



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

**AGENDA ITEM NO.: 13
AGENDA DATE: Thu 09/01/2005
PAGE: 1 of 1**

SUBJECT: Approve a resolution authorizing the filing of eminent domain proceedings for the Gaston Lane Wastewater Improvements project, a portion of the Austin Clean Water Program, to acquire a 400 square foot permanent wastewater line easement out of Lot 3, Pemberton Heights, Section 12, a Subdivision in the City of Austin, Travis County in an amount not to exceed \$1,620. The owner of the property interest sought to be acquired is Susan Frances Heard, of Houston, Texas. The property is located at 2401 Pemberton Parkway, Austin, Travis County, Texas.

AMOUNT & SOURCE OF FUNDING: Funding is included in the Fiscal Year 2004-2005 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

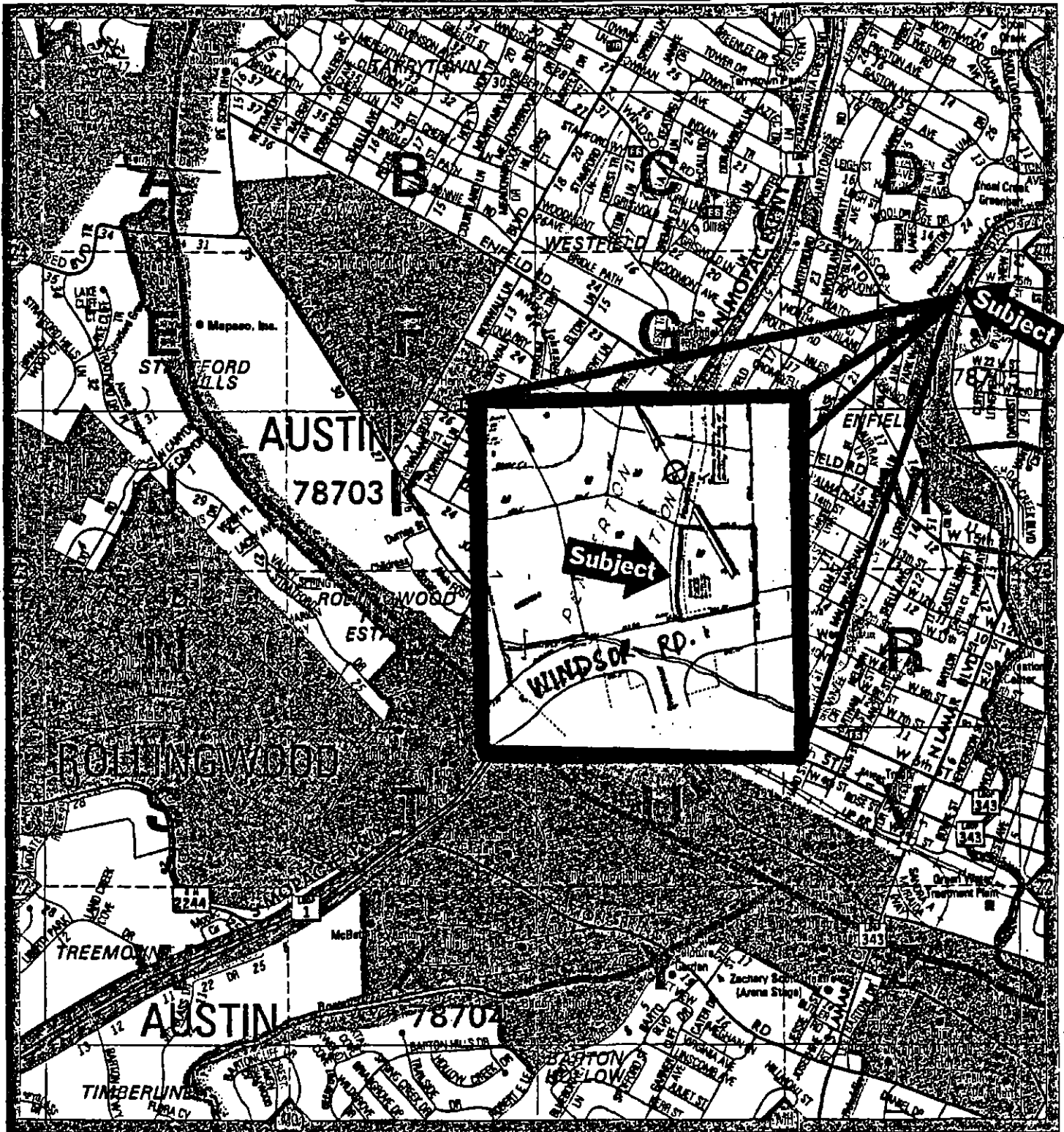
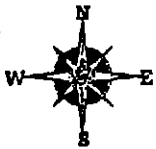
FOR MORE INFORMATION CONTACT: Lauraine Rizer, 974-7078; Laura Bohl, 974-7064

PRIOR COUNCIL ACTION: N/A

BOARD AND COMMISSION ACTION: N/A

The design plans for the Gaston Lane Wastewater Improvements project, a portion of the Austin Clean Water Program, require acquisition of a permanent wastewater line easement on the property located at 2401 Pemberton Parkway, Austin, Travis County, Texas.

The City of Austin has attempted to purchase the permanent wastewater easement from the landowner. However, the parties have been unable to agree on an appropriate price. The Law Department is requesting authorization to file a lawsuit in eminent domain on behalf of the City of Austin.



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Susan Frances Heard
to the
City of Austin
(For Wastewater Easement)

FIELD NOTES FOR PARCEL 5023.15 WE

ALL OF THAT CERTAIN 0.009-ACRE (400 SQUARE FEET) TRACT OR PARCEL OF LAND OUT OF THE GEO W. SPEAR LEAGUE, CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, SAID 0.009-ACRE BEING OUT OF LOT 3, PEMBERTON HEIGHTS SECTION 12, A SUBDIVISION AS RECORDED IN BOOK 5, PAGE 23 OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS AS CONVEYED TO SUSAN FRANCES HEARD BY ASSUMPTION WARRANTY DEED DATED JULY 23, 1976 RECORDED IN VOLUME 5526, PAGE 1599 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

Commencing for POINT OF REFERENCE at a ½" iron rod found on the east line of said Geo W. Spear League, said line also being the west line of the James Rogers Survey, said ½" iron rod found also being at the common southerly corner of Lot 4 and Lot 5, of said Pemberton Heights Section 12, Thence with the southeast line of said Lot 4, S27°38'30"W a distance of 131.62 feet to a ½" capped iron rod set, having Texas State Plane Coordinate (Texas Central Zone, NAD83/93 HARN, U.S. Feet, Combined Scale Factor 0.9999340) values of N=10,077,692.496, E=3,110,586.912, for the most easterly corner and POINT OF BEGINNING of the herein described tract of land;

THENCE with the common line of said Geo W. Spear League and the James Rogers Survey, also being the southeast line of said Lot 3, S27°38'30"W, pass the south line of a public utility easement at 5.00 feet as dedicated by plat recorded in Book 5, Page 23 of the Plat Records of Travis County, Texas, and continuing on for a total distance of 20.00 feet to a 60d nail set for the most southerly corner of this tract;

THENCE, crossing said Lot 3, the following two (2) courses:

- 1) N62°08'44"W distance of 20.00 feet to a 60d nail set for the most westerly corner of this tract; and**
- 2) N27°38'30"E, pass said south line of a public utility easement at 15.00 feet and continuing on for a total a distance of 20.00 feet to a 60d nail set for the most northerly corner of this tract;**

THENCE, with said common line of Lot 3 and 4, Pemberton Heights Section 12, S62°08'44"E a distance of 20.00 feet to the **POINT OF BEGINNING** and containing 0.009-acre (400 square feet) of land, more or less.

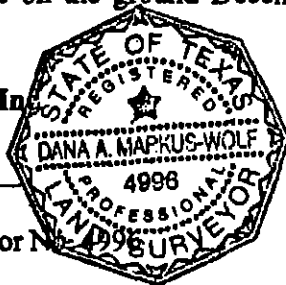
I HEREBY CERTIFY that these field notes were prepared by Landmark Surveying, Inc. from a survey made on the ground December, 2004 under my supervision.

Prepared by Landmark Surveying, Inc.



Dana A. Markus-Wolf

Registered Professional Land Surveyor No. 4998
February 17, 2005



Bearing Basis: Texas State Plane Coordinates, Central Zone 4203, NAD '83
Horizontal Grid Coordinates for the reference monuments H-24-4002, CB28 and CB55 as established and published by the City of Austin were used as the controlling monuments for this survey.

Combined scale factor=0.9999340

5023.15.doc

Austin Map No. 584, Grid No. H24

TCAD No. 0115010839

FIELD NOTES REVIEWED

By JS Date: 2-17-05

Austin Clean Water Program
Survey Coordinator



SCALE 1"=30'

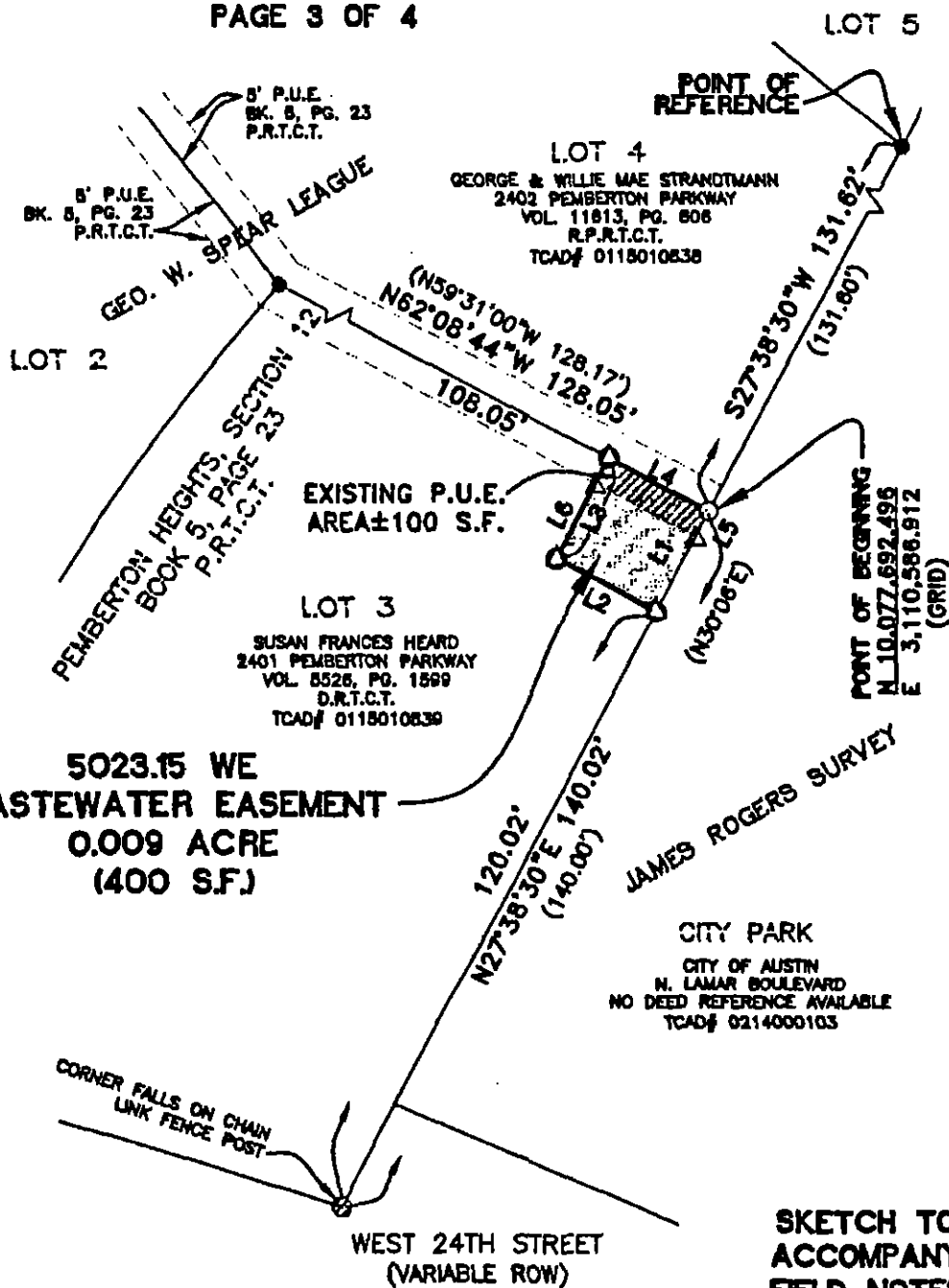
SURVEY OF A PORTION OF LOT 3, PEMBERTON HEIGHTS, SECTION 12, CITY OF AUSTIN, TRAVIS COUNTY, TEXAS

PAGE 3 OF 4

LEGEND

- 1/2" IRON ROD FOUND (UNLESS OTHERWISE NOTED)
- 1/2" CAPPED IRON ROD SET
- 1/2" IRON PIPE FOUND
- △ CALCULATED POINT
- △ 800 NAIL SET
- ⊗ METAL FENCE POST

WWMH
○ WASTEWATER MANHOLE
() RECORD INFORMATION
BK. BOOK
PG. PAGE
VOL. VOLUME
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



LINE TABLE

LINE	BEARING	DISTANCE
L1	S27°38'30"W	20.00'
L2	N62°08'44"W	20.00'
L3	N27°38'30"E	20.00'
L4	S62°08'44"E	20.00'
L5	S27°38'30"W	5.00'
L6	N27°38'30"E	15.00'

REVISED: February 17, 2005

Client: JOSE GUERRA
Survey: JANUARY 24, 2005
Drafted: M. Laughton
Checked: F. Delgado
F.L.: 2/1/05
Sketch: 2: Jose guerra\sheet creek newp\Landmark\Grid-Staff\assessments\Lamar & 25-20' easement.dwg
Cagor: 02/01/05
Job No.: 97-0125-04-02

SKETCH TO
ACCOMPANY
FIELD NOTES

Landmark
SURVEYING, INC.
1301 S. CAPITAL OF TEXAS HWY.
BUILDING 8, SUITE 318
AUSTIN, TEXAS 78746
PH (512) 228-7411 FAX (512) 228-7413

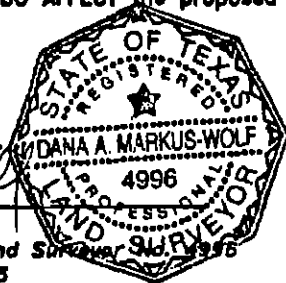
**SURVEY OF A PORTION OF LOT 3 PEMBERTON HEIGHTS
CITY OF AUSTIN, TRAVIS COUNTY, TEXAS
PAGE 4 OF 4**

All easements of which I have knowledge and those recorded easements furnished by Towne & Country Title, Inc. according to Property Certificate dated December 8, 2004 are show or depicted hereon. Other than visible easements, no unrecorded or unwritten easements, which may exist, are shown hereon.

RESTRICTIVE COVENANTS, EASEMENTS, AND BUILDING LINES NOTE:

1. Covenants, conditions, obligations, restrictions, easements, charges and liens as set forth in that certain Declaration recorded in/under Volume 838, Page 312 of the Real Property Records of Travis County, Texas, DO AFFECT the proposed easement.
2. Restrictive covenants, easements and building lines as recorded in Book 5, Page 23 of the Plat Records of Travis County, Texas DO AFFECT the proposed easement.

AS SURVEYED BY
LANDMARK SURVEYING, INC.



Dana A. Markus-Wolf
Dana A. Markus-Wolf
Registered Professional Land Surveyor No. 4996
DATE : JANUARY 28, 2005

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

BEARING BASIS NOTE:
NAD 83 COORDINATE SYSTEM (GRID)
TEXAS CENTRAL (4203)
COMBINED SCALE FACTOR 0.9999340
HORIZONTAL COORDINATES FOR
H-24-4002, G826, AND G835 AS
PUBLISHED BY THE CITY OF AUSTIN,
WERE USED AS THE CONTROLLING
MONUMENTS FOR THIS SURVEY.

**SKETCH TO
ACCOMPANY
FIELD NOTES**

REVISED: February 17, 2005
Client: JOSE GUERRA
Date: JANUARY 28, 2005
Officer: M. Laughton
Crew: J. Delagarda
F.B.I.: 821/01
Data: D:\jose guerra\shel creek camp\Landmark\Grid-Bluff\assessment\Lamar & 25-30' easement.dwg
Cadastral: at\delagarda
Job No.: 07-0155-04-02

Landmark
SURVEYING, INC.
1801 E. CAPITAL OF TEXAS HWY.
BUILDING B, SUITE 310
AUSTIN, TEXAS 78746
PH (512) 338-7411 FAX (512) 338-7412

CIP FISCAL NOTE

DATE OF COUNCIL CONSIDERATION:
WHERE ON AGENDA:
DEPARTMENT:

09/01/05
Resolution
Austin Water Utility

DESCRIPTION:


Approve a resolution authorizing the filing of eminent domain proceedings for the Gaston Lane Wastewater Improvement project of the Austin Clean Water Program to acquire a permanent wastewater easement comprised of 400 square feet of land out of Lot 3, Pemberton Heights, Section Twelve, a Subdivision in the City of Austin, in the amount of \$1,620. The owner of the property sought to be condemned is Susan Frances Heard, of Houston, Texas. This property is located at 2401 Pemberton Parkway, Austin, Travis County, Texas.

FINANCIAL INFORMATION:

Parent Project Name:	Wastewater Infrastructure Future
Project Authorization:	2004-05 Approved Capital Budget
Funding Source:	Commercial Paper
Number:	4570 237 2017

Current Appropriation	\$ 494,673,293.00
Unencumbered Balance	128,328,976.47 *
Amount of This Action	<u>(1,620.00)</u>
Remaining Balance	<u>\$ 128,325,356.47</u>
Current Available Balance	\$ 146,245,580.06
Less Outstanding Commitments	<u>(19,918,603.59)</u>
Estimated Unencumbered Balance	<u>\$ 128,328,976.47 *</u>

Utility Finance:



David Anders, Utility Finance Manager

Date:

8/16/05

REF. # 4570 237 8771