



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

**AGENDA ITEM NO.: 64
AGENDA DATE: Thu 06/23/2005
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SUBJECT: Approve a resolution authorizing the filing of eminent domain proceedings for the Downtown/White Horse Trail Wastewater Improvements Project, a portion of the Austin Clean Water Program, to acquire an 833 square foot permanent wastewater line easement and a 1,423 square foot temporary working space easement out of Lot 61, Allandale Section Three, a Subdivision in the City of Austin, in the amount of \$6,248. The owner of the property interests sought to be condemned is Kathleen McComb, of Austin, Texas. The property is located at 2402 White Horse Trail, 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

The design plans for the Downtown/White Horse Trail Wastewater Improvements Project, a portion of the Austin Clean Water Program, require acquisition of a permanent wastewater line easement and a temporary working space easement across the property located at 2402 White Horse Trail, Austin, Texas.

The City of Austin is attempting to purchase the permanent wastewater line easement and temporary working space easement from the landowner. In the event that the parties are 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.

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" 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: Kathleen McComb

Project: Downtown/White Horse Trail Wastewater Improvements Project, a portion of the Austin Clean Water Program

Intended Purpose: permanent wastewater line easement and temporary working space easement; the temporary easement listed above is 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: 2402 White Horse Trail, Austin, Texas, and see attached field notes.

ADOPTED: June 23, 2005 **ATTEST:** _____
Shirley A. Brown
City Clerk