



September 7, 2016
AGENDA ITEM #16

Consideration of the use of eminent domain to
condemn property for the 183 South Project

CENTRAL TEXAS
Regional Mobility Authority

Strategic Plan Relevance: Regional Mobility
Department: Engineering / Law
Contact: Justin Word P.E., Director of Engineering / Geoff Petrov, General Counsel
Associated Costs: Not Applicable
Funding Source: Not Applicable
Action Requested: Consider and act on draft resolution

Summary:

The CTRMA must acquire utility easements, related property interests, or both (“Property”) from real estate that abuts or is near the existing 183 South Project right-of-way.

Each owner of a parcel or property interest identified has received an official written offer to purchase the Property for an amount determined by an independent, professional appraiser. The CTRMA or its agent is required to pay no less than the offer made for the Property.

If, for any reason, a negotiation to acquire a parcel reaches an impasse, having this authorization to file a condemnation suit will minimize the risk of a possible delay and additional costs.

The parcels for your consideration and action at this meeting are:

- A. Parcel E15 of the 183 South (Bergstrom Expressway) Project, a 0.242 acre parcel of real estate, **owned by Church of Christ at East Side**, and located at 5701 E. Martin Luther King, Jr. Blvd. in Austin, TX 78723.

Backup provided: Draft Resolution; Parcel Survey; Easement Map

**GENERAL MEETING OF THE BOARD OF DIRECTORS
OF THE
CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY**

RESOLUTION NO. 16-0XX

**AUTHORIZING ACQUISITION OF PROPERTY RIGHTS BY AGREEMENT
OR CONDEMNATION OF CERTAIN PROPERTY IN TRAVIS COUNTY FOR
THE 183 SOUTH / BERGSTROM EXPRESSWAY PROJECT (PARCEL E15)**

WHEREAS, pursuant to and under the authority of Subchapter E, Chapter 370, Texas Transportation Code and other applicable law, the Central Texas Regional Mobility Authority (“Mobility Authority”) hereby finds and determines that to promote the public safety, to facilitate the safety and movement of traffic, and to preserve the financial investment of the public in its roadways and the roadways of the State of Texas, public convenience and necessity requires acquisition of a utility easement, as that utility easement is described by metes and bounds in Exhibit A to this Resolution (the “Property”), owned by Church of Christ at East Side (the “Owner”), located at 5701 E. Martin Luther King, Jr. Blvd., Austin, in Travis County, for the construction, reconstruction, maintaining, widening, straightening, lengthening, and operating of the US 183 South / Bergstrom Expressway Project (the “Project”), as a part of the improvements to the Project; and

WHEREAS, an independent, professional appraisal report of the Property has been submitted to the Mobility Authority or its agent, and an amount has been established to be just compensation for the property rights to be acquired; and

WHEREAS, the Executive Director of the Mobility Authority, through agents employed or contracted with the Mobility Authority, has transmitted an official written offer to the Owner, based on the amount determined to be just compensation, and has entered into good faith negotiations with the Owner of the Property to acquire the Property; and

WHEREAS, as of the date of this Resolution, the Executive Director and the Owner have failed to agree on the amount determined to be just compensation due to said Owner for the Property; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors that the Executive Director is specifically authorized to negotiate and execute, if possible, an agreement to acquire the Property for consideration in an amount that does not exceed the official written offer previously transmitted to the Owner; and

BE IT FURTHER RESOLVED that the Executive Director is authorized and directed to negotiate an agreement to acquire the Property and all leasehold interests in the Property by agreement, subject to approval of the agreement and acquisition price by the Board of Directors; and

BE IT FURTHER RESOLVED that at such time as the Executive Director concludes that further negotiations with Owner to acquire the Property by agreement would be futile, the Executive Director or his designee is hereby authorized and directed to file or cause to be filed a suit in eminent domain to acquire the Property for the aforesaid purposes against the Owner and the owners of any interest in, and the holders of any lien secured by the Property described in the attached Exhibit A; and

BE IT FURTHER RESOLVED that the Executive Director or his designee is hereby authorized and directed to incur such expenses and to employ such experts as he shall deem necessary to assist in the prosecution of such suit in eminent domain, including, but not limited to, appraisers, engineers, and land use planners.

Adopted by the Board of Directors of the Central Texas Regional Mobility Authority on the 7th day of September, 2016.

Submitted and reviewed by:

Approved:

Geoffrey Petrov, General Counsel

Ray A. Wilkerson
Chairman, Board of Directors

Exhibit A

Church of Christ at East Side
To
City of Austin
(Water Line Easement)

Field Notes for Parcel 15 WE

BEING 0.242 OF ONE ACRE (10549 S.F.) OF LAND, MORE OR LESS, OUT OF AND A PART OF THE JESSE C. TANNEHILL SURVEY No. 29, ABSTRACT No. 22 IN TRAVIS COUNTY, TEXAS, SAME BEING A PORTION OF THE 26.845 ACRE TRACT CONVEYED AS TRACT 2 TO THE CHURCH OF CHRIST AT EAST SIDE BY GENERAL WARRANTY DEED EXECUTED ON MAY 6, 2011, FILED FOR RECORD ON MAY 6, 2011 AND RECORDED IN DOCUMENT 2011065761 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, SAID 0.242 OF ONE ACRE (10549 S.F.) OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS AND AS SHOWN ON THE ATTACHED SKETCH:

BEGINNING at a TxDOT TYPE II Monument found at a corner in a westerly line of U.S. Highway 183 (known locally as Ed Bluestein Boulevard-ROW Varies) and at the southeast corner of said Tract 2, for the Point of Beginning and a southeasterly corner of the herein described tract of land having grid coordinate (Texas State Plane, Central Zone, NAD 83(HARN) U.S. Feet, Surface Adjustment Factor of 1.00011) values of N=10076497.68 and E=3138094.22;

1. THENCE, North $62^{\circ}07'39''$ West, a distance of 22.49 feet, with the northerly right-of-way line of U.S. Highway 183, and a southerly line of said Tract 2, to a calculated point for a southwesterly corner of the herein described tract of land, from which a 5/8 inch iron rod found in the westerly right-of-way line of U.S. Highway 183 and in a southerly line of said Tract 2, same being a northeasterly corner of the tract conveyed to D. J. Pickle, County Judge of Travis, County, Trustee, for the Use and Benefit of the County of Travis, recorded in Volume 294, Page 350, of the Deed Records of Travis County, Texas, bears North $62^{\circ}07'39''$ West, a distance of 22.49 feet;

2. THENCE, North $00^{\circ}40'10''$ East, a distance of 32.63 feet, leaving the northerly right-of-way line of U.S. Highway 183 and a southerly line of said Tract 2 and crossing said Tract 2, to a calculated point for a corner;

3. THENCE, North $11^{\circ}30'21''$ East, a distance of 445.25 feet, to a calculated point for a corner;

4. THENCE, North $33^{\circ}33'25''$ West, a distance of 25.00 feet, to a calculated point for a corner;

5. THENCE, North $11^{\circ}26'35''$ East, a distance of 19.23 feet, to a calculated point, same being the southwest corner of a Water Line Easement, recorded in Document 1999102350 of the Official Public Records of Travis County, Texas, for a northwesterly corner of the herein described tract of land;

6. THENCE, South $33^{\circ}33'25''$ East, a distance of 13.28 feet, with a southerly line of said Water Line Easement, to a calculated point for a corner;

7. THENCE, South $78^{\circ}33'25''$ East, a distance of 28.32 feet, to a calculated point in the westerly right-of-way line of U.S. Highway 183 and in the easterly line of said Tract 2, for the northeast corner of the herein described tract of land. from which a TxDOT Type I monument found, in the westerly right of way line

EXHIBIT "A"

of U.S. Highway 183, and in an easterly line of said Tract 2, bears North 11°30'21" East, a distance of 529.34 feet;

8. THENCE, South 11°30'21" West, a distance of 470.90 feet, with the westerly right-of-way line of U.S. Highway 183, and an easterly line of said Tract 2, to a calculated point for a corner, from which a TxDOT Type I monument found bears South 29°07'16" East, a distance of 0.81 feet;

9. THENCE, South 00°40'10" West, a distance of 41.02 feet, to the Point of Beginning and containing an area of 0.242 of one acre (10549 s.f.) of land, more or less.

I hereby declare that this survey was made on the ground, under my supervision, and that it substantially complies with the current Texas Society of Professional Surveyors standards.

David E. Martinez

David Edward Martinez
Registered Professional Land Surveyor 5434

01/25/16
Date



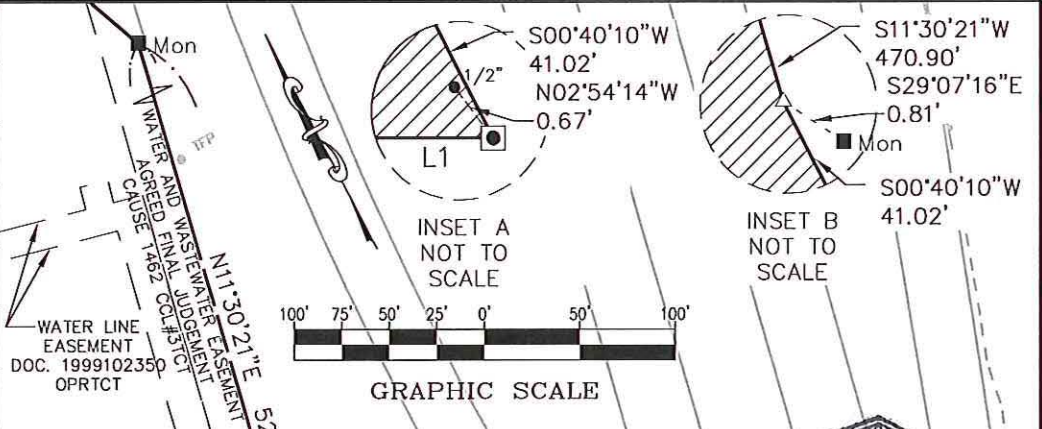
MWM DesignGroup
305 East Huntland Drive, Suite 200
Austin, Texas, 78752 (512) 453-0767
TBPLS Firm Registration No. 10065600

Bearing Basis: The bearings described herein are Texas State Plane, Central Zone, NAD 83(Harn), U.S. Feet. For surface coordinates multiply grid coordinates by the Surface Adjustment Factor of 1.00011. The reference points for this project are MWM control point 112, a cotton spindle in the centerline of sidewalk on the east side of Springdale Road approximately 85' east of Rockhurst Lane, having surface coordinate values of N=10088638.55, E=3138681.05 and MWM control point 141, a cotton gin spindle on the south side of Smith Road, approximately 920 feet east of U. S. Highway 183 centerline, at the 90 degree bend, having surface coordinate values of N= 10068786.90, E= 3136881.27, having a grid bearing of South 05°10'49" West and a surface distance of 19,933.07 feet.

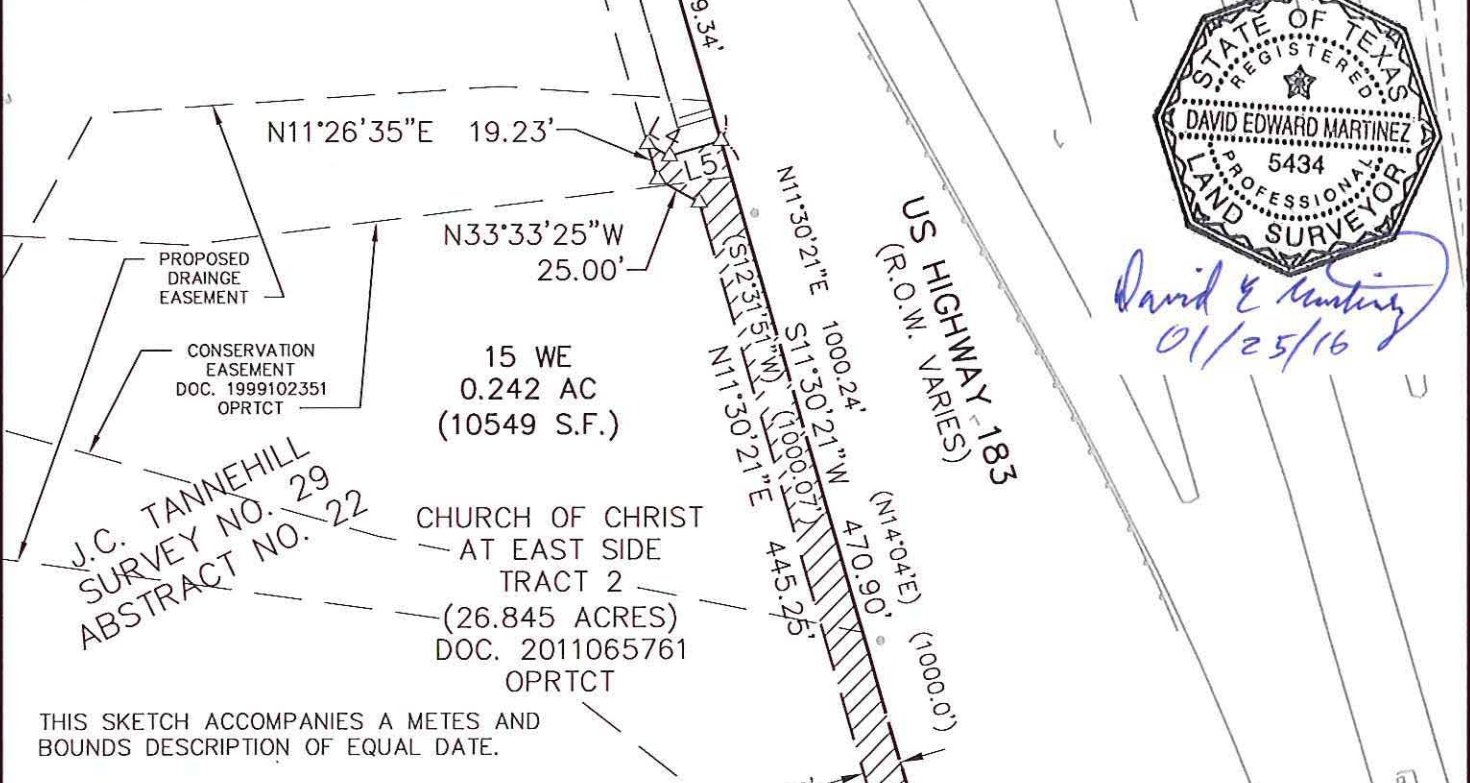
TCAD No.: 0213260401 City Grid: M23

EXHIBIT "A"

LINE TABLE		
LINE	BEARING	LENGTH
L1	N62° 07' 39"W	22.49'
L2	N62° 07' 39"W	22.49'
L3	N00° 40' 10"E	32.63'
L4	S33° 33' 25"E	13.28'
L5	S78° 33' 25"E	28.32'



David E. Martinez
01/25/16



THIS SKETCH ACCOMPANIES A METES AND BOUNDS DESCRIPTION OF EQUAL DATE.

LEGEND:

- △ CALCULATED POINT
- IRON ROD FOUND
- Mon TXDOT TY I MONUMENT FOUND
- ◻ Mon TXDOT TY II MONUMENT FOUND
- () INDICATES RECORD DATA
- CCL#3TCT COUNTY COURT AT LAW 3 TRAVIS COUNTY, TEXAS
- DRTCT DEED RECORDS OF TRAVIS COUNTY, TEXAS
- OPRTCT OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS

AREA OF EASEMENT

ALL BEARINGS ARE BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE, NAD83(HARN). ALL DISTANCES SHOWN HEREON ARE ADJUSTED TO SURFACE USING A SURFACE ADJUSTMENT FACTOR OF 1.00011. UNITS: U.S. FEET.

D. J. PICKLE, COUNTY JUDGE OF TRAVIS COUNTY, TRUSTEE, FOR THE USE AND BENEFIT OF THE COUNTY OF TRAVIS VOL. 294, PG. 350 DRTCT

SEE INSET B
SEE INSET A
POINT OF BEGINNING
N=10076497.68
E=3138094.22
(GRID COORDINATES)
S62°07'39"E 47.34' (S62°05'14"E 47.03')

TITLE REPORT REFERENCE:
FIDELITY NATIONAL TITLE INSURANCE COMPANY
ADDRESS: 3708 SPICEWOOD SPRINGS RD. AUSTIN, TX 78759
REF: AUT-13-671-AUT14003757SG



305 East Huntland Drive
Suite 200
Austin, Texas 78752
p: 512.453.0767
f: 512.453.1734
TBAE 1452
TBPE F-1416
TBPLS 10065600

SKETCH TO ACCOMPANY
FIELD NOTES

TRAVIS COUNTY, TEXAS

DATE: 25 JAN 16
JOB NO. 658-01
FILE: 15_WE.dwg

Exhibit "A"



Parcel E15 – Approximately 10,549 Square Feet.