



REGIONAL TRANSPORTATION COMMISSION

Metropolitan Planning • Public Transportation & Operations • Engineering & Construction

Metropolitan Planning Organization of Washoe County, Nevada

March 15, 2019

AGENDA ITEM 6.4

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 014-063-01, 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 a permanent easement and a temporary construction easement on APN 014-063-01 from Romero et al, 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 to the Professional Services Agreement with Nichols Consulting Engineers (“NCE”) for Final Design of the Virginia Street Bus RAPID Transit Extension Project (the “Project”). 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 (“Paragon”) was selected as the firm to provide the right of way acquisition services at the November 18, 2016, RTC Board Meeting. Thereafter, Paragon initiated the process of acquiring the right-of-way for the Project.

Through an Interlocal Cooperative Agreement with the City of Reno dated May 24, 2016, the RTC has been authorized to negotiate and/or initiate eminent domain proceeding for right-of-way acquisition when necessary for the Project. Paragon has been attempting to negotiate the purchase of property rights needed to construct the Project from the owners of APN 014-063-01. Those efforts have been unsuccessful to date.

To ensure timely construction of the Project, the approval of this Resolution of Condemnation allows the RTC to initiate condemnation proceedings for these property rights. Proper notice of this agenda item has been provided to the property owner as required by the 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 result in the acquisition of the property rights through purchase. Every effort to reach

satisfactory purchase agreements will continue to be made until a complaint in eminent domain is filed with the court. Thereafter, the RTC will continue to attempt to negotiate a resolution that is fair and equitable.

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 Romero et al.

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 of a permanent easement and a temporary construction easement located on APN 014-063-01 as described in Exhibit "A" and depicted on Exhibit "B," attached hereto and incorporated herein by reference, on or about December 7, 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 15th day of March, 2019, by the following vote of the Regional Transportation Commission:

AYES: _____

NAYS: _____

ABSTAIN: _____

Approved this 15th day of March, 2019.

REGIONAL TRANSPORTATION COMMISSION
OF WASHOE COUNTY, STATE OF NEVADA

BY _____
BOB LUCEY, CHAIR

STATE OF NEVADA
COUNTY OF WASHOE

The above-instrument was acknowledged before me this 15th day of March, 2019, by Bob Lucey,
Chair of the Regional Transportation Commission.

Notary Public

EXHIBIT A

**EXHIBIT "A"
LEGAL DESCRIPTION OF PERMANENT EASEMENT
APN: 014-063-01**

A permanent easement, situate within a portion of the North East 1/4 of Section 14, 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:

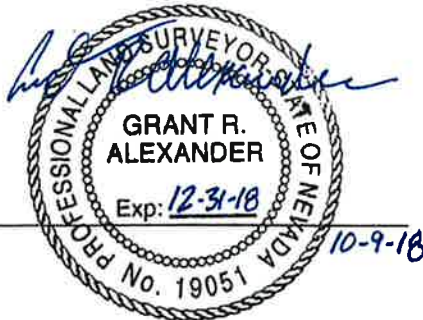
Beginning at the north west corner of that certain parcel of land described as Lot 9 in Block 4 of Amended Plat of Blocks 4, 5 and 9 of an Amended Plat of Martin Addition, Reno, Nevada, recorded in the official records of Washoe County Recorder's Office on May 28, 1907, as Tract Map # 73, said point being a point of intersection with the easterly line of Haskell Street and the southerly line of Martin Street;

Thence North 70°03'09" East 2.28 feet along the north boundary line of said parcel;

Thence departing the north boundary line of said parcel, South 37°43'12" West 2.70 feet to a point on the west boundary line of said parcel;

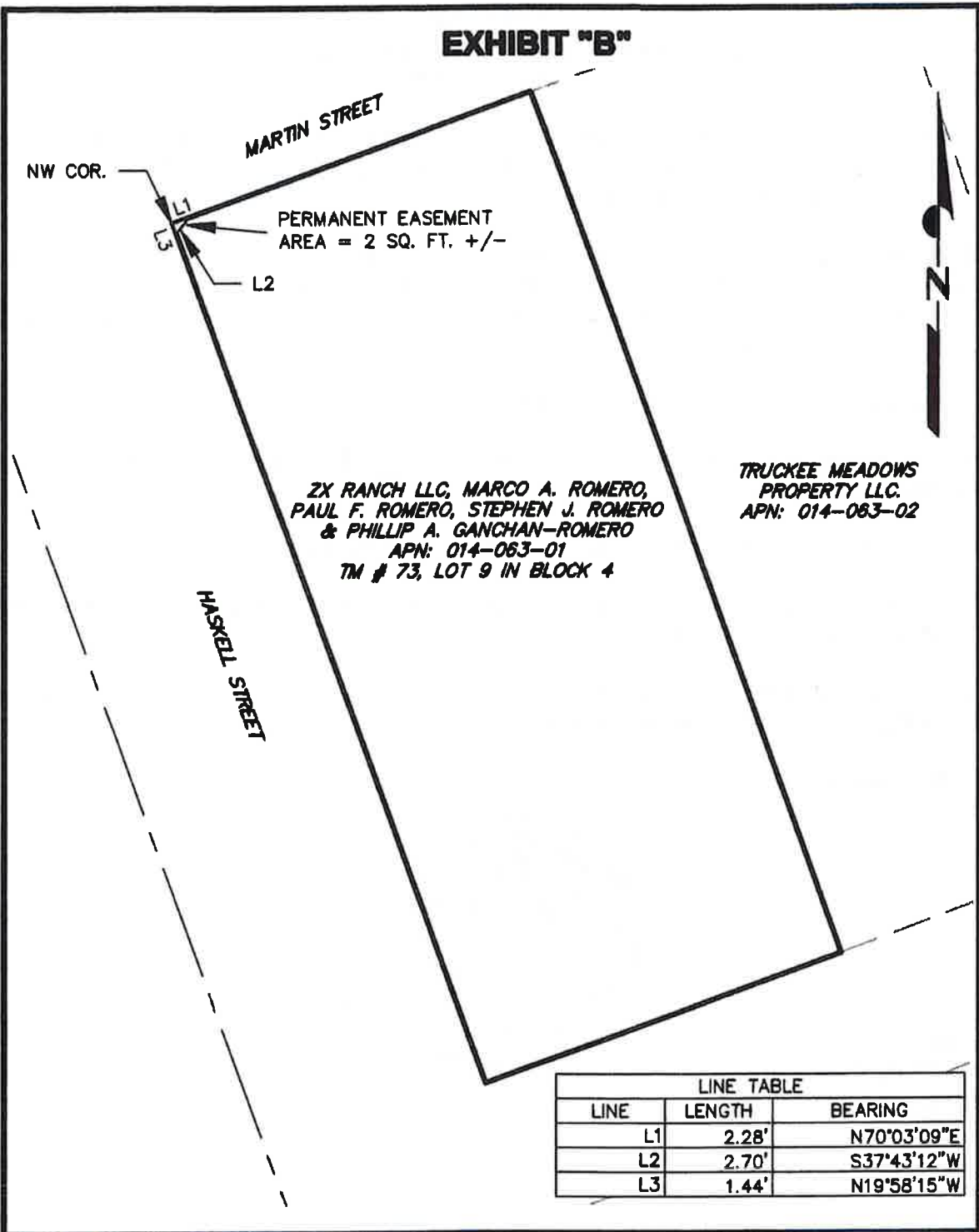
Thence North 19°58'15" West 1.44 feet along the west boundary line of said parcel to the **point of beginning**, containing 2 square feet, more or less.

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"



LINE TABLE		
LINE	LENGTH	BEARING
L1	2.28'	N70°03'09"E
L2	2.70'	S37°43'12"W
L3	1.44'	N19°58'15"W



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: 01/08/2018
 SCALE: 1" = 20'

EXHIBIT "A"
LEGAL DESCRIPTION OF TEMPORARY CONSTRUCTION EASEMENT
APN: 014-063-01

A temporary construction easement, situate within a portion of the North East 1/4 of Section 14, 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 9 in Block 4 of Amended Plat of Blocks 4, 5 and 9 of an Amended Plat of Martin Addition, Reno, Nevada, recorded in the official records of Washoe County Recorder's Office on May 28, 1907, as Tract Map # 73, said point being a point on the southerly line of Martin Street;

Thence South 19°59'24" East 4.14 feet along the east boundary line of said parcel;

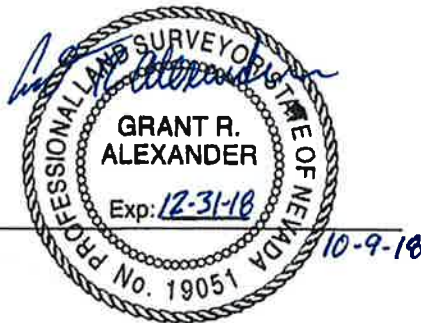
Thence departing the east boundary line of said parcel, South 70°18'18" West 49.95 feet to a point on the west boundary line of said parcel;

Thence North 19°58'15" West 2.48 feet along the west boundary line of said parcel;

Thence departing the west boundary line of said parcel, North 37°43'12" East 2.70 feet to a point on the north boundary line of said parcel;

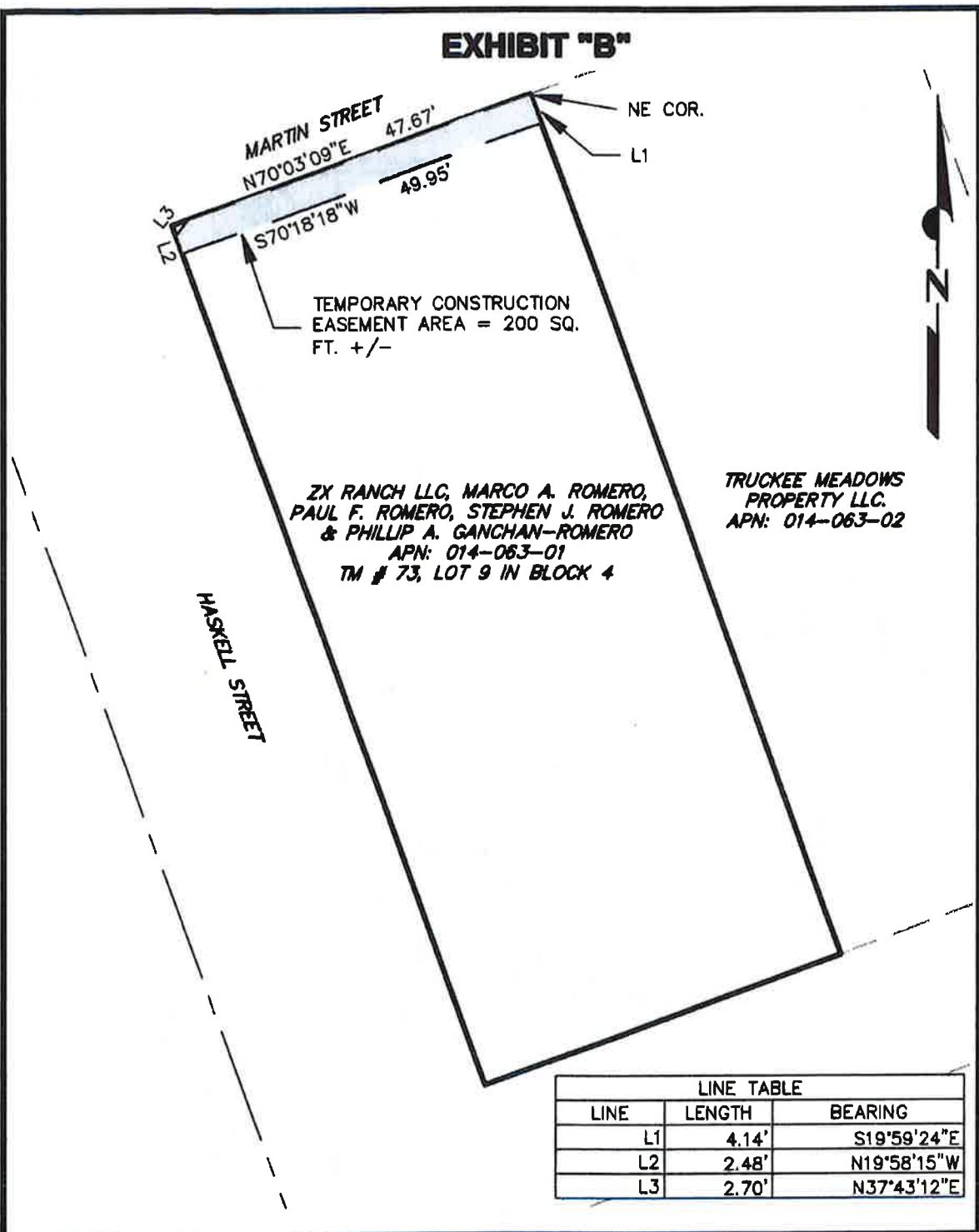
Thence North 70°03'09" East 47.67 feet along the north boundary line of said parcel to the **point of beginning**, containing 200 square feet, more or less.

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"



LINE TABLE		
LINE	LENGTH	BEARING
L1	4.14'	S19°59'24"E
L2	2.48'	N19°58'15"W
L3	2.70'	N37°43'12"E



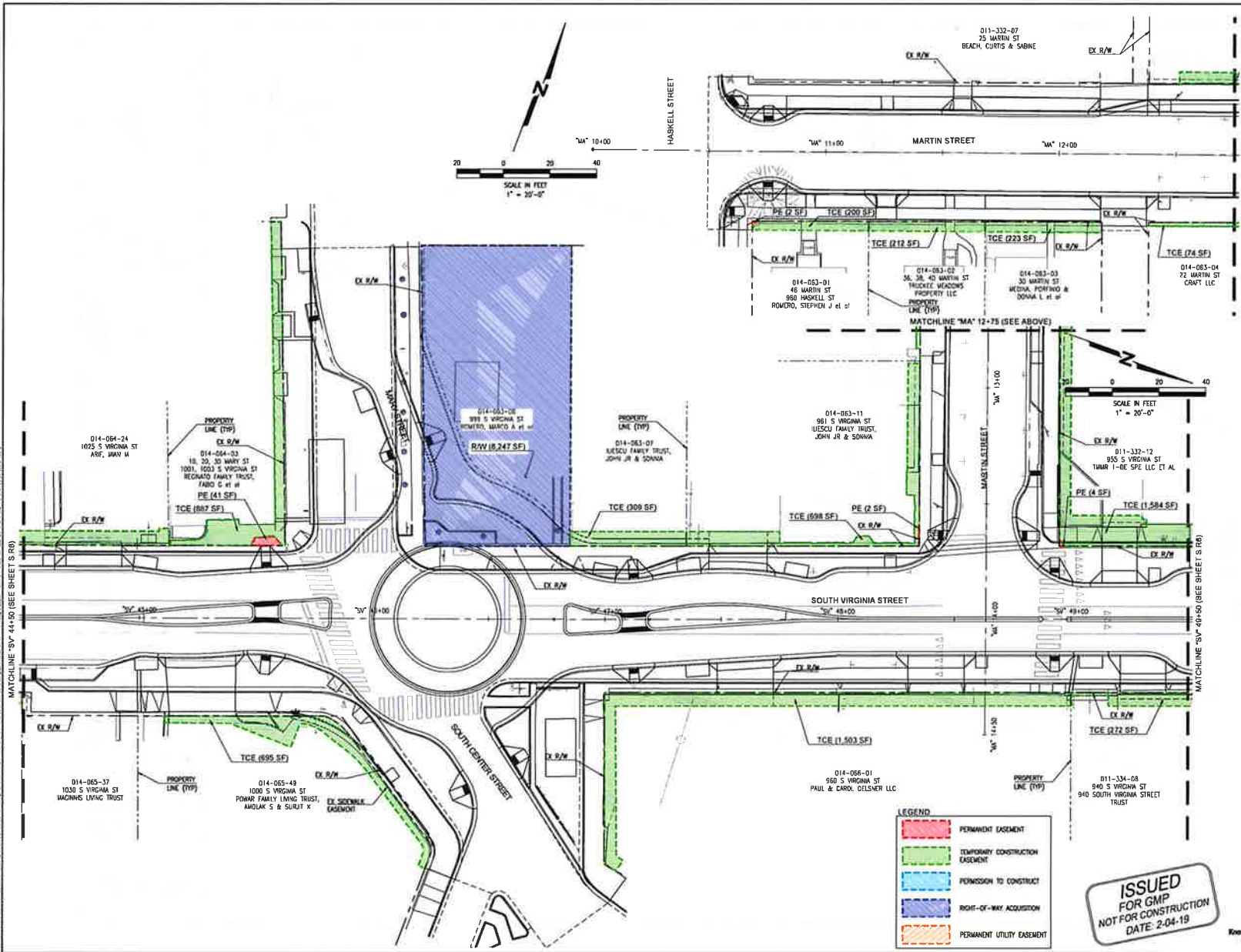
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 600 GLEESON WAY
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Land Surveyors - Civil Engineers

W.O. #: 2016_152
 BY: GRA
 DATE: 01/08/2018
 SCALE: 1" = 20'

EXHIBIT B



NCE
 1885 S. Arlington Ave. Suite 111
 Reno, Nevada 89509
 (775) 320-4555 * Fax (775) 320-5088



VIRGINIA STREET BUS RAPID TRANSIT EXTENSION PROJECT PHASE 2

CLIENT
RTC REGIONAL TRANSPORTATION COMMISSION
 1105 TERMINAL WAY,
 SUITE 109 RENO, NV 89502
 PHONE (775) 548-0171

NO.	DATE	DESCRIPTION

The drawing is the property of NCE, including all patented and patented features, and/or confidential information and its use is prohibited upon the user's approval and will be returned to the drawing, in whole or part, upon the material's expiration thereof. All the use of the drawing for any purpose other than that specifically permitted in writing by NCE.

PROJECT NO:	A173.25.14
DESIGNED BY:	SPT
DRAWN BY:	SPT
CHECKED BY:	ADH
DATE:	1-28-19
	2-04-19
SHEET TITLE	
RIGHT OF WAY	
"SV" 44+50 TO "SV" 49+50	
"MA" 10+00 TO "MA" 14+50	
DRAWING	
S.R.7	
SHEET	12 OF 332

ISSUED FOR GMP NOT FOR CONSTRUCTION DATE: 2-04-19

