IN THE SUPREME COURT OF THE STATE OF OREGON

ROGUE VALLEY SEWER SERVICES, and Oregon municipality, Plaintiff-Appellant, Petitioner on Review, v. CITY OF PHOENIX**,** an Oregon municipality, Defendant-Respondent, Respondent on Review.	Jackson County Circuit Court Case No. 103450-E-2 CA A148968 SC S062277

BRIEF OF RESPONDENT ON REVIEW CITY OF PHOENIX

Review of the opinion of the Court of Appeals on appeal from the Jackson County Circuit Court, Hon. G. Philip Arnold, Judge

Affirmed with Opinion: April 9, 2014
By: Armstrong, P.J., Presiding Judge
Concurring: Armstrong, Duncan and Brewer

J. Ryan Kirchoff, OSB#081879
James Holmbeck Kirchoff, LLC
130 NW D Street
Grants Pass OR 97526
(541) 476-6677
ryan@dstreetlaw.com
Attorneys for Respondent on Review City of Phoenix

Kurt H. Knudsen, OSB #920776
PO Box 126
Jacksonville OR 97530-0126
(541) 778-4375
knudsen@mind.net
Attorneys for Respondent on Review City of Phoenix

Chad A. Jacobs, OSB #083694
Paul C. Elsner, OSB #820476
Beery, Elsner & Hammond, LLP
1750 SW Harbor Way Ste 380
Portland OR 97201-5106
(503) 226-7197
chad@gov-law.com
paul@gov-law.com
Attorneys for Amicus Curiae

Tommy A. Brooks, OSB #076071
Case M. Nokes, OSB #076641
Clark I. Balfour, OSB #791529
Cable Huston LLP
1001 SW 5th Ave Ste 2000
Portland OR 97204-1136
(503) 224-3092
tbrooks@cablehuston.com
cnokes@cablehuston.com
cbalfour@cablehuston.com
Attorneys for Petitioner on Review
Rogue Valley Sewer Services

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Respondent City of Phoenix ("Phoenix") is a home-rule municipality governed by a charter enacted in 2009. Its charter confers upon the city "all powers that the constitutions, statutes, and common law of the United States and of this state now or hereafter expressly or impliedly grant or allow the city, as fully as though this charter specifically enumerated each of those powers." 2009 Phoenix Charter, ch II, § 4. Petitioner Rogue Valley Sewer Services ("RVSS") is a sanitation authority established under ORS Chapter 450 for the sole purpose of providing sanitation facilities and services to cities and unincorporated areas within Jackson County, Oregon.

RVSS provides sewer services to Phoenix residents and uses the city's rights-of-way in order to do so. In 2010, Phoenix enacted an ordinance in which it imposed upon RVSS a fee as reimbursement for the costs associated with the use of the city rights-of-way. The essential question in this case is whether the trial court and the Court of Appeals properly determined the fee is valid under home rule authority or other statutory grounds in ORS 450.815(7).

A. Is a home-rule city authorized by statute to impose a fee upon a sanitary authority as a condition of consent to the use of the city's right-of-way?

Proposed Rule of Law: The limited powers of a sanitary authority are prescribed by statute. ORS 450.815(7) expressly requires a sanitary authority to obtain the consent of a city prior to occupying city property and requires compliance with any conditions imposed upon such consent by the city, including fees to compensate the city for use of its property.

B. Notwithstanding ORS 450.815(7), did the legislature preempt the authority of a city to impose upon a sanitary authority a tax or fee designed to recoup the costs associated with its use of the city's right-of-way?

Proposed Rule of Law: Pursuant to charter establishing home rule powers, a city is authorized to impose a fee upon a sanitation authority for the use of its right-of-way for the costs of such use, unless the legislature has preempted the city's authority to do so, which it has not in this case.

C. Is a city authorized under home rule powers to impose a fee or tax upon a sanitary authority to recoup the costs and expense related to the use of its right-of-way?

Proposed Rule of Law: Article XI, section 2, of the Oregon Constitution, expressly authorizes cities to act without having to obtain further authorization from the legislature. Pursuant to a charter establishing home rule powers, a city may impose a fee or tax upon a sanitation authority for the use of its right of way, unless the legislature has preempted such authority.

D. Did RVSS preserve for appeal and review its challenge against reasonableness of the fee?

Proposed Rule of Law: No. In the underlying declaratory judgment proceedings, RVSS did not assert a claim against the reasonableness of the City's fee. Further, RVSS did not assign error to the trial court's order ruling to the extent the issue was not preserved.

E. Assuming, *arguendo*, the issue concerning the reasonableness of the fee is preserved, is there a genuine issue of material fact for review?

Proposed Rule of Law: No. RVSS has not offered evidence to overcome the *prima facie* validity of the city's fee and the reasonableness of its amount.

STATEMENT OF THE CASE

A. Nature of the proceeding.

Phoenix enacted Ordinance No. 928 in which it imposed upon RVSS a fee "in an amount equal to five percent of [RVSS's] annual gross revenue." The ordinance was designed and intended to "to regulate and reimburse [Phoenix] for its costs associated with [RVSS,] and not to raise revenue."

RVSS commenced an action for declaratory judgment and injunctive relief in which it sought to invalidate the ordinance. The parties filed cross-motions for summary judgment. The court granted Phoenix's motion and found

the city was authorized to impose the fee under the home rule powers in its charter. Thereafter, RVSS objected to Phoenix's proposed judgment and argued that its claimed were not fully adjudicated to the extent the trial court did not determine whether the fee was in fact reasonable.

The trial court denied the objection and entered an order as follows: "There was nothing in [RVSS's] motion for summary judgment seeking an additional declaration or a separate finding concerning the reasonableness of the fee, if the authority to levy the fee were upheld." RVSS did not assign error to that order on appeal.

The Court of Appeals concluded that RVSS did not separately assert a claim (for declaratory relief) against the reasonableness of the fee and found there was no consent by the parties to otherwise adjudicate the issue at trial. *See Rogue Valley Sewer Services v. City of Phoenix*, 262 Or App 185, 200-01, 329 P3d 1 (2014).

B. Facts material to review.

Phoenix is in agreement with the summary of facts presented by RVSS, with the exception of the following:

RVSS submits, conclusively, that it would be required to increase its rates to pay the added cost of the fee. The assertion is based upon an affidavit of its General Manager, which merely repeats the same conclusive statement.

It does not establish whether RVSS's rates are based solely upon costs or otherwise explain why it would be required to raise rates.

In addition, the purpose underlying Phoenix's ordinance is likewise important for purposes of the facts material to review in this case. The purpose of the ordinance is expressly described in its preamble:

> "[I]n order to help maintain an adequate level of maintenance and operation, the City has an important interest in ensuring recoupment of the full costs and full impacts associated with the use, occupation, and other activities and effects by sanitary authorities and other utilities on the public rights of way; and
>
> * * * * *
>
> "[T]he primary purpose of the collection of a franchise fee from [RVSS] is to regulate and reimburse the City for its costs associated with [RVSS], and not to raise revenue; [and]
> "[T]he intent of the City in enacting this ordinance is to allocate money collected from [RVSS] only for costs and reimbursement associated with proper regulatory purposes."

Accordingly, Phoenix established the fee based upon the estimated actual costs the city would incur from RVSS's use of its rights-of-way and impact on its roads. The City Engineer and Public Works Director for Phoenix determined those estimated costs in the amount of $29,425.00. That amount is effectively five percent of the annual gross revenue RVSS derives from citizens residing within Phoenix's jurisdictional boundaries, which is the measure of the fee imposed by the ordinance.

SUMMARY OF ARGUMENT

Both the trial court and appellate courts correctly reached the conclusion that Phoenix is authorized to impose the fee on RVSS to recoup the costs of using its right-of-way. That conclusion is supported by ORS 450.815(7) and Phoenix's home rule powers.

RVSS is a sanitation authority with limited, statutorily established powers under ORS Chapter 450. Although RVSS has statutory authority to install and operate its sewers within the right-of-way, it may do so only with the consent of the city and compliance with any conditions upon such consent imposed by the city. Accordingly, Phoenix imposed a fee as a condition of its consent to using its right-of-way.

Secondly, and notwithstanding the express statutory requirements for a sanitation authority's consent as well as compliance with such consent, Phoenix is authorized under its home rule powers to enact regulations pursuant to its city charter. As this court has explained, a home rule city may do so unless (1) the legislature expressly intended to preempt the same, or (2) when the exercise of its authority cannot stand concurrently with state law. In the present case, the underlying charter affords broad authority to Phoenix, including its right to impose fees such as the one in Ordinance No. 928.

RVSS contends the fee is essentially a tax and that a city may not

impose a tax on another unit of government absent express statutory authorization. That proposition is misplaced. First, the fee is simply not a tax. To the contrary, the fee was established and is collected, pursuant to its conditions of consent, in exchange for a the use of its rights-of-way. And even if the fee were construed as a tax, the analysis is no different. Taxation is a form of regulation and there is no distinction within the home rule amendments to the Oregon Constitution regarding their applicability to private or public entities. Thus, unless otherwise preempted by state law, Phoenix may impose such regulations, whether in the form of a fee or a tax, on RVSS for its use of the its rights-of-way.

In addition, this court should not entertain RVSS's argument regarding the amount of the fee because RVSS did not separately assert such a claim in the trial court. The trial court found that RVSS never raised the issue of the amount or reasonableness of the fee. In an order accompanying the general judgment, the trial court held that "[t]here was nothing in the complaint to suggest [RVSS] also challenged the reasonableness of the fee in the event Phoenix's authority was upheld." Therefore, RVSS failed to preserve for review any issue regarding the reasonableness or calculation of the fee.

Assuming, *arguendo*, the issue is preserved, the fee is *prima facie* reasonable and RVSS’s bare assertions are insufficient to create a genuine issue

of material fact.

ARGUMENT

A. RVSS, a sanitary authority with limited powers under ORS Chapter 450, may operate within a city right-of-way when it complies with the conditions of consent to do so by the city, including the fees imposed upon RVSS for its use of Phoenix's right-of-way.

The legislature authorized the creation of sanitary authorities in ORS Chapter 450. The powers of sanitary authorities are expressly limited therein. *See* ORS 450.815. Specifically, ORS 450.815(7) expressly requires a sanitary authority to obtain the consent of a city prior to occupying city property and requires compliance with any conditions imposed upon such consent by the city, including fees to compensate the city for use of its property. The statute simply does not provide sanitary authorities with the power to ignore or avoid conditions imposed by a city, nor does it prohibit the imposition of fees by a city as a condition of its consent.

Accordingly, RVSS is authorized to occupy Phoenix's right-of-way, but only because the city has granted its consent, with conditions. The continued use of Phoenix's right-of-way is, therefore, contingent upon its compliance with the fee imposed in the underlying ordinance. To allow RVSS to continue using the right-of-way and ignore the fee would essentially rewrite the statute and expand the authority otherwise expressly limited by the legislature.

B. Pursuant to its charter and the home rule authority afforded therein, Phoenix is authorized to impose the fee because the legislature has not expressly preempted its authority to do so.

Plaintiff's home rule authority arises from two provisions in the Oregon Constitution, Or Const, Art XI, § 2, and Or Const, Art IV, § 1a (now § 1(5)). In particular, Article XI, section 2, states:

> "The Legislative Assembly shall not enact, amend or repeal any charter or act of incorporation for any municipality, city or town. The legal voters of every city and town are hereby granted power to enact and amend their municipal charter, subject to the Constitution and criminal laws of the State of Oregon."

The foregoing authorizes a home rule city to determine how to grant and exercise its governmental power without the need to obtain authority from the state legislature. *La Grande/Astoria v. PERB*, 281 Or 137, 142 (1978), aff'd on reh'g, 284 Or 173 (1978). That authorization allows cities to regulate in substantive areas, even when the area is also regulated by the state.

Accordingly, this court presumes the validity of local civil enactments, unless the legislature's intent to preempt those enactments is apparent. *See LaGrande/Astoria v. PERB*, 281 Or at 148-49. As the Supreme Court explained in *LaGrande/Astoria*:

> "Outside the context of laws prescribing the modes of local government, both municipalities and the state legislature in many cases have enacted laws in pursuit of substantive objectives, each well within its respective authority, that were arguably inconsistent with one another. In such cases, the first inquiry must

> be whether the local rule in truth is incompatible with the legislative policy, either because both cannot operate concurrently or because the legislature meant its law to be exclusive. It is reasonable to interpret local enactments, if possible, to be intended to function consistently with state laws, and equally reasonable to assume that the legislature does not mean to displace local civil or administrative regulation of local conditions by statewide law unless that intention is apparent."

LaGrande/Astoria, 281 Or 148-149.

Thus, the home rule authority of a city to regulate in an area is preempted by state law when: (1) the legislature expressly intends to do so; or (2) when local rule is incompatible with state law to the extent the two cannot operate concurrently. *See Thunderbird Mobile Club, LLC v. City of Wilsonville*, 234 Or App 457, 470 (2010).

Consistent with the foregoing, Phoenix was allowed to impose the fee in the present case if such an action was authorized by its charter. *See LaGrande/Astoria*, 281 Or at 142 (the validity of local action preliminarily depends on whether it is authorized in the charter). In that regard, and the Court of Appeals correctly noted, Phoenix's charter grants broad authority encompassing the ordinance in which it imposed the fee:

> "Section 4. Powers. The city has all powers that the constitution, statutes, and common law of the United States and of this state now or hereafter expressly or impliedly grant or allow the city, as fully as though this charter specifically enumerated each of those powers."

See Rogue Valley Sewer Services, 262 Or App at 185.

Based on the extensive powers afforded in its charter, Phoenix is authorized to impose the fee unless the legislature has preempted its authority to do so.

1. The legislature has not expressed unambiguous intend to preempt the home rule authority of cities to impose fees upon a sanitation authority to recoup the costs of using their rights-of-way.

With respect to local civil enactments, the court presumes the legislature did not intend to displace local ordinances, unless that intention is apparent. *LaGrande/Astoria,* 281 Or at 148. (explaining that it is "reasonable to assume that the legislature does not mean to displace local civil or administrative regulation of local conditions by a statewide law unless that intention is apparent" (footnote omitted)). Accordingly, this court must interpret local civil enactments as consistent with state law, if possible. *Id*.

RVSS relies upon ORS 221.420 and ORS 221.450 for the proposition the legislature has preempted the authority of Phoenix to impose the fee by creating a “comprehensive and exclusive" scheme by which cities are prohibited from imposing a fee to compensate the city for a sanitary authority's use of a city right-of-way. RVSS’s proposition is misplaced under the home rule amendments to the Oregon Constitution and the cases in which this Court has analyzed and addressed the same. Oregon does not recognize field preemption in the absence of unambiguous legislative intent to preempt local

regulation. *See LaGrande/Astoria*, 281 Or at 148-49 (recognizing that cities and the state may enact substantive laws on the same subject and that local law should be interpreted to function consistently with state law unless legislative intent to displace the local law is "apparent"); *Thunderbird Mobile Club v. City of Wilsonville*, 234 Or App 457, 474, rev den, 348 Or 524 (2010)("[T]he occupation of a field of regulation by the state has no necessary preemptive effect on the civil or administrative laws of a chartered city."). Although the legislature may preempt the field through an unambiguous statement of its intent, it cannot do so by implication. *See State ex rel Haley*, 281 Or at 211.

Nothing within ORS Chapter 221 expresses an unambiguous intent to preempt a city from imposing a fee to recoup the costs associated with a sanitary authority's use of the city's rights-of-way. Although the statutes recognize city authority to impose fees on certain entities for use of city rights-of-way, they do not expressly limit the city's authority to impose fees to only those entities. Nothing in the text of either statute forecloses the city's ability to impose a fee on other entities not listed in the statute, and the text of the statute is insufficient to state an "apparent" intent to preempt under *LaGrande/Astoria*. *See Gunderson, LLC v. City of Portland*, 352 Or at 662 (2012)(unambiguous intent to preempt, not only a mere plausible inference, is required).

2. Phoenix's ordinance and state law can operate concurrently.

As noted, even if the legislature has not expressly stated its intent to preempt city authority, a state law will preempt a local enactment if the two laws cannot operate concurrently. *LaGrande/Astoria*, 281 Or at 148. However, a local enactment will not be displaced merely because state law regulates less extensively in the same area. *See State ex rel Haley*, 281 Or at 211 (concluding that state building code allowing single wall construction did not preempt more stringent city regulation requiring double wall construction).

Here, nothing within ORS 221.420 or ORS 221.450 is incompatible with the fee Phoenix imposed on RVSS. Although those statutes and the city's ordinance relate to similar subjects–fees imposed for use of the city's right-of-way–both are concurrently operable. The city may impose fees for use of its city's right-of-way on the entities enumerated in ORS Chapter 221, as well as on RVSS, without conflict.

C. Whether the ordinance imposes a fee or a tax, Phoenix is authorized under its home rule powers to impose the same upon a sanitary authority.

1. The fee established by the ordinance is not a tax because it merely compensates Phoenix for the use of its rights-of-way.

As this court recently explained, a tax is "any contribution imposed by government upon individuals, for the use and service of the state." *McCann v.*

Rosenblum, 355 Or 256 (2014)(internal quotations omitted). In contrast, a fee is "imposed on persons who apply for or receive a government service that directly benefits them." *Id*.

The distinction is further illustrated in *Knapp v. City of Jacksonville*, 342 Or 268 (2007), as well as the broad authority and substantial latitude of a city to adopt them. At issue in *Knapp* was the validity a $15.00 "surcharge" fee imposed by the City of Jacksonville on persons paying city sewer and water bills, which was challenged as an unlawful property tax. The purpose of the Jacksonville surcharge was to "help pay for the benefits conferred on city residents and businesses by the provision of an adequate program of public safety" by placing a $15.00 monthly surcharge on each residential or nonresidential unit of developed property within the city limits. The fee was challenged as an unlawful tax on property.

In a unanimous decision in which the court determined the charge was a "fee" and not a "tax," the court observed that a tax is "'any charge imposed by a governmental unit upon property or upon a property owner as a direct consequence of ownership of that property except incurred charges and assessments for local improvements.'" *Knapp*, 342 Or at 272 (quoting *Roseburg School Dist. v. City of Roseburg*, 316 Or at 378 (1993).

Consequently, the fee at issue in *Knapp* was imposed based solely on

impact to city facilities and nothing else. Like the Phoenix fee, it was validly enacted simply for purposes of reimbursement for that impact, and not for the generation of general revenue. it was not a tax.

Phoenix's ordinance establishes a fee to cover the expenses for RVSS's impact on and use of Phoenix's rights-of-way. In enacting the ordinance, the city made clear that the ordinance was necessary "to help maintain an adequate level of maintenance and operation" because of the costs and impacts "associated with the use, occupation, and other activities and effects by sanitary authorities * * * on the public rights of way. Consistent with that concern, the city explained that "the primary purpose of the collection of a franchise fee from [Rogue Valley] is to regulate and reimburse the City for its costs associated with [RVSS], and not to raise revenue[.]"

Given that purpose, the city ensured that "there is a direct relationship between the fee charged and the burden produced by the fee payer, [RVSS.]" RVSS directly benefits from use of the city's right-of-way, and the fee imposed compensates the city for that use.

The city determined the amount of the fee based on the actual costs associated with RVSS's use of the right-of-way. The City Engineer and Public Works Director estimated the total cost of RVSS's impacts on Phoenix's right-of-way was $29,425 in 2009, which is effectively five percent of its gross

annual revenue.

Moreover, the city expressed its intent to "allocate money collected from [RVSS] only for costs and reimbursement connected with proper regulatory purposes[.]" In other words, the money collected by Phoenix would be used to benefit RVSS through maintenance and operation of the city rights-of-way that RVSS uses. Ordinance No. 928 is not a tax.

2. Phoenix is authorized to impose a tax or fee pursuant to its charter and the home rule amendments to the Oregon Constitution.

Assuming, *arguendo*, the fee imposed in Ordinance No. 928 is a tax, Phoenix is authorized under home rule powers to impose the same, as explained above. Here, RVSS submits that a city may not impose such a tax on a sanitary authority unless the legislature clearly and unmistakably authorized it to do so. RVSS's contention stands to overturn home rule doctrine in Oregon. To abandon home rule in the context of intergovernmental taxation could lead to drastic and unintended consequences. This court should decline to do so.

As this court recognized in *LaGrande/Astoria*, the primary purpose of the home rule amendments was "to allow the people of the locality to decide upon the organization of their government and the scope of its powers under its charter without having to obtain statutory authorization from the legislature." *LaGrande/Astoria*, 281 Or at 142 (emphasis added). Accordingly, to determine

whether a city has authority act, this court does not begin by looking for statutory authorization from the legislature. Instead, it (1) looks to the city's charter to determine whether the action is authorized therein, and (2) if so, determines whether the action contravenes federal or state law. *Id*. at 142, 148.

This court has not adopted a separate rule when cities impose a tax on a sanitary authority, nor should it. The authorities on which RVSS rely arose in entirely different contexts involving real property taxes and corporate excise taxes, where the court was required to interpret state tax statutes to determine whether they applied to certain public property or public entities. RVSS has not presented authority on which a city is prohibited from imposing a fee, or a tax, upon a sanitation authority for purposes of recouping costs incurred in connection with the sanitation authority's use of the city's right-of-way.

RVSS relies upon *City of Portland v. Welch*, 126 Or 293 (1928), as the leading case limiting intergovernmental taxation. In *Welch*, the court was interpreting a state statute exempting public property from property tax to determine whether property held by the City of Portland qualified for exemption. In construing the statute, the court concluded the city's real property was exempt from taxation because "[t]here [was] nothing in the language of [the] statute to indicate that the Legislature intended for the property in question to be taxed." *Id*. at 296-97. In explaining its

understanding of the legislature's intent, the court reasoned that "in the absence of an express legislative declaration * * * it is unreasonable to suppose that the Legislature intended that property belonging to the public should be taxed." *Id*. at 296-97. In other words, as is normally the case under this court's statutory interpretation framework, the court looked for clear legislative intent to tax.

Welch arose in an entirely different context than the one presented in this case. *Welch* involved property taxes levied on real property by a county, not fees imposed by a city to compensate the city for use of its property. In addition, *Welch* did not address municipal authority to impose fees - or taxes - at all. Instead, the court in *Welch* was tasked with interpreting a state statute to determine the legislature's intent. In examining the legislature's intent, the court relied on the principle that a legislative body's intent to tax must be expressly stated. That was a statement of statutory construction, not a statement regarding home rule authority.

D. RVSS did not preserve its argument that the fee is unreasonable.

Generally, an appellate court will not consider whether a trial court committed an error if the adversely affected party did not preserve the alleged error in the trial court and assign error to the trial court's ruling in its opening brief. *Ailes v. Portland Meadows, Inc*., 312 Or 376, 380 (1991). The

adversely affected party generally must raise the error at trial in a way that is "specific enough to ensure that the court can identify its alleged error with enough clarity to permit it to consider and correct the error immediately, if correction is warranted." *State v. Wyatt*, 331 Or 335, 343 (2000).

Here, RVSS's complaint sought a declaration only as to whether the ordinance was valid and whether RVSS was required to pay the fee. Similarly, RVSS's motion for summary judgment focused on whether the city had authority to impose the fee and did not address whether the fee was reasonable.

Although RVSS's motion for summary judgment did challenge the ordinance as being overbroad, without any rational basis, and not authorized by statute, those arguments all address whether the fee is valid, rather than whether the amount of the fee is valid. Thus, RVSS did not raise the reasonableness of the fee in its complaint or motion for summary judgment. The trial court and the Court of Appeals properly declined to reach whether the amount of the fee was reasonable. The issue is not preserved for review.

In addition, after the trial court granted Phoenix's motion for summary judgment, RVSS did object to entry of judgment in Phoenix's favor. RVSS argued that the trial court had not resolved whether the fee was reasonable and that the matter raised a genuine issue of material fact.

The court overruled RVSS's objection, noting in its order that RVSS had

not previously sought a declaration regarding the reasonableness of Phoenix's fee. In the order, which accompanied the general judgment, the court held that "[t]here was nothing in the complaint to suggest [RVSS] also challenged the reasonableness of the fee in the event Phoenix's authority was upheld." RVSS did not assign error to that order on appeal and cannot now do so for the first time on review. This court should decline to address the issue.

E. Even if RVSS preserved the argument, there is no question of material fact regarding the reasonableness of the fee.

Even if the argument is preserved, RVSS has not demonstrated that there is a genuine issue of material fact regarding the reasonableness of the fee. A city has considerable discretion in imposing a fee to compensate it for the use of its right-of-way, and a fee will be considered reasonable in the absence of a showing to the contrary. *Eugene McQuillin*, 12 The Law of Municipal Corporations § 34:101, 353-54 (3d ed 2006)(explaining that "the amount of the license fee imposed on a public service company is discretionary with the municipality" and that "[p]rima facie, a license fee is reasonable, and it devolves on the public service company to show the contrary").

Here, RVSS has failed to show that the fee is unreasonable. As noted in Phoenix's motion for summary judgment, Phoenix's City Engineer estimated the impacts of RVSS's use of the right-of-way in 2009, and those costs nearly

equal the amount of the fee imposed by the city. In addition, RVSS failed to show that other permit fees that it pays sufficiently cover the costs associated with its use of the city's right-of-way. Therefore, even if RVSS preserved a challenge to the reasonableness of Phoenix's fee, RVSS has not raised a genuine issue of material fact to overcome the prima facie reasonableness of the fee.

CONCLUSION

For the reasons stated above, Phoenix respectfully requests that this court affirm the decision of the Court of Appeals.

Respectfully submitted, this 6th day of November, 2014.

JAMES HOLMBECK KIRCHOFF LLC

s/ J. Ryan Kirchoff

J. Ryan Kirchoff, OSB No. 081879
130 NW D Street
Grants Pass, Oregon 97526
Telephone: (541) 476-6677
ryan@dtreetlaw.com
Of Attorneys for Defendant Respondent on Review City of Phoenix

Kurt H. Knudsen, OSB No. 92077
P.O. Box 126
Jacksonville, OR 97530
Telephone: (541) 778-4375
knudsen@mind.net
Of Attorneys for Defendant Respondent on Review City of Phoenix

CERTIFICATE OF COMPLIANCE WITH ORAP 5.05(2)(D)

I hereby certify that (1) this brief complies with the word-count limitation in ORAP 5.05(2)(b) and (2) the word-count of this brief is 5,987 words.

s/ J. Ryan Kirchoff, OSB No.081879

CERTIFICATE OF FILING AND SERVICE

I certify that on November 6, 2014, I caused to be electronically filed the foregoing BRIEF OF RESPONDENT ON REVIEW CITY OF PHOENIX with the Appellate Court Administrator by using the court's eFiling system.

The following participants in this case are registered eFilers and will be served via the electronic mail function of the eFiling system.

Chad A. Jacobs, OSB #083694
Paul C. Elsner, OSB #820476
Beery, Elsner & Hammond, LLP
1750 SW Harbor Way Ste 380
Portland OR 97201-5106
(503) 226-7197
chad@gov-law.com
paul@gov-law.com
Attorneys for Amicus Curiae

C. Robert Steringer, OSB #983514
Brett Applegate, OSB #132944
Harrang Long Gary Rudnick P.C.
1001 SW Fifth Avenue, 16th Floor
Portland OR 97204
(503) 242-0000
bob.steringer@harrang.com
brett.applegate@harrang.com

Tommy A. Brooks, OSB #076071
Case M. Nokes, OSB #076641
Clark I. Balfour, OSB #791529
Cable Huston LLP
1001 SW 5th Ave Ste 2000
Portland OR 97204-1136
(503) 224-3092
tbrooks@cablehuston.com
cnokes@cablehuston.com
cbalfour@cablehuston.com
Attorneys for Petitioner on Review
Rogue Valley Sewer Services

Dated: November 6, 2014.

JAMES HOLMBECK KIRCHOFF LLC

s/ J. Ryan Kirchoff

J. Ryan Kirchoff, OSB No. 081879
Attorneys for Respondent on Review
City of Phoenix