



**RCA
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION**

**AGENDA ITEM NO.: 21
AGENDA DATE: Thu 01/26/2006
PAGE: 1 of 1**

SUBJECT: Approve a resolution authorizing the filing of eminent domain proceedings for the Northeast Area Regional Wastewater Treatment Plant Site to acquire fee simple title (exclusive of subsurface oil, gas, sulfur, and water rights) to 101.460 acres of land out of the John Burleson Survey Number 33, Abstract No. 5, Travis County, Texas, in the amount of \$523,272. The acquisition is necessary for the City to construct and operate a wastewater treatment plant on the property. The owner of the property is HORNSBY LAND PARTNERS, L.P. The property is located along the west line of Taylor Lane just north of Decker Lake Road and FM 969, Travis County, TX.

AMOUNT & SOURCE OF FUNDING: Funding is available in the Fiscal Year 2005-2006 Capital Budget of the Austin Water Utility.

FISCAL NOTE: A fiscal note is attached.

REQUESTING Public Works **DIRECTOR'S**
DEPARTMENT:for Austin Water Utility; **AUTHORIZATION:** Sondra Creighton

FOR MORE INFORMATION CONTACT: Lauraine Rizer, 974-7078; Laura Bohl, 974-7064

PRIOR COUNCIL ACTION: N/A

BOARD AND COMMISSION ACTION: N/A

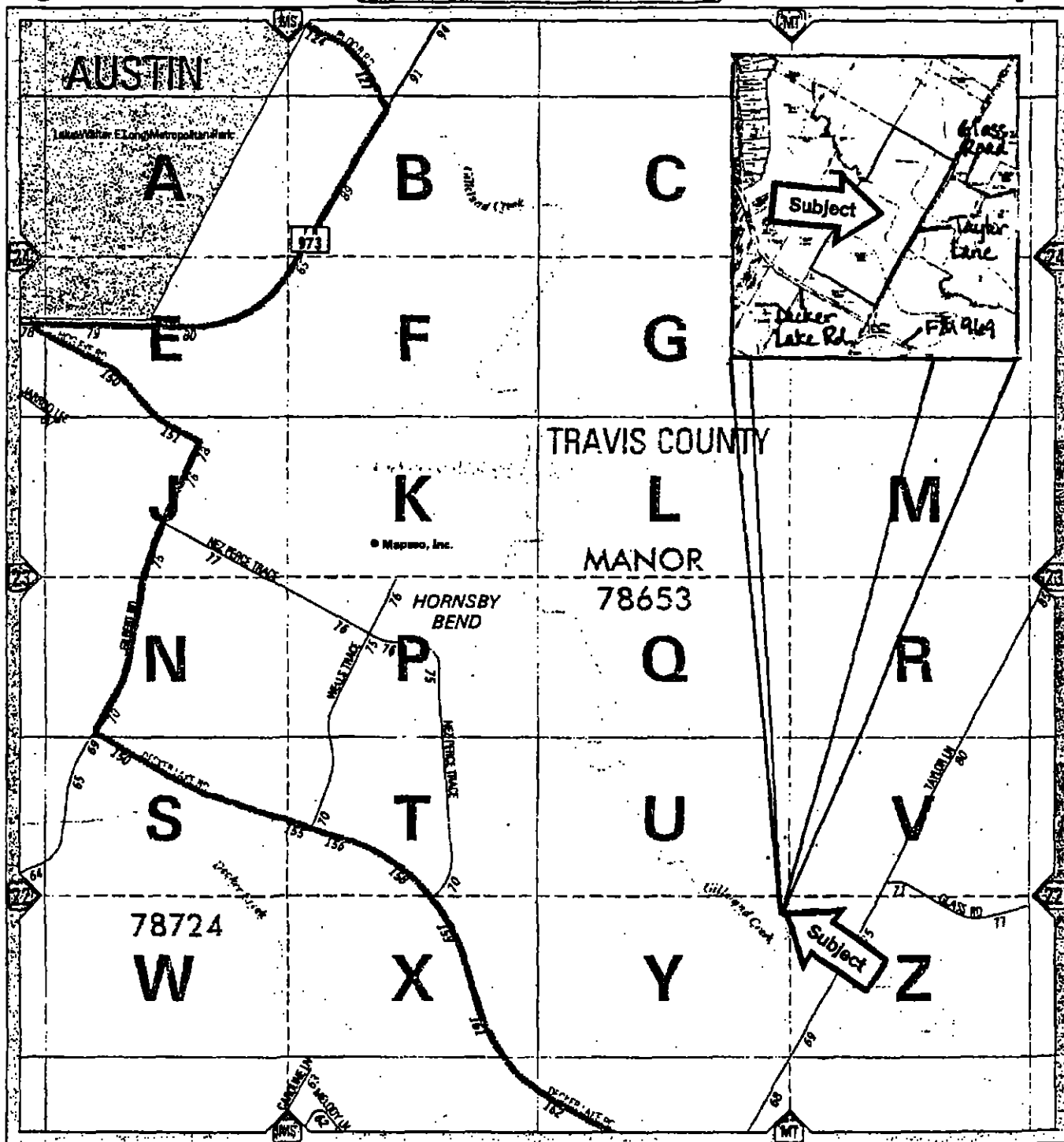
The design plans for the Northeast Area Regional Wastewater Master Plan require acquisition of fee simple title (exclusive of subsurface oil, gas, sulfur, and water rights) for the property located along the west line of Taylor Lane just north of Decker Lake Road and FM 969, Travis County, Texas, for the construction and operation of a wastewater treatment plant.

The City of Austin has attempted to purchase the fee simple interest from the landowner; however, the parties have been unable to agree on an appropriate price. The Law Department is requesting authorization to file an action in eminent domain on behalf of the City of Austin.

589



CONTINUED ON MAP 589



CONTINUED ON MAP 588

CONTINUED ON MAP 589

CONTINUED ON MAP 590

SCALE IN MILES
0 1/4 1/2 3/4 1

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SCALE IN FEET
0 1000 2000 3000

CIP FISCAL NOTE

DATE OF COUNCIL CONSIDERATION:
WHERE ON AGENDA:
DEPARTMENT:

1/28/2006
Resolution
Austin Water Utility

DESCRIPTION:

Approve a resolution authorizing the filing of eminent domain proceedings for the Northeast Area Regional Wastewater Master Plan to acquire a fee simple interest comprised of 101.460 acres of land out of and a part of the John Burleson Survey Number 33, Abstract No. 5, Travis County, in the amount of \$523,272. The owner of the property interest sought to be acquired is HORNSBY LAND PARTNERS, L.P. The property is located along the west line of Taylor Lane just north of Decker Lake Road and FM 969, Travis County, Texas.

FINANCIAL INFORMATION:

Parent Project Name: Wastewater Unfunded Future
Project Authorization: 2005-06 Approved Capital Budget
Funding Source: Commercial Paper
Number: 4570 237 2017

Current Appropriation	\$ 575,217,293.00
Unencumbered Balance	192,534,741.31 *
Amount of This Action	<u>(523,272.00)</u>
Remaining Balance	<u>\$ 192,011,469.31</u>
 Current Available Balance	 \$ 206,582,311.02
Less Outstanding Commitments	<u>(14,047,569.71)</u>
Estimated Unencumbered Balance	<u>\$ 192,534,741.31 *</u>

Utility Finance: _____

David Anders, Utilities Finance Manager

Date: _____

1/28/06

REF. # 4570 237 3051

RESOLUTION NO. 20060126-0

WHEREAS, the City Council of the City of Austin has found that public necessity requires the City of Austin to acquire a certain real property interest for public purposes as set out below; and

WHEREAS, the City of Austin has attempted to purchase the needed real property interest but has been unable to agree with the owner on the fair market value thereof; **NOW, THEREFORE**,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

That the City Attorney, or other authorized designee, is hereby authorized and directed to file, or cause to be filed, a suit in eminent domain on behalf of the City of Austin against the owner now having, or who may acquire, an interest in the real property interest needed by the City, described and located below, for the public purposes set out below, and to take whatever other action may be deemed appropriate to economically effect the needed acquisition.

The City Attorney, or other authorized designee, shall file eminent domain proceedings for:

Owners: Hornsby Land Partners, L.P.

Project: Northeast Area Regional Wastewater Treatment Plant Site

Intended Purpose: acquire fee simple title (exclusive of subsurface oil, gas, sulfur, and water rights) for the Northeast Area Regional Wastewater Treatment Plant Site so that the City can construct and operate a wastewater treatment facility for public use.

Location: along the west line of Taylor Lane just north of Decker Lake Road and FM 969, Travis County, Texas.

Property: Described in the attached and incorporated Exhibit A.

ADOPTED: January 26, 2006

ATTEST: _____

Shirley A. Brown
City Clerk



MACIAS & ASSOCIATES, Inc.
LAND SURVEYORS

EXHIBIT "A"

**PARCEL NO. 1
FIELD NOTE DESCRIPTION**

FIELD NOTES FOR 101.460 ACRES OF LAND OUT OF AND A PART OF THE JOHN BURLESON SURVEY NUMBER 33, ABSTRACT NO. 5 IN TRAVIS COUNTY, TEXAS, AND BEING OUT OF AND A PART OF THE FOLLOWING HISTORICAL CONVEYANCES, AS FOLLOWS, TO WIT:

- 1.) OUT OF AND A PART OF THAT CERTAIN 221.74 ACRE PARCEL OF LAND, RESURVEYED AS 212 ACRES OF LAND, MORE OF LESS, DESCRIBED IN THAT CERTAIN SPECIAL WARRANTY DEED CONVEYANCE FROM BARBARA S. GIBBS AND G. TRAVIS GIBBS, JR., INDEPENDENT CO-EXECUTORS OF THE ESTATE OF CARL ANGUS McEACHERN, AS APPOINTED IN CAUSE NO. 48,240, COUNTY AT LAW NO. 4, TRAVIS COUNTY, TEXAS TO NANN GILBERT HALL AND WOODY R. GILBERT, WHICH WAS FILED FOR RECORD ON SEPTEMBER 2, 1986, AND RECORDED IN VOLUME 9857, PAGE 20, REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS. SAID 221.74 ACRE PARCEL OF LAND DESCRIBED, IN WHOLE, AS THE "FIRST TRACT ~ 109.41 ACRES", THE "SECOND TRACT ~ 16.33 ACRES", AND THE "THIRD TRACT ~ 96.00 ACRES" IN THAT CERTAIN PARTITION DEED CONVEYANCE BETWEEN CARL A. McEACHERN AND LILMA McEACHERN, WHICH WAS FILED FOR RECORD ON APRIL 25, 1949, AND RECORDED IN VOLUME 975, PAGE 167, DEED RECORDS OF TRAVIS COUNTY, TEXAS.
- 2.) OUT OF AND A PART OF THAT CERTAIN 215.12 ACRE PARCEL OF LAND DESCRIBED IN THAT CERTAIN SPECIAL WARRANTY DEED CONVEYANCE FROM NANENE GILBERT HALL TO KATHERINE SCHWETMAN, JOHN DAVID SCHWETMAN, ALLISON HALL BEACH AND LYNN HALL HARRISON, IN EQUAL SHARES, AN UNDIVIDED TWENTY-FIVE PERCENT (25%) INTEREST, WHICH WAS FILED FOR RECORD ON DECEMBER 30, 1998, AND RECORDED IN VOLUME 13339, PAGE 326, REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS, AND BEING THE SAME 215.12 ACRE PARCEL OF LAND DESCRIBED IN THAT CERTAIN SPECIAL WARRANTY DEED CONVEYANCE FROM NANENE GILBERT HALL TO KATHERINE SCHWETMAN, JOHN DAVID SCHWETMAN, ALLISON HALL BEACH AND LYNN HALL HARRISON, IN EQUAL SHARES, AN UNDIVIDED TWENTY-FIVE PERCENT (25%) INTEREST, WHICH WAS FILED FOR RECORD ON MAY 7, 1999, AND

Exhibit "A"
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Pc-01/word/fieldnotes/coa(taylor lane - Gilbert).doc

- 3.) RECORDED IN DOCUMENT NUMBER 1999024093, OFFICIAL RECORDS OF TRAVIS COUNTY, TEXAS, ALSO, BEING THE SAME 215.12 ACRE PARCEL OF LAND DESCRIBED IN THAT CERTAIN CORRECTION SPECIAL WARRANTY DEED CONVEYANCE *FROM NANENE GILBERT HALL TO KATHERINE SCHWETMAN, JOHN DAVID SCHWETMAN,*
- 4.) ALLISON HALL BEACH AND LYNN HALL HARRISION, IN EQUAL SHARES, AN UNDIVIDED TWENTY-FIVE PERCENT (25%) INTEREST, WHICH WAS FILED FOR RECORD ON JUNE 19, 2001, AND RECORDED IN DOCUMENT NUMBER TRV 2991098670, OFFICIAL RECORDS OF TRAVIS COUNTY, TEXAS, FINALLY, BEING THE SAME 215.12 ACRE PARCEL OF LAND DESCRIBED IN THAT CERTAIN CORRECTION SPECIAL WARRANTY DEED CONVEYANCE *FROM NANENE GILBERT HALL TO KATHERINE SCHWETMAN, JOHN DAVID SCHWETMAN, ALLISON HALL BEACH AND LYNN HALL HARRISION, IN EQUAL SHARES, AN UNDIVIDED TWENTY-FIVE PERCENT (25%) INTEREST, WHICH WAS FILED FOR RECORD ON JUNE 19, 2001, AND RECORDED IN DOCUMENT NUMBER TRV 2991098671, OFFICIAL RECORDS OF TRAVIS COUNTY, TEXAS. SAID 215.12 ACRE PARCEL OF LAND ALSO BEING OUT OF AND A PART OF THAT CERTAIN 967.87 ACRE PARCEL OF LAND DESCRIBED IN THAT CERTAIN SPECIAL WARRANTY DEED FROM BARBARA S. GIBBS AND G. TRAVIS GIBBS, JR., INDEPENDENT CO-EXECUTORS OF THE ESTATE OF CARL ANGUS McEACHERN, AS APPOINTED IN CAUSE NO. 48,240, COUNTY COURT AT LAW NO. 4, TRAVIS COUNTY TO NANN GILBERT HALL, WOODY R. GILBERT, LOUISE ALBERTSON, BARBARA GIBBS AND JEAN POWERS FOR EQUAL SHARES ON ALL OIL, GAS, AND OTHER MINERALS, WHICH WAS FILED FOR RECORD ON SEPTEMBER 2, 1986 AND RECORDED IN VOLUME 9857, PAGE 23, REAL PROPERTY RECORDS OF TRAVIS COUNTY, TEXAS. SAID 101.460 ACRE PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS, AS FOLLOWS, TO WIT:*

BEGINNING at a 5/8 inch iron rod with a 1-1/4 inch diameter yellow plastic cap stamped "CM&N 4453" set to mark the point of intersection of the present northwest right of way of Taylor Lane, having right of way width of 80.00 feet and identified on that certain right of way strip map prepared by Mesa Surveying Company on September 21, 1988, sheet 5 of 78, as Engineer's centerline station 57+80.40 with the occupied common grant line, as fenced on the ground, the Oliver Buckman Survey Number 40, Abstract Number 60 and the abovementioned John Burleson Survey Number 33, Abstract Number 5, and being on the occupied northeast line of said Nann Gilbert Hall and Woody R. Gilbert 212 acre parcel of land, also being on the occupied northeast line of said Carl A. McEarchern "Third Tract" ~ 96 acre parcel of land, also monumenting the easterly southeast corner of that certain 750.533 acre parcel of land described in that certain Warranty Deed With Vendor's Lien *from Hyde Park Baptist Church to Austin*

Estates Limited Partnership which was filed for record in September 11, 1997, and recorded in Volume 13017, Page 1564, Real Property Records of Travis County, Texas, for the east corner and "POINT OF BEGINNING" of this survey;

THENCE, along the northwest right of way line of said Taylor Lane, the following bearings, distances and curve data, as follows, to wit:

- 1.) South 24° 46' 05" West (right of way record = South 27° 04' 20" West), with an existing fence line, a distance of 89.94 feet (right of way record = 90.03 feet) to a calculated point referenced by a 1/2 inch iron rod found 0.11 feet southeast, intended to monument the point of curvature of a circular curve to the right and identified on the right of way strip map as engineer's centerline station PT 56+90.37;
- 2.) Thence, with said circular curve to the right, with an existing fence line, having a central angle of 02° 57' 08" (record and measured), a radius distance of 1,3545.14 feet, (record and measured), a tangent distance of 349.04 feet (right of way strip map = 349.05 feet), a chord distance of 697.85 feet whose chord bears South 26° 14' 39" West (right of way record = South 28° 32' 54" West), an arc distance of 697.93 feet (right of way record = 697.94 feet) to a calculated point referenced by a 1/2 inch iron rod found 0.24 feet southeast, intended to monument the point of tangency and identified on the right of way strip map as engineer's centerline station PC 49+90.37;
- 3.) South 27° 43' 13" West (right of way record = South 30° 01' 28" West), at a distance of 0.03 feet passing the abovementioned 1/2 inch iron rod found 0.24 feet southeast of the true right of way, in all a total distance of 240.37 feet (right of way record = 240.37 feet) to a 5/8 inch iron rod with a 1-1/4 inch diameter yellow plastic cap stamped "CM&N 4453" set monumenting a flared change in the right of way width of said Taylor Lane from 80.00 feet to 70.00 feet for a corner of this survey;
- 4.) Thence with said northwest flared right of way line of said Taylor Lane, South 24° 51' 29" West (right of way record = South 27° 09' 44" West), a distance of 99.60 feet (right of way record = 100.12 feet) to a 1/2 inch iron rod found to monument the ending point of said flared right of way and a corner of this survey;
- 5.) Thence with said northwest right of said Taylor Lane, having a right of way width of 70.00 feet, South 27° 43' 13" West (right of way record = South 30° 01' 28" West), at a distance of 1,680.97 feet passing a 5/8 inch iron rod with a 1-1/4 inch diameter yellow plastic cap stamped "CM&N 4453" set on line for reference, in all a total distance of 1,880.97 feet to a inundated calculated point in the centerline of Gilleland Creek, for the south corner of this survey, from which corner a 1/2 inch iron rod found on the northwest right of way line of said Taylor Lane monumenting the point of curvature of a circular curve to the left bears with said right of way South 27° 43' 13" West (right of way record = South 30° 01' 28" West), a distance of 1,569.06 feet;

THENCE, along the centerline meanders of said Gilleland Creek, with the intended common boundary line of the Carl A. McEachern "First Tract ~ 109.41 acres" and the Carl A. McEachern "Third Tract ~ 96 acres", the following bearings and distances, as follows, to wit:

(L1) ~ denotes line identification per certified survey map

- 1.) North 74° 53' 30" West, a distance of 72.26 feet to a calculated point (L1);
- 2.) South 87° 28' 12" West, a distance of 49.55 feet to a calculated point (L2);
- 3.) South 72° 07' 07" West, a distance of 97.73 feet to a calculated point (L3);
- 4.) North 60° 02' 31" West, a distance of 55.23 feet to a calculated point (L4);
- 5.) North 18° 04' 22" West, a distance of 69.40 feet to a calculated point (L5);
- 6.) North 01° 51' 39" West, a distance of 66.51 feet to a calculated point (L6);
- 7.) North 28° 35' 04" West, a distance of 40.67 feet to a calculated point (L7);
- 8.) North 42° 14' 08" West, a distance of 135.79 feet to a calculated point (L8);
- 9.) North 27° 08' 55" West, a distance of 47.76 feet to a calculated point (L9);
- 10.) North 54° 26' 04" West, a distance of 39.65 feet to a calculated point (L10);
- 11.) North 82° 13' 14" West, a distance of 65.65 feet to a calculated point (L11);
- 12.) North 46° 05' 40" West, a distance of 27.98 feet to a calculated point (L12);
- 13.) North 31° 32' 06" West, a distance of 27.94 feet to a calculated point (L13);
- 14.) North 05° 20' 36" East, a distance of 48.36 feet to a calculated point (L14);
- 15.) North 10° 58' 26" West, a distance of 42.27 feet to a calculated point (L15);
- 16.) North 24° 45' 45" West, a distance of 31.22 feet to a calculated point (L16);
- 17.) North 23° 34' 48" East, a distance of 48.12 feet to a calculated point (L17);
- 18.) North 33° 25' 52" East, a distance of 53.14 feet to a calculated point (L18);
- 19.) North 42° 34' 35" East, a distance of 50.30 feet to a calculated point (L19);
- 20.) North 54° 08' 25" East, a distance of 95.80 feet to a calculated point (L20);
- 21.) North 32° 58' 19" East, a distance of 36.48 feet to a calculated point (L21);
- 22.) North 26° 03' 06" East, a distance of 41.61 feet to a calculated point (L22);
- 23.) North 09° 52' 19" East, a distance of 76.18 feet to a calculated point (L23);
- 24.) North 01° 44' 37" East, a distance of 37.41 feet to a calculated point (L24);
- 25.) North 04° 12' 19" West, a distance of 45.91 feet to a calculated point (L25);
- 26.) North 01° 53' 41" East, a distance of 41.93 feet to a calculated point (L26);
- 27.) North 65° 36' 34" East, a distance of 94.19 feet to a calculated point (L27);
- 28.) North 49° 42' 33" East, a distance of 50.69 feet to a calculated point (L28);
- 29.) North 07° 42' 33" East, a distance of 36.84 feet to a calculated point (L29);
- 30.) North 27° 32' 09" West, a distance of 40.07 feet to a calculated point (L30);
- 31.) North 07° 47' 50" West, a distance of 36.36 feet to a calculated point (L31);
- 32.) North 45° 42' 13" East, a distance of 45.65 feet to a calculated point (L32);
- 33.) North 58° 07' 33" East, a distance of 36.66 feet to a calculated point (L33);
- 34.) North 24° 12' 06" East, a distance of 42.59 feet to a calculated point (L34);
- 35.) North 03° 37' 59" West, a distance of 90.98 feet to a calculated point (L35);
- 36.) North 47° 41' 37" West, a distance of 52.22 feet to a calculated point (L36);
- 37.) North 65° 39' 09" West, a distance of 94.58 feet to a calculated point (L37);
- 38.) North 57° 17' 20" West, a distance of 31.69 feet to a calculated point (L38);
- 39.) North 75° 38' 35" West, a distance of 93.87 feet to a calculated point (L39);
- 40.) North 70° 12' 22" West, a distance of 44.12 feet to a calculated point (L40);
- 41.) North 65° 04' 13" West, a distance of 58.53 feet to a calculated point (L41);
- 42.) North 59° 44' 03" West, a distance of 95.73 feet to a calculated point (L42);
- 43.) North 44° 50' 03" West, a distance of 106.52 feet to a calculated point (L43);
- 44.) North 52° 52' 51" West, a distance of 50.71 feet to a calculated point (L44);

- 45.) North 71° 15' 16" West, a distance of 52.52 feet to a calculated point (L45);
- 46.) North 59° 48' 55" West, a distance of 38.08 feet to a calculated point (L46);
- 47.) North 49° 26' 06" West, a distance of 86.16 feet to a calculated point (L47);
- 48.) North 19° 26' 31" West, a distance of 45.20 feet to a calculated point (L48);
- 49.) North 00° 42' 39" East, a distance of 41.66 feet to a calculated point (L49);
- 50.) North 11° 09' 39" West, a distance of 60.93 feet to a calculated point (L50);
- 51.) North 23° 16' 52" West, a distance of 71.86 feet to a calculated point (L51);
- 52.) North 51° 18' 51" West, a distance of 30.29 feet to a calculated point (L52);
- 53.) North 76° 08' 11" West, a distance of 31.66 feet to a calculated point (L53);
- 54.) South 80° 08' 57" West, a distance of 62.24 feet to a calculated point (L54);
- 55.) North 47° 56' 14" West, a distance of 55.71 feet to a calculated point (L55);
- 56.) North 73° 48' 33" West, a distance of 56.12 feet to a calculated point (L56);
- 57.) North 85° 30' 49" West, a distance of 31.09 feet to a inundated calculated point (L57) on the centerline of said Gilleland Creek, marking the most southerly corner of the Austin Estates Limited Partnership Limited 750.533 acre parcel of land, for the west corner of this survey, from which said inundated calculated point, an 11 inch dead cedar tree, used as a fence post and called for in said Nann Gilbert Hall, et al, 967.87 acre parcel of land recorded in said Volume 9857, Page 23, also mentioned in the Austin Estates Limited Partnership 750.533 acre parcel of land in said Volume 13017, Page 1564, bears North 88° 15' 30" West (neighboring record = North 86° 04' 15" West), a distance of 153.07 feet (neighboring record = 153.20 feet);

THENCE, exiting said Gilleland Creek, North 27° 44' 50" East (neighboring record = North 29° 56' 18" East), along the common boundary line of the Nann Gilbert Hall and Woody R. Gilbert 212 acre parcel of land and said Austin Estates Limited Partnership 750.533 acre parcel of land, with an old existing fence line, at a distance of 150.70 feet (neighboring record = 150.52 feet) passing a 60d nail found on the south root of an existing 12 inch elm tree and called for in said Austin Estates Limited Partnership 750.533 acre parcel of land, in all a distance of 1,739.24 feet to a cotton spindle found on the westerly root of another 12 inch elm tree found and called for in said Austin Estates Limited Partnership 750.533 acre parcel of land for an inside corner of said Austin Estates Limited Partnership 750.533 acre parcel of land, intended by record to be on the aforementioned common grant line of said John Burleson Survey Number 33, Abstract Number 5 and said Oliver Buckman Survey Number 40, Abstract Number 60, also, intended by record to be on the northeast boundary line of the Carl A. McEachern "Third Tract ~ 96.00 acres", and monumenting the north corner of this survey;

THENCE, South 63° 01' 52" East (neighboring record = South 60° 50' 26" East), along the common boundary line of the Nann Gilbert and Woody R. Gilbert 212 acre parcel of land and Austin Estates Limited Partnership 750.533 acre parcel of land, with an existing fence line, on or about said common grant line, also with the northeast line of said Carl A. McEachern "Third Tract ~ 96.00 acres", at a distance of 1,927.34 feet passing a 1/2 inch iron rod found on line and intended to be on the aforementioned northwest right of way line of Taylor Lane, in all a total

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distance of 1,927.84 feet to the "POINT OF BEGINNING" (north = 10,072,726.2457 , east = 3,175,971.5244 ~ Grid)

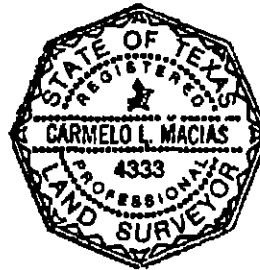
THE STATE OF TEXAS ■
COUNTY OF TRAVIS ■

KNOW ALL MEN BY THESE PRESENTS:

We do hereby state that this survey description is true and correct to the best of my knowledge and belief, and that this survey description was prepared from an actual on the ground survey of found property corners and record description, under my supervision, and that the markers found or set described herein actually exist, as described, at the time of our survey.

"Basis of Bearing" for this metes and bounds description are based on the Texas State Plane Coordinate System, Central Zone (4203), NAD 83, utilizing AUSRRP. Coordinates denoted for the "Point of Beginning" are grid values and may be adjusted to surface using a surface adjustment factor of 1.000055.

Carmelo L. Macias 5.15.03
Carmelo L. Macias Date
Registered Professional Land Surveyor No. 4333



—CM&N

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Office: (512) 834-1900 Fax: (512) 834-1739
E-mail: cmnsurvey@earthlink.net

CANALES, MARTINEZ & NASH SURVEYING COMPANY

Juan M. Canales, Jr. 5-15-03
Juan M. Canales, Jr. Date
Registered Professional Land Surveyor No. 4453

out of and a part of Travis County Tax Appraisal parcel number 0202600102
City of Austin topographic map reference T22 and T23

FIELD NOTES REVIEWED

By: W. L. Gilbert Date 6/30/03

Engineering Support Section
Department of Public Works
and Transportation

