

RESOLUTION NO. R-2019-64

A RESOLUTION OF THE CITY OF BASTROP, TEXAS, IN OPPOSITION TO SENATE BILL 1152 (2019); APPROVING THE REPRESENTATION OF BICKERSTAFF HEATH DELGADO ACOSTA LLP IN CONNECTION WITH LITIGATION TO CHALLENGE THE CONSTITUTIONALITY OF SENATE BILL 1004 (2017) AND SENATE BILL 1152 (2019); AUTHORIZING THE PAYMENT OF FEES TO BICKERSTAFF HEATH DELGADO ACOSTA LLP FOR LITIGATION EXPENSES; AND AUTHORIZING THE CITY ATTORNEY TO TAKE THE STEPS NECESSARY TO JOIN IN THE SB 1004 AND SB 1152 LITIGATION.

WHEREAS, the 86th Texas Legislative Session was replete with bills attacking city revenue streams, local economic prosperity, and the ability of Texas cities to provide integral infrastructure; and

WHEREAS, Senate Bill 1152, which allows cable and phone companies to stop paying the lesser of their state cable franchise or telephone access line fees, was one of these bills; and

WHEREAS, on June 14, 2019, Senate Bill 1152 was signed into law by Governor Greg Abbott despite overwhelming opposition by Texas municipalities; and

WHEREAS, numerous Texas municipalities, including Bastrop, rely on cable and telephone franchise fees to provide critical services to residents and visitors; and

WHEREAS, Article III, Section 52 of the Texas Constitution prohibits the legislature from authorizing municipalities to grant anything of value to a corporation; and

WHEREAS, Senate Bill 1152 will result in significant financial harm to Texas municipalities and their residents with no guaranteed cost-savings to cable and telephone consumers; and

WHEREAS, in 2017, the City of McAllen and several other Texas municipalities sued the State of Texas over the constitutionality of Senate Bill 1004 (2017), which was passed during the 85th legislative session; and

WHEREAS, the City of McAllen and these other municipalities have decided to amend their claims in that litigation: (1) to include a challenge to the

constitutionality of Senate Bill 1152 (2019); and (2) to allow other Texas municipalities to join the litigation.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Bastrop:

- Section 1:** That the statements and findings set out in the preamble to this resolution are approved and adopted.
- Section 2:** The City Council of the City of Bastrop (the “ City Council”) approves the representation of Bickerstaff Heath Delgado Acosta LLP’s representation of the City of Bastrop, along with other Texas cities, in connection with litigation to challenge the constitutionality of Senate Bill 1004 (2017), which relates to the deployment of network nodes and that sets the fees that cities can charge for the use of their right-of-way, and to the constitutionality of Senate Bill 1152 (2019), which can preclude cities from receiving payment for the use of their rights-of-way for both cable and telecom (“the SB 1004 and SB 1152 Litigation”).
- Section 3:** The City Council authorizes the payment of fees to Bickerstaff Heath Delgado Acosta LLP to be placed in a trust account for purposes of covering expenses for the SB 1004 and SB 1152 Litigation.
- Section 4:** The City Council authorizes the Mayor, City Manager, and City Attorney to take the steps necessary to join the City of McAllen and the other Texas municipalities in the SB 1004 and SB 1152 Litigation.
- Section 5:** The City Council hereby finds and determines that the meeting at which this Resolution was passed was open to the public, and public notice of the time, place and purpose at which it was read was given in accordance with Chapter 551, Texas Government Code.
- Section 6:** Should any part of this Resolution be held to be invalid for any reason, the remainder shall not be affected, and such remaining portions are declared to be severable.
- Section 7:** That this Resolution shall take effect immediately upon its passage, and it is so resolved.

DULY RESOLVED & ADOPTED by the City Council of the City of Bastrop, TX, on this, the 23rd day of July, 2019.

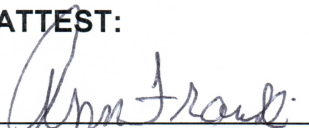
APPROVED:

by:



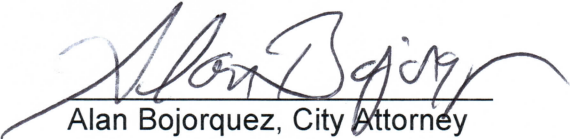
Connie B. Schroeder, Mayor

ATTEST:



Ann Franklin, City Secretary

APPROVED AS TO FORM:



Alan Bojorquez, City Attorney