BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C 20554

IN THE MATTER OF	)	
	)	
	)	WT Docket No. 15-180
Wireless Telecommunications Bureau Seeks Comment on Proposed Amended Nationwide Programmatic Agreement for the Collocation of Wireless Antennas	)	

JOINT COMMENTS FILED BY THE LEAGUE OF CALIFORNIA CITIES, THE LEAGUE OF OREGON CITIES AND SCAN NATOA, INC.

Filed June 27, 2016

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The League of California Cities, the League of Oregon Cities and SCAN NATOA acknowledge and thank Javan Rad, Esq., of the City of Pasadena, California and Robert C. May III, Esq., of Telecom Law Firm, PC for their work as lead drafters of these comments.

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INTRODUCTION AND SUMMARY

The League of California Cities, League of Oregon Cities, and SCAN NATOA, Inc. (collectively "California & Oregon Local Governments") offer these comments in response to the May 12, 2016 Public Notice on the proposed Amended Collocation Agreement.

The League of California Cities is an association of 474 California cities dedicated to protecting and restoring local control to provide for the public health, safety and welfare of their residents, and to enhance the quality of life for all Californians.

The League of Oregon Cities, originally founded in 1925, is an intergovernmental entity consisting of Oregon's 242 incorporated cities that was formed to be, among other things, the effective and collective voice of Oregon's cities before the legislative assembly and state and federal courts.

SCAN NATOA, which is the States of California and Nevada Chapter of the National Association of Telecommunications Officers and Advisors, has a history spanning over 20 years representing the interests of over 300 members consisting of primarily local government telecommunications officers and advisors located in California.

California & Oregon Local Governments support appropriately streamlined reviews for unobtrusive wireless facilities. The Commission should consider how its regulatory changes in this very narrow context may reverberate throughout the broader deployment process. In particular, the Commission should align its definition for "collocation" and criteria for a categorical exclusion with its prior decisions, and clarify that the proposed amendments will not impact a "collocation application" under the *2009 Declaratory Ruling*.[1]

[1] *See Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review and to Preempt under Section 253 State and Local Ordinances that Classify All Wireless Siting Proposals as Requiring a Variance*, 24 FCC Rcd 13994, 14012 ¶ 42 (Nov. 18, 2009) [hereinafter "*2009 Declaratory Ruling*"].

I. THE PROPOSED AMENDMENTS DEPART FROM THE COMMISSION'S PRIOR INTERPRETATIONS AND RULES

California & Oregon Local Governments encourage the Commission's efforts to streamline Section 106 review whenever appropriate. However, the proposed amendments to the Collocation Agreement depart from the commonly understood definition for "collocation" and contain looser standards for installations on historic structures than the Commission recently promulgated in the *2015 Infrastructure Order* for old-but-not-historic structures.[2] This approach may cause confusion over which regulations govern the same facilities at different review stages and may lead to unnecessary conflict and delays. To ensure that efficiencies achieved through the Collocation Agreement are not negated by apparent conflicts with related regulations, the Commission should align its amendments with its prior definitions and rules.

In fact, the proposed amendments, as drafted, render historic structures subject to reduced (if not effectively zero) scrutiny and dramatically reduced time for city and county staff to review applications before the addition of original wireless equipment. The Commission should reject the proposed amendments because they would essentially render local review superfluous in these circumstances.

[2] *See* In the Matter of Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies, *Report and Order*, 29 FCC Rcd. 12865, ¶ 97 (Oct. 17, 2014) [hereinafter "*2015 Infrastructure Order*"].

A. The Proposed Definition for "Collocation" Conflicts with its Ordinary Meaning – Multiple Wireless Facilities in a Shared Location

As a threshold matter, the proposed amendment to § I.B. departs from the commonly understood definition for the term "collocation" because it would include situations in which transmission equipment is installed on a structure not previously intended or approved as a support structure for wireless facilities. Collocation has historically meant multiple wireless facilities in shared space, predating even the *2009 Declaratory Ruling*.[3] Installations on non-tower structures without any previously approved wireless facilities are not collocations in the general, commonly understood sense.

Collocation as a regulatory concept first appeared in the Telecommunications Act of 1996 as a mandate to allow competitive local exchange carriers into the incumbent carriers' facilities.[4] Later, the *2009 Declaratory Ruling* utilized the term to distinguish between "collocation applications" for additions to previously approved sites and applications for "new facilities or major modifications."[5] Indeed, the state statutes the Commission cited as support in the *2009 Declaratory Ruling*—and even some the Commission omitted—define collocation as multiple wireless facilities in a shared location.[6] Although the Commission's interpretation in the *2015*

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[3] *See* 47 U.S.C. § 251(c)(6); *2009 Declaratory Ruling*, *supra* note 1, at ¶ 43 (distinguishing between collocation applications and applications for "new facilities or major modifications"); *2015 Infrastructure Order*, *supra* note 2, at 178 (defining "collocation" as the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes").

[4] *See* 47 U.S.C. § 251(c)(6).

[5] *See 2009 Declaratory Ruling*, *supra* note 1, at ¶ 43.

[6] *See id.* at ¶ 47–48 (citing CAL. GOV'T CODE § 65850.6(d)(1) ("'Collocation facility' means the placement or installation of wireless facilities, including antennas, and related equipment, on, or immediately adjacent to, a wireless telecommunications collocation facility."); FLA. STAT. ANN. § 365.172(3)(f) ("'Collocation' means the situation when a second or subsequent wireless provider uses an existing structure to locate a second or subsequent antennae."); KY. REV. STAT. § 100.985(3) ("'Co-location' means locating two (2) or more transmission antennas or related equipment on the same cellular antenna tower.); N.C. GEN. STAT. ANN. § 160A-400.51(4) ("The installation of new wireless facilities on previously-approved structures, including towers, buildings, utility poles, and water tanks."); *see also* IND. CODE. ANN. § 8-1-32.3-4 ("As used in this chapter, 'collocation' means the placement or installation of wireless facilities on existing structures that include a wireless facility or a wireless support structure, including water towers and other buildings or structures. The term includes the placement, replacement, or modification of wireless facilities within an approved equipment compound.").

Infrastructure Order deviated from the traditional definition because it no longer contemplated multiple equipment owners but rather additional equipment without respect to ownership, it nevertheless confirmed that an "existing wireless tower or base station" is a fundamental prerequisite for a collocation.[7]

The proposed amendments would explicitly and unreasonably extend the definition to cover installations on structures without any previously approved wireless facilities.[8] Even when the Commission has classified installations on towers without existing antennas to be a collocation, the tower itself received a prior approval as a structure solely intended to support FCC-licensed or authorized equipment.[9]

The proposed amendments, in most instances, effectively moot consultation with local agencies about the cumulative effects of new antenna "small cell" arrays, even beyond the original installation. As an example, historic light poles could be extended or expanded in a manner that might accommodate wireless equipment, but might also destroy the historic features of the pole.

The Commission should reject the proposed amendments to Draft Collocation Agreement § I.B, and, instead, maintain uniformity in its regulatory definitions.

B. The Proposed Amendments Relating to Historic Properties Appear to be Less Restrictive than Analogous Criteria for Categorical Exclusions for Non-Historic Properties

The proposed amendments could allow for more intrusive installations on historic properties than the Commission has deemed categorically excluded from Section 106 review on

[7] *See* 47 C.F.R. § 1.40001(b)(2) ("The mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes."). An "eligible support structure" means a tower (a structure built solely or primarily to support FCC-licensed or authorized equipment) or a base station (a non-tower structure locally approved as a support for FCC-licensed or authorized equipment). *See id.* §§ 1.40001(b)(1), (4) and (9).
[8] *See* Draft Collocation Agreement Amendments at § I.B.
[9] *See 2015 Infrastructure Order*, *supra* note 2, at ¶ 174.

non-historic properties. The proposed amendments merely require some undefined "stealth techniques" on genuinely historic properties, whereas the *2015 Infrastructure Order* requires compliance with "all zoning and historic preservation conditions applicable to existing antennas in the same vicinity that directly mitigate or prevent effects" on structures subject to Section 106 review merely due its age.[10] Moreover, the proposed amendments would allow for ground disturbance on historic properties at least as deep and wide as prior excavations, but the *2015 Infrastructure Order* excluded facilities on non-historic structures only when it involved no new ground disturbances.[11] The Wireless Telecommunications Bureau offers no explanation for the loosened standard.

These proposed amendments in section VII.A appear backwards: the Commission should require stricter criteria on historic properties than for wireless deployments on structures subject to Section 106 review solely due to a structure's age. The Commission should align the proposed amendments with the established criteria for a small cell categorical exclusion from Section 106 review.

II. TO THE EXTENT THAT PROPOSED AMENDMENTS IMPACT A "COLLOCATION APPLICATION" UNDER THE *2009 DECLARATORY RULING,* THE COMMISSION MUST RE-NOTICE THE PROCEEDING

The California & Oregon Local Governments do not believe the proposed amendments to the Collocation Agreement will impact the presumptively reasonable timeframe to review

[10] *Compare* Draft Collocation Agreement Amendments at VII.A.1.c, *with 2015 Infrastructure Order*, *supra* note 2 at ¶ 97

[11] *Compare* Draft Collocation Agreement Amendments at VII.A.4 ("A small antenna . . . may be mounted on a building or non-tower structure . . . that is (1) a historic property (including a property listed in or eligible for listing in the National Register of Historic Places) or (2) inside or within 250 feet of the boundary of a historic district without being reviewed through the Section 106 process set forth in the NPA, provided that . . . [t]he depth and width of any proposed ground disturbance associated with the collocation does not exceed the depth and width of any previous ground disturbance (including footings and other anchoring mechanisms)."), *with 2015 Infrastructure Order*, *supra* note 2 at ¶ 97 ("[W]e find that collocations on buildings or other non-tower structures over 45 years old will have no potential for effects on historic properties if . . . the deployment of the new antenna will involve no new ground disturbance.").

collocation applications under the *2009 Declaratory Ruling*. The Public Notice has styled this proceeding as amending a programmatic agreement to streamline NHPA reviews for small cells in historic districts to "ensur[e] . . . that the Commission's rules reflect the NHPA's values and obligations." The Public Notice did not state that the "subjects and issues involved" included collocation applications for non-small cells beyond historic districts.[12]

However, various wireless providers have recently taken the position that a request to establish a new wireless site on any existing structure (regardless of whether a wireless facility is present) qualifies as a collocation subject to the 90-day shot clock under the *2009 Declaratory Ruling*. In some cases, carriers have erroneously claimed that collocations covered by the 90-day shot clock include more than towers or other structures without any established wireless uses.

The excerpt below comes from a recent Verizon Wireless attorney's letter, commenting on a new local ordinance that would borrow the Commission's definition for a collocation verbatim from the *2015 Infrastructure Order*:

> Under the 2009 FCC Shot Clock Ruling, "collocation" includes any request to place equipment on an "existing tower or other structure" that does not involve a "substantial increase in the size of a tower" as defined in the *Nationwide Programmatic Agreement for the Collocation of Wireless Antennas*. (Shot Clock Ruling, ¶ 46.) Moreover, it does not matter whether any other wireless facility is already present.[13]

Crown Castle has made similar claims:

> Federal law and the FCC's rules implementing the law require that this permit application be processed to a final decision by this jurisdiction without undue delay. Specifically, because this application proposes to collocate equipment on an

[12] *See* 5 U.S.C. § 553(b) ("General notice of proposed rule making shall be published in the Federal Register, unless persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law. The notice shall include . . . (1) a statement of the time, place, and nature of public rule making proceedings; (2) reference to the legal authority under which the rule is proposed; and (3) either the terms or substance of the proposed rule or a description of the subjects and issues involved.").

[13] Letter from Paul B. Albritton, counsel for Verizon Wireless, to the Brentwood, Cal., Planning Commission at 2 (May 2, 2016) (included as **Exhibit 1**).

> existing utility pole in the public rights of way, this application must, under ordinary circumstances, be acted on within ninety (90) days from its submission, today.[14]

Based on these claims, it is possible that carriers would take the position that the definition of "collocation" in this (historic district) proceeding should be extended to the use of the term "collocation" (for all areas) in the *2009 Declaratory Ruling*.

California & Oregon Local Governments do not believe that the Commission intends to "hide elephants in mouse holes."[15] To address the carriers' potential claims that this proceeding somehow modifies generally applicable regulations for all wireless siting requests, the Commission should confirm that the proposed amendments to the Collocation Agreement will not impact the definition of a "collocation" or "collocation application" under the *2009 Declaratory Ruling*. Alternatively, to the extent that the Commission does intend broader impacts, it must re-notice this proceeding in a manner that would allow all interested parties to understand the "subjects and issues involved" and have a meaningful opportunity to comment.[16]

III. CONCLUSION

The Commission should decline to redefine "collocation" for purposes of this historic district proceeding, and it should also confirm that the proposed amendments will not impact the definition of a "collocation" or "collocation application" under the *2009 Declaratory Ruling*. Alternatively, the Commission must re-notice this proceeding to allow interested parties and localities without historic structures or districts a meaningful opportunity to comment.

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[14] Letter from Mark Hanson, Crown Castle, to Todd Bennett, City of Monterey (Feb. 2, 2016) (included as **Exhibit 2**).

[15] *Cf. Whitman v. Am. Trucking Ass'n*, 531 U.S. 457, 468 (2001) ("Congress . . . does not alter the fundamental details of a regulatory scheme in vague terms or ancillary provisions—it does not, one might say, hide elephants in mouseholes.").

[16] *See* 5 U.S.C. § 553(b).

Respectfully submitted,

June 27, 2016

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EXHIBIT 1

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May 2, 2016

VIA EMAIL

Chairperson Dirk Zeigler
Vice Chairperson Lance Crannell
Commissioners John D. Fink,
Claudette Staton and Joseph Weber
Planning Commission
City of Brentwood
150 City Park Way
Brentwood, California 94513

Re: Draft Wireless Facilities Ordinances
Planning Commission Agenda, May 3, 2016

Dear Chairperson Zeigler, Vice Chairperson Crannell and Commissioners:

We write to you on behalf of our client Verizon Wireless regarding the draft wireless facilities ordinances (the "Draft Ordinance") to be considered by the Planning Commission at its meeting of May 3, 2016. Verizon Wireless appreciates the opportunity to provide additional comment on the Draft Ordinance and wishes to express gratitude for changes made at the urging of the Land Use & Development Committee. In particular, Verizon Wireless is pleased that the City is including an accessory permit process for certain wireless facilities looks forward to offering suggestions as to how this permit can accommodate small cell facilities in Brentwood. Verizon Wireless also appreciates revisions to submittal requirements such as streamlined information regarding equipment noise and clarification that alternatives analyses for right-of-way facilities need only address other right-of-way locations.

Below we address our suggestions as well as remaining concerns regarding certain provisions of the Draft Ordinance. We look forward to working with the City to resolve these concerns.

§17.780 – FOR FACILITIES NOT COVERED UNDER SECTION 6409(A) OF THE MIDDLE CLASS TAX RELIEF ACT OF 2012

§17.780.020 – Definitions

Collocation

This definition is drawn from recent Federal Communications Commission ("FCC") rules regulating modifications to existing wireless facility locations codified at

47 C.F.R. §1.40001(b)(2). However, the use of this definition in Draft Ordinance regarding deemed-approval notices under Government Code §65964.1 conflicts with FCC rules regulating time periods for review of wireless facility applications that rely on a different definition of collocation. Under the 2009 FCC Shot Clock Ruling,[1] "collocation" includes any request to place equipment on an "existing tower or other structure" that does not involve a "substantial increase in the size of a tower" as defined in the *Nationwide Programmatic Agreement for the Collocation of Wireless Antennas.* (Shot Clock Ruling, ¶ 46.) Moreover, it does not matter whether any other wireless facility is already present. This definition should be revised to include the correct definition of collocation.

§17.780.040 – Required Permits

Verizon wireless continues to believe that the strict definition of "stealth facility" in the Draft Ordinance could subject certain right-of-way facilities to a conditional wireless facility permit and discretionary conditional use permit findings. However, as Verizon Wireless's use of the right-of-way is authorized by California Public Utilities Code §7901, right-of-way wireless facilities should be processed through a non-discretionary permit such as an encroachment permit under Brentwood Municipal Code §12.08. The Department of Public Works is the appropriate authority to issue encroachment permits, as is the case with other public utility installations in the right-of-way.

We continue to encourage the City to permit fully-concealed wireless facilities on non-residential structures in any zone through an administrative wireless facilities permit. Such wireless facilities pose no land use impacts and discretionary review by the Planning Commission is unwarranted.

(C) Accessory Wireless Use Permit

Verizon Wireless looks forward to working with the Planning Commission to develop standards for small cell facilities that can be approved with this administrative permit. Small cell facilities are low-profile wireless facilities typically consisting of small antennas measuring no more than three cubic feet in cumulative volume and equipment cabinets with a total cumulative volume of less than 17 cubic feet.

Verizon Wireless suggests that the 200 foot separation from residential dwellings not apply to facilities placed in the public right-of-way, where very small facilities with minimal visual impacts may be installed to provide reliable network capacity for residential neighborhoods.

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[1] *In Re: Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review, Etc., (FCC 09-99 November 18, 2009).*

§17.780.060 – Criteria for a Conditional Wireless Facilities Permit

(E) Least Intrusive Means

By basing a criteria on the "least intrusive means" standard set forth in federal case law, the Draft Ordinance attempts to create a new hurdle out of the federal protection afforded wireless carriers under 47 U.S.C. §332(c)(7)(B)(i)(II), which provides, in relevant part, that the City's regulation of wireless facilities "shall not prohibit or have the effect of prohibiting the provision of personal wireless services." Federal courts have interpreted this law to mandate approval of wireless facilities where a federal court has determined that the applicant has identified a "significant gap" and the facility represents the "least intrusive means" to fill that gap, even where the local jurisdiction has identified substantial evidence that would otherwise warrant denial of the application under local codes. *See, e.g., MetroPCS v. City and County of San Francisco*, 400 F.3d 715 (9th Cir. 2005). This criteria must be stricken because it would place the City in a position to circumvent the judgment of federal courts and the protections afforded Verizon Wireless under federal law. Further, there is no reason to compare alternatives to any fully-concealed facility that poses no land use impacts.

§17.780.070 – Criteria for an Administrative Wireless Facilities Permit

(E) Least Intrusive Means

Our comment to §18.780.060(E) applies to this provision as well.

§17.780.080 – Permit Applications; Submittal and Review Procedures

(B) Permit Application Content

(6) Alternative Sites Analysis

Verizon Wireless continues to believe that there is no reason to require evaluation of alternative sites for fully-concealed facilities that present no land use impacts.

(C) Pre-Application Meeting Appointment
(D) Application Submittal Appointment
(E) Application Resubmittal Appointment

Verizon Wireless acknowledges the revision to the Draft Ordinance allowing for exemption for certain submittal requirements when an applicant attends a pre-application meeting, but continues to believe that these appointment requirements may initiate a conflict with federal "Shot Clock" deadlines that require local jurisdictions to review and act on wireless facility applications within specified time periods. These time periods are

specified in the Shot Clock Ruling and the 2014 Spectrum Act Order.[2] Notably, in the Spectrum Act Order, the FCC clarified that "…under the 2009 Declaratory Ruling, the presumptively reasonable timeframe begins to run when an application is first submitted…."[3] We suggest that all submittal appointments be optional to avoid conflicts with federal regulation.

(F) Deemed-Withdrawn Applications

Federal regulation governs processing time periods for wireless facility applications, and neither the Shot Clock Ruling nor the Spectrum Act Order allow a local jurisdiction to terminate an application while the time period is tolled pending an applicant's response to a request for information. Indeed, the Spectrum Act Order plainly states that "The shot clock will begin running again after the applicant makes a supplemental submission."[4] This provision terminating applications after 90 days with no response is in direct conflict with federal regulation and should be stricken.

§17.780.090 – Development Standards

(A) Preferred Locations

(1) City-owned

While the City can offer its own property to interested carriers, this provision favoring City-owned locations over all other locations violates California Government Code 65964(c) which bars the City from limiting wireless facilities to sites owned by particular parties. The list of preferred locations should include only zoning districts.

(C) General Design Standards and Guidelines

(6) Backup or Standby Power Sources and Generators

The discouragement of diesel backup generators typically used for wireless facilities is unfounded and should be stricken. Backup generators are used as a reliable power source only in case of emergencies and during testing 15 to 20 minutes on a weekday. With such low usage, emissions and noise from industry standard generators are limited. The City may encourage use of alternative power sources, but should allow installation of diesel generators.

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[2] *In Re: Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies, Etc*., FCC 14-153 (FCC October 17, 2014).
[3] *See* Spectrum Act Order ¶ 258.
[4] *Id*. at ¶ 260.

(F) Wireless Facilities in the Public Rights-of-Way

(1) Locational Criteria

(a) Existing City-owned Structures

As noted above, the City cannot favor its own property above any other location for permitting a wireless facility.

(2) Undergrounded Equipment

Verizon Wireless appreciates the revision made to this section in response to our prior comments. We note that aforementioned small cell facilities on utility poles generally employ very small equipment cabinets, often smaller than cabinets used by other types of facilities. In some cases, Verizon Wireless cabinets are small enough to be concealed behind a street sign. When such small equipment is painted to match the pole and rotated away from sightlines, it presents minimal visual impacts. The City should consider adding equipment cabinets that meets certain volumetric limitations to the list of items qualifying for a waiver from undergrounding requirements. Requirements to record an improvement agreement, post bond and record a lien are excessive for small pole-mounted equipment.

§17.790 – FOR FACILITIES COVERED UNDER SECTION 6409(A) OF THE MIDDLE CLASS TAX RELIEF ACT OF 2012

§17.790.060 – Permit Applications; Submittal and Review Procedures

(C) Pre-Application Meeting Appointment
(D) Application Submittal Appointment
(E) Application Resubmittal Appointment
(F) Deemed-Withdrawn Applications

As discussed above, these requirements are in conflict with federal regulations governing processing time periods for wireless facility applications and should be stricken.

§17.790.090 – Standard Conditions of Approval

(B) Accelerated Permit Terms Due to Invalidation

Early termination of a permit issued pursuant to an eligible facilities request would violate the vested rights of wireless carriers who have obtained a building permit and constructed their improvements. A federal circuit court has upheld the FCC's

regulations of eligible facilities requests codified as 47 U.S.C. §1455. This provision should be stricken.

§17.790.100 – Notice of Decision; Appeals

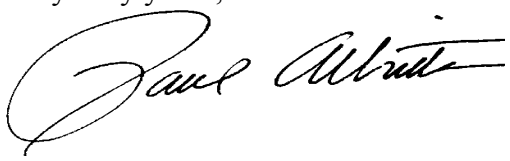
(B) Appeal

Eligible facilities requests must be reviewed under the clear criteria of 47 C.F.R. §1.40001, and this provision allowing appeals to both the Planning Commission and City Council introduces discretionary review to a process that should otherwise be administrative. Further, appeal periods and required noticing periods for public hearings would likely cause to City to exceed the 60-day time period for processing eligible facilities requests, resulting in the application being deemed granted automatically under 47 C.F.R. §1.40001(c)(4).

Conclusion

Verizon Wireless urges the Commission to address the concerns raised over certain Draft Ordinance provisions, particularly provisions that restrict placement of small equipment that presents minimal visual impacts. We look forward to working with the City on revisions to the Draft Ordinance.

Very truly yours,



Paul B. Albritton

cc: Tripp May, Esq.

EXHIBIT 1

Verizon Wireless Small Cell Installation
Downtown San Francisco

EXHIBIT 2

Crown Castle
695 River Oaks Parkway
San Jose, CA 95134

February 2nd, 2016

Todd Bennett
Senior Associate Planner
City of Monterey
580 Pacific Street
Monterey, CA 93940

Dear Todd Bennett,

Crown Castle NG West LLC ("Crown Castle") is submitting the accompanying complete application to install its telecommunications network facilities in accordance with your code, ordinances and regulations. Please be advised the Federal Communications Commission (FCC) has adopted Rules and Regulations that impact how you must process this application. In addition, state law also limits your regulation of Crown Castle's access to the public rights of way.

Crown Castle's Deployment

Crown Castle provides telecommunications services to wireless carriers. It does so via telecommunications networks installed in the public rights of way that integrate elements including fiber optic cables as well as personal wireless services facilities, such as antennas and related equipment. Crown Castle's networks are sometimes referred to as distributed antenna systems ("DAS") or Small Cell networks. The specific equipment sought to be installed by Crown Castle in this case is set forth in the accompanying permit application.

Pursuant to California state law, Crown Castle has been granted a certificate of public convenience and necessity ("CPCN") by the California Public Utility Commission. As a result, Crown Castle must be granted access to the public rights of way in the same manner and on the same terms applicable to other certificated telecommunications providers and utilities.

Federal Regulations Applicable To This Application

Federal law and the FCC's rules implementing the law require that this permit application be processed to a final decision by this jurisdiction without undue delay. Specifically, because this application proposes to collocate equipment on an existing utility pole

in the public rights of way, this application must, under ordinary circumstances, be acted on within ninety (90) days from its submission, today.[1]

However, in the interest of cooperation, Crown Castle is willing to extend the applicable timeframe for processing of this application to 150 days. Therefore, Crown Castle agrees that it will not exercise any rights it may have for your failure to process this application until after 150 days have elapsed, exclusive of tolling. Please respond to this request in writing to confirm your acceptance of this extended review timeframe. If we do not receive written response from you within 30 days, we will consider that to be acceptance. This offer is made without prejudice to any future applications that Crown Castle may make to this municipality in the future.

Moreover, pursuant to FCC regulations, this application is deemed complete 30 days after today, unless you provide written notice to Crown Castle.[2] If you contend that the application is incomplete, within the next 30 days you must provide written notice specifying any items you claim are missing to make the application complete.[3] For each item alleged to be missing, you must specify the code provision, ordinance, application instruction, or otherwise publically-stated procedure that requires the submission of the information.[4]

State Regulations Applicable To This Application

In California, state law requires that if Crown Castle's application has not been acted on for final action by a local government within the time set forth by the FCC, the application will be deemed granted, provided that: (1) "the applicant has provided all public notices regarding the application that the applicant is required to provide under applicable laws consistent with the public notice requirements for the application," and (2) the applicant has provided notice to the local government that the reasonable time period has lapsed.[5]

Please direct all written requests for additional information to me at the address above.

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[1] *In re Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review*, Declaratory Ruling, 24 FCC Rcd. 13994 ¶¶ 32, 45-46 (2009) ("*FCC Shot Clock Order*"); *In the matter of Acceleration of Broadband Deployment By Improving Wireless Facilities Siting Policies*, Report and Order, FCC 14-153, WT Docket No. 13-238, ¶ 272 (FCC Oct. 21, 2014) ("*Wireless Infrastructure Order*") (clarifying that DAS nodes that involve installation of new poles trigger the 150 day shot clock).

[2] *Wireless Infrastructure Order* at ¶¶ 257, 259.

[3] *Wireless Infrastructure Order* at ¶¶ 259-260.

[4] *Id.*

[5] See California AB 57, codified at Section 65964.1 of the Government Code, effective January 1 2016.

EXHIBIT 2

Sincerely,

Mark Hansen

Mark Hansen
Government Relations Specialist