

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, URGING THE FLORIDA LEGISLATURE TO REPEAL SECTION 337.401(7), FLORIDA STATUTES, KNOWN AS THE ADVANCED WIRELESS INFRASTRUCTURE DEPLOYMENT ACT; DIRECTING THE CITY'S STATE LOBBYISTS TO ADVOCATE FOR THE ACTIONS DESCRIBED IN THIS RESOLUTION; AND AUTHORIZING AND DIRECTING THE CITY ADMINISTRATION TO AMEND THE CITY'S 2020 STATE LEGISLATIVE AGENDA TO INCLUDE THIS ITEM.

WHEREAS, in the 2017 Legislative Session, the Florida Legislature adopted House Bill 687, codified as Laws of Florida Chapter 2017-136, which added a new subsection (7) to section 337.401, Florida Statutes, to be cited as the "Advanced Wireless Infrastructure Deployment Act" (the "Act"); and

WHEREAS, the Act addressed the installation of wireless telecommunications infrastructure within public rights-of-way and significantly preempted local authority over regulation of small wireless facilities, also referred to as "5G" equipment; and

WHEREAS, in the 2019 Legislative Session, the Florida Legislature adopted Senate Bill 1000 ("SB 1000"), codified as Laws of Florida Chapter 2019-131, which amended the Act to significantly expand the preemption of local authority over local rights-of-way in favor of installation of 5G and other wireless telecommunications equipment; and

WHEREAS, among the most significant new impacts of SB 1000 was to preempt local authority over new poles that are allowed in the rights-of-way and to entitle wireless companies that install 5G equipment to their own new poles at their preferred locations, without requiring collocation of multiple providers to reduce impacts to the rights-of-way; and

WHEREAS, telecommunications companies are unique among other utilities that are authorized to install equipment in the rights-of-way in that there are numerous telecommunications companies, and both state and federal law require that regulations be competitively neutral, which do not apply when there is a single utility; and

WHEREAS, the effect of SB 1000 has been to encourage a free-for-all among multiple competing telecommunications providers, which have been rushing to install new poles to accommodate their equipment in the public rights-of-way; and

WHEREAS, the numerous telecommunications providers seeking to install new poles have been doing so with little regard to the disruption their work imposes on the businesses and residents who use those rights-of-way on a daily basis; and

WHEREAS, in their rush to occupy the public rights-of-way and secure their preferred territories, telecommunications companies have installed poles and associated equipment in an unsafe manner, such as by leaving exposed electrical equipment or wiring; and

WHEREAS, some companies have further exacerbated the disruption to public rights-of-way by installing a pole before obtaining an electrical permit, inadequately securing their construction sites while the electrical permits are pending, or performing additional construction weeks later in the same location after obtaining their other required permits; and

WHEREAS, companies have been hastily installing new poles with little regard for whether they are obstructing historical buildings or art in public places, which deteriorates the aesthetic of urban spaces; and

WHEREAS, these problems are a consequence of the Act depriving local communities of the authority to manage their rights-of-way and also allowing dozens of companies the same rights to access the public rights-of-way as utilities that have only one or two providers seeking installations in the same areas; and

WHEREAS, rather than preempting local authority on a matter that so significantly affects the very aesthetic of each of Florida's diverse communities, the Florida Legislature should instead preserve and expand local authority to determine the design and overall aesthetic of the public rights-of-way and other public spaces that each local government is responsible for managing; and

WHEREAS, as such, the Mayor and City Commission of the City of Miami Beach urge the Florida Legislature to repeal Section 337.401(7), Florida Statutes, known as the Advanced Wireless Infrastructure Deployment Act, or, if full repeal is not feasible, to amend Section 337.401, Florida Statutes, to restore local authority to determine the design and overall aesthetic of the public rights-of-way and other public spaces that each local government is responsible for managing; and

WHEREAS, the Mayor and City Commission further direct the City's state lobbyists to advocate for the actions described in this Resolution, and authorize and direct the Administration to amend the City's 2020 State Legislative Agenda to include this item; and

WHEREAS, finally, the Mayor and City Commission direct the City Clerk to transmit a certified copy of this Resolution to the Governor, Senate President, House Speaker, and the Chair and members of the Miami Beach State Legislative Delegation.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission hereby urge the Florida Legislature to repeal Section 337.401(7), Florida Statutes, known as the Advanced Wireless Infrastructure Deployment Act; direct the City's state lobbyists to advocate for the actions described in this Resolution; and authorize and direct the City Administration to amend the City's 2020 State Legislative Agenda to include this item.

PASSED AND ADOPTED this ____ day of _____, 2019.

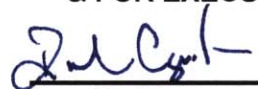
ATTEST:

Dan Gelber, Mayor

Rafael E. Granado, City Clerk

(Sponsored by Commissioner Ricky Arriola)

**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**



City Attorney

12/2/19

Date