

TEMPORARY RESOLUTION NO. 38-17

PERMANENT RESOLUTION NO. \_\_\_\_\_

A RESOLUTION TO RETAIN THE LAW FIRM OF ICE MILLER, LLP TO BRING SUIT ON BEHALF OF THE CITY OF LANCASTER, OHIO DECLARING SUBSTITUTE SENATE BILL 331 AS UNCONSTITUTIONAL AND OTHERWISE IN VIOLATION OF OHIO LAW AND DECLARING AN EMERGENCY

WHEREAS, City Council for the City of Lancaster, Ohio recognizes that its citizens need advanced wireless communications services and that its citizens desire enhanced access to these services; and

WHEREAS, City Council recognizes that small cell facilities will need to be situated within the corporate limits of the City in order to expand wireless communications services; and

WHEREAS, City Council desires to work with wireless communications companies regarding the placement of these facilities in order to preserve the aesthetics of the community and protect the health, safety, and welfare of its citizens; and

WHEREAS, the State of Ohio has enacted Substitute Senate Bill 331, which purports to remove the City's authority to regulate and control placement of these facilities in City right-of-way and requires cities to make available at nominal cost, access to city-owned poles and other structures in the right-of-way; and

WHEREAS, City Council desires to assert its home rule authority to control the use of local right-of-way in the best interests of its citizens; and

WHEREAS, Substitute Senate Bill 331 violates the home rule provisions of the Ohio Constitution;

BE IT RESOLVED BY COUNCIL OF THE CITY OF LANCASTER, STATE OF OHIO

SECTION 1. That City Council hereby authorizes the law firm of Ice Miller, LLP to bring suit on behalf of the City of Lancaster, Ohio declaring Substitute Senate Bill 331 as unconstitutional and otherwise in violation of Ohio law.

SECTION 2. This Resolution is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City, and for the further reason that this Resolution is required to be immediately effective in order to bring suit prior to the March 21, 2017 effective date of the provisions of Substitute Senate Bill 331 of the Ohio General Assembly which purports to remove the City's authority to regulate and control placement of these facilities in City right-of-way and requires cities to make available at nominal cost, access to city-owned poles and other structures in the right-of-way.

SECTION 3. It is found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council, and that all such deliberations of this Council were in meetings open to the public in compliance with all legal requirements.

Passed: \_\_\_\_\_ after \_\_\_\_\_ reading. Vote: Yeas \_\_\_\_\_ Nays \_\_\_\_\_

Date Approved: \_\_\_\_\_

Clerk: \_\_\_\_\_

\_\_\_\_\_  
President of Council

\_\_\_\_\_  
Mayor

Offered by: \_\_\_\_\_

Second by: \_\_\_\_\_

Requested by Law Committee