



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

**AGENDA ITEM NO.: 7  
AGENDA DATE: Thu 02/10/2005  
PAGE: 1 of 1**

**SUBJECT:** Approve a resolution authorizing the filing of eminent domain proceedings for the Little Walnut/Buttermilk Creek portion of the Austin Clean Water Program to acquire two temporary working space easements, one containing 1,508 square feet of land and the other one containing 847 square feet of land and a temporary ingress and egress easement containing 9,018 square feet of land, all out of Lot 1, Bridge Creek Section Two of the James P. Wallace Survey No. 57, a subdivision in the City of Austin, Travis County, Texas, in an amount not to exceed \$35,314. The owner of the property interests sought to be acquired is IH 35 CHILI'S JOINT VENTURE, LTD. The property is located at 7629 Interstate Highway 35 North, 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 Creek portion of the Austin Clean Water Program requires the acquisition of two temporary working space easements and a temporary ingress and egress easement on the property located at 7629 Interstate Highway 35 North, Austin, Texas.

The City of Austin has attempted to purchase the two temporary working space easements and the temporary ingress and egress 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:**

2/10/2005  
Resolution  
Austin Water Utility

**DESCRIPTION:**

Approve a resolution authorizing the filing of eminent domain proceedings for the Austin Clean Water Program portion of Little Walnut/Buttermilk-Buttermilk Creek Project to acquire a temporary working space easement containing 2,355 square feet of land and a temporary ingress and egress easement containing 9,018 square feet of land out of the James P. Wallace Survey No. 57, in Travis County, Texas in the amount of \$35,314. The owner of the property interests sought to be acquired is IH 35 CHIL'S JOINT VENTURE, LTD. The property is located at 7629 IH 35 N, 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	\$ 494,673,293.00
Unencumbered Balance	176,258,646.48 *
Amount of This Action	<u>(35,314.00)</u>
Remaining Balance	<u>\$ 176,223,332.48</u>
Current Available Balance	\$ 199,135,180.37
Less Outstanding Commitments	<u>(22,876,533.89)</u>
Estimated Unencumbered Balance	<u>\$ 176,258,646.48 *</u>

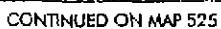
Utility Finance:

  
David Anders, Utilities Finance Manager

Date:

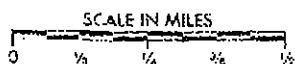
1/19/05

**REF. # 4570 237 8574**



CONTINUED ON MAP 556

CONTINUED ON MAP 527



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**RESOLUTION NO. 050210-**

**WHEREAS**, the Council finds that acquisition of the property interests described in the attachment are 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 IH 35 Chili's Joint Venture, Ltd., and the property is located at 7629 Interstate Highway 35 North, Austin, Travis County, Texas.

**ADOPTED:** \_\_\_\_\_ February 10 \_\_\_\_\_, 2005

**ATTEST:** \_\_\_\_\_

Shirley A. Brown  
City Clerk