

**RESOLUTION NO. 2019 - 61**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN BRUNO ADOPTING DESIGN AND SITING GUIDELINES, ENGINEERING DESIGN STANDARDS, AND STANDARD CONDITIONS OF APPROVAL FOR SMALL WIRELESS FACILITIES IN THE PUBLIC RIGHT-OF-WAY AND WITHIN UTILITY EASEMENTS IN PUBLIC AND PRIVATE PROPERTIES**

**WHEREAS**, it is in the public interest for the City to establish reasonable, uniform and comprehensive design and siting guidelines, engineering design standards, and conditions of approval for the installation of small wireless facilities in response to Federal and California State law and FCC Order 18-133 which permits wireless infrastructure deployment through relaxation of barriers, affecting the local permit process; and

**WHEREAS**, the design and siting guidelines, engineering design standards, and conditions of approval provide greater direction and assure a degree of consistency in the small wireless facility design and configuration; and

**WHEREAS**, the design and siting guidelines, engineering design standards, and conditions of approval would not increase impediments for the installation of small wireless facilities under Federal Telecommunications Act of 1996 but illustrate the desired level of design quality and configuration of any proposed small wireless facility; and

**WHEREAS**, the adoption of design and siting guidelines, engineering design standards, and conditions of approval by resolution will increase administrative efficiencies should future amendments to them become necessary; and

**WHEREAS**, Title 8 of the City's Municipal Code governs the permitting, installation, and regulation of obstructions within the City's public rights-of-way (ROW) and within utility easements in public and private properties; and

**WHEREAS**, the City's public rights-of-way and utility easements are a uniquely valuable public resource, closely linked with the City's character, making the regulation of small wireless facilities in the public rights-of-way and within utility easements in public and private properties necessary to protect and preserve the aesthetics of the community; and

**WHEREAS**, being authorized to do so, the City wishes to establish design and siting guidelines, engineering design standards and standard conditions of approval applicable to small wireless facilities in the public rights-of-way and within utility easements in public and private properties; and

**WHEREAS**, these guidelines and standards contained are intended to, and should be applied to, protect and promote public health, safety and welfare, and also balance the benefits that flow from robust, advanced wireless services with the City's local values, which include, without limitation, the aesthetic character of the City, its neighborhoods and community; and

**WHEREAS**, these guidelines and standards are also intended to reflect and promote the community interest by: (1) ensuring that the balance between public and private interest is maintained on a case-by-case basis; (2) protecting the City's visual character from potential adverse impacts or visual blight created or exacerbated by small wireless facility infrastructure; (3) protecting and preserving the City's environmental resources; and (4) promoting access to high-quality, advanced wireless services for the City's residents, businesses and visitors; and,

**WHEREAS**, on [Date] the City Council conducted a duly noticed public meeting and received testimony from City staff and all interested parties regarding the design and siting guidelines; and

**WHEREAS**, all legal prerequisites to the adoption of this Resolution have occurred.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of San Bruno as follows:

**INCORPORATION OF RECITALS.** The recitals above are each incorporated by reference and adopted as findings of the City Council.

**SECTION 1. DEFINITIONS.** The definitions set forth in Section 8.36.020 of the Municipal Code are incorporated by reference into this Resolution.

**SECTION 2. BACKGROUND AND PURPOSE.** The City of San Bruno is establishing these *Design and Siting Guidelines and Engineering Design Standards* for small wireless facilities in the public right-of-way and within utility easements in public and private properties in order to regulate the design and placement of this infrastructure.

These *Design and Siting Guidelines* provide objective aesthetic design and siting requirements that all wireless facilities installed within the public right-of-way and utility easements in public and private properties must meet for approval by the City.

Only small wireless facilities as defined in 47 C.F.R. § 1.6002(l) (also referred to as "small cells") that meet the requirements of these guidelines are subject to these guidelines. Three different types of small wireless facilities are permitted in San Bruno within the public right-of-way and within utility easements in public and private properties. The types include (1) attachments to wooden (or other material) utility poles and utility lines, (2) placement on streetlights and traffic signal control poles, and (3) new freestanding poles. An overview of the guidelines that apply to each type of facility is presented in Section 4.

**SECTION 4: Design Guidelines Applicable to all Small Wireless Facilities.**

**To ensure minimizing visual impacts, small wireless facilities should be placed as follows:**

- a. Installations should conceal to the maximum extent feasible with design elements and techniques that mimic or blend with the underlying support structure, surrounding environment and adjacent uses with regard to appearance, size, and location.
- b. All equipment and antenna should be shrouded and where possible behind any street signs located on the pole.
- c. Only one small wireless facility is permitted per structure.
- d. Installations should be located on poles that are located outside of driveway and intersection sight lines. Where feasible, installations shall be located on poles that are located as close as feasible to shared property lines between two adjacent lots and not directly in front of residences and businesses.
- e. Equipment should be located entirely on the pole in a vertical arrangement. Exterior mounted accessory equipment should be within a single shroud not to exceed 9 cubic feet in volume (exclusive of the concealing elements like shrouding). Required meters and disconnect switches that are infeasible to be shrouded for safety and/or accessibility reasons are excluded from this shrouding recommendation.
- f. Ground-mounted equipment may be permitted in locations that do not obstruct pedestrian or vehicular traffic and within a reasonable distance from the pole. Ground-mounted equipment is not permitted if the approval authority finds that the above-ground equipment would unreasonably interfere with the public's ability to use the right-of-way for uses that include without limitation travel, social, expressive and/or aesthetic uses. The approval authority may condition approval based on new or enhanced landscaping to conceal ground-mounted equipment.
- g. All equipment (other than the antenna, antenna supports, ancillary wires, cables and any electric meter) should be installed underground in any area where the existing utilities are not primarily located above ground.
- h. All cables, wires and other connectors should be routed through conduits within poles whenever possible, and all external conduits, conduit attachments, cables, wires and other connectors must be concealed from public view.

- i. All wireless facilities must include signage that accurately identifies the equipment owner/operator, the site name or identification number and a toll-free number to the owner/operator's network operations center. Wireless facilities may not bear any other signage or advertisements unless expressly approved by the City, required by law or recommended under existing and future FCC or other United States governmental agencies for compliance with RF emissions regulations. RF notification signs should be placed where appropriate, and not at pedestrian eye level, unless required by the FCC or other regulatory agencies.
- j. Facilities should use PG&E Smart Meters or flat-rate billing. Ground-mounted electric meters are prohibited.
- k. Small wireless facilities shall not be located on decorative streetlights.
- l. Small wireless facilities should not be installed such that the facility damages existing trees. The approval authority may condition approval based on tree assessment results provided by a certified arborist. If pruning is required for the installation, a separate permit must be obtained from Community Services.
- m. Wireless facilities and all accessory equipment and transmission equipment must comply with all noise regulations and shall not exceed, either individually or cumulatively, the applicable ambient noise level standards in San Bruno Municipal Code Chapter 6.16 Noise Regulations.
- n. Pole heights shall be minimized, but in no case shall the maximum height of any facilities exceed 50 feet). Legally required lightning arresters and beacons shall be included when calculating the height of facilities. Pole height is measured from the top of foundation, which should be flushed with the ground, to the top of pole or top of antenna, whichever is greater.
- o. Wireless facilities may incorporate reasonable and appropriate site security measures, such as locks and anti-climbing devices, to prevent unauthorized access, theft or vandalism. All wireless facilities shall be constructed from graffiti-resistant materials. The approval authority may require additional concealment elements as the approval authority finds necessary to blend the security measures and other improvements into the natural and/or built environment. The approval authority shall not approve barbed wire, razor ribbon, electrified fences or any similar security measures.
- p. All wireless facilities shall not interfere with access to a fire hydrant, fire station, fire escape, water valve, underground vault, valve housing structure or any other public health or safety facility.
- q. No person shall install, use or maintain any facilities (in whole or in part) that rest upon, in or over any public right-of-way, when such installation, use or maintenance: (1) endangers or is reasonably likely to endanger the safety of persons or property, or (2) when such site or location is used for public utility purposes, public transportation purposes or other governmental use, or (3) when such facilities unreasonably interfere with or unreasonably impede the flow of pedestrian or vehicular traffic, including any legally parked or stopped vehicle, ingress into or egress from any residence or place of business, use of poles, posts, traffic signs or signals, hydrants, mailboxes, permitted sidewalk dining, permitted street furniture and/or other objects permitted at or near the location where the wireless facilities are located.

**SECTION 5: Design Guidelines Applicable to Small Wireless Facilities on Wooden (or other material) Utility Poles and Utility Lines.**

- a. All installations on utility poles and utility lines shall fully comply with the California Public Utilities Commission (CPUC) general orders (GOs), including, but not limited to, GO 95. None of the following design guidelines are meant to conflict with or cause a violation of GO 95, including, but not limited to, its guidelines for a safe installation on a utility pole. Accordingly, size limits can be adjusted at the Director's discretion to ensure compliance with CPUC rules on safety.

- b. All wireless facility equipment installed on poles should be completely contained within equipment shroud. Equipment shroud and lines should be painted, treated or finished to match existing utility pole and line aesthetics. Utility line installations should be colored to a non-reflective color.
- c. The top of the antenna if top mounted should be no higher than 48" above the minimum separation from supply lines required by GO 95, exclusive of the required antenna mounting bracket. The antenna should be shrouded.
- d. The extension of the antenna if side mounted should extend no more than 48" from the circumference of the pole.
- e. Only one equipment shroud, containing all required accessory equipment, should be installed per pole. Outer edge of equipment shroud should project no more than 18" off the pole circumference and measure no more than nine cubic feet in size.
- f. All antennas should be shrouded. Antenna shroud should have an outer diameter of 15" or less and measure no more than five cubic feet in size. The shroud should be no more than 4 feet tall, including antenna, radio head, mounting bracket, and all other hardware necessary for a complete installation.
- g. Antenna shroud should be no more than 30 percent greater in diameter than the utility pole it is attached to, exclusive of the pole mounting device, and the transition between the pole and the shroud should be tapered where feasible.
- h. All cables, wires, and other connectors should be hidden within conduits that are painted, treated or finished to match existing utility pole aesthetics in finish and color.

**SECTION 6: Design Guidelines Applicable to Small Wireless Facilities on Streetlights and Traffic Signal Control Poles.**

- a. Equipment should be painted, treated or finished to match existing streetlight pole and traffic signal control pole aesthetics and materials in finish and color.
- b. The antenna should be mounted at the top of the streetlight pole or traffic signal control pole where the arm extends from the pole where feasible. The top of the antenna if top mounted should be no higher than 48" above the top of the existing pole.
- c. All antennas should be shrouded. Antenna shroud should have an outer diameter of 15" or less and measure no more than five cubic feet in size. The shroud should be no more than 4 feet tall, including antenna, radio head, mounting bracket, and all other hardware necessary for a complete installation.
- d. Antenna shroud should be no more than 30 percent greater in diameter than the streetlight or traffic signal control pole it is attached to and the transition between the pole and the shroud should be tapered.
- e. All cables, wires, and other connectors should be hidden within the base and shaft of the streetlight or traffic signal control pole. Where this is not feasible, the equipment should be installed in an underground vault.

**SECTION 7: Design Guidelines Applicable to Small Wireless Facilities on New Poles**

- a. New poles are only permitted if: (a) the applicant demonstrates that above-ground support structures near the project site either do not exist or are not reasonably available to the applicant; or (b) the City specifically finds that a new, non-replacement support structure would be more aesthetically desirable and consistent with the objectives of these Guidelines than installations on existing structures near the project site.

- b. New poles within open space areas should be designed to resemble trees. The species of tree design should be similar to those found within the vicinity of the open space.
- c. Poles not located within open space areas should be designed to resemble existing standalone streetlights in the vicinity.
- d. Poles should have a maximum diameter of 20 inches and should be tapered toward the top wherever possible.
- e. When technically feasible, all antennas and associated equipment shall fit within the diameter of the poles with no exterior wires or conduit. If all antennas and equipment cannot fit within the pole for technical reasons, then the installation shall be subject to the standards above.
- f. Pole material and finishes should match the existing materials of the City standard streetlight poles or match aesthetics and materials of existing decorative poles.
- g. Pole heights shall be minimized, but in no case should the maximum height of any facilities exceed 50 feet. Legally required lightning arresters and beacons should be included when calculating the height of facilities. Pole height is measured from the top of foundation, which should be flushed with the ground, to the top of antenna or top of highest pole attachment, whichever is greater.
- h. Antennas should be mounted on the top of the pole.
- i. Relocated poles may be subject to guidelines in this section and their respective pole type section.

#### **SECTION 8: Siting Guidelines for Small Wireless Facilities**

- a. Preferred Siting Locations. When evaluating compliance with this chapter, the approval authority will take into account whether any or more preferred locations are technically feasible and potentially available. All applicants for a small wireless facility permit must propose new wireless facilities in locations within the public rights-of-way or utility easements in public and private properties according to the following preferences, ordered from most preferred to least preferred:
  - (1) Industrial and Combining Industrial districts;
  - (2) Community Office or Administrative and Research districts;
  - (3) Planned Development districts with non-residential uses;
  - (4) Specific plan or transit-oriented development districts;
  - (5) Central Business districts;
  - (6) General Commercial, Neighborhood Commercial and Limited Commercial Combining districts;
  - (7) Open space and conservation districts;
  - (8) Planned Development districts with residential uses;
  - (9) Medium-density residential districts with multi-family (medium or high density) residential uses;
  - (10) Low-density residential districts with single-family or two-family residential uses.
- b. Preferred Support Structures. When evaluating compliance with this chapter, the approval authority will take into account whether any or more preferred support structures are technically feasible and potentially available. All applicants for small wireless facilities must propose new wireless facilities on support structures within the public rights-of-way according to the following preferences, ordered from most preferred to least preferred:
  - (1) New facilities on existing utility poles or support structures;
  - (2) New facilities on existing or replacement streetlights or new or replacement traffic signal control poles;
  - (3) New facilities on new standalone support structures.

- c. Facilities shall not be located in front of business windows, primary walkways, primary entrances or exits, or in such a way that it would impede a delivery to the building.
- d. Facilities should be located near shared property lines between two adjacent lots as much as possible or along a secondary rear property street frontage.
- e. Mid-block locations are preferred instead of at more visible corners and street intersections except if proposed on traffic signal control poles.
- f. New poles should be located in the parkway strip whenever possible and in alignment with existing trees, utility poles, and streetlights.
- g. New poles should be an approximately equal distance between trees when possible, with a minimum of 15 feet separation such that no proposed disturbance shall occur within the critical root zone of any tree.
- h. A small wireless facility should be no closer than 300 feet away, radially, from another small wireless facility.
- i. Arterial streets are more preferable to local streets for the placement of small wireless facilities.

### **SECTION 9: Engineering Design Standards Applicable to all Small Wireless Facilities**

**The following engineering design standards apply:**

- a. Separation of service should be provided by installing all new electrical conduit(s) or utilizing existing empty conduit(s) with conduit owner's expressed consent in writing.
- b. Disconnect switch should be mounted on the pole. Bottom of disconnect switch should measure 10 feet above grade.
- c. All equipment, including the shroud, should be mounted to provide seven feet of clearance from the ground.
- d. For proposed facilities on streetlight or traffic signal control poles, a hand hole should be provided at the top of the pole to maintain fiber and electrical service for streetlights and future attachments.
- e. Pole foundation calculations should be prepared and stamped by a California professionally licensed structural engineer and should be provided to City for review. Pole foundation calculations should account for all new and existing pole attachments and the pole.
- f. Pole structural calculations, including seismic loads, showing the load impacts of the wireless facility on City streetlight and traffic signal control poles should be prepared and stamped by a California professionally licensed structural engineer and should be provided to City for review.
- g. Design wind velocity should be 115 mph minimum per TIA-222 rev G, IBC 2012 with ASC 710, and amendments for local conditions.
- h. For new freestanding poles, install eight 2-inch PVC (Schedule 40 or better) conduit sweeps to accommodate small wireless facilities (electrical and fiber) with up to four separate sweeps for future service.

### **SECTION 10: Conditions of Approval**

**Standard Conditions for Wireless Facility Permits Pursuant to San Bruno Municipal Code Chapter 8.36.** In addition to all other conditions adopted by the approval authority, all wireless permits, whether approved by the approval authority or deemed approved by the operation of law, shall be automatically subject to the conditions in this section. The approval authority (or the appellate authority on appeal) shall have discretion to modify or amend these conditions on a case-by-case basis as may be necessary or appropriate under the circumstances to protect public health and safety or allow for the proper operation of the approved facility consistent with the goals and applicable provisions of San Bruno Municipal Code Chapter 8.36.

**All wireless facilities, whether approved by the approval authority or deemed approved or deemed granted by law shall be automatically subject to the following standard conditions of approval:**

1. **Permit Term.** This permit will automatically expire 10 years and one day from its issuance if a new permit has not been applied for in writing at least 120 days prior to permit expiration, except when California Government Code § 65964(b), as may be amended or superseded in the future, authorizes the City of San Bruno ("**City**") to establish a shorter term for public safety or substantial land use reasons. Any other permits or approvals issued in connection with any collocation, modification or other change to this wireless facility, which includes without limitation any permits or other approvals deemed-granted or deemed-approved under federal or state law, will not extend this term limit unless expressly provided otherwise in such permit or approval or required under federal or state law.
2. **Compliance with Approved Plans.** Before the Public Works Department issues any encroachment permit and/or other ministerial permits required to commence construction in connection with this permit, the Permittee must incorporate this permit, all conditions associated with this permit and the approved photo simulations into the project plans (the "**Approved Plans**"). The Permittee must construct, install and operate the wireless facility in substantial compliance with the Approved Plans. Any alterations, modifications or other changes to the Approved Plans, whether requested by the Permittee or required by other departments or public agencies with jurisdiction over the wireless facility, must be submitted in a written request subject to the Public Works Director's ("**Director's**") prior review and approval, who may refer the request to the original approval authority if the Director finds that the requested alteration, modification or other change substantially deviates from the Approved Plans or implicates a significant or substantial land-use concern.
3. **Post-Installation Certification.** Within 60 calendar days after the Permittee commences full, unattended operations of a wireless facility approved or deemed-approved under San Bruno Municipal Code Chapter 8.36, the Permittee shall provide the Director with documentation reasonably acceptable to the Director that the wireless facility has been installed and/or constructed in substantial compliance with the Approved Plans. Subject to the Director's discretion, such documentation may include, but shall not be limited to, as-built drawings, site surveys, GIS data and site photographs.
4. **Timing of Installation.** The installation and construction authorized by a wireless facility permit shall begin within one (1) year after its approval, or it will expire without further action by the City. The installation and construction authorized by a wireless facility permit shall conclude, including any necessary post-installation repairs and/or restoration to the right-of-way and/or public utility easement, within thirty (30) days following the day construction commenced.
5. **Maintenance Obligations; Vandalism.** The Permittee shall keep the site, which includes without limitation any and all improvements, equipment, structures, access routes, fences and landscape features, in a neat, clean and safe condition in accordance with the Approved Plans and all conditions in this permit. The Permittee shall keep the site area free from all litter and debris at all times.

The Permittee shall remove and remediate any graffiti on the facility within 24 hours of being notified of its appearance. This condition also gives the City of San Bruno consent to have the graffiti painted out for the permittee. If the graffiti is not removed within 24 hours of being notified, the City's graffiti removal vendor will be instructed to remove the graffiti and provide a detailed accounting of the cost to the property owner, who will be responsible for reimbursing the City for the graffiti removal.

6. **Compliance with Laws.** The Permittee shall maintain compliance at all times with all federal, state and local statutes, regulations, orders or other rules that carry the force of law ("**Laws**") applicable to the Permittee, the subject property, the wireless facility or any use or activities in connection with the use authorized in this permit, which includes without limitation any Laws

applicable to human exposure to radio frequency ("RF") emissions. The Permittee expressly acknowledges and agrees that this obligation is intended to be broadly construed and that no other specific requirements in these conditions are intended to reduce, relieve or otherwise lessen the Permittee's obligations to maintain compliance with all Laws. In the event that the City fails to timely notice, prompt or enforce compliance with any applicable provision in the San Bruno Municipal Code, any permit, any permit condition or any applicable law or regulation, the applicant or Permittee will not be relieved from its obligation to comply in all respects with all applicable provisions in the San Bruno Municipal Code, any permit, any permit condition or any applicable law or regulation.

7. **RF Exposure Compliance.** All facilities must comply with all standards and regulations of the Federal Communications Commission ("FCC") and any other state or federal government agency with the authority to regulate RF exposure standards. After transmitter and antenna system optimization, but prior to unattended operations of the facility, Permittee or its representative must conduct on-site post-installation RF emissions testing to demonstrate actual compliance with the FCC OET Bulletin 65 RF emissions safety rules for general population/uncontrolled RF exposure in all sectors. For this testing, the transmitter shall be operating at maximum operating power, and the testing shall occur outwards to a distance where the RF emissions no longer exceed the uncontrolled/general population limit.
8. **Adverse Impacts on Other Properties.** The Permittee shall use all reasonable efforts to avoid any and all undue or unnecessary adverse impacts on nearby properties that may arise from the Permittee's or its authorized personnel's construction, installation, operation, modification, maintenance, repair, removal and/or other activities at the site. The Permittee shall not perform or cause others to perform any construction, installation, operation, modification, maintenance, repair, removal or other work that involves heavy equipment or machines except during normal construction work hours authorized by the San Bruno Municipal Code. The restricted work hours in this condition will not prohibit any work required to prevent an actual, immediate harm to property or persons, or any work during an emergency declared by the City. The Director or the Director's designee may issue a stop work order for any activities that violates this condition.
9. **Backup Power; Generators.** The Permittee shall operate backup power generators only during (a) commercial power outages or (b) for maintenance purposes during normal construction hours in accordance with the San Bruno Municipal Code. The Director may approve a temporary power source and/or generator in connection with initial construction, major repairs or in the event of an emergency. The Permittee shall not operate any permanent backup generators located in the public right-of-way or public utility easement.
10. **Inspections; Emergencies.** The Permittee expressly acknowledges and agrees that the City's officers, officials, staff or other designee may enter onto the site and inspect the improvements and equipment upon reasonable prior notice to the Permittee, or at any time during an emergency. The City's officers, officials, staff or other designee may, but will not be obligated to, enter onto the site area without prior notice to support, repair, disable or remove any improvements or equipment in emergencies or when such improvements or equipment threatens actual, imminent harm to property or persons. The Permittee, if present, may observe the City's officers, officials, staff or other designee while any such inspection or emergency access occurs.
11. **Permittee's Contact Information.** The Permittee shall furnish the Director with accurate and up-to-date contact information for a person responsible for the wireless facility, which includes without limitation such person's full name, title, direct telephone number, facsimile number, mailing address and email address. The Permittee shall keep such contact information up-to-date at all times and immediately provide the Director with updated contact information in the event that either the responsible person or such person's contact information changes.
12. **Indemnification.** The Permittee shall defend, indemnify and hold harmless the City, City Council and City boards, commissions, agents, officers, officials, employees and volunteers from any and all (1) damages, liabilities, injuries, losses, costs and expenses and from any and

all claims, demands, law suits, writs and other actions or proceedings ("**Claims**") brought against the City or its agents, officers, officials, employees or volunteers to challenge, attack, seek to modify, set aside, void or annul the City's approval of this permit, and (2) other Claims of any kind or form, whether for personal injury, death or property damage, that arise from or in connection with the Permittee's or its agents', directors', officers', employees', contractors', subcontractors', licensees', or customers' acts or omissions in connection with this permit or the wireless facility. In the event the City becomes aware of any Claims, the City will use best efforts to promptly notify the Permittee and shall reasonably cooperate in the defense. The Permittee expressly acknowledges and agrees that the City shall have the right to approve, which approval shall not be unreasonably withheld, the legal counsel providing the City's defense, and the property owner and/or Permittee (as applicable) shall promptly reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. The Permittee expressly acknowledges and agrees that the Permittee's indemnification obligations under this condition are a material consideration that motivates the City to approve this permit, and that such indemnification obligations will survive the expiration or revocation of this permit.

13. **Performance Bond.** Before the Public Works Department issues any encroachment permit and/or other ministerial permits required to commence construction in connection with this permit, the Permittee shall post a performance bond from a surety and in a form acceptable to the Director in an amount reasonably necessary to cover the cost to remove the improvements and restore all affected areas based on a written estimate from a qualified contractor with experience in wireless facilities removal. The written estimate must include the cost to remove all equipment and other improvements, which includes without limitation all antennas, radios, batteries, generators, utilities, cabinets, mounts, brackets, hardware, cables, wires, conduits, structures, shelters, towers, poles, footings and foundations, whether above ground or below ground, constructed or installed in connection with the wireless facility, plus the cost to completely restore any areas affected by the removal work to a standard compliant with applicable laws. In establishing or adjusting the bond amount required under this condition, and in accordance with California Government Code §65964(a), the Director shall take into consideration any information provided by the Permittee regarding the cost to remove the wireless facility to a standard compliant with applicable laws. The performance bond shall expressly survive the duration of the permit term to the extent required to effectuate a complete removal of the subject wireless facility in accordance with this condition.
14. **Recall to Approval Authority; Permit Revocation.** The approval authority may recall this permit for review at any time due to complaints about noncompliance with applicable laws or any approval conditions attached to this permit. At a duly noticed public hearing and in accordance with all applicable laws, the approval authority may revoke this permit or amend these conditions as the approval authority deems necessary or appropriate to correct any such noncompliance.
15. **Record Retention.** The Permittee must maintain complete and accurate copies of all permits and other regulatory approvals issued in connection with the wireless facility, which includes without limitation this approval, the approved plans and photo simulations incorporated into this approval, all conditions associated with this approval and any ministerial permits or approvals issued in connection with this approval. In the event that the Permittee does not maintain such records as required in this condition, any ambiguities or uncertainties that would be resolved through an inspection of the missing records will be construed against the Permittee. The Permittee may keep electronic records; provided, however, that hard copies or electronic records kept in the City's regular files will control over any conflicts between such City-controlled copies or records and the Permittee's electronic copies, and complete originals will control over all other copies in any form.
16. **Undergrounded Utilities.** In the event that other public utilities or cable television operators in the public right-of-way underground their facilities where the Permittee's wireless facility is located, the Permittee must underground its equipment except the antennas and antenna supports. Such undergrounding shall occur at the Permittee's sole cost and expense except as reimbursed pursuant to law.

17. **Electric Meter Removal.** In the event that the commercial electric utility provider adopts or changes its rules obviating the need for a separate or ground-mounted electric meter and enclosure, the Permittee on its own initiative and at its sole cost and expense shall apply to the City for permission to remove the separate or ground-mounted electric meter and enclosure and restore the affected area to its original condition.
18. **Rearrangement and Relocation.** The Permittee acknowledges that the City, in its sole discretion and at any time, may: (1) change any street grade, width or location; (2) add, remove or otherwise change any improvements in, on, under or along any street owned by the City or any other public agency, which includes without limitation any sewers, storm drains, conduits, pipes, vaults, boxes, cabinets, poles and utility systems for gas, water, electric or telecommunications; and/or (3) perform any other work deemed necessary, useful or desirable by the City (collectively, "**City Work**"). The City reserves the rights to do any and all City Work without any admission on its part that the City would not have such rights without the express reservation in this permit. In the event that the Director determines that any City Work will require the Permittee's facility to be rearranged and/or relocated, the Permittee shall, at its sole cost and expense, do or cause to be done all things necessary to accomplish such rearrangement and/or relocation. If the Permittee fails or refuses to either permanently or temporarily rearrange and/or relocate the Permittee's facility within a reasonable time after the Director's notice, the City may (but will not be obligated to) cause the rearrangement or relocation to be performed at the Permittee's sole cost and expense. The City may exercise its rights to rearrange or relocate the Permittee's facility without prior notice to Permittee when the Director determines that the City Work is immediately necessary to protect public health or safety. The Permittee shall reimburse the City for all costs and expenses in connection with such work within 10 days after a written demand for reimbursement and reasonable documentation to support such costs is provided. In addition, the Permittee shall indemnify, defend and hold the City, its agents, officers, officials, employees and volunteers harmless from and against any Claims in connection with rearranging or relocating the Permittee's facility, or turning on or off any water, oil, gas, electricity or other utility service in connection with the Permittee's facility.
19. **Damage to Public Property.** The Permittee shall promptly restore the surface or subsurface of the right-of-way or public property and/or repair or replace the surface, subsurface, and/or public improvement thereon, therein, or thereunder, in as good a condition as before in accordance with applicable laws, normal wear and tear excepted, reasonably satisfactory to the City Engineer for damage or disturbance caused by the wireless facilities. If Permittee does not repair the damage or disturbance as just described, then City shall have the option, upon fifteen (15) days prior written notice to Permittee, to perform or cause to be performed such reasonable and necessary work on behalf of Permittee and to charge Permittee for the actual and reasonable costs incurred by the City at City's standard rates.
- a. **Exception.** If the damage or disturbance caused by the wireless facilities present a public safety or hazardous concern as deemed by the City Manager, Fire Chief, police Chief, City Engineer, or Public Works Director or designee, the City reserves the right to make repairs immediately and to charge Permittee for all actual and reasonable costs incurred by the City. City shall have the right to disable, alter, relocate, sever, disrupt, remove, tear out, dig-up, or otherwise damage wireless facilities of Permittee. City shall inform Permittee of any actions taken and Permittee shall remove its equipment. Notwithstanding the above, before any such actions are taken, the City shall notify Permittee to give notice of the emergency or immediate hazard or dangerous condition.
- i. In the event of an action taken by City, neither the City nor any agent, Contractor, or employee of the City shall be liable to Permittee or its Contractors or its customers or other third parties for any harm so caused to them by the reasonable actions of the City or its agents, Contractors, or employees in responding to such public hazard or dangerous condition. When practical and if possible, City will consult with Permittee in advance to assess the necessity of such actions and to minimize, to the extent practical under the circumstances, damage to and disruption of either the public property involved or the wireless

facilities involved. Following notice from the City, Permittee shall reasonably cooperate with the City, at no expense to City, to remedy the hazard and secure the route area.

- ii. In the event of an emergency discovered by the Permittee, Permittee shall notify the City immediately.
20. **Public Emergency Disruption.** In the event of a public emergency, the City will have the right to immediately perform, without prior written notice to Permittee, reasonable and necessary work on behalf of Permittee to repair and return public property to a safe and satisfactory condition in accordance with applicable laws, normal wear and tear excepted, reasonably satisfactory to the City Engineer. The City shall provide written notice to Permittee of the repairs as soon as practicable after the work has begun. Permittee agrees that any severed City-owned Conduit and/or fiber must be completely repaired or replaced to the nearest splice point. If the City needs to perform any part of the necessary repairs, relocation, and/or removal work, it shall be entitled to seek payment for such actual and reasonable repairs, relocation, and/or removal costs from Permittee and may draw upon a performance bond and/or Deposit in full or partial satisfaction of such costs, if payment is not made by Permittee. The Public Works Director or their designee shall have the authority to designate a public emergency, in addition to the provisions in Chapter 8.36 of the San Bruno Municipal Code.
  21. **Pavement.** For any pavement cuts by Permittee, Permittee agrees to restore the pavement in as good a condition as or better than before to the satisfaction of the City Engineer and to reimburse the City for all actual and reasonable costs arising from the restoration. Additional conditions will be applied to permits where street excavations are proposed for roadways overlaid with asphalt concrete within the previous five years or for roadways that have received a seal coat within two years, up to and including repaving of half or full width of roadway. Facilities installation and repairs shall be planned well enough in advance to avoid excavating in newly resurfaced roadways.
  22. **Landscaping.** The Permittee shall replace any landscape features damaged or displaced by the construction, installation, operation, maintenance or other work performed by the Permittee or at the Permittee's direction on or about the site. In the event that any trees are damaged or displaced, the Permittee shall hire and pay for a licensed arborist to select, plant and maintain replacement landscaping in an appropriate location for the species. Only ISA Certified workers under the supervision of a licensed arborist shall be used to install the replacement tree(s). The box size and other standards for any replacement trees shall be subject to the Director's approval in consultation with the licensed arborist. The Permittee shall, at all times, be responsible to maintain any replacement landscape features.
  23. **Demand for Payment.** Upon the receipt of a demand for payment by City, Permittee shall promptly reimburse City for actual and reasonable costs. Failure to pay will entitle the City to draw upon the performance bond and/or deposit within thirty (30) days of the demand for payment.
  24. **Encroachment Permit General Conditions.** Encroachment Permits shall be obtained by the Permittee pursuant to San Bruno Municipal Code Chapter 8.16. The Permittee shall comply with the City of San Bruno's Encroachment Permit General and Special Conditions.
  25. **Building Permit Requirement.** A building permit shall be obtained by the Permittee pursuant to San Bruno Municipal Code Title 11 for small wireless facilities within utility easements in public and private properties.
  26. **Insurance Requirements.** Commercial general liability (or comprehensive) and property damage insurance indicating the City of San Bruno as an additional insured is required.

Coverage shall be at least as broad as:

- i. Commercial General Liability (CGL): Insurance Services Office (ISO) Form CG 00 01 12 07 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than \$2,000,000 per

occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

ii. Automobile Liability: ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 per accident for bodily injury and property damage.

iii. Workers' Compensation: as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

If the contractor maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the contractor.

#### Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

##### Additional Insured Status

The City, its elected and appointed officials, employees, and agents are to be covered as insureds on the auto policy for liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Contractor; and on the COL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10, 11 85 or both CG 20 10 and CG 20 37 forms if later revisions used).

##### Primary Coverage

For any claims related to this contract, the Contractor's insurance coverage shall be primary insurance as respects the City, its elected and appointed officials, employees, and agents. Any insurance or self-insurance maintained by the City, its elected and appointed officials, employees, or agents shall be excess of the Contractor's insurance and shall not contribute with it.

##### Notice of Cancellation

Each insurance policy required above shall provide that coverage shall not be canceled except after thirty (30) days' prior written notice (10 days for non-payment) has been given to the City.

##### Waiver of Subrogation

Contractor hereby grants to City a waiver of any right to subrogation, which any insurer of said Contractor may acquire against the City by virtue of the payment of any loss under such insurance.

Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

##### Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the City. The City may require the Contractor to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

##### Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City.

#### Verification of Coverage

Contractor shall furnish the City With original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

27. **Public Noticing.** All residences and/or businesses impacted by project construction are to be notified in writing at least 48 hours in advance describing work schedule, including dates, time frames, and on-site project manager name and cell phone number prior to commencing work.
28. **Traffic Control.** Traffic control shall conform to the requirements of the most current edition of the California Manual on Uniform Traffic Control Devices published by Caltrans. Traffic control shall be in conformance with Caltrans' Standard Plans for Traffic Control.
29. **Traffic Control Plans ("TCPs").** Site-specific TCP's are required to be submitted for review a minimum of ten (10) business days prior to the scheduled start date. TCP's shall be signed by California licensed traffic engineer.
30. **Underground Service Alert (USA).** Forty-eight (48) hours before commencing work, the Permittee shall contact Underground Service Alert (USA) at 1-800-227-2600 to verify elevations and locations of all existing utilities
31. **Private Sewer Laterals and Water Services.** The City of San Bruno does not mark private sewer laterals or water services in the public right-of-way or public utility easement as part of the Underground Service Alert (USA) program. Permittee is to take precautions to locate and protect private sewer laterals and water services from damage during construction. In the event any sewer lateral damage is discovered, the Permittee is required to immediately dig and repair the sewer lateral to restore sewer service. In the event any water service damage is discovered, the Permittee shall immediately contact the City's Water Division at 650-616-7160 to coordinate the repair work. The Permittee shall reimburse the City for all costs and expenses in connection with damage repair work within 10 days after a written demand for reimbursement and reasonable documentation to support such costs is provided. If new facilities are being installed by the boring method the Permittee is also required to video inspect any sewer and storm mains that are crossed by their facilities as part of this project, a copy of this video is to be provided to the City.
32. **Commencement of Operations.** The operation of the approved facility shall commence no later than one (1) month after the completion of installation, or the wireless facility permit will expire without further action by the City.
33. **Noninterference.** Permittee shall not move, alter, temporarily relocate, change, or interfere with any existing structure, improvement, or property without the prior consent of the owner of that structure, improvement, or property. No structure, improvement, or property owned by the City shall be moved to accommodate a permitted activity or encroachment, unless the City determines that such movement will not adversely affect the City or any surrounding businesses or residents, and the Permittee pays all costs and expenses related to the relocation of the City's structure, improvement, or property. Prior to commencement of any work pursuant to a wireless facility permit, the Permittee shall provide the City with documentation establishing to the City's satisfaction that the Permittee has the legal right to use or interfere with any other structure, improvement, or property within the public right-of-way or public utility easement to be affected by Permittee's facilities.
34. **No Right, Title, or Interest.** The permission granted by a wireless facility permit shall not in any event constitute an easement on or an encumbrance against the public right-of-way or public utility easement. No right, title, or interest (including franchise interest) in the public right-of-way or public utility easement, or any part thereof, shall vest or accrue in Permittee by reason of a wireless encroachment permit or the issuance of any other permit or exercise of any privilege given thereby.

35. **No Possessory Interest.** No possessory interest is created by a wireless facility permit. However, to the extent that a possessory interest is deemed created by a governmental entity with taxation authority, Permittee acknowledges that City has given to Permittee notice pursuant to California Revenue and Taxation Code Section 107.6 that the use or occupancy of any public property pursuant to a wireless facility permit may create a possessory interest which may be subject to the payment of property taxes levied upon such interest. Permittee shall be solely liable for, and shall pay and discharge prior to delinquency, any and all possessory interact taxes or other taxes, fees, and assessments levied against Permittee's right to possession, occupancy, or use of any public property pursuant to any right of possession, occupancy, or use created by this permit.
36. **Agreement with City.** If not already completed, Permittee shall enter into the appropriate agreement with the City, as determined by the City, prior to constructing, attaching, or operating a facility on Municipal Infrastructure. This permit is not a substitute for such agreement.
37. **Abandonment.** If a facility is not operated for a continuous period of 6 months, the wireless facility permit and any other permit or approval therefor shall be deemed abandoned and terminated automatically, unless before the end of the 6 month period (i) the approval authority has determined that the facility has resumed operations, or (ii) the City has received an application to transfer the permit to another service provider. No later than ninety (90) days from the date the facility is determined to have ceased operation or the Permittee has notified the approval authority of its intent to vacate the site, the Permittee shall remove all equipment and improvements associated with the use and shall restore the site to its original condition to the satisfaction of the approval authority. The Permittee shall provide written verification of the removal of the facilities within thirty (30) days of the date the removal is completed. If the facility is not removed within thirty (30) days after the permit has been discontinued pursuant to this subsection, the site shall be deemed to be a nuisance, and the City may cause the facility to be removed at Permittee's expense or by calling any bond or other financial assurance to pay for removal. If there are two (2) or more users of a single facility or support structure, then this provision shall apply to the specific elements or parts thereof that were abandoned, but will not be effective for the entirety thereof until all users cease use thereof.
38. **Attorney's Fees.** In the event the City determines that it is necessary to take legal action to enforce any of these conditions, or to revoke a permit, and such legal action is taken, the Permittee shall be required to pay any and all costs of such legal action, including reasonable attorney's fees, incurred by the City, even if the matter is not prosecuted to a final judgment or is amicably resolved, unless the City should otherwise agree with Permittee to waive said fees or any part thereof. The foregoing shall not apply if the Permittee prevails in the enforcement proceeding.

**B. Standard Conditions for Section 6409 Approvals.** In addition to the conditions provided in Section A of these Standard Conditions of Approval and any supplemental conditions imposed by the approval authority (or the appellate authority on appeal), as the case may be, all permits for Section 6409 Approvals granted pursuant to these Standards shall be subject to the following additional conditions, unless modified by the approving authority:

1. **Permit Subject to Conditions of Underlying Permit.** Any permit granted in response to an application qualifying as an eligible facilities request shall be subject to the terms and conditions of the underlying permit.
2. **No Permit Term Extension.** The City's grant or grant by operation of law of an eligible facilities request permit constitutes a federally-mandated modification to the underlying permit or approval for the subject tower or base station. Notwithstanding any permit duration established in another permit condition, the City's grant or grant by operation of law of a eligible facilities request permit will not extend the permit term for the underlying permit or any other underlying regulatory approval, and its term shall be coterminous with the underlying permit or other regulatory approval for the subject tower or base station.

3. **No Waiver of Standing.** The City's grant or grant by operation of law of an eligible facilities request does not waive, and shall not be construed to waive, any standing by the City to challenge Section 6409(a) of the Spectrum Act, any FCC rules that interpret Section 6409(a) of the Spectrum Act, or any modification to Section 6409(a) of the Spectrum Act.

**C. Small Wireless Facilities Requests.** In addition to the conditions provided in Section A of these Standard Conditions of Approval and any supplemental conditions imposed by the approval authority (or the appellate authority on appeal), as the case may be, all permits for a small wireless facility granted pursuant to these Standards shall be subject to the following condition, unless modified by the approval authority:

1. **No Waiver of Standing.** The City's grant of a permit for a small wireless facility request does not waive, and shall not be construed to waive, any standing by the City to challenge any FCC orders or rules related to small cell facilities, or any modification to those FCC orders or rules.

**SECTION 11:** If any provision of this Resolution or its application to any person or circumstance is held invalid, such invalidity has no effect on the other provisions or applications of the Resolution that can be given effect without the invalid provision or application, and to this extent, the provisions of this Resolution are severable. The City council declares that it would have adopted this Resolution irrespective of the invalidity of any portion thereof.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council hereby adopts the design and siting guidelines and engineering design standards for small wireless facilities in the public right-of-way and within utility easements in public and private properties for the City of San Bruno.

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I hereby certify that foregoing **Resolution No. 2019 - 61**  
was introduced and adopted by the San Bruno City Council at a regular meeting on  
June 11, 2019, by the following vote:

AYES: Councilmembers: M. Medina, O'Connell, Salazar, Mayor R. Medina

NOES: Councilmembers: None

ABSENT: Councilmembers: Davis

  
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Melissa Thurman, CMC  
City Clerk