



REGIONAL TRANSPORTATION COMMISSION

Metropolitan Planning • Public Transportation & Operations • Engineering & Construction

Metropolitan Planning Organization of Washoe County, Nevada

April 19, 2019

AGENDA ITEM 6.5

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 014-066-01, 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 temporary construction easement on APN 014-066-01 from Paul & Carol Oelsner, 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 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 014-066-01. 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. The 100 percent design plans for the project are complete. The roadway reconstruction and BRT project work in the South Virginia-Midtown segment of the project is tentatively scheduled to begin in June 2019 pending receipt of a Letter of No Prejudice from the FTA and successful negotiation with the CMAR contractor. Work in the North Virginia-UNR segment of the project is anticipated to begin mid-2020. With these anticipated start dates, the roadway construction and BRT improvements are scheduled to be complete by the end of 2020.

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 Paul & Carol Oelsner, 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 of a temporary construction easement located on APN 014-066-01 as described in Exhibit "A" and depicted on Exhibit "B," attached hereto and incorporated herein by reference, on or about December 27, 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 19th day of April, 2019, by the following vote of the Regional Transportation Commission:

AYES: _____

NAYS: _____

ABSTAIN: _____

Approved this 19th day of April, 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 19th day of April, 2019, by Bob Lucey,
Chair of the Regional Transportation Commission.

Notary Public

EXHIBIT A

**EXHIBIT "A"
LEGAL DESCRIPTION OF TEMPORARY CONSTRUCTION EASEMENT
APN: 014-066-01**

A temporary construction easement, situate within a portion of the North East 1/4 of Section 14 and North 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 west corner of that certain parcel of land described in deed, recorded in the official records of Washoe County Recorder's Office on December 29, 2017, as Document File # 4776268, said point being a point on the easterly line of South Virginia Street;

Thence North 69°55'32" East 5.70 feet along the north boundary line of said parcel;

Thence departing the north boundary line of said parcel, South 20°05'53" East 180.72 feet;

Thence South 20°03'23" East 14.61 feet;

Thence North 69°29'03" East 64.48 feet;

Thence North 15°35'58" East 3.70 feet;

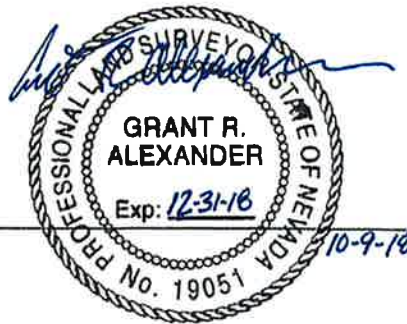
Thence South 74°24'02" East 5.40 feet to a point on the east boundary line of said parcel;

Thence South 08°57'21" West 5.75 feet along the east boundary line of said parcel to the south east corner of said parcel;

Thence South 69°55'32" West 74.00 feet along the south boundary line of said parcel to the south west corner of said parcel;

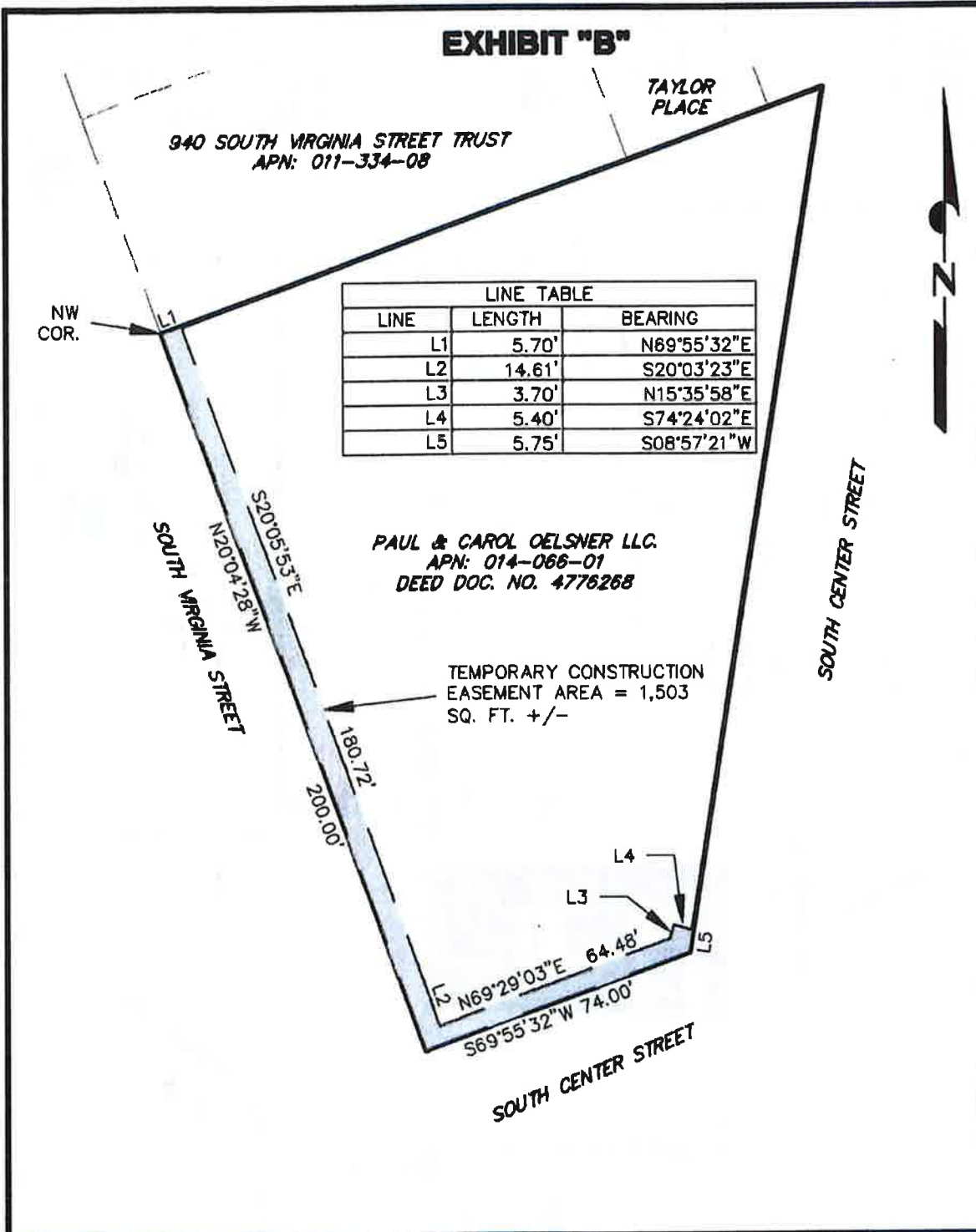
Thence North 20°04'28" West 200.00 feet along the west boundary line of said parcel to the point of beginning, containing 1,503 square feet, more or less.

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"



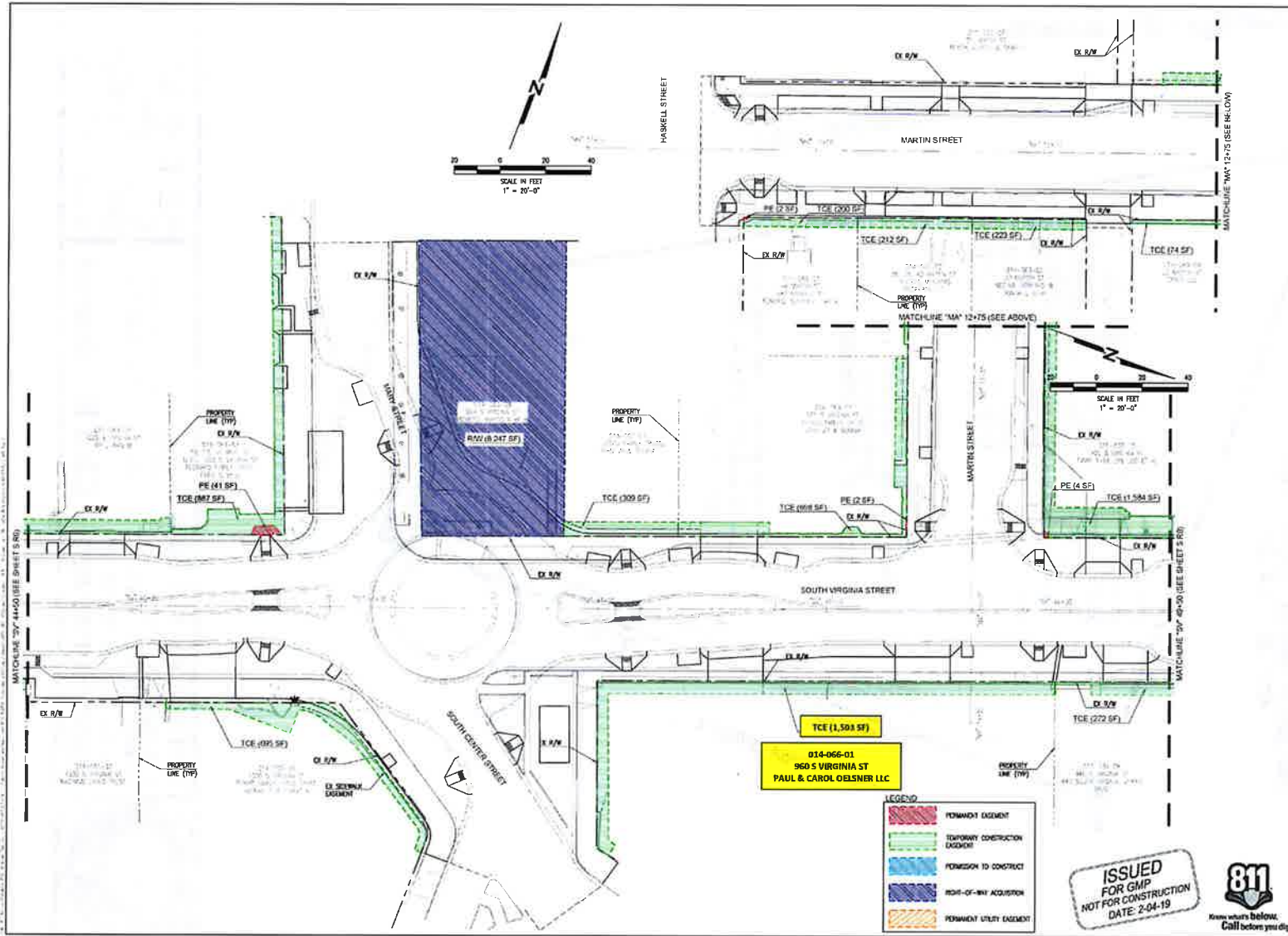
BATTLE BORN VENTURES, LLC
 600 GLEESON WAY
 SPARKS, NEVADA 89431
 www.battlebornventures.com

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

Land Surveyors - Civil Engineers

W.O. #: 2016_152
 BY: GRA
 DATE: 12/07/2017
 SCALE: 1" = 40'

EXHIBIT B



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: A17375.14
 DESIGNER: SPI
 ENGINEER: SPI
 CHECKED BY: ADH SAR: 1-28-19
 DATE: 2-04-19

RIGHT OF WAY
 "SV" 44+50 TO "SV" 49+50
 "MA" 10+00 TO "MA" 14+50

DRAWING: S.R7
 SHEET: 12 OF 332

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



LEGEND

	FORWARD EASEMENT
	TEMPORARY CONSTRUCTION EASEMENT
	PERMISSION TO CONSTRUCT
	RIGHT-OF-WAY ACQUISITION
	PERMANENT UTILITY EASEMENT