



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

AGENDA ITEM NO.: 9
AGENDA DATE: Thu 02/17/2005
PAGE: 1 of 1

SUBJECT: Approve a resolution authorizing the filing of eminent domain proceedings for the Upper Shoal Creek-Lower Hancock Branch project of the Austin Clean Water Program to acquire a permanent wastewater line easement containing 2,456 square feet and two temporary working space easements, one containing 3,500 square feet and the other containing 284 square feet, all out of Lot 2, Amended Plat of Tract A, North Loop Plaza Resubdivision #1, and Block 12 Rosedown, a subdivision in the City of Austin, and one permanent wastewater line easement containing 2,709 square feet out of Lot 16, Block 10, Rosedown, a subdivision in the City of Austin, in the amount of \$133,500. The owner of the property sought to be condemned is MWM FUND III, LTD., located in Houston, TX. The property is located at 5218 Burnet Road, Austin, 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 City of Austin is upgrading its wastewater collection system as mandated by the U.S. Environmental Protection Agency's Administrative Order, received April 29, 1999, requiring the City to eliminate sanitary sewer overflows from its wastewater collection system

In response to the U.S. Environmental Protection Agency's Administrative Order, the City of Austin has assembled the Austin Clean Water Program to plan, design, and construct sustainable wastewater collection system improvements that will result in a collection system free from sanitary sewer overflows.

The design plans for the Upper Shoal Creek-Lower Hancock Branch project of the Austin Clean Water Program requires acquisition of two permanent wastewater line easements and two temporary working space easements on land located at 5218 Burnet Road, Austin, Texas.

The City of Austin has attempted to purchase the two permanent wastewater line easements and two temporary working space easements 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.

RESOLUTION NO. 050217-

WHEREAS, the Council finds that acquisition of the property interests described in the attachment is necessary for a public use; and

WHEREAS, the City has been unable to agree with the owner on the fair market value of the property interests to be acquired; **NOW, THEREFORE**,

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

The City Attorney is authorized to file a suit in eminent domain and take other action deemed appropriate to economically effect the needed acquisition of the property interests.

The owner of the property interests to be acquired is MWM Fund, III, Ltd., and the property is located at 5218 Burnet Road, Austin, Travis County, Texas.

ADOPTED: _____ February 17 _____, **2005**

ATTEST: _____

Shirley A. Brown
City Clerk

CIP FISCAL NOTE

DATE OF COUNCIL CONSIDERATION:
WHERE ON AGENDA:
DEPARTMENT:

2/17/2005
Resolution
Austin Water Utility

DESCRIPTION:

Approve a resolution authorizing the filing of eminent domain proceedings for the Austin Clean Water Program: Upper Shoal Creek Lower Hancock Branch project to acquire (1) two permanent wastewater line easements containing 2,456 square feet and 2,709 square feet and (2) two temporary working space easements containing 3,500 square feet and 284 square feet out of Lot 1, Capital City Section One, a subdivision in the City of Austin, in the amount of \$133,500. The owner of the property sought to be condemned is MWM FUND III, LTD., of Houston, TX. The property is located at 5218 Burnet Road.

FINANCIAL INFORMATION:

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

Current Appropriation	\$ 494,673,293.00
Unencumbered Balance	177,840,287.29 *
Amount of This Action	<u>(133,500.00)</u>
Remaining Balance	<u>\$ 177,706,787.29</u>
Current Available Balance	\$ 191,407,015.18
Less Outstanding Commitments	<u>(13,566,727.89)</u>
Estimated Unencumbered Balance	<u>\$ 177,840,287.29 *</u>

Utility Finance: _____

David Anders, Utilities Finance Manager

Date: _____

2/3/05

REF. # 4570 237 8569