

AGENDA ITEM 33

Consider authorizing the County Judge to execute an interlocal agreement with the City of Austin regarding reimbursement for right of way and related costs for properties on RM 620 and 183A within city limits of Austin, Texas. in Williamson County.

Moved: **Commissioner Heiligenstein**

Seconded: **Judge Doerfler**

Motion: To authorize the County Judge to execute an interlocal agreement with the City of Austin regarding reimbursement for right-of-way and related costs for properties on RM 620 and 183A within the city limits of Austin, Texas in Williamson County.

Vote: **5 – 0**

< Attachment >

**AGREEMENT FOR THE ACQUISITION OF RIGHT-OF-WAY
AND UTILITY ADJUSTMENT FOR THE
STATE HIGHWAY 45 NORTH
AND U. S. HIGHWAY 183A PROJECTS**

This agreement is made by the City of Austin ("City") and Williamson County ("County") concerning the U. S. Highway 183A and State Highway 45 North projects, and entered into as authorized under Chapter 791 of the Texas Government Code. The purpose of this agreement is to authorize County to accomplish the tasks of right-of-way acquisition and relocation of City-owned utilities for those segments of U. S. Highway 183A and State Highway 45 North that are within both the County and the City's full purpose corporate boundaries, and to provide reimbursements from the City for right-of-way acquired for project segments within the City of Austin's Austin's full purpose corporate boundaries.

I. PROJECT AUTHORIZATION.

- A. Under authority of Minute Order 83158, dated May 22, 1985, the Texas Department of Transportation designated a state highway extending from Interstate Highway 35 north of Austin, southeast, southwest, northwest, and northeast, a distance of approximately 80.0 miles in Travis and Williamson Counties, known as State Highway 45 North. Under the terms of Minute Order 83158, for those segments of State Highway 45 North in Williamson County, Williamson County will provide all required right-of-way free of cost and clear of obstructions and will provide for the adjustment of utilities.
- B. Under authority of Minute Order 85378, dated January 28, 1987, the Texas Department of Transportation approved the construction of a freeway, known as U. S. 183A, to relieve the congestion on U. S. Highway 183 in Williamson County from north of Lakeline Boulevard to approximately 1.5 miles north of Leander for a distance of approximately 9.0 miles, with the freeway to be constructed in a new location in an appropriate corridor within these limits. Under the terms of Minute Order 85378, the appropriate Cities and the County will provide all required right-of-way free of cost and clear of obstructions and will provide for the adjustment of utilities.
- C. The County, as provided under the terms of the minute orders, is proceeding to acquire the necessary right-of-way for all segments of the project, and to take appropriate steps to deliver title to these parcel to the State of Texas with each parcel in a condition that is clear of obstructions.
- D. Because portions of these projects now lie within the City of Austin's full purpose corporate boundaries and will benefit the citizens of the City of Austin, the Austin City Council finds that it is appropriate for the City to reimburse certain costs for acquisition of right-of-way for project segments within the City of Austin's full purpose corporate boundaries and certain costs for relocation and adjustment of City-owned utilities for those portions of the projects within the City of Austin's full purpose corporate boundaries. The real property interests to be acquired for project right-of-way and easements for utility relocation as identified by the County are attached to this agreement as Exhibit A.

- E. For City-owned utilities that are located in easements that will be displaced by the County's right-of-way acquisition under this agreement, the County shall acquire the easements necessary to relocate City-owned utilities currently located in the easements to be displaced with title to the easement interests vesting in the City. The County shall be responsible for the construction, engineering, and design costs to relocate these utilities. The City will not reimburse the County for the cost of these easements, or the construction, engineering, and design costs to relocate these utilities.
- F. This agreement is entered into solely for the purpose of addressing those costs for which the City explicitly assumes resumes responsibility and for which it will reimburse the County. It is not intended to define the County's obligations and tasks regarding the U. S. Highway 183A and State Highway 45 North projects. It is not intended to address the costs of relocating utilities other than City of Austin utilities for these projects, nor is it intended to address the costs of designing, constructing, or completing the U. S. Highway 183A and State Highway 45 North projects. The City assumes no responsibility under this agreement or in its course of dealings with the County or the Texas Turnpike Authority for the costs of designing or constructing the Highway 183A and State Highway 45 North projects or for the costs of easements, construction, engineering, and design costs to relocate non-City utilities whether or not those utilities are located in the City's full purpose corporate boundaries.

II. PROJECT MANAGEMENT.

- A. In order to accelerate the right-of-way acquisition and clearance process for both the State Highway 45 North and U. S. HIGHWAY 183A, the County will serve as the agent to acquire all required right-of-way for the project and all necessary easements for relocating City-owned utilities, and except as otherwise provided in this section, to relocate or adjust all City-owned utilities for all segments of these projects in the County, including those segments that lie within the City of Austin's full purpose corporate boundaries. The County shall, before awarding design contracts for utility relocations for City-owned utilities under this agreement, coordinate with the directors of the City-owned utilities on any design requirements and standards. This includes confirmation that the City will not pursue design and construction of a specific portion of its utilities located in an area before proceeding with the award of a design contract. If the City undertakes the design, engineering, or construction required to relocate a portion of its utilities that would otherwise be a task carried out by the County under this agreement, the County shall reimburse the City for the cost of that specific portion of utility relocation.
- B. The County is responsible for procuring and supervising the services and contracts necessary to acquire the right-of-way, through purchase or condemnation, and to effect the necessary clearance and disposition of improvements, including utility relocation and adjustment, from the right-of-way as described in the Schedule of Services to be Performed attached as Exhibit B. In order to ensure an efficient process, it is the County's responsibility to coordinate the funding and construction for utility adjustments and relocations involving utilities that are not owned by the City and that will be affected by these projects with the owners of other utility facilities that will be affected by these projects.
- C. For all acquisitions of real property interests for which the City will reimburse the County, the County shall prepare a list describing the average schedule for the acquisition of real property

interests to be acquired. For all acquisitions of real property interests and for utility relocations and adjustments performed in furtherance of providing the required right-of-way free of cost and clear of obstructions as described in Section I above, the County shall prepare a budget, by parcel before project commencement. The budget shall include total costs such as administrative costs, including eminent domain; survey; appraisal; real property purchase costs for right-of-way; utility relocation including real property purchase cost for utility easements, construction, engineering, and design costs; relocation services; and attorney fees. The budget shall include all costs to be reimbursed by the City on a per parcel basis.

- D. For each parcel of real property to be acquired for right-of-way and for each separate unit of right-of-way for which an easement must be acquired or a construction contract is required for the adjustment and relocation of utilities under this agreement, the County shall notify the City not later than 10 business days before a proposed acquisition action, as described in Exhibit C. The City shall tender approvals, objections or questions to the proposed action not later than 10 business days after receiving a notice under this section. The County shall resolve questions or objections tendered by the City regarding the proposed action before proceeding with the action.
 - (1) If the costs for the parcel are within 10% of the appraised value for that parcel, then the City will give written administrative approval not later than the 10th day after receiving the notice of action. These transactions will be processed by the City's Real Estate Services Division Manager.
 - (2) If the costs for the parcel exceed 10% of the appraised value for that parcel, the County shall submit justification with documentation to the City of Austin Real Estate Services Division Manager for review. Reimbursement for costs above the City Manager's administrative authority must be submitted to the City Council for approval.
- E. All surveys, appraisals, and assessments obtained for the purpose of acquiring real property under this agreement shall be ordered for the benefit of the City of Austin in addition to the entity with which title for the property will vest.
- F. Title for all easements acquired for City-owned utilities shall lie with the City.
- G. The County shall comply with all applicable state and federal laws governing the process of acquiring of real property.

III. REIMBURSEMENT FUNDING.

- A. As between the City and Williamson County, Williamson County will bear 100% of the project costs for right-of-way acquisition and utility relocation for those segments of the State Highway 45 North and U. S. HIGHWAY 183A projects that lie within Williamson County and not within the City of Austin's full purpose corporate boundaries.
- B. For those segments of the State Highway 45 North and U. S. Highway 183A projects that lie within Williamson County and that lie within the City of Austin's full purpose corporate boundaries, the City will responsible for the cost for services performed to acquire the necessary right-of-way free of cost and clear of obstructions and for the adjustment of City-

owned utilities as described in Exhibit B, except as provided in Section I(D). For the State Highway 45 North project, the City will provide reimbursement to the County under this agreement in an amount not to exceed \$58,000,000. For the U. S. HIGHWAY 183A project, the City will provide reimbursement to the County under this agreement in an amount not to exceed \$6,000,000.

IV. RIGHT TO AUDIT; REPORTING REQUIREMENTS.

- A. At all times of this agreement, the City shall have the right to audit the records relevant to the project that is the subject of this agreement upon three days notice to the County.
- B. During the project and until all necessary interests in real property are acquired, the County shall provide the City with monthly reports summarizing the progress and costs of right-of-way acquisitions for project segments in the City of Austin's full purpose corporate boundaries. *The report shall itemize the budgeted costs and actual costs for each task required for each parcel.* Quarterly reports shall be due to the City not later than the 10th business day after the end of the calendar quarter. In addition, the County shall notify the City at each stage of acquisition for each parcel of real property obtained, as prescribed in the Schedule of Project Notifications, attached as Exhibit C.
- C. During the project and until all necessary utility adjustments have been completed, the County will provide the City with a quarterly report summarizing the progress and costs of utility relocations for project segments in the City of Austin's full purpose corporate boundaries. In addition, the County shall notify the City at each phase of utility relocation construction, as described in the Schedule of Project Notifications, attached as Exhibit C.

V. INVOICING; PAYMENT.

- A. For each parcel of real property that the County acquires on behalf of the City, the County shall invoice the City after completion of the transaction at transfer of title to Williamson County for each individual parcel acquired. These invoices are in addition to the quarterly reports required under Section IV(B) above.
- B. For all professional services and for each construction contract procured by the County for utility adjustment, the County shall invoice the City as it receives invoices from its vendors. Invoices sent to the City are in addition to any reports required under Section IV(C) above.
- C. The City shall remit payment for invoices received from the County:
as funds become available from the City of Austin November 2000 Proposition No. 1 bond revenues and the Interlocal Agreement for Regional Mobility Projects between Capital Metropolitan Transportation Authority and the City of Austin. The City anticipates that reimbursements for this project will be available on the following schedule:
 - (1) \$6 million is available upon execution of the agreement;
 - (2) \$15 million will be available as of October 1, 2001;
 - (3) \$15 million will be available as of October 1 2002;
 - (4) \$14 million available as of October 1, 2003;
 - (5) \$14 million available as of October 1, 2004;

- (6) Any additional funding available October 1, 2005, if approved by Council.
- D. Invoices received from the County under this agreement are payable only after the City has determined that the County has performed its reporting obligations relevant to that invoice under this agreement, including:
- (1) for acquisitions of real property interests including right-of-way and easements, all documentation relevant to the acquisition of the property and relevant to compliance with the applicable City, state, or federal requirements of the acquisition, including those items listed in Section IV(B) above; and
 - (2) for utility relocation, all documentation relevant to the utility relocations, including those items listed in Section IV(C) above.

VI. CURRENT REVENUES.

Each party paying for the performance of governmental functions or services under this agreement must make those payments from current revenues available to the paying party.

VII. EFFECTIVE DATE.

This agreement is effective on execution by both parties, and remains effective until all right-of-way acquisition and utility adjustment work on the State Highway 45 North and U. S. Highway 183A projects that are the subject of this agreement are completed and the State Highway 45 North and U. S. Highway 183A projects are completed.

VIII. TITLE FOR RIGHT-OF-WAY ACQUISITIONS IN THE EVENT OF PROJECT NON-COMPLETION.

In the event that construction of the projects in the City of Austin's full-purpose corporate boundaries has not begun in seven years from the effective date of this agreement, the title to all parcels acquired for right-of-way for the State Highway 45 North and U. S. Highway 183A in the City of Austin's full purpose corporate boundaries shall be the property of the City. Beginning of construction under this section means that the construction site for a project segment construction has been cleared and excavation for at least 25% of the project has taken place. The County shall take the appropriate action to effectuate the transfers of title to the City.

IX. TERMINATION.

On termination of this agreement for any reason, the County shall provide to the City a report including the status on all acquisitions of real property interests for right-of-way or utility easements under this agreement, outstanding invoices to the City, work that has been completed but not invoiced to the City.

X. ENTIRETY OF THE AGREEMENT.

This agreement, including any attachments, constitutes the entire agreement between the parties and supersedes all prior or contemporaneous understandings or representations, whether oral or written,

respecting the subject matter of the agreement. An amendment to this agreement is effective only if it is written and executed by each party. This agreement does not constitute an amendment or modification to another agreement between the parties.

XI. ASSIGNMENT.

A party to this agreement may not assign or transfer its interests under this agreement without the written approval of all of the remaining Parties.

XII. PERFORMANCE.

The obligations arising under this agreement shall be performed in Williamson County, Texas.

XI. VENUE.

Venue for a dispute arising from this agreement shall be in Austin, Travis County, Texas.

XII. SEVERABILITY.

If a term or provision of this agreement is determined to be void or unenforceable by a court of competent full purpose corporate boundaries, the remainder of this agreement remains effective.

XIII. NOTICE UNDER THE AGREEMENT.

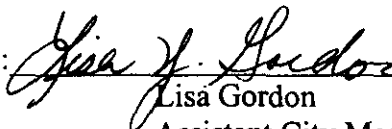
Notice to a party under this agreement must be in writing, at the respective addresses designated in the list attached as Exhibit D to this agreement. Notice under this agreement must be delivered in person, or postage prepaid by certified or registered mail, return receipt requested. Notice is effective if delivered in person or three days after deposit in the U. S. Mail, if mailed.

XIV. AUTHORITY TO EXECUTE.

A party executing this agreement shall submit certified documentation of approval by the governing body authorized to execute this agreement.

CITY OF AUSTIN:

Date: _____

By: 
Lisa Gordon
Assistant City Manager

WILLIAMSON COUNTY:

Date: _____

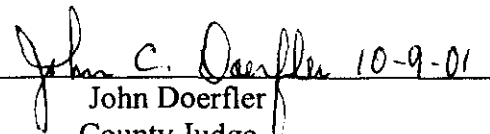
By:  10-9-01
John Doerfler
County Judge

EXHIBIT A

City of Austin Parcels - SH45		
August 9, 2001		
Parcel No.	Owner	Acres
18	Par 620, Ltd.	5.828
18E	Par 620, Ltd.	0.505
19	Williamson County	4.538
19E	Williamson County	0.495
20	Williamson County	0.003
20E	Williamson County	0.105
21	Williamson County	2.527
22	Terriville, Ltd	0.043
23	The Frost National Bank	0.159
24 Pt 1	Brinker Texas, L.P.	0.003
24 Pt 2	Brinker Texas, L.P.	0.062
25	Williamson County	7.945
26 Pt 1	Lakeline Plaza Developers	0.016
26 Pt 2	Lakeline Plaza Developers	0.009
26 Pt 3	Lakeline Plaza Developers	0.159
27	Research 620 183, Ltd.	0.43
28	System Capital Real Property	0.02
29	Marion Shipman, et al	0.011
30	Marion Shipman, et al	0.059
31	Marion Shipman, et al	0.116
32	Coshena, Ltd.	0.159
33	Coshena, Ltd.	0.172
34	Coshena, Ltd.	0.107
35	Coshena, Ltd.	0.052
36	Century Plaza I	0.021
37	James H. Arnold Testament Trust	0.106
38	Highland Management Inc.	0.043
39 Pt 1	A/P 200, Ltd.	2.06
39 Pt 2	A/P 200, Ltd.	1.53
40	Jim Arnold, Jr.	4.571
41 Pt 1	KMS Anna Plaza, L.P.	0.23
41 Pt 2	KMS Anna Plaza, L.P.	0.026
42	Jayfield One Investments, Ltd.	0.004
43 Pt 1	Lowes Home Centers, Ltd.	0.005
43 Pt 2	Lowes Home Centers, Ltd.	0.017
44	Chick-Fil-A, Inc.	0.029
45	Maconda Park Company, L.P.	0.008
46	Whataburger, Inc.	0.02
47	USRP (Lincoln) Ltd.	0.016
48	Wal-Mart Real Estate Business Trust	0.002
49	KMS Anna Plaza, L.P.	0.017
50	KMS Anna Plaza, L.P.	0.072
51	Southfork Properties, Ltd.	0.126
52	Schlotsky's Real Estate, Inc.	0.109
53	KMS Anna Plaza, L.P.	0.007
54	Lloyd S. McCarley	0.012

55	Motiva Enterprises LLC	0.006
56	Joseph J. Hajjar	0.033
57	Sallad A. Salemohmed	0.066
58	Joseph J. Hajjar	0.109
401	Joseph J. Hajjar	0.378
402	Joseph J. Hajjar	0.486
403 Pt 1	138 Acres, Ltd.	0.35
403 Pt 2	138 Acres, Ltd.	0.147
403 Pt 3	138 Acres, Ltd.	1.476
404	Barbara T. Raney, et al	3.985
405	Par 620, Ltd.	7.841
406	Gary Hills, Trustee	1.677
407	Par 620, Ltd.	0.143
Total Acreage to be Acquired		49.251

EXHIBIT B

SCHEDULE OF SERVICES TO BE PERFORMED AND PROJECT COSTS

ACQUISTION OF RIGHT-OF-WAY

Survey
Environmental assessment
Environmental remediation
Appraisal
Costs of court/attorney fees
Amount of just compensation determined for each parcel of right-of-way
Relocation assistance
Project administration costs

RELOCATION/ADJUSTMENT OF UTILITIES

Engineering and design costs
Construction contract costs
Project administration costs

EXHIBIT C**SCHEDULE OF PROJECT NOTIFICATIONS****ACQUISITION OF RIGHT-OF-WAY**

- (1) Draft Offer letter (including completed field notes/survey, letter of intent, appraisal, environmental site assessment, remediation plan)
- (2) Receipt of counter-offer and draft final offers
- (3) All filings, notices, and court orders relevant to the eminent domain process
- (4) Commissioners' award
- (5) Draft response to commissioner's award and any draft objection to commissioners' award
- (6) Transfer of title

RELOCATION/ADJUSTMENT OF UTILITIES

- (1) Development of engineering and design specifications
- (2) Agreements with non-City of Austin utilities affected by the right-of-way acquisitions
- (3) Procuring professional engineering and design services
- (4) Bid solicitation
- (5) Bid award
- (6) Change in specifications
- (7) Final acceptance

EXHIBIT D

NOTICES

City of Austin:

Lisa Gordon
Assistant City Manager
124 W. 8th Street, Suite 101
Austin, Texas 78701

Lauraine Rizer, Manager
Real Estate Services Division
One Texas Center Suite 1350
505 Barton Springs
Austin, Texas 78704

Williamson County:

The Honorable John Doerfler
County Judge
Williamson County Courthouse
Georgetown, Texas 78626

AGENDA ITEM 34

Consider authorizing the County Judge to execute an interlocal agreement with Capital Metro regarding participation in funding for construction of the extension of Lakeline Boulevard.

Moved: **Commissioner Hays**

Seconded: **Commissioner Boatright**

Motion: To authorize the County Judge to execute an interlocal agreement with Capital Metro regarding participation in funding for construction of the extension of Lakeline Boulevard.

Vote: **5 – 0**

< Attachment >

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Moved: **Commissioner Heiligenstein**

Seconded: **Judge Doerfler**

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