



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

**AGENDA ITEM NO.: 26
AGENDA DATE: Thu 06/23/2005
PAGE: 1 of 1**

SUBJECT: Approve a resolution amending Resolution No. 050217-9 to clarify the City Council's statement of public purpose related to acquisition by eminent domain of 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, for the Upper Shoal Creek-Lower Hancock Branch portion of the Austin Clean Water Program, generally known as 5218 Burnet Road, in the City of Austin, Travis County, Texas, owned by MWM Fund III, Ltd., in the amount of \$133,500, 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. 050217-9

BOARD AND COMMISSION ACTION: N/A

PURCHASING: N/A

MBE / WBE: N/A

Resolution No. 050217-9 authorized the City Attorney to file a lawsuit in eminent domain 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, for the Upper Shoal Creek-Lower Hancock Branch portion of the Austin Clean Water Program, generally known as 5218 Burnet Road, in the City of Austin, Travis County, Texas. Like the other projects in the Austin Clean Water Program, the property interest to be acquired in the proposed action are to be used to prevent leakage and sanitary sewer overflows from its wastewater collection system. 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 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: MWM Fund III, Ltd.

Project: Upper Shoal Creek-Lower Hancock Branch Project, a portion of the Austin Clean Water Program

Intended Purpose: two permanent wastewater line easements and two temporary working space easements; 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: 5218 Burnet Road, Austin, Texas, and see attached field notes.

ADOPTED: June 23, 2005

ATTEST: _____
Shirley A. Brown
City Clerk