



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

**AGENDA ITEM NO.: 12
AGENDA DATE: Thu 09/01/2005
PAGE: 1 of 1**

SUBJECT: Approve a resolution authorizing the filing of eminent domain proceedings for the Little Walnut/Buttermilk-North Capital Drive Project, a portion of the Austin Clean Water Program, to acquire a 0.365 acre permanent wastewater line easement and a 15,974 square foot temporary working space easement out of the John Applegait Survey No. 58, Abstract No. 29, Travis County, Texas, in an amount not to exceed \$69,398. The owners of the property interests are 9920 N IH-35, L.L.C., 339 ELK DRIVE, L.L.C., and WAVECREST PROPERTIES, L.L.C. The property is located at 9920 Interstate-Highway 35, Austin, Travis County, Texas.

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

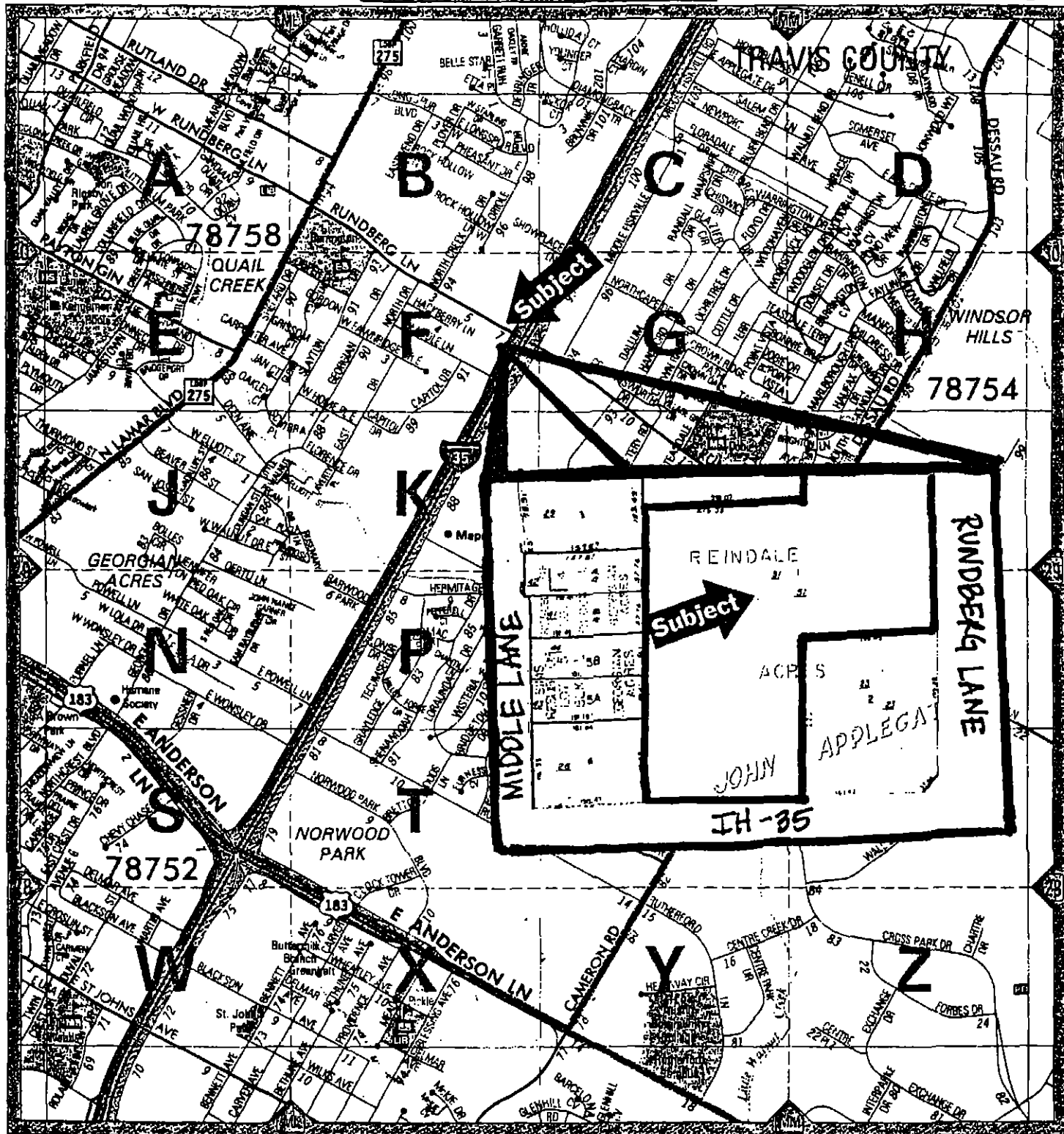
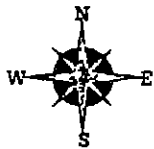
FOR MORE INFORMATION CONTACT: Lauraine Rizer, 974-7078; Laura Bohl, 974-7064

PRIOR COUNCIL ACTION: N/A

BOARD AND COMMISSION ACTION: N/A

The design plans for the Little Walnut/Buttermilk-North Capital Drive Project, a portion of the Austin Clean Water Program, require acquisition of a permanent wastewater line easement and a temporary working space easement on the property located at 9920 IH 35, Austin, Travis County, Texas.

The City of Austin has attempted to purchase the permanent wastewater line easement and temporary working space easement from the landowners. The parties, however, 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:

09/01/05
Resolution
Austin Water Utility

DESCRIPTION:

Approve a resolution authorizing the filing of eminent domain proceedings for the Little Walnut/Buttermilk-North Capital Drive project of the Austin Clean Water Program to acquire a permanent wastewater easement comprised of 15,899 square feet of land and a temporary work space easement comprised of 15,974 square feet of land out of a portion of Lot 1, less North 8.75', Reindale Acres, a Subdivision in the City of Austin, in the amount of \$69,398. The owner of the property sought to be condemned is 9920 N IH-35, L.L.C., 339 ELK DRIVE, L.L.C., and WAVECREST PROPERTIES, L.L.C., a Nevada Limited Liability Company. The property is located at 9920 Interstate-Highway 35, Austin, Travis County, Texas.

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	131,807,270.16 *
Amount of This Action	<u>(69,398.00)</u>
Remaining Balance	<u>\$ 131,737,872.16</u>
 Current Available Balance	 \$ 149,068,123.11
Less Outstanding Commitments	<u>(17,260,852.95)</u>
Estimated Unencumbered Balance	<u>\$ 131,807,270.16 *</u>

Utility Finance: _____

David Anders, Utilities Finance Manager

Date: 8/10/05

REF. # 4570 237 8578

RESOLUTION NO. 20050901-0

WHEREAS, the City Council of the City of Austin has found that public necessity requires the City of Austin to acquire certain real property interests for public purposes as set out below; and

WHEREAS, the City of Austin has attempted to purchase those real property interests but has been unable to agree with the owners 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, described and located below, for the public purposes set out below, and to take whatever other action may be deemed appropriate to economically effect the needed acquisitions.

The City Attorney, or other authorized designee, shall file eminent domain proceedings for:

Owners: 9920 N. IH-35, L.L.C., 339 Elk Drive, L.L.C. and Wavecrest Properties, L.L.C.

Project: Little Walnut/Buttermilk-North Capital Drive Project, a

portion of the Austin Clean Water Program

Intended Purpose: the permanent wastewater line easement described in the attached Exhibit "A" is necessary to install, operate, maintain, repair, replace, and upgrade permanent wastewater lines and appurtenances thereto, in order to increase and improve the City's ability to provide sanitary sewer services to the public, to prevent leakage from wastewater lines, and to comply with a federal mandate; and

the temporary working space easement described in the attached Exhibit "B" is necessary to install the permanent wastewater lines and appurtenances thereto in the permanent wastewater line easement described in the attached Exhibit "A."

Location: 9920 IH 35, Austin, Travis County, Texas.

Property: Described in the attached and incorporated Exhibits A and B.

ADOPTED: September 1, 2005

ATTEST: _____

Shirley A. Brown
City Clerk