

RESOLUTION No. 37388

Authorize City Attorney to sue or join as a party in legal proceedings to maintain local control of, and reasonable compensation for access to, the City of Portland's public rights of way.

WHEREAS, On August 2, 2018, the Federal Communications Commission (FCC) adopted a Third Report and Order and Declaratory Ruling interpreting Section 253(a) of the federal Communications Act to prohibit express and *de facto* moratoria on applications and permits to deploy wireless or wireline telecom services and facilities (*Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment; Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WT Docket No. 17-79, WC Docket No. 17-84, Declaratory Ruling and Third Report and Order (August 2, 2018)); and

WHEREAS, On September 24, 2018, the FCC adopted a Second Further Notice of Proposed Rulemaking proposing new rules that, if adopted, likely will have a significant impact on cable franchise fees, PEG channels and other common cable-related obligations in cable franchise agreements (Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992, MB Docket No. 05-311 (September 24, 2018)); and

WHEREAS, On September 26, 2018, the FCC adopted a second Declaratory Ruling and Third Report and Order establishing an unreasonable and unworkable standard of what constitutes an effective prohibition on the provision of telecommunications services, which will impose costs on local governments and interfere with public safety and other local protections (*Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment; Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WT Docket No. 17-79, WC Docket No. 17-84, Declaratory Ruling and Third Report and Order (September 26, 2018)); and

WHEREAS, Taken together, along with the FCC's announcement of its likely future rulemaking, the FCC's actions amount to an unprecedented attack on local control of the City of Portland's largest physical asset, the public rights of way; and

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Portland, that the City Attorney or the City Attorney's designee, on behalf of the City of Portland, may file or join as a co-plaintiff in a lawsuit or lawsuits against the Federal Communications Commission and any responsible officers of the United States to vindicate the City's entitlement to manage and require reasonable compensation for access to the City's public rights of way, and to prosecute such actions to conclusion, at trial and in any subsequent appeals.

37388

Passed by the Council: OCT 02 2018

Commissioner

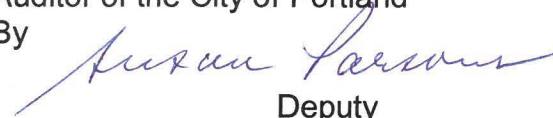
Prepared by: Maja K. Haium

Date Prepared: September 28, 2018

Mary Hull Caballero

Auditor of the City of Portland

By

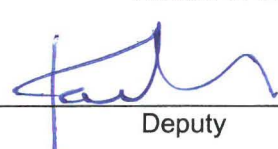


Deputy

1 0 1 6 - 1
 Agenda No.
RESOLUTION NO.
 Title

3 7 3 8 8

Authorize City Attorney to sue or join as a party in legal proceedings to maintain local control of, and reasonable compensation for access to, the City of Portland's public rights of way (Resolution)

<p align="center">INTRODUCED BY Commissioner/Auditor: Mayor Wheeler</p>	CLERK USE: DATE FILED <u> OCT 01 2018 </u>
<p align="center">COMMISSIONER APPROVAL</p>	<p align="center">Mary Hull Caballero Auditor of the City of Portland</p> <p>By:  Deputy</p> <p>ACTION TAKEN:</p>
Mayor—Finance & Administration – Wheeler <i>MP</i>	
Position 1/Utilities - Fritz	
Position 2/Works - Fish	
Position 3/Affairs - Saltzman	
Position 4/Safety - Eudaly	
<p align="center">BUREAU APPROVAL</p>	
Bureau: Mayor's Office Bureau Head: Mayor Ted Wheeler	
Prepared by: Michelle Plambeck Date Prepared: October 1, 2018	
Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/>	
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
City Auditor Office Approval: required for Code Ordinances	
City Attorney Approval: required for contract, code, easement, franchise, charter, Comp Plan	
Council Meeting Date October 2, 2018	

AGENDA
TIME CERTAIN <input checked="" type="checkbox"/> Start time: 11:15AM Total amount of time needed: 15 minutes (for presentation, testimony and discussion)
CONSENT <input type="checkbox"/>
REGULAR <input type="checkbox"/> Total amount of time needed: _____ (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz	1. Fritz	✓	
2. Fish	2. Fish	✓	
3. Saltzman	3. Saltzman	_____	
4. Eudaly	4. Eudaly	✓	
Wheeler	Wheeler	✓	