



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

**AGENDA ITEM NO.: 70  
AGENDA DATE: Thu 06/23/2005  
PAGE: 1 of 1**

**SUBJECT:** Approve a resolution authorizing the filing of eminent domain proceedings for the Little Walnut/Buttermilk North/Capital Drive Project, a portion Austin Clean Water Program, to acquire a 681 square foot permanent wastewater line easement, a 279 square foot temporary working space easement, and a 4,256 square foot temporary staging area and material storage site easement out of the William Wilks Survey No. 82, Travis County, and a 75,461 square foot permanent access easement out of the William Wilks Survey No. 82, and The John Applegate Survey No. 58, in Travis County, in the amount of \$21,142. The owner of the property interests sought to be condemned is Stonegate MHC, L.P., a Delaware limited partnership. The property is located at 1401 East Rundberg Lane, Austin, TX.

**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

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The design plans for the Little Walnut/Buttermilk North/Capital Drive Project, a portion of the Austin Clean Water Program, require acquisition of a permanent wastewater line easement, a temporary working space easement, a temporary staging area and material storage site easement and a permanent access easement across the property located at 1401 East Rundberg Lane, Austin, Texas.

The City of Austin has attempted to purchase the permanent wastewater easement, temporary workspace easement, temporary staging area and material storage site easement, and permanent access 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.

## CIP FISCAL NOTE

**DATE OF COUNCIL CONSIDERATION:**  
**WHERE ON AGENDA:**  
**DEPARTMENT:**

06/23/05  
Resolution  
Austin Water Utility

**DESCRIPTION:**

Approve a resolution authorizing the filing of eminent domain proceedings for the Austin Clean Water Program: Little Walnut/Buttermilk North/Capital Drive Project to acquire a permanent wastewater easement comprised of 681 square feet of land, a temporary working space easement comprised of 279 square feet of land, a temporary staging area and material storage site easement comprised of 4,256 square feet of land and a permanent access easement comprised of 75,461 square feet of land out of the William Wilks survey 82, Abstract 814, and The John Applegate survey no. 58, in Travis County, in the amount of \$21,142. The owner of the property sought to be condemned is Stonegate MHC, LP, a Delaware limited partnership. The property is located at 1401 East Rundberg Lane, Austin, TX.

**FINANCIAL INFORMATION:**

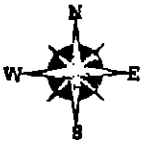
Parent Project Name:	Wastewater Unfunded Future
Project Authorization:	2004-05 Approved Capital Budget
Funding Source:	Commercial Paper
Number:	4570 237 2017

Current Appropriation	\$ 494,873,293.00
Unencumbered Balance	151,328,519.19 *
Amount of This Action	<u>(21,142.00)</u>
Remaining Balance	<u>\$ 151,305,377.19</u>
 Current Available Balance	 \$ 171,180,472.04
Less Outstanding Commitments	<u>(19,853,952.85)</u>
Estimated Unencumbered Balance	<u>\$ 151,328,519.19 *</u>

Utility Finance:   
David Anders, Utilities Finance Manager

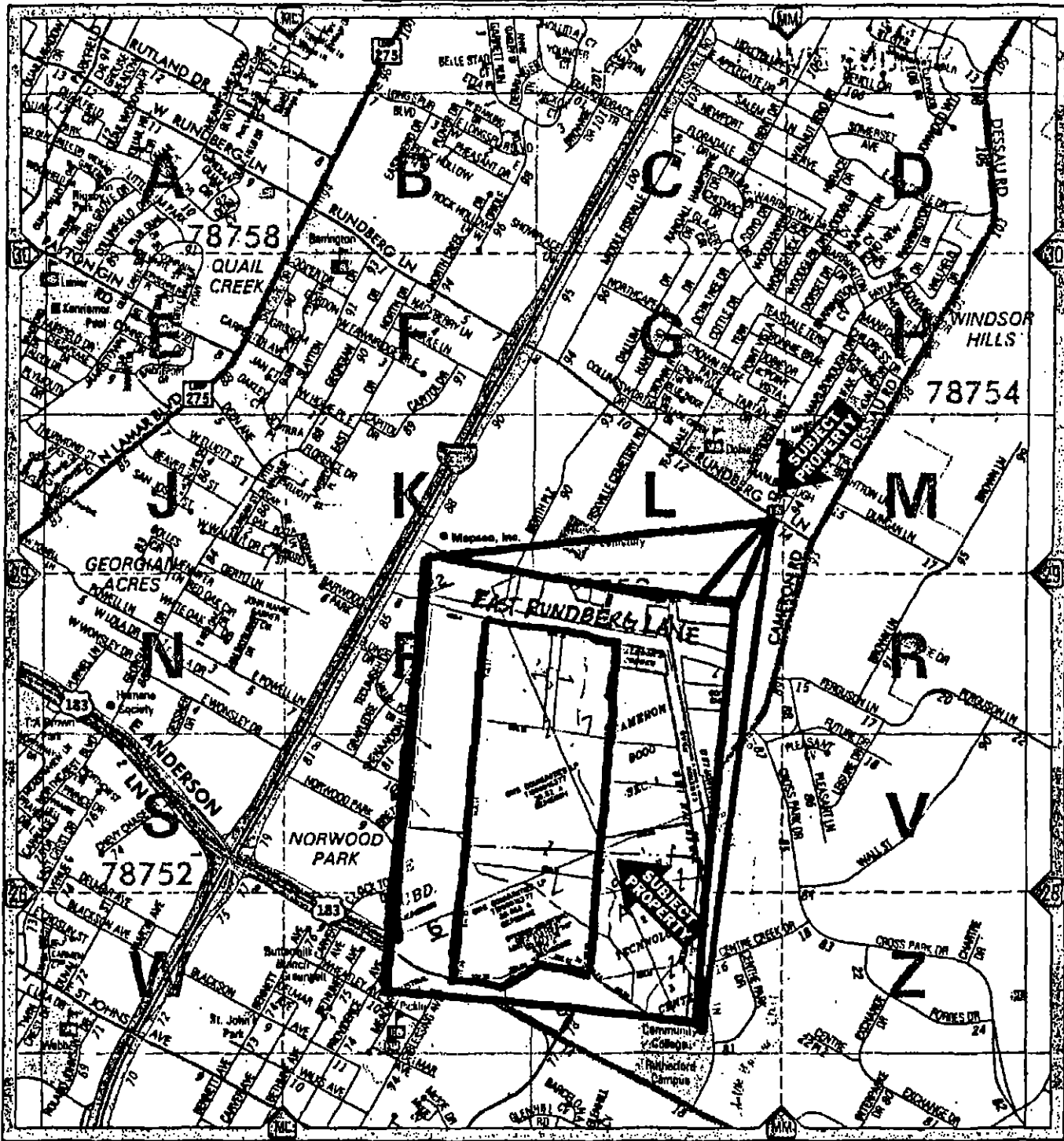
Date: 6/2/05

REF. # 4570 237 8578



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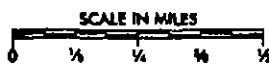
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**RESOLUTION NO. 20050623-**

**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 owners 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 owners 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 owners hereinafter stated and/or their 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," and "D," 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:** Stonegate MHC, L.P.

**Project:** Little Walnut/Buttermilk North/Capital Drive Project, a portion of the Austin Clean Water Program

**Intended Purpose:** permanent wastewater line easement, temporary working space easement, temporary staging area and material storage site easement and permanent access easement; all temporary easements listed above are necessary to install permanent wastewater lines; to upgrade and improve wastewater lines, to prevent leakage of wastewater lines, and to comply with a federal mandate.

**Location:** 1401 East Rundberg Lane, Austin, Texas, and see attached field notes.

**ADOPTED:** June 23, 2005

**ATTEST:** \_\_\_\_\_  
Shirley A. Brown  
City Clerk