

CITY OF CORAL GABLES, FLORIDA

RESOLUTION NO. 2017-245

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF CORAL GABLES, FLORIDA AUTHORIZING THE CITY ATTORNEY TO TAKE LEGAL ACTION ON BEHALF OF THE CITY AGAINST FIBERNET DIRECT FLORIDA, LLC TO RECOVER DAMAGES CAUSED BY THE ACTIONS OF FIBERNET DIRECT FLORIDA, LLC RELATED TO UNPERMITTED WORK ALONG THE GIRALDA RIGHT-OF-WAY

WHEREAS, on or about April 8, 2017 the City was made aware that Fibernet Direct Florida, LLC ("Fibernet") performed construction work without a permit along the City's right-of-way on Giralda Avenue in the City of Coral Gables; and

WHEREAS, Fibernet failed to apply for or obtain a permit from the City prior to commencing construction and excavation along the Giralda Avenue right-of-way, the City had not waived the permitting requirement, and no emergency existed necessitating unpermitted work on the right-of-way; and

WHEREAS, during construction, Fibernet caused physical damage to City property which it failed to repair; and

WHEREAS, the City sent written notice of the damages and demand for payment on April 21, 2017 and Fibernet has failed to pay the City for the damages and necessary repairs to the Giralda Avenue right-of-way; and

WHEREAS, the City Commission desires to take legal action to recover for the damages sustained by the City and directly and proximately caused by Fibernet's construction and excavation on the Giralda right-of-way as well as interest and reasonable attorneys' fees and costs;

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF CORAL GABLES:

SECTION 1. The foregoing "Whereas" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Resolution upon adoption hereof.

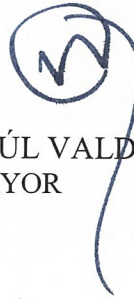
SECTION 2. That the City Commission authorizes and directs the City Attorney to bring legal action against Fibernet Direct Florida, LLC, as well as any other related parties the City Attorney determines should be named, in order to effectuate full relief for the City. The City Attorney is also authorized and directed to bring any additional claims the City may possess related to these damages including claims for reasonable attorneys' fees and costs.

SECTION 3. That this Resolution shall become effective upon the date of its passage and adoption herein and remains in full force and effect until supplemented, amended, repealed or otherwise altered.

PASSED AND ADOPTED THIS TWENTY-NINTH DAY OF AUGUST, A.D.,
2017.

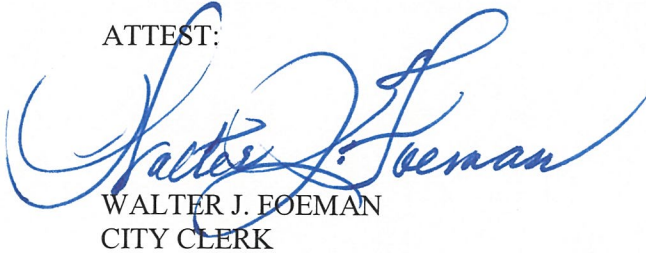
(Moved: Quesada / Seconded: Mena)
(Yeas: Quesada, Keon, Lago, Mena, Valdes-Fauli)
(Unanimous: 5-0 Vote)
(Non-Agenda Item)

APPROVED:

A handwritten signature in blue ink, consisting of a stylized 'R' and 'V' inside a circle, followed by a long, sweeping horizontal line.

RAÚL VALDÉS-FAULI
MAYOR

ATTEST:

A handwritten signature in blue ink, appearing to read 'Walter J. Foeman' in a cursive script.

WALTER J. FOEMAN
CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

A handwritten signature in blue ink, appearing to read 'Craig E. Leen' in a cursive script.

CRAIG E. LEEN
CITY ATTORNEY