



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

**AGENDA ITEM NO.: 18  
AGENDA DATE: Thu 08/26/2004  
PAGE: 1 of 1**

**SUBJECT:** Approve a resolution authorizing the filing of eminent domain proceedings for the IH 35 North Project to acquire 0.055 of an acre for a permanent water line easement and 0.017 of an acre for a temporary workspace easement out of Lot 1, Block A, HEB/Pflugerville Subdivision, Resubdivision of Lots 3, 4 and 5, Block 1, Wells Point Commercial, Section 1 and the amended Plat of Lots 1 and 2, Block 1, Wells Point Commercial, Section 1, in the amount of \$4,802. The owner of the property interests sought to be condemned is H.E.BUTT GROCERY COMPANY, San Antonio, TX. The property is located at 1434 Wells Branch Parkway, Pflugerville, TX.

**AMOUNT & SOURCE OF FUNDING:** Funding is included in the Fiscal Year 2003-2004 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 IH 35 North Project require acquisition of a permanent water line easement and a temporary work space easement on land located at 1434 Wells Branch Parkway, Pflugerville, Texas.

The City of Austin has attempted to purchase the permanent water line easement and temporary work space easement from the landowner; however, the parties have been unable to agree on an appropriate amount. The Law Department is requesting authorization to file a lawsuit in eminent domain on behalf of the City of Austin.

**RESOLUTION NO. 040826-**

**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:** August 26, 2004

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

## CIP FISCAL NOTE

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

8/26/2004  
Resolution  
Austin Water Utility

**DESCRIPTION:**

Approve resolution authorizing the filing of eminent domain proceedings for the IH 35 North Project to acquire a 2,396 square foot permanent waterline easement and a 741 square foot temporary workspace easement out of Lot 1, Block A, HEB/Pflugerville Subdivision, Resubdivision of Lots 3, 4 and 5, Block 1, Wells Point Commercial, Section 1 and the amended Plat of Lots 1 and 2, Block 1, Wells Point Commercial, Section 1, a subdivision in Travis County, in the amount of \$4,802. The owner of the property sought to be condemned is H. E. BUTT GROCERY COMPANY, San Antonio, TX. The property is located at 1343 Wells Branch Parkway, Pflugerville, Texas.

**FINANCIAL INFORMATION:**

Parent Project Name:	Water Improvements - Citywide
Project Authorization:	2003-04 Approve Capital Budget
Funding Source:	Current Revenue
Number:	3920 227 1016

Current Appropriation	\$ 95,565,949.00
Unencumbered Balance	13,987,029.47 *
Amount of This Action	<u>(4,802.00)</u>
Remaining Balance	<u>\$ 13,982,227.47</u>
 Current Available Balance	 \$ 15,183,008.47
Less Outstanding Commitments	<u>(1,195,979.00)</u>
Estimated Unencumbered Balance	<u>\$ 13,987,029.47 *</u>

Utility Finance: \_\_\_\_\_

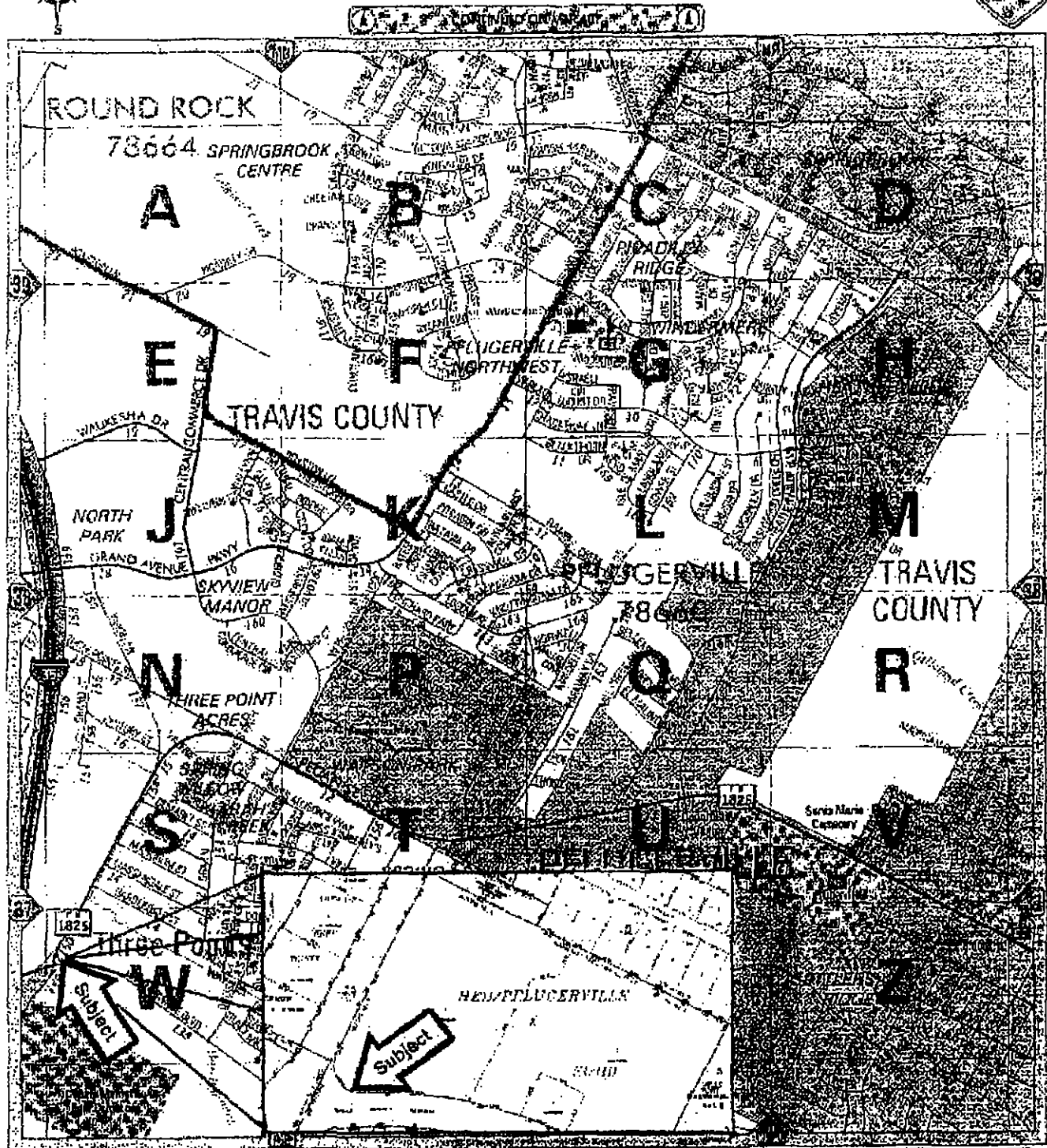
  
David Anders, Utilities Finance Manager

Date: 8/2/04

REF. # 3920 227 7837



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