



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

**AGENDA ITEM NO.: 33
AGENDA DATE: Thu 06/23/2005
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SUBJECT: Approve a resolution amending Resolution No. 030731-15 to clarify the City Council's statement of public purpose related to acquisition by eminent domain of two permanent street right-of-ways one containing 25,327 square feet and the other one containing 1,400 square feet, a permanent water quality and drainage easement containing 100,288 square feet, a permanent slope easement containing 4,053 square feet, a temporary construction easement containing 20,088 square feet, and a temporary workspace easement containing 1,000 square feet, out of the William Cannon Survey No 19, Travis County, Texas, generally known as 1502 West Dittmar Road, in the City of Austin, Travis County, Texas, owned by Edwin B. Ermis, because the parties have been unable to agree on an appropriate purchase price.

AMOUNT & SOURCE OF FUNDING: N/A

FISCAL NOTE: There is no unanticipated fiscal impact. A fiscal note is not required.

**REQUESTING Law
DEPARTMENT:**

**DIRECTOR'S
AUTHORIZATION: Anne Morgan**

FOR MORE INFORMATION CONTACT: Chester Beaver, Assistant City Attorney, 974-2317

PRIOR COUNCIL ACTION: Council approved Resolution No. 030731-15

BOARD AND COMMISSION ACTION: N/A

PURCHASING: N/A

MBE / WBE: N/A

Resolution No. 030731-15 authorized the City Attorney to file a lawsuit in eminent domain to acquire of two permanent street right-of-ways one containing 25,327 square feet and the other one containing 1,400 square feet, a permanent water quality and drainage easement containing 100,288 square feet, a permanent slope easement containing 4,053 square feet, and a temporary construction easement containing 20,088 square feet, and a temporary workspace easement containing 1,000 square feet, out of the William Cannon Survey No 19, Travis County, Texas. The property interests to be acquired will be used to improve and/or expand a public roadway and to control rainwater runoff. The proposed action clarifies the intended public uses for the property interests to be acquired.

RESOLUTION NO. 20050623-

WHEREAS, the City Council of the City of Austin has found that public necessity requires the acquisition by the City of certain real property interests as stated hereinafter for the purposes hereinafter stated; and

WHEREAS, the City of Austin has attempted to purchase said real property interests and has been unable to agree with the owner of the real property interests 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 interests needed by the City, to acquire certain real property interests at the location hereinafter stated, for the purpose hereinafter stated, and from the owner hereinafter stated and/or his successors in interest, and to take whatever other action may be deemed appropriate to economically effect the needed acquisitions; said real property interests to be acquired are described in Exhibits "A," "B," "C," "D," "E," and "F," which are attached hereto and made a part hereof for all purposes.

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

Owner: Edwin B. Ermis

Project: Dittmar Road Improvements Project

Intended Purpose: two permanent street right-of-ways for improvements and/or widening of a City of Austin street for public use, a permanent water quality and drainage easement, a permanent slope easement for water quality and to control rainwater runoff and/or prevent flooding on this and neighboring properties, a temporary construction easement, and a temporary workspace easement; the temporary easements listed above are necessary to implement the work to be done on the street and/or construct the permanent water quality and detention pond

Location: 1502 West Dittmar Road, Austin, Texas, and see attached field notes.

ADOPTED: June 23, 2005

ATTEST: _____

Shirley A. Brown
City Clerk