



**CENTRAL TEXAS
Regional Mobility Authority**

Meeting Date: September 30, 2015
AGENDA ITEM # 23

**Consideration of the use of eminent domain to
condemn property**

Strategic Plan Relevance: Regional Mobility / Innovation
Department: Engineering / Law
Contact: Andrew Martin, General Counsel
Associated Costs: Not Applicable
Funding Source: Not Applicable
Action Requested: Consider and act on draft resolutions

Summary:

The Mobility Authority must acquire additional right-of-way, related property interests, or both ("Property") from real estate that abuts or is near the existing 183 South Project right-of-way. Under the design-build contract with Colorado River Constructors, the Mobility Authority must provide the contractor with possession and use of the required additional right-of-way no later than 180 days after the Mobility Authority issues its first Notice To Proceed.

Each owner of a parcel or property interest identified on the next page has received an official written offer to purchase the Property for an amount determined by an independent, professional appraiser. The Mobility Authority 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 125 of the 183 South (Bergstrom Expressway) Project, a 0.853 acre parcel of real estate, **owned by Capital Metropolitan Transportation Authority** and located at 5316 Ed Bluestein Blvd., Austin, TX 78723, at the southwest corner of Ed Bluestein Blvd. and East 51st Street.

- B. Parcel 114E of the 183 South (Bergstrom Expressway) Project, a 0.055 acre parcel of real estate, **owned by Dr. Masoud Arami, Majid Kamalipour and Mohammed Arami** and located at 6111 FM 969, Austin, TX 78725, in the 4000 Block of Ed Bluestein.

- C. Parcel 120E of the 183 South (Bergstrom Expressway) Project, a 0.041 acre parcel of real estate, **owned by Hewlett-Packard Company** and located at 3301 Hibbetts Road, Austin, TX 78725, in the 3000 Block of Ed Bluestein.

- D. Parcel 127E of the 183 South (Bergstrom Expressway) Project, a 3.052 acre parcel of real estate, **owned by Church of Christ at East Side**, and located at 5701 E. Martin Luther King Jr. Blvd., Austin, TX 78721.

- E. Parcel 129E of the 183 South (Bergstrom Expressway) Project, a 3.874 acre parcel of real estate, **owned by MFPB Ed Bluestein, LLC**, and located at 3443 Ed Bluestein Blvd., Austin, TX 78721.

Backup provided:

Separate Draft Resolutions for Board Consideration

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

RESOLUTION NO. 15-__

**RESOLUTION AUTHORIZING ACQUISITION OF PROPERTY RIGHTS BY
AGREEMENT OR CONDEMNATION OF CERTAIN PROPERTY IN TRAVIS
COUNTY FOR THE 183 SOUTH / BERGSTROM EXPRESSWAY PROJECT
(PARCEL 125)**

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 the fee simple interest and any leasehold interests in real property, excluding any rights to the mineral estate, as that fee simple interest in real property is described by metes and bounds in Exhibit 1 to this Resolution (the “Property”), owned by Capital Metropolitan Transportation Authority (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, 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 1; 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 30th day of September, 2015.

Submitted and reviewed by:

Approved:

Andrew Martin, General Counsel

Ray A. Wilkerson, Chairman

Exhibit 1 to Resolution _____

Description of Parcel 125

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

RESOLUTION NO. 15-___

**RESOLUTION AUTHORIZING ACQUISITION OF PROPERTY RIGHTS BY
AGREEMENT OR CONDEMNATION OF CERTAIN PROPERTY IN TRAVIS
COUNTY FOR THE 183 SOUTH / BERGSTROM EXPRESSWAY PROJECT
(PARCEL 114E)**

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 drainage easement, as that drainage easement is described by metes and bounds in Exhibit 1 to this Resolution (the “Property”), owned by Dr. Masoud Arami, Majid Kamalipour and Mohammed Arami (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, 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 1; 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 30th day of September, 2015.

Submitted and reviewed by:

Approved:

Andrew Martin, General Counsel

Ray A. Wilkerson, Chairman

Exhibit 1 to Resolution _____

Description of Parcel 114E

**GENERAL MEETING OF THE BOARD OF DIRECTORS
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RESOLUTION NO. 15-___

**RESOLUTION AUTHORIZING ACQUISITION OF PROPERTY RIGHTS BY
AGREEMENT OR CONDEMNATION OF CERTAIN PROPERTY IN TRAVIS
COUNTY FOR THE 183 SOUTH / BERGSTROM EXPRESSWAY PROJECT
(PARCEL 120E)**

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 drainage easement, as that drainage easement are described by metes and bounds in Exhibit 1 to this Resolution (the “Property”), owned by Hewlett-Packard Company (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, 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 1; and

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Adopted by the Board of Directors of the Central Texas Regional Mobility Authority on the 30th day of September, 2015.

Submitted and reviewed by:

Approved:

Andrew Martin, General Counsel

Ray A. Wilkerson, Chairman

Exhibit 1 to Resolution _____

Description of Parcel 120E

**GENERAL MEETING OF THE BOARD OF DIRECTORS
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RESOLUTION NO. 15-__

**RESOLUTION AUTHORIZING ACQUISITION OF PROPERTY RIGHTS BY
AGREEMENT OR CONDEMNATION OF CERTAIN PROPERTY IN TRAVIS
COUNTY FOR THE 183 SOUTH / BERGSTROM EXPRESSWAY PROJECT
(PARCEL 127E)**

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 drainage easement, as that drainage easement is described by metes and bounds in Exhibit 1 to this Resolution (the “Property”), owned by Church of Christ at East Side (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, 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 1; and

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Adopted by the Board of Directors of the Central Texas Regional Mobility Authority on the 30th day of September, 2015.

Submitted and reviewed by:

Approved:

Andrew Martin, General Counsel

Ray A. Wilkerson, Chairman

Exhibit 1 to Resolution _____

Description of Parcel 127E

**GENERAL MEETING OF THE BOARD OF DIRECTORS
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**RESOLUTION AUTHORIZING ACQUISITION OF PROPERTY RIGHTS BY
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COUNTY FOR THE 183 SOUTH / BERGSTROM EXPRESSWAY PROJECT
(PARCEL 129E)**

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

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Adopted by the Board of Directors of the Central Texas Regional Mobility Authority on the 30th day of September, 2015.

Submitted and reviewed by:

Approved:

Andrew Martin, General Counsel

Ray A. Wilkerson, Chairman

Exhibit 1 to Resolution _____

Description of Parcel 129E