

**Public Works
CITY OF AUSTIN**

AGENDA # 23
DATE: 4/20/2006

**RECOMMENDATION FOR
COUNCIL ACTION**

Subject: Approve a resolution authorizing the filing of eminent domain proceedings for the P2-Williamson Wastewater Improvements Project, a portion of the Austin Clean Water Program, to acquire a 1,201 square foot permanent wastewater line easement out of Lot 26, Block C, Woodland Oaks, a subdivision in Austin, Travis County, Texas, in the amount of \$652. The owners of the needed property interest are Jose S. Guerrero and Gabriel Guerrero both of Austin, Texas. The property is located at 5101 Acorn Cove, Austin, Travis County, Texas.

Amount and Source of Funding: Funding is included in the Fiscal Year 2005-2006 Capital Budget of the Austin Water Utility.

Fiscal Note: A fiscal note is attached.

Requesting Department:

For More Information:

Prior Council Action:

Boards and Commission Action:

The design plans for the P2-Williamson Wastewater Improvements Project, a portion of the Austin Clean Water Program, require acquisition of a permanent wastewater line easement on the property located at 5101 Acorn Cove, Austin, Travis County, Texas.

The City of Austin has attempted to purchase the permanent wastewater line easement from the land owners, and the parties have agreed on an appropriate price. However, the property title is not curable through standard processes necessitating friendly condemnation. The Law Department is requesting authorization to file a lawsuit in eminent domain on behalf of the City of Austin.

CIP FISCAL NOTE

DATE OF COUNCIL CONSIDERATION:
WHERE ON AGENDA:
DEPARTMENT:

04/20/06
Resolution
Austin Water Utility

DESCRIPTION:

Approve a resolution authorizing the filing of eminent domain proceedings for the P2 Williamson Wastewater Improvements Project, a portion of the Austin Clean Water Program, to acquire a 1,201 square foot permanent wastewater easement out of Lot 26, Block C, Woodland Oaks, Austin, Travis County, Texas, in the amount of \$652. The owner of the needed property interest is Jose S. Guerrero and Gabriel Guerrero of Austin, Texas. The property is located at 5101 Acorn Cove, Austin, 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	165,739,350.80
Amount of This Action	<u>(652.00)</u>
Remaining Balance	<u>\$ 165,738,698.80</u>
Current Available Balance	\$ 186,598,440.91
Less Outstanding Commitments	<u>(30,857,090.11)</u>
Estimated Unencumbered Balance	<u>\$ 155,739,350.80</u>

Utility Finance:


David Anders, Utilities Finance Manager

Date: 3/28/06

REF. # 4570 237 8599



SCALE IN MILES

0 $\frac{1}{4}$ $\frac{1}{2}$ $\frac{3}{4}$ 1

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CONTINUED ON PAGE 17

SCALE IN FEET



0 1000 2000 3000

BOOK PAGE 1234

Jose S. Guerrero and
Gabriel Guerrero
to
City of Austin
Lot 26, Block C,
Woodland Oaks,
(Wastewater Easement)

FIELD NOTES FOR PARCEL 5202.04 WE

LEGAL DESCRIPTION OF A 0.028-ACRE (1,201 SQUARE FEET) TRACT OR PARCEL OF LAND, BEING OUT OF AND PART OF LOT 26, BLOCK C, WOODLAND OAKS, A SUBDIVISION IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS ACCORDING TO THE MAP OR PLAT OF RECORD FOUND IN BOOK 81, PAGES 146-147, OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS; SAID LOT 26 HAVING BEEN CONVEYED TO JOSE S. GUERRERO AND GABRIEL GUERRERO BY WARRANTY DEED WITH VENDOR'S LIEN RECORDED IN DOCUMENT NO. 2004222642, OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, SAID 0.028-ACRE BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS AND AS SHOWN ON THE ATTACHED SKETCH:

COMMENCING FOR POINT OF REFERENCE at a ½" iron rod found at the westerly common corner of Lot 25 and said 26, Block C, being in the easterly right-of-way line of Acorn Cove, said ½" iron rod found also being in the center line of a 10-foot public utility easement as granted to the City of Austin by deed recorded in Volume 8163, Page 293, of the Deed Records of Travis County, Texas and being in the arc of a curve to the left; **THENCE**, with the curving easterly right-of-way line of said Acorn Cove, along said curve to the left, having a central angle of 05°44'20", a radius of 50.00 feet, an arc length of 5.01 feet and a chord which bears N 13°14'29" W, a distance of 5.01 feet to a calculated point having Texas State Plane Grid Coordinates (Texas Central Zone, NAD83/93HARN), of N = 10,044,010.75 and E = 3,116,122.97 and a combined scale factor of 1.00010 for the southwest corner and **POINT OF BEGINNING** of the herein described tract of land;

THENCE, continuing along said curve to the left, having a central angle of 11°42'55", a radius 50.00 feet, an arc length of 10.22 feet, and a chord which bears N 21°58'07" W, a distance of 10.21 feet to a calculated point for the northwest corner of the herein described tract;

Jose S. Guerrero and
Gabriel Guerrero
to
City of Austin
Lot 26, Block C,
Woodland Oaks,
(Wastewater Easement)

THENCE, fifteen (15)-feet north of and parallel to the common line of said Lots 25 and 26, Block C, N 79°33'20" E a distance of 125.13 feet to a calculated point in the west line of a 15-foot public utility easement as shown on said record plat, for the northeast corner of this tract;

THENCE, with the westerly line of said fifteen (15)-foot public utility easement, S 27°19'30" W a distance of 12.65 feet to a calculated point in the northerly line of said ten (10)-foot public utility easement for the southeast corner of this tract;

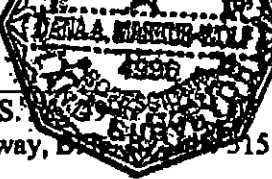
THENCE with said northerly line of said 10-foot public utility easement, S 79°33'20" W a distance of 115.34 feet to the **POINT OF BEGINNING** and containing 0.028 acre of land, more or less.

BEARING BASIS NOTE


The bearings described herein are Texas State Plane Grid bearings (Texas Central Zone, NAD83/Harn), Combined Scale factor is 1.00010. Project Reference Control Points are a cotton spindle and an "X" found in Acorn Cove and have grid coordinates respectfully, of N = 10,044,032.90, E = 3,116,269.36 and N = 10,044,001.40, E = 3,116,061.08.

I HEREBY CERTIFY that a survey was made on the ground of the property shown hereon; that there are no visible discrepancies, conflicts, shortages in area, boundary line conflicts, encroachments, overlapping of improvements, easements or right-of-way, except as shown; that said property has access to and from a public roadway; and that this plat is an accurate representation of the property to the best of my knowledge.

Landmark Surveying, Inc.


Dana A. Markus-Wolf, R.P.L.S.
1301 S Capital of Texas Highway, Suite 1515
Austin, Texas 78746
(512) 328-7411

TCAD# 03220303140000
Austin Grid J-16

FIELD NOTES REVIEWED
By:  Date: 1-25-05
Austin Clean Water Program
Survey Coordinator

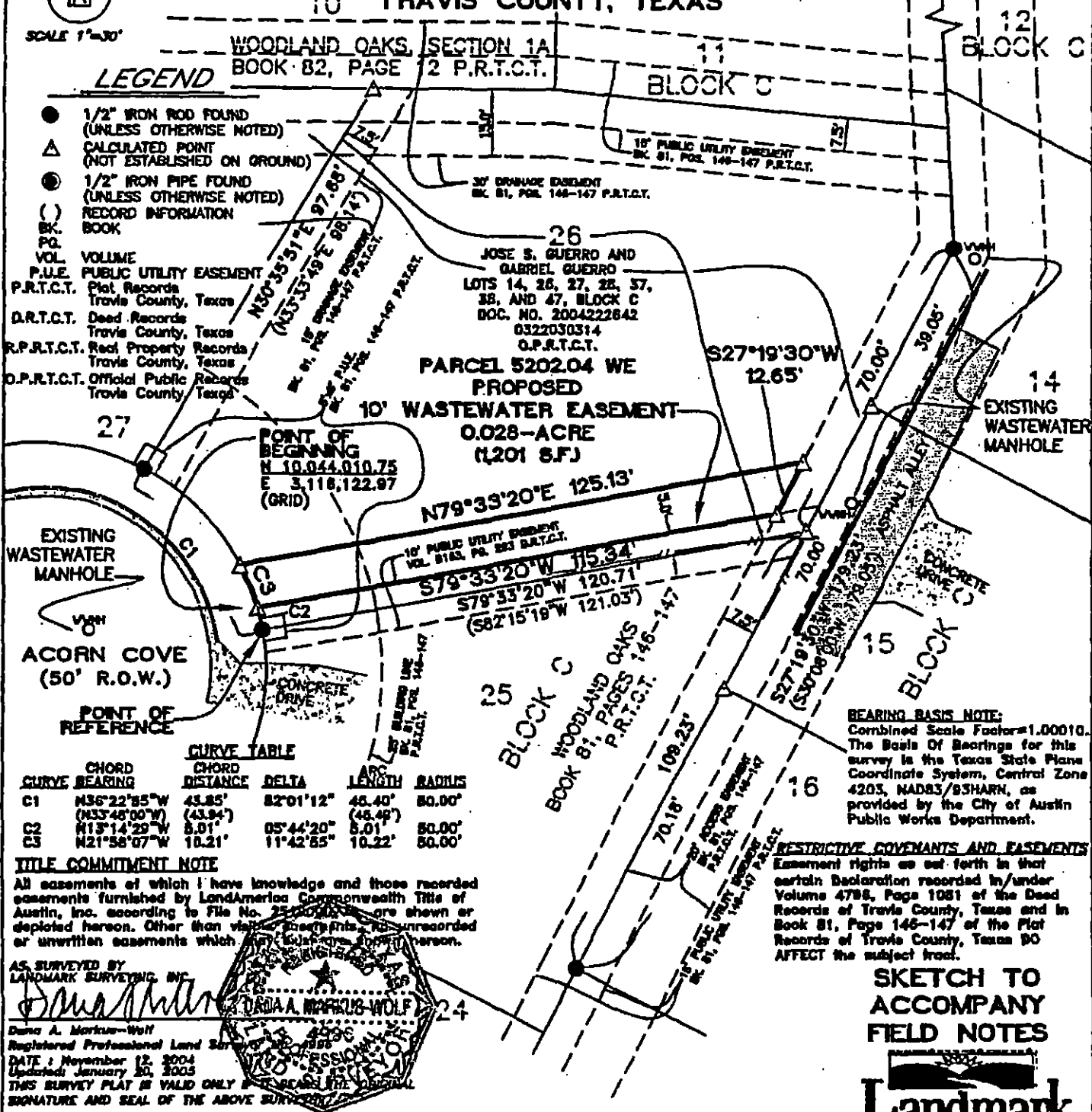
**SURVEY OF A PORTION OF LOT 26, BLOCK C, TERI ROAD
WOODLAND OAKS, CITY OF AUSTIN,
(80' R.O.W.)
10 TRAVIS COUNTY, TEXAS**



SCALE 1"=30'

LEGEND

- 1/2" IRON ROD FOUND (UNLESS OTHERWISE NOTED)
- △ CALCULATED POINT (NOT ESTABLISHED ON GROUND)
- 1/2" IRON PIPE FOUND (UNLESS OTHERWISE NOTED)
- () RECORD INFORMATION BOOK
- BK. BOOK
- PG. PAGE
- VOL. VOLUME
- P.U.E. PUBLIC UTILITY EASEMENT
- P.R.T.C.T. Plat Records Travis County, Texas
- D.R.T.C.T. Deed Records Travis County, Texas
- R.P.R.T.C.T. Real Property Records Travis County, Texas
- O.P.R.T.C.T. Official Public Records Travis County, Texas



CURVE TABLE

CURVE	CHORD BEARING	CHORD DISTANCE	DELTA	ARC LENGTH	RADIUS
C1	N36°22'55"W (N33°46'00"W)	43.85'	82°01'12"	48.40' (46.46')	50.00'
C2	N13°14'29"W	8.01'	05°44'20"	8.01'	50.00'
C3	N21°58'07"W	10.21'	11°42'55"	10.22'	50.00'

TITLE COMMITMENT NOTE

All easements of which I have knowledge and those recorded easements furnished by LandAmerica Commonwealth Title of Austin, Inc. according to File No. 25-0000000000 are shown or depicted hereon. Other than visible easements, no unrecorded or unwritten easements which may exist are shown hereon.

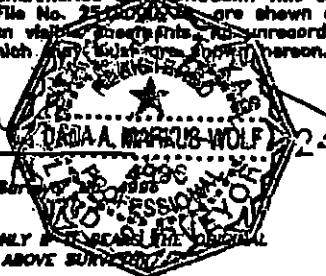
AS SURVEYED BY
LANDMARK SURVEYING, INC.

Dana A. Markus-Wolf
Registered Professional Land Surveyor No. 4595

DATE: November 12, 2004
Updated: January 20, 2005

THIS SURVEY PLAT IS VALID ONLY IF IT BEARS THE ORIGINAL SIGNATURE AND SEAL OF THE ABOVE SURVEYOR.

Client: City of Austin
Survey: November 12, 2004
Official: [Signature]
Covers: 2.00 Acres
F.S.L.: 7/14/05
Book: 25 (see) CROWN CREEK BASIN, CC-gridsheet-L-Edy
Covers: [Signature]
Job No.: 97-151-30-01



BEARING BASIS NOTE:
Combined Scale Factor=1.00010.
The Basis Of Bearings for this survey is the Texas State Plane Coordinate System, Central Zone 4203, NAD83/83HARN, as provided by the City of Austin Public Works Department.

RESTRICTIVE COVENANTS AND EASEMENTS
Easement rights as set forth in that certain Declaration recorded in/under Volume 4798, Page 1081 of the Deed Records of Travis County, Texas and in Book 81, Page 146-147 of the Plat Records of Travis County, Texas DO AFFECT the subject tract.

**SKETCH TO
ACCOMPANY
FIELD NOTES**

**Landmark
SURVEYING, INC.**

1201 E. CAPITAL OF TEXAS HWY.
BUILDING B, SUITE 518
AUSTIN, TEXAS 78746
PH (512) 222-7411 FAX (512) 222-7413

RESOLUTION NO. 20060420-0

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 obtain a clear title to the needed interest from the owners; **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 owners 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: Jose S. Guerrero and Gabriel Guerrero

Project: P2-Williamson Wastewater Improvements Project, a portion of the Austin Clean Water Program

Intended Purpose: the permanent wastewater line easement described in the attached Exhibit "A" is necessary to install, operate, maintain, repair, replace, and upgrade permanent wastewater lines and appurtenances thereto, in order to increase and improve the City's ability to provide sanitary sewer services to the public, to prevent leakage from wastewater lines, and to comply with a federal mandate.

Location: 5101 Acorn Cove, Austin, Travis County, Texas

Property: Described in the attached and incorporated Exhibit A.

ADOPTED: April 20, 2006

ATTEST:

Shirley A. Gentry
City Clerk

DRAFT