

A Resolution

NO. _____

AUTHORIZING THE CITY ATTORNEY TO FILE A PETITION FOR TEMPORARY INJUNCTION AGAINST RODNEY D. SUMMERVILLE II

WHEREAS, the City of Fort Worth (“City”) is in the design stage of constructing the Mary’s Creek Force Main project (“the 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; and

WHEREAS, to complete the Project, the City must access property owned by Rodney D. Summerville II, in order to conduct surveying and other due diligence work, said property being located at 9832 Lorie Valley Trail and being described as Tarrant Appraisal District Account No. 42628430, Montrachet Addition, Block 1, Lot 37, Tarrant County, Texas; and

WHEREAS, the City has repeatedly sought to coordinate its survey and due diligence activities with Rodney Summerville II, by entering into a voluntary access agreement that would allow the City to conduct the due diligence activities it is entitled to conduct under the law; and

WHEREAS, efforts to obtain permission to enter the property in order to perform due diligence work have been unsuccessful thus preventing the City from completing the due diligence activities that need to be conducted in order for the Project to move forward; and

WHEREAS, the City’s failure to legally conduct survey and other due diligence work on the property places the ultimate design and construction of the Project in jeopardy; and

WHEREAS, because the City is vested with the power of eminent domain, the City is legally entitled to enter the property and conduct the due diligence activities necessary to successfully complete the Project; and

WHEREAS, pursuant to Section 65.011(1) of the Texas Civil Practice and Remedies Code, injunctive relief is appropriate when the applicant is entitled to the relief sought and such relief requires the restraining of some act prejudicial to the applicant. As a matter of law, the City is entitled to enter upon the property to conduct its due diligence and the property owner(s) should be restrained from interfering with the City’s exercise of this legal right.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS THAT:

The City Council authorizes the City Attorney to file a Petition for Temporary Injunction against Rodney D. Summerville II, the owner of 9832 Lorie Valley Trail, in order to preserve the status quo and to protect the City's statutory right to access the property to conduct the survey and due diligence activities necessary to proceed with the Project.

Adopted this _____ day of _____ 20 ____.

ATTEST:

By: _____
Jannette S. Goodall, City Secretary