



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

**AGENDA ITEM NO.: 11
AGENDA DATE: Thu 09/01/2005
PAGE: 1 of 1**

SUBJECT: Approve a resolution authorizing the filing of eminent domain proceedings for the Upper Shoal Spicewood Branch at Foster Lane Project, a portion of the Austin Clean Water Program, to acquire a 656 square foot permanent drainage easement, a 656 square foot permanent access easement, a 1,093 square foot permanent lateral support easement, and a 536 square foot temporary working space easement out of Lot 4-A of Northcross Section Three, a Subdivision in the City of Austin, in an amount not to exceed \$4,847. The owner of the property interests is 2819 FOSTER, LTD., of Austin, Texas. The property is located at 2819 Foster Lane, 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

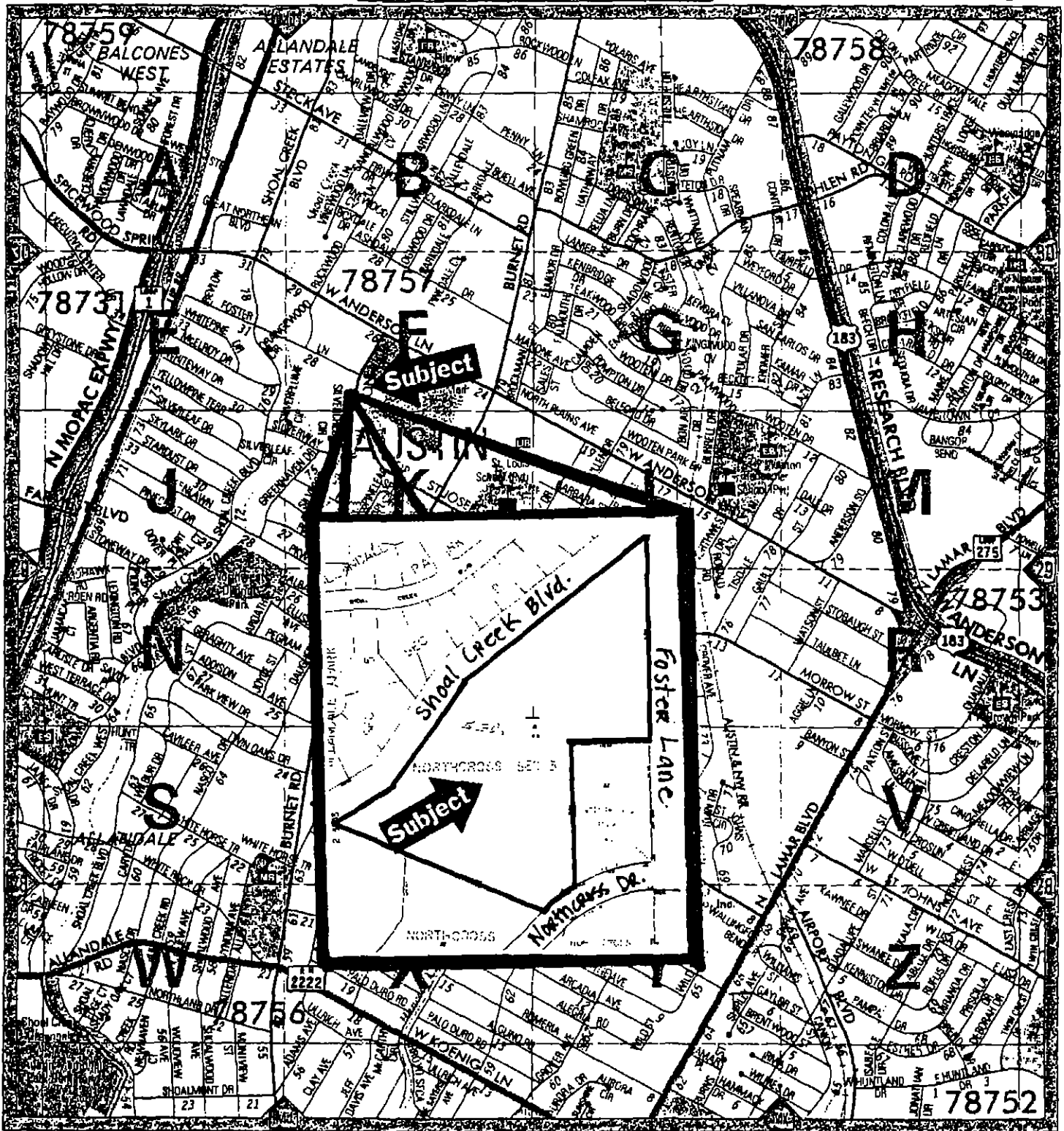
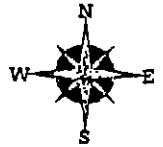
FOR MORE INFORMATION CONTACT: Lauraine Rizer, 974-7078; Laura Bohl, 974-7064

PRIOR COUNCIL ACTION: N/A

BOARD AND COMMISSION ACTION: N/A

The design plans for the Upper Shoal Spicewood Branch at Foster Lane Project, a portion of the Austin Clean Water Program, require acquisition of a permanent drainage easement, permanent access easement, permanent lateral support easement, and temporary working space easement on the property located at 2819 Foster Lane, Austin, Travis County, Texas.

The City of Austin has attempted to purchase the permanent drainage easement, permanent access easement, permanent lateral support easement, and temporary working space easement from the landowner. 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 Upper Shoal Spicewood Branch - Foster Lane project of the Austin Clean Water Program to acquire a permanent drainage easement comprised of 656 square feet of land, permanent access easement comprised of 656 square feet of land, permanent lateral support easement comprised of 1,093 square feet of land and a temporary working space easement comprised of 536 square feet of land out of a portion of Lot 4A, Northcross, Section 3, a Subdivision in the City of Austin, in the amount of \$4,847. The owner of the property sought to be condemned is 2819 FOSTER, LTD., of Austin, Texas. The property is located at 2819 Foster Lane, 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	131,811,857.16 *
Amount of This Action	<u>(4,847.00)</u>
Remaining Balance	<u>\$ 131,807,010.16</u>
Current Available Balance	\$ 149,068,123.11
Less Outstanding Commitments	<u>(17,256,265.95)</u>
Estimated Unencumbered Balance	<u>\$ 131,811,857.16 *</u>

Utility Finance:



David Anders, Utilities Finance Manager

Date:

8/10/05

REF. # 4570 237 8570

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 owner 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, 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:

Owner: 2819 Foster, Ltd.

Project: Upper Shoal Spicewood Branch at Foster Lane Project, a portion of the Austin Clean Water Program

Intended Purpose: the permanent drainage easement described in the attached Exhibit "A" is necessary to modify the flow of rainwater runoff to prevent or lessen the likelihood of flooding and erosion;

the permanent access easement described in the attached Exhibit "B" is needed to access the permanent drainage easement described in the attached Exhibit "A;"

the permanent lateral support easement described in the attached Exhibit "C" is needed to preserve the physical integrity of the permanent drainage easement described in the attached Exhibit "A;" and

the temporary working space easement described in the attached Exhibit "D" is necessary to construct what is needed in the permanent lateral support easement described in the attached Exhibit "C."

Location: 2819 Foster Lane.

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

ADOPTED: September 1, 2005

ATTEST: _____

Shirley A. Brown
City Clerk