



**CENTRAL TEXAS
Regional Mobility Authority**

July 27, 2016
AGENDA ITEM #21

Consideration of the use of eminent domain to
condemn property

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 Mobility Authority 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 Mobility Authority 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 E13A** of the 183 South (Bergstrom Expressway) Project, a 0.123 acre parcel of real estate, **owned by New Century Investment, LLC and Braker-Park, LP**, and located at 6000 FM 969 in Austin, TX 78724.

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

**RESOLUTION AUTHORIZING ACQUISITION OF PROPERTY RIGHTS
BY AGREEMENT OR CONDEMNATION OF CERTAIN PROPERTY IN
TRAVIS COUNTY FOR THE 183 SOUTH / BERGSTROM EXPRESSWAY
PROJECT (PARCEL E13A)**

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 New Century Investment, LLC and Braker-Park, LP (the “Owner”), located adjacent to the US Hwy 183S 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 27th day of July, 2016.

Submitted and reviewed by:

Approved:

Geoffrey Petrov, General Counsel

Ray A. Wilkerson
Chairman, Board of Directors

Exhibit A

Field Notes for Parcel 13A WE

BEING 0.123 OF ONE ACRE (5372 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 LOT C, R.F. BEARDEN SUBDIVISION, RECORDED IN BOOK 85, PAGE 184C OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS CONVEYED TO BRAKER-PARK LP BY GENERAL WARRANTY DEED WITH VENDOR'S LIEN EXECUTED ON SEPTEMBER 28, 2015, FILED FOR RECORD ON OCTOBER 7, 2015 AND RECORDED IN DOCUMENT 2015161780 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, SAID 0.123 OF ONE ACRE (5372 S.F.) OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS AND AS SHOWN ON THE ATTACHED SKETCH:

Beginning at a calculated point in the easterly right-of-way line of U. S. Highway 183 (known locally as Ed Bluestein Boulevard-ROW Varies), same being at a westerly corner of said Lot C, and a southwesterly corner of Lot B of said R.F. Bearden Subdivision, same also being a westerly corner of said Braker-Park LP tract, for the Point of Beginning and the most northerly 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=10077991.31 and E=3138901.57, from which a TxDOT Type I monument found at a corner in the easterly right-of-way line of U.S. Highway 183 bears North 11°35'16" East, a distance of 615.85 feet;

1. THENCE, South 78°02'57" East, leaving the easterly right-of-way line of U.S. Highway 183, with a northerly line of said Lot C, a southerly line of said Lot B and a northerly line of said Braker-Park LP tract, at a distance of 0.30 feet passing a 1/2 inch iron rod found, in all a distance of 15.00 feet to a calculated point for a northeasterly corner of the herein described tract of land, from which 1/2 inch iron rod found at a westerly corner of said Lot C and the most southerly corner of said Lot B, same being a northwesterly corner of said Braker-Park LP tract, bears South 78°02'57" East, a distance of 5.16 feet;

2. THENCE, South 11°35'16" West, a distance of 77.85 feet, leaving a northerly line of said Lot C, a southerly line of said Lot B and a northerly line of said Braker-Park LP tract, and crossing said Lot C and said Braker-Park LP tract, to a calculated point for a corner;

3. THENCE, South 38°08'58" East, a distance of 134.73 feet, to a calculated point for a corner;

4. THENCE, South 68°02'45" East, a distance of 118.39 feet, to a calculated point in a southeasterly line of said Braker-Park LP tract, for the most easterly corner of the herein described tract of land, from which a 1/2 inch iron rod found at a westerly corner of said Lot C and the most southerly corner of said Lot B, same being a northwesterly corner of said Braker-Park LP tract, bears North 21°57'54" East, a distance of 16.85 feet, North 52°00'54" East, a distance of 113.20 feet, North 37°40'49" West, a distance of 275.40 feet and South 51°57'52" West, a distance of 126.37 feet;

5. THENCE, South 21°57'54" West, a distance of 17.00 feet, with a southeasterly line of said Braker-Park LP tract, to a calculated point in a northerly line of the Water and Wastewater Easement recorded in Volume 10061, Page 369 of the Real

EXHIBIT "A"

Property Records of Travis County, Texas, for the most southerly corner of the herein described tract of land, from which a 1/2 inch iron rod found at a corner in the easterly right-of-way line of U.S. Highway 183 and in the northerly right-of-way line of FM 969 (R.O.W. varies) bears South 21°57'54" West, a distance of 20.00 feet to a 1/2 inch iron rod found at the most southerly corner of said Braker-Park LP tract and South 68°02'45" East, a distance of 124.91 feet;

6. THENCE, North 68°02'45" West, a distance of 118.92 feet, leaving a southeasterly line of said Braker-Park LP tract and crossing said Braker-Park LP tract, with the northerly line of said Water and Wastewater Easement, to a calculated point in the easterly right-of-way line of U.S. Highway 183, same being in a southwesterly line of said Lot C and in a southwesterly line of said Braker-Park LP tract, same also being the most westerly corner of said Water and Wastewater Easement, for a corner, from which a TxDOT Type I monument found in the easterly right-of-way line of U.S. Highway 183, at a southwesterly corner of said Braker-Park LP tract, bears South 38°08'58" East, a distance of 40.12 feet;

7. THENCE, North 38°08'58" West, a distance of 149.70 feet, with the easterly right-of-way line of U.S. Highway 183, same being a southwesterly line of said Lot C and a southwesterly line of said Braker-Park LP tract, to a TxDOT Type I monument found for the most westerly corner of the herein described tract of land;

8. THENCE, North 11°35'16" East, a distance of 84.90 feet, with the easterly right-of-way line of U.S. Highway 183, same being a northwesterly line of said Lot C and a northwesterly line of said Braker-Park LP tract, to the Point of Beginning and containing an area of 0.123 of one acre (5372 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

02/18/16
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.

FIELD NOTES REVIEWED

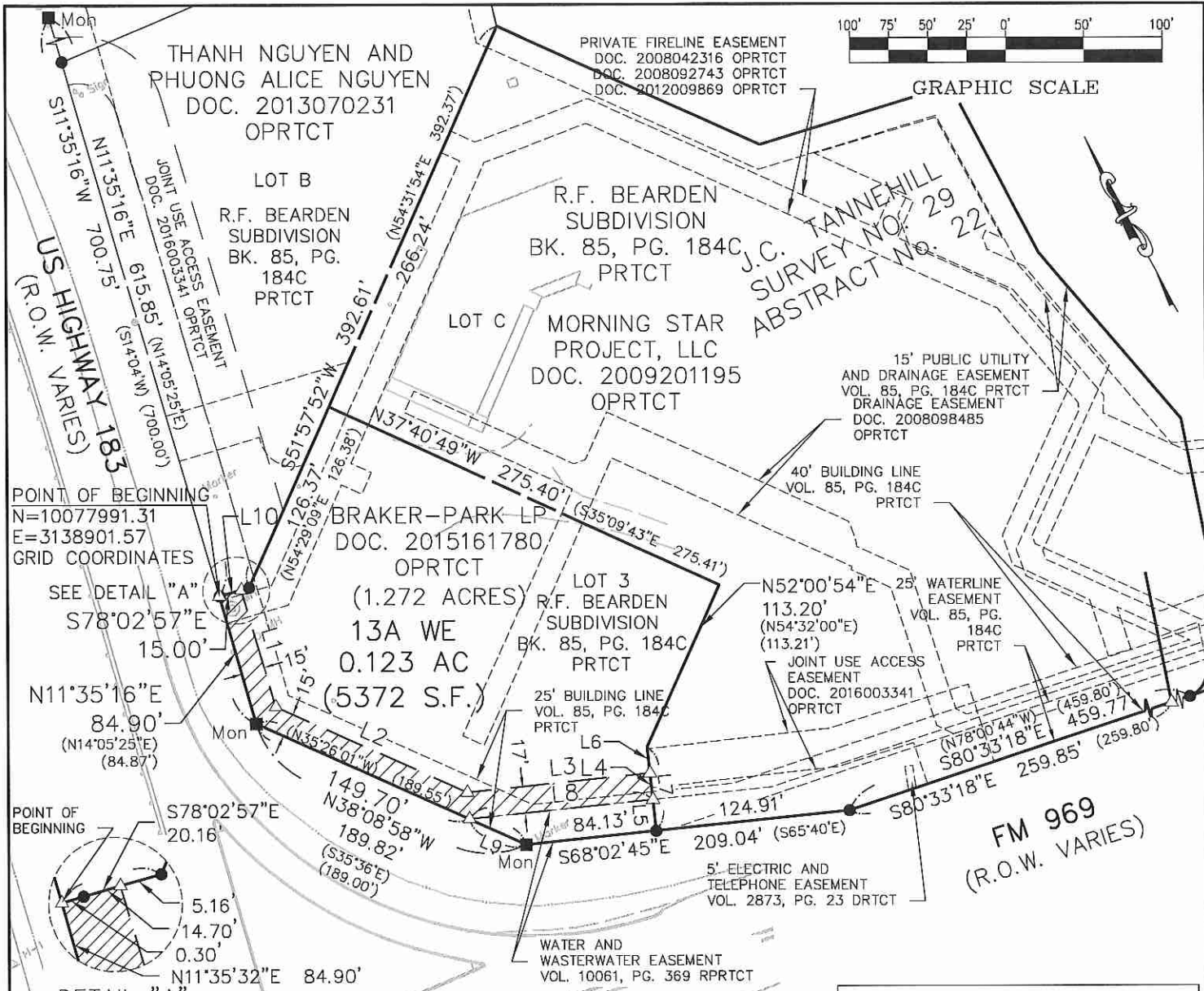
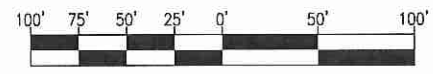
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City Grid: N24

By: _____

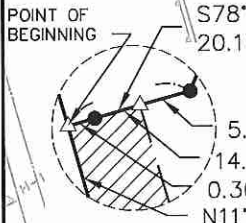
Date: _____

Signed: _____

EXHIBIT "A"



POINT OF BEGINNING
 N=10077991.31
 E=3138901.57
 GRID COORDINATES



DETAIL "A"
 N.T.S.

LEGEND:

- 1/2" IRON ROD FOUND
- △ CALCULATED POINT
- Mon ■ TxDOT TYPE I MONUMENT FOUND
- () INDICATES RECORD DATA
- PRCT PLAT RECORDS OF TRAVIS COUNTY, TEXAS
- RPRTCT REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS
- OPRTCT OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS

▨ AREA OF EASEMENT

TITLE REPORT REFERENCE:
 AUSTIN TITLE COMPANY
 3708 SPICEWOOD SPRINGS ROAD #100,
 AUSTIN, TEXAS 78759
 REF: GF No. AUT-13-671-AUT16000748SG

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

THE AREA BOUNDED BY LOT C IS CURRENTLY UNDER CONSTRUCTION.

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.



David E. Martinez
 02/18/16

LINE TABLE		
LINE	BEARING	LENGTH
L1	S11° 35' 16"W	77.85'
L2	S38° 08' 58"E	134.73'
L3	S68° 02' 45"E	118.39'
L4	S21° 57' 54"W	17.00'
L5	S21° 57' 54"W	20.00'
L6	N21° 57' 54"E	16.87'
L7	N21° 57' 54"E (S24°29'00"E)	53.87' (53.91')
L8	N68° 02' 45"W	118.92'
L9	S38° 08' 58"E	40.12'
L10	S78° 02' 57"E (S75°51'10"E)	20.16' (19.90')

mwm
 Design Group

305 East Huntland Drive
 Suite 200
 Austin, Texas 78752
 p: 512.453.0767
 f: 512.453.1734

TBAE 1452
 TBPE F-1416
 TBPL5 10065600

SKETCH TO ACCOMPANY
 FIELD NOTES

TRAVIS COUNTY, TEXAS

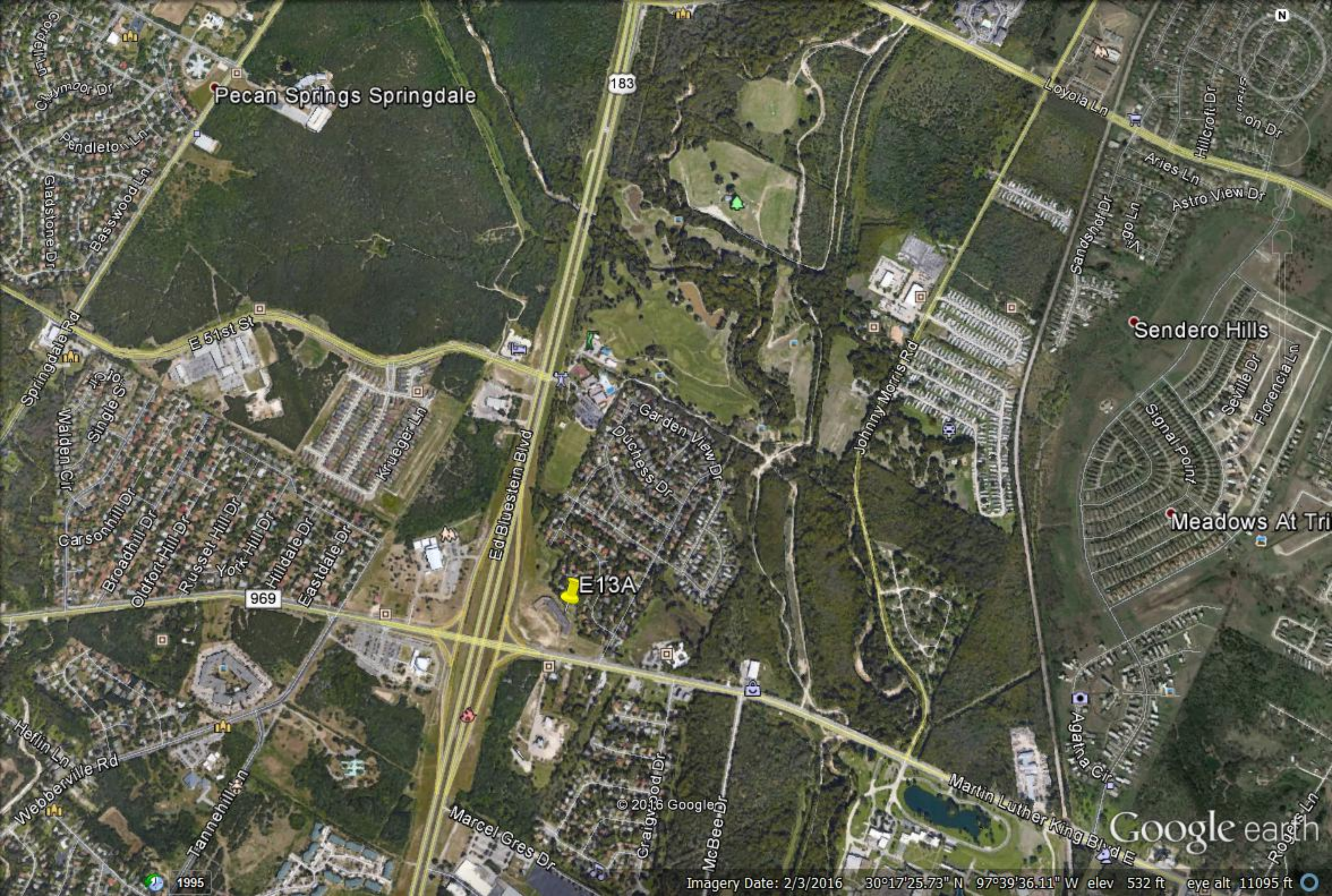
DATE: 18 FEB 16
 JOB NO: 658-01
 FILE: 13A_WE.dwg

3
 3 OF 3

Exhibit "A"



Parcel E13A – Approximately 5,372 Square Feet.



Pecan Springs Springdale

183

969

E13A

Sendero Hills

Meadows At Tri

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Google earth

Imagery Date: 2/3/2016 30°17'25.73" N 97°39'36.11" W elev 532 ft eye alt 11095 ft

1995