

Mayor and Council Communication

DATE: 06/13/23

M&C FILE NUMBER: M&C 23-0478

LOG NAME: 21INJUNCTION _P29_MMC MGT. SERVICES_CHILDRESS

SUBJECT

(Near CD 3) Adopt Resolution Authorizing the City's Petition for a Temporary Injunction Against MMC Management Services, Inc., the Owner of Property Located at 9816 Lorie Valley Trail in the Montrachet Addition, Block 1, Lot 35, Tarrant County, Texas, Seeking a Temporary Right of Entry to Conduct Due Diligence in Anticipation of the Mary's Creek Force Main Project

RECOMMENDATION:

It is recommended that the City Council authorize the City Attorney to file a petition for a temporary injunction against MMC Management Services, Inc., the owner of property located at 9816 Lorie Valley Trail in the Montrachet Addition, Block 1, Lot 35, Tarrant County, Texas to gain access to the property in order to conduct due diligence necessary for the Mary's Creek Force Main project.

DISCUSSION:

Approval of this Mayor & Council Communication (M&C) would authorize the City Attorney to file a petition for a temporary injunction against MMC Management Services, Inc., the owner of property located at 9816 Lorie Valley Trail in the Montrachet Addition, Block 1, Lot 35, Tarrant County, Texas, to gain access to the property in order to conduct due diligence necessary for the Mary's Creek Force Main project (Project). The Project is a high-priority Water Department project that will transport wastewater to the future Mary's Creek Water Reclamation Facility in order to treat wastewater produced in the rapidly developing western part of the City and source high-quality reclaimed water for future businesses and industries in the area.

The property is in the central portion of the Project and currently owned by MMC Management Services, Inc., a Texas corporation managed by Mark M. Childress. Efforts to obtain permission to enter the property to perform due diligence work have been unsuccessful. Therefore, staff seeks Council authority to file suit to obtain a temporary injunction to allow employees of the City of Fort Worth, registered contractors, consultants, and their sub-consultants to enter the property to perform due diligence work.

As part of the due diligence for the Project, a Temporary Right of Entry is needed to perform the following:

1. Geo-technical analysis to include shovel testing and borings (backfilled upon drilling);
2. On-the-ground survey and appraisal;
3. Environmental jurisdiction determination to identify open waters or wetlands;
4. Environmental archaeological site review to identify cultural resources from history of operations in the area to include shovel testing along the alignment and backhoe trenching at key areas and creek crossings (backfilled upon completion);
5. Subsurface utility exploration to include Quality Level A Test Holes (backfilled upon completion);
6. In-situ soil resistivity testing to identify soil resistivity along the proposed alignment; and
7. General site observation.

Accordingly, it is recommended that the City Council adopt the attached resolution authorizing the filing of the Petition for Temporary Injunction in Tarrant County, Texas.

This property is near COUNCIL DISTRICT 3.

A Form 1295 is not required because: This M&C does not request approval of a contract with a business entity.

FISCAL INFORMATION / CERTIFICATION:

The Director of Finance certifies that approval of this recommendation will have no material effect on City funds.

Submitted for City Manager's Office by: Dana Burghdoff 8018

Originating Business Unit Head: Steve Cooke 5134

Ricky Salazar 8379

Additional Information Contact: Niels Brown 5166

Janice Holmes 6349

