



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

**AGENDA ITEM NO.: 43
AGENDA DATE: Thu 06/23/2005
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SUBJECT: Approve a resolution amending Resolution No. 981210-21 to clarify the City Council's statement of public purpose related to acquisition by eminent domain of the fee simple interest in 4,883 and 9,122 square feet of land, out of the James M. Mitchell Survey No. 17, Abstract No. 521, and the James Coleman Survey No. 25, Abstract 169, generally located at 0 Spicewood Springs Road, between Mesa Drive and Loop 360, in the City of Austin, Travis County, Texas, owned by Joseph Binford and Richard Haberman, Trustees, as part of the Spicewood Springs Road right-of-way widening, 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. 981210-21

BOARD AND COMMISSION ACTION: N/A

PURCHASING: N/A

MBE / WBE: N/A

Resolution No. 991210-21 authorized the City Attorney to file a lawsuit in eminent domain to acquire the fee simple interest in 4,883 and 9,122 square feet of land, out of the James M. Mitchell Survey No. 17, Abstract No. 521, and the James Coleman Survey No. 25, Abstract 169, generally located at 0 Spicewood Springs Road, between Mesa Drive and Loop 360, in the City of Austin, Travis County, Texas. The property interest to be acquired in the proposed action are to be used to improve a City of Austin roadway for public use. The proposed action clarifies the location of the property to be acquired and 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 acquisitions 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 interests, 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" and "B," 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: Joseph Binford and Richard Haberman, Trustees

Project: Spicewood Springs Road Right of Way Widening Project
(from Mesa Drive to Loop 360) for improvements and/or
widening of a City of Austin street for public use.

Intended Purpose: fee simple interests in two parcels of land

Location: 0 Spicewood Road, Austin, Texas, and see attached field
notes.

ADOPTED: June 23, **2005**

ATTEST: _____
Shirley A. Brown
City Clerk