



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

**AGENDA ITEM NO.: 34
AGENDA DATE: Thu 06/23/2005
PAGE: 1 of 1**

SUBJECT: Approve a resolution amending Resolution No. 031120-18 to clarify the City Council's statement of public purpose related to acquisition by eminent domain of a 14,948 square foot permanent access easement, a 1,083 square foot permanent drainage easement, and a temporary staging area and material storage site easement comprised of 45,652 square feet of land out of 15.034 acres of the John Applegate Survey 58, Abstract 29, Travis County, Texas, generally located east of Cameron Road and south of Clear Creek Drive, in the City of Austin, Travis County, Texas, for the Little Walnut/Buttermilk at Centre Creek portion of the Austin Clean Water Program, owned Joseph, Joseph & Williams Partnership, a Texas general partnership, in the amount of \$35,578, 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. 031120-18

BOARD AND COMMISSION ACTION: N/A

PURCHASING: N/A

MBE / WBE: N/A

Resolution No. 031120-18 authorized the City Attorney to file a lawsuit in eminent domain to acquire a permanent access easement comprised of 14,948 square feet of land, a permanent drainage easement comprised of 1,083 square feet of land, and a temporary staging area and material storage site easement comprised of 45,652 square feet of land out of 15.034 acres of the John Applegate Survey 58, Abstract 29, Travis County, Texas, generally located east of Cameron Road and south of Clear Creek Drive, in the City of Austin, Travis County, Texas. Like the other projects in the Austin Clean Water Program, the property interests 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 owner 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 owner 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 owner hereinafter stated and/or its 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," and "C," 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, Joseph & Williams Partnership

Project: Little Walnut/Buttermilk at Centre Creek Project, a portion of the Austin Clean Water Program

Intended Purpose: permanent drainage easement, to control rainwater runoff and/or prevent flooding on this and neighboring properties due to rainwater runoff, a permanent access easement is necessary to maintain the area within the permanent drainage easement and a temporary staging area and material storage site easement is necessary to effect improvement, within the drainage easement

Location: East of Cameron Road and south of Clear Creek Drive, Travis County, Texas, and see attached field notes.

ADOPTED: _____, 2005

ATTEST: _____
Shirley A. Brown
City Clerk