

## FINANCIAL IMPACT STATEMENT For Council Action Items

(Deliver original to Financial Planning Division. Retain copy.)

1. Name of Initiator Mary Beth Henry		Telephone No 3-5414	2. Bureau/Office/Dept. OCCFM
5a. To be filed (date) Feb 17, 2010	5b. Calendar (Check One) Regular    Consent    4/5ths XX	3. Date Submitted to Budget Analyst: Feb 18	

**1) Legislation Title:** Authorize City to participate as intervenor in petitioning for review of Federal Communications Commission's decision to preempt state and local regulations for cell tower siting (Resolution).

**2) Purpose of the Proposed Legislation:** On July 11, 2008, CTIA—The Wireless Association® filed a petition with the Federal Communications Commission asking that the Commission issue a Declaratory Ruling clarifying provisions in sections 253 and 332(c)(7) of the federal Communications Act, seeking federal preemption of state and local regulatory authority by establishing federal deadlines for action on zoning applications and “deeming” these applications granted if the federal timetables are not met. In the Matter of Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review and to Preempt Under Section 253 State and Local Ordinances that Classify All Wireless Siting Proposals as Requiring a Variance, FCC 09-99, WT Docket No. 08-165; and,

On September 29, 2008, the City of Portland filed comments in the FCC proceeding leading up to the Ruling on September 28, 2008 as part of a coalition of local zoning authorities from around the United States; and,

Effective November 18, 2009, the FCC published notice of its declaratory ruling, which defines timeframes for State and local action on wireless facilities siting requests, 74 Federal Register 67871 (December 21, 2009) (the “Shot Clock” cell tower siting order); and,

Among other things, the FCC's “Shot Clock” cell tower siting order established a new 30-day deadline for local review of the “completeness” of siting applications, as well as new 90- and 150-day timelines for the local review of siting applications, and found that a local government may not deny an application solely due to the presence of another carrier; and,

Following the issuance of the FCC's “Shot Clock” cell tower siting order, the City of Arlington, Texas filed a petition in the Fifth Circuit Court of Appeals. City of Arlington, Texas v. Federal Communications Commission, United States Court Of Appeals for the Fifth Circuit Case No. 10-60039 (filed January 14, 2010); and

The FCC's mandate requires additional, unfunded work to process siting applications, and is not consistent with the usual, established timelines under Oregon law and the City's administrative practices, impinging on the ability to obtain adequate input from effected persons; and,

The City of Arlington's petition asserts, in part, that the FCC's “Shot Clock” cell tower siting order exceeds the agency's authority and is contrary to federal law.

**3) Revenue:**

Will this legislation generate or reduce current or future revenue coming to the City? If so, by how much? If new revenue is generated please identify the source. No

**4) Expense:**

What are the costs to the City as a result of this legislation? (Please include costs in the current fiscal year as well as costs in future years) (If the action is related to a grant or contract please include the local contribution or match required) \$1000

**Staffing Requirements:**

5) Will any positions be created, eliminated or re-classified in the current year as a result of this legislation? (If new positions are created please include whether they will be part-time, full-time, limited term or permanent positions. If the position is limited term please indicate the end of the term.) No.

6) Will positions be created or eliminated in future years as a result of this legislation? No.

7) **Change in Appropriations** (Please reflect the dollar amount to be appropriated by this legislation. Include the appropriate center codes and accounts that are to be loaded by accounting. Indicate "new" in Center Code column if new center needs to be created. Use additional space if needed.) N/A.

Fund	Center Code	Account	Amount	Project Fund	Project No.

APPROPRIATION UNIT HEAD (Typed name and signature)



Mary Beth Henry, Acting Director, Office of Cable Communications and Franchise Management