

A Resolution

NO. _____

AUTHORIZING THE CITY ATTORNEY TO FILE A PETITION FOR TEMPORARY INJUNCTION AGAINST FORT WORTH LEGACY INVESTMENTS, L.P.

WHEREAS, the City of Fort Worth (“City”) is in the design stage of constructing the ITS Radio Transmit Site Project (“the Project”). The Project is a high-priority IT Department project that will provide expanded radio coverage, particularly in north Fort Worth and northwest Tarrant County. Considerable City development and expansion of City services in this quadrant have increased the need to extend radio coverage by implementing an additional radio transmission site and tower; and

WHEREAS, to complete the Project, the City must access property owned by Fort Worth Legacy Investments, L.P. in order to conduct surveying and other due diligence work, said property being located at 13501 Bates Aston Road in Lot 20R, Block 1, Haslet Heights in the W.C. Rall Survey, Abstract 1800, Tarrant County, Texas; and

WHEREAS, the City has repeatedly sought to coordinate its survey and due diligence activities with Fort Worth Legacy Investments, L.P. 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 Fort Worth Legacy Investments, L.P., the owner of 13501 Bates Aston Road, 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