

RESOLUTION NO. 070819-1

A RESOLUTION DECLARING THE CITY COUNCIL'S SUPPORT FOR LITIGATION CHALLENGING THE CONSTITUTIONALITY OF SB 1004 (2017) AND SB 1152 (2019); APPROVING THE ENGAGEMENT AGREEMENT WITH BICKERSTAFF HEATH DELGADO ACOSTA LLP AND CONFLICT OF INTEREST DISCLOSURE AND AGREEMENT FOR THE LITIGATION; AUTHORIZING THE MAYOR TO EXECUTE THESE AGREEMENTS AND TAKE THE NECESSARY ACTIONS FOR THE CITY OF LINDSAY TO BE A PARTY TO THE LITIGATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Lindsay was impacted by the passage of SB 1004 (2017), relating to the deployment of network nodes and that sets the fees that cities can charge for the use of their right-of-way, and the passage of SB 1152 (2019), precluding cities from receiving payment for the use of their rights-of-way for both cable and telecom; and

WHEREAS, these bills affect the City of Lindsay's ability to collect the fair market value of the use of its right-of-way by telecommunications and cable service providers; and

WHEREAS, the law firm of Bickerstaff Heath Delgado Acosta LLP is anticipating filing litigation on behalf of the City of McAllen and several other Texas cities to challenge the constitutionality of these two bills; and

WHEREAS, the City of Lindsay believes and finds that it will be worthwhile to join the City of McAllen and the other Texas cities involved in this litigation to challenge SB 1004 (2017) and SB 1152 (2019) and to pursue the protection of the right of cities across the state to continue to operate in accordance with the Texas Constitution;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LINDSAY, TEXAS:

SECTION 1.

That the City Council expresses a deep concern for the actions of the Texas Legislature in the Regular Session of the 86th Legislature that were detrimental to the power and authority of cities in Texas. As the foundation of a republic, as a form of government, is the ideal that power should be held as closely to the people as possible, yet there were many actions taken in this legislative session that either took power away from local governments, particularly cities, or shifted power from local governments, particularly cities, to the state.

SECTION 2.

That the City Council is in support of the anticipated legal action to challenge the constitutionality of SB 1004 (2017) and SB 1152 (2019) (the "Litigation") and wishes to join in the Litigation as a party along with the City of McAllen and the other Texas cities involved.

SECTION 3.

That the City Council hereby approves the Engagement Agreement with Bickerstaff Heath Delgado Acosta LLP for purposes of their representation in the Litigation and the Conflict of Interest Disclosure and Agreement related to the same. The City Council authorizes the Mayor to execute these agreements and to take the necessary actions for the City of Lindsay to be a party in the Litigation.

SECTION 4.

That the City Council hereby directs the City Secretary to deliver a copy of this resolution to the Governor of the State of Texas and to the Representatives of the Texas Legislature who represent the constituents of the City of Lindsay.

SECTION 5.

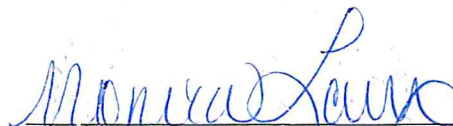
This resolution shall take effect immediately from and after its adoption, and it is so resolved.

Passed and approved this 8 day of July, 2019.



MAYOR

ATTEST:



CITY SECRETARY