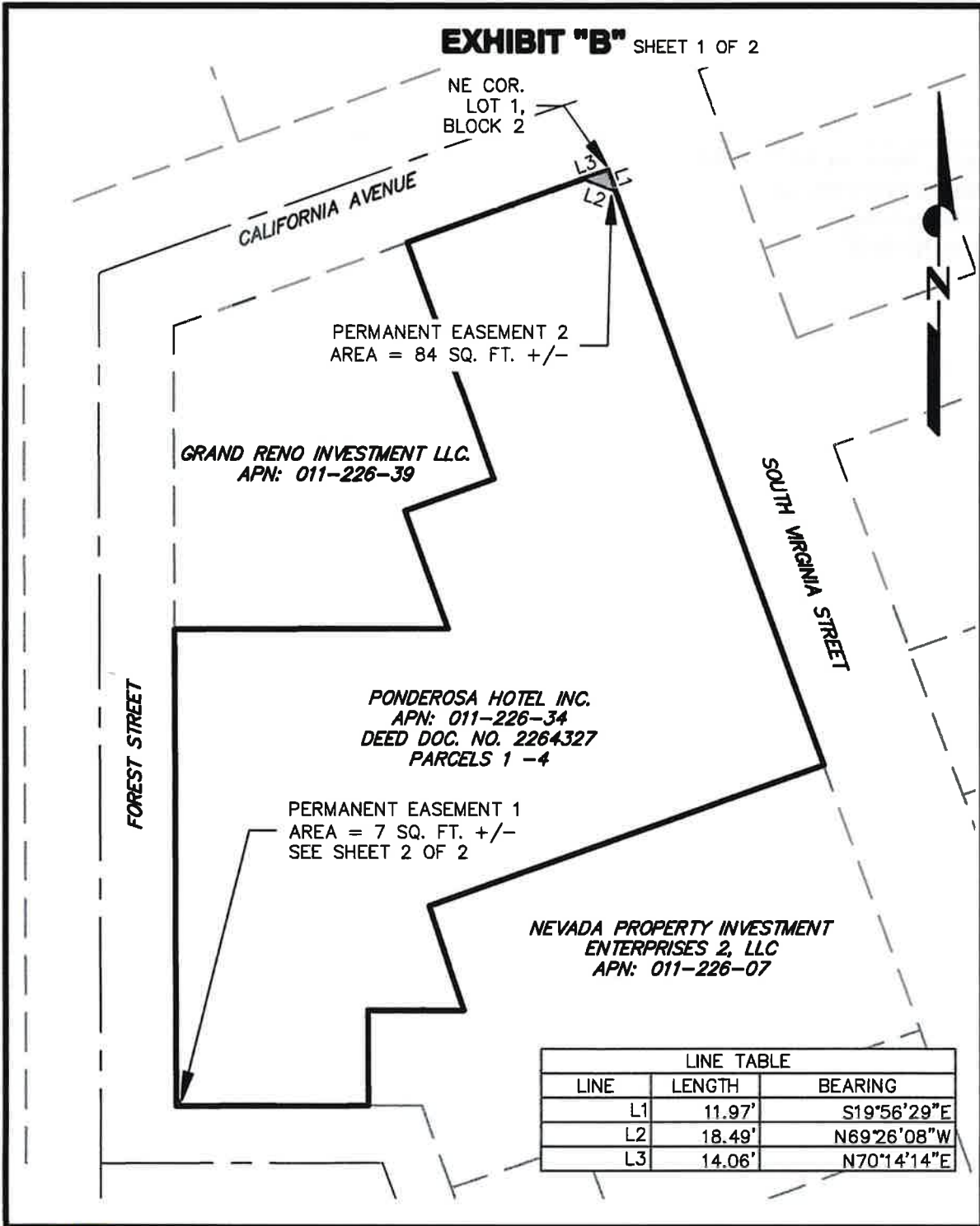
The combined area of Permanent Easement 1 and 2, containing an area of 91 square feet, more or less.

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

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

**EXHIBIT "B"** SHEET 1 OF 2



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

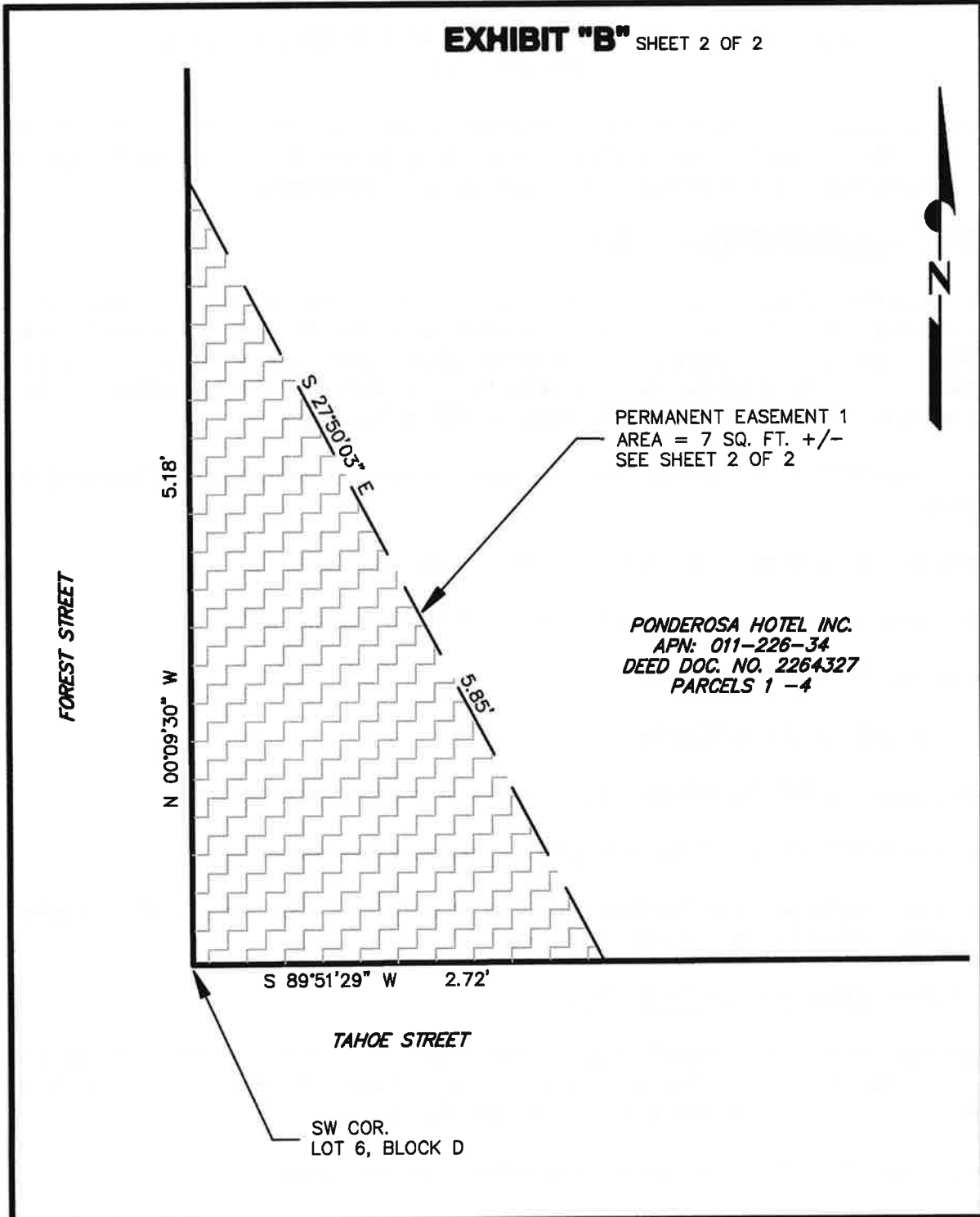
PHONE (775) 813-4934  
 FAX (775) 359-4476

**Land Surveyors - Civil Engineers**

W.O. #: 2016\_152  
 BY: GRA  
 DATE: 10/31/2017  
 SCALE: 1" = 80'



**EXHIBIT "B"** SHEET 2 OF 2



**BATTLE BORN VENTURES, LLC**  
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**Land Surveyors - Civil Engineers**

W.O. #:	2016_152
BY:	GRA
DATE:	05/16/2018
SCALE:	1" = 1'

**EXHIBIT "A"**  
**LEGAL DESCRIPTION OF TEMPORARY CONSTRUCTION EASEMENTS**  
**APN: 011-226-34**

All those temporary construction easements, situate within a portion of the North East 1/4 of Section 14 and South East 1/4 of Section 11, 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:

**TEMPORARY CONSTRUCTION EASEMENT 1**

Beginning at the south west corner of that certain parcel of land described in deed as Parcel 3, recorded in the official records of Washoe County Recorder's Office on October 05, 1998, as Document File # 2264327, said point also being a point of intersection with the easterly line of Forest Street and the northerly line of Tahoe Street, said point also being the south west corner of Lot 6 in Block D of the Crampton's Addition to Reno, recorded on November 16, 1906, as Tract Map # 15;

Thence North 00°09'30" West 5.18 feet along the west boundary line of said parcel to the **true point of beginning**;

Thence North 00°09'30" West 8.87 feet along the west boundary line of said parcel;

Thence departing west boundary line of said parcel, North 89°29'36" East 4.08 feet;

Thence South 01°09'20" East 8.14 feet;

Thence South 89°51'02" East 38.22 feet;

Thence South 00°08'58" West 5.73 feet to a point on the south boundary line of said parcel;

Thence South 89°51'29" West 39.69 feet along the south boundary line of said parcel;

Thence departing the south boundary line of said parcel, North 27°50'03" West 5.85 feet to the **true point of beginning**, containing 274 square feet, more or less.

**TEMPORARY CONSTRUCTION EASEMENT 2**

**Beginning** at the south east corner of that certain parcel of land described in deed as Parcel 2, recorded in the official records of Washoe County Recorder's Office on October 05, 1998, as Document File # 2264327, said point also being a point on the westerly line of South Virginia Street;

Thence South 70°23'16" West 1.62 feet along the south boundary line of said parcel;

Thence departing south boundary line of said parcel, North 20°05'53" West 32.17 feet;

Thence South 69°54'07" West 5.00 feet;

Thence North 20°05'53" West 41.07 feet;

Thence North 69°54'07" East 5.00 feet;

Thence North 20°05'53" West 207.05 feet;

Thence South 68°30'44" West 5.00 feet;

Thence North 20°05'53" West 36.15 feet;

Thence North 61°38'39" West 15.35 feet;

Thence North 20°25'31" West 4.69 feet to a point on the north boundary line of Parcel 1 of said deed, said point also being a point on the southerly line of California Avenue;

Thence North 70°14'14" East 3.68 feet along the north boundary line of said parcel;

Thence departing the north boundary line of said parcel, South 69°26'08" East 18.49 feet to a point on the east boundary line of said parcel, said point also being a point on the westerly line of South Virginia Street;

Thence South 19°56'29" East 320.44 feet along the east boundary line of said parcel to the **point of beginning**, containing 1,179 square feet, more or less.

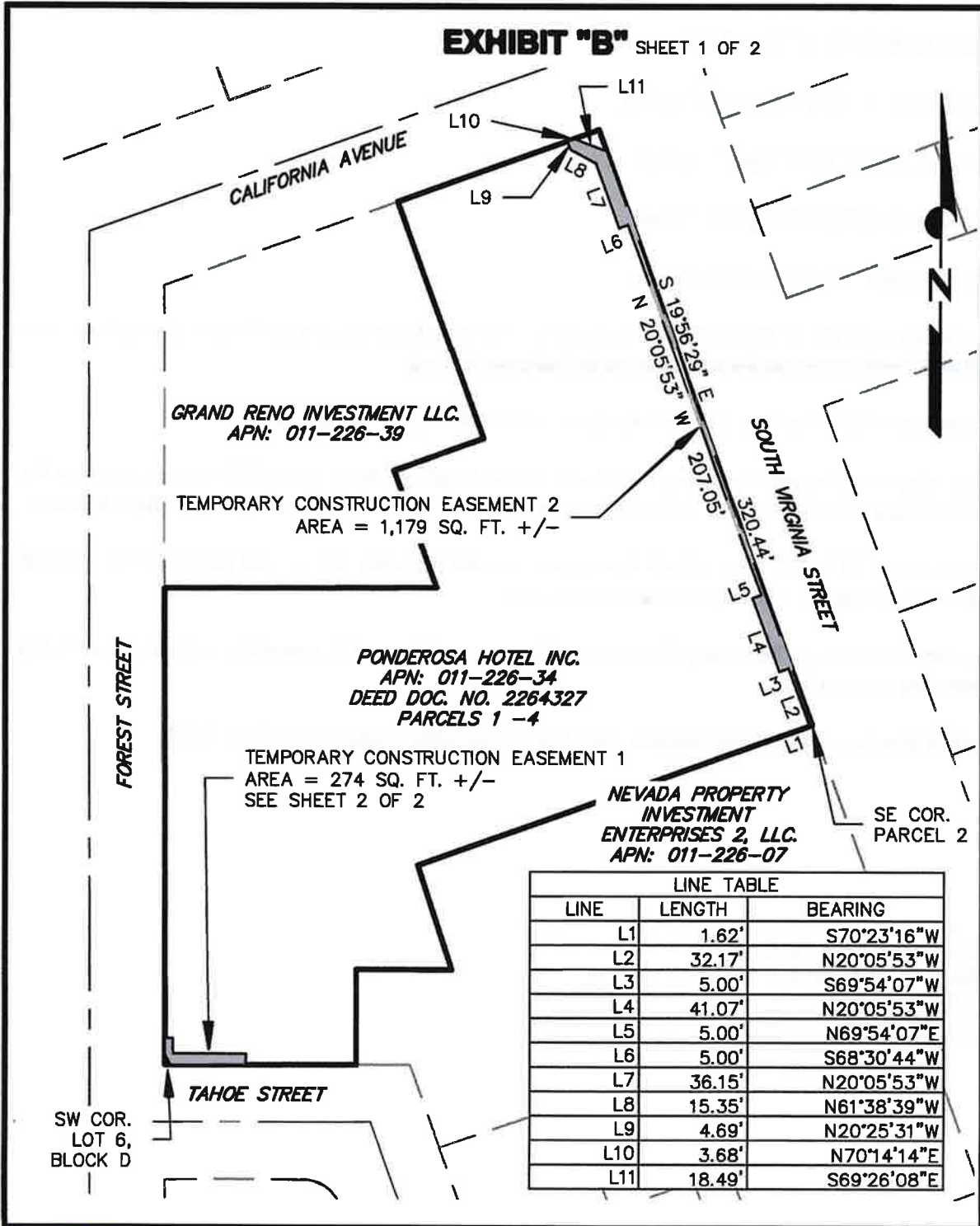
The combined area of Temporary Construction Easements 1 through 2, containing a total area of 1,453 square feet, more or less.

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

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Battle Born Ventures, LLC  
600 Gleeson Way  
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**EXHIBIT "B"** SHEET 1 OF 2



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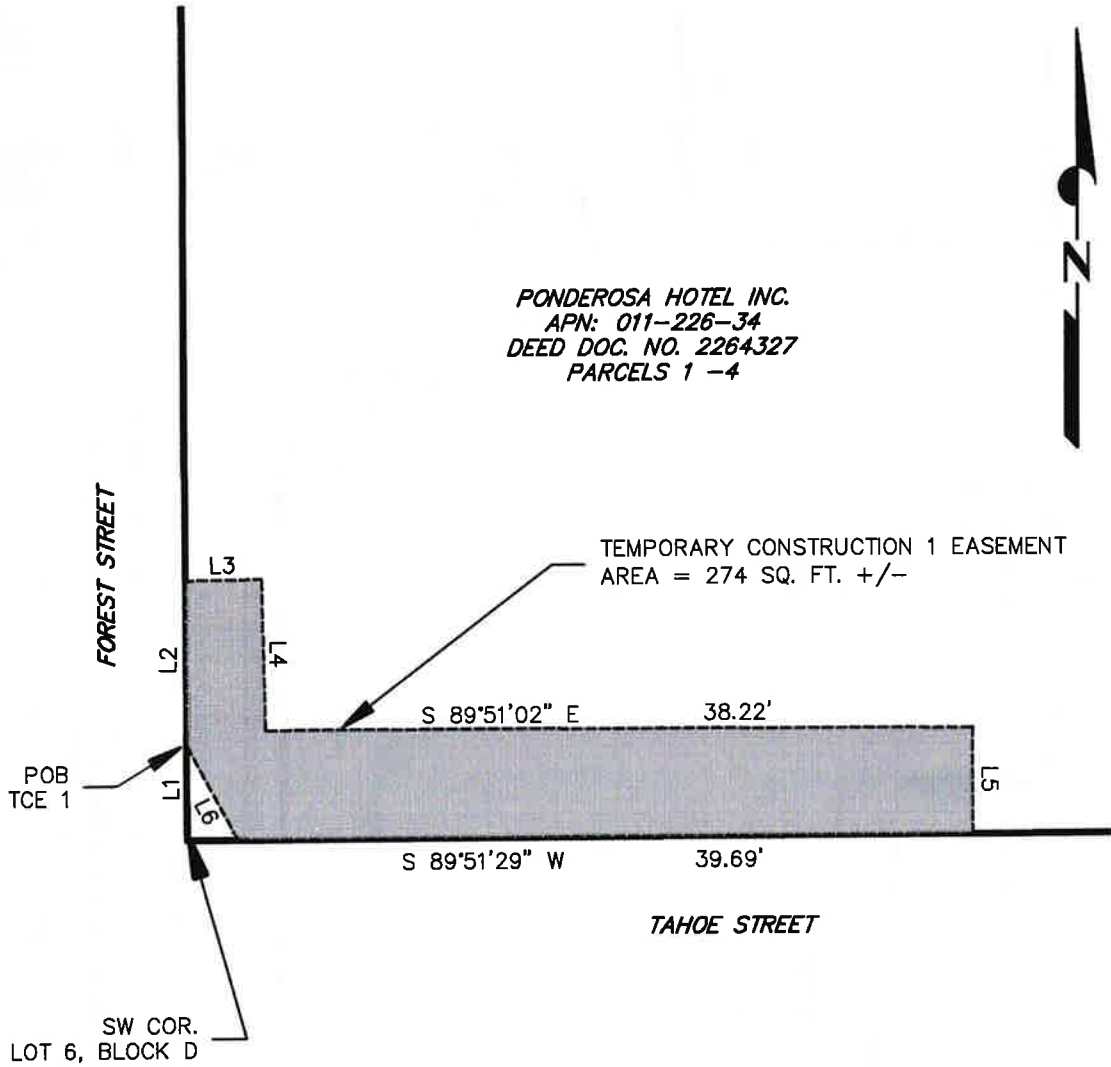
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SCALE: 1" = 80'

**EXHIBIT "B"** SHEET 2 OF 2

PONDEROSA HOTEL INC.  
 APN: 011-226-34  
 DEED DOC. NO. 2264327  
 PARCELS 1 -4



LINE TABLE		
LINE	LENGTH	BEARING
L1	5.18'	N00°09'30"W
L2	8.87'	N00°09'30"W
L3	4.08'	N89°29'36"E
L4	8.14'	S01°09'20"E
L5	5.73'	S00°08'58"W
L6	5.85'	N27°50'03"W



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W.O. #: 2016\_152  
 BY: GRA  
 DATE: 5/16/2018  
 SCALE: 1" = 10'



