



Legislation Text

File #: RES 2019-094, Version: 1

AGENDA ITEM REPORT

TITLE:

A RESOLUTION AUTHORIZING AN INCREASE IN FUNDING FOR OUTSIDE COUNSEL TO CONTINUE THE APPEAL OF THE FEDERAL COMMUNICATIONS COMMISSION'S DECLARATORY RULING AND THIRD REPORT AND ORDER IN WIRELESS AND WIRELINE INFRASTRUCTURE DOCKET NUMBERS 17-79 AND 17-84, RESPECTIVELY IN ORDER TO PRESERVE THE CITY'S RIGHTS AND REMEDIES THEREUNDER.

BACKGROUND:

The Federal Communications Commission's ("FCC") Declaratory Ruling and 3rd Report & Order in the Wireless/Wireline Infrastructure proceedings ("Small Cell Preemption Order") was approved by the FCC on September 26, 2018. The action of the FCC significantly undercut every local jurisdictions' authority on the deployment of wireless infrastructure because it created wholesale presumptions for the Telecommunications Industry to use to argue that local laws prohibit or have the effect of prohibiting interstate or intrastate telecommunications service in violation of the Telecommunications Act of 1996. Many experts in the field have called this action an existential threat uphold home rule powers.

DISCUSSION:

Kenneth S. Fellman, Esq. of Kissinger & Fellman, P.C., requested an increase of \$3,000.00 in funds from the City of Coconut Creek and similarly situated smaller jurisdictions to finish this FCC Appeal. In October, 2018, the City Commission authorized the City Attorney to engage Kissinger & Fellman, P.C. to handle the appeal of the FCC Declaratory Ruling and 3rd Report and Order for a flat fee of \$5,000.00. Due to unforeseen circumstances the firm requires an additional \$3,000.00 in order to continue.

RECOMMENDATION:

Staff recommends approval of this resolution.

FISCAL IMPACT:

REVENUES: \$ 0

EXPENDITURES: \$ 3,000

BUDGETED? Yes

NOTES: Account No. 0113-3112, Outside Counsel.