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**Public Works Order No: 206293**

**REGULATIONS IMPLEMENTING THE REQUIREMENTS OF SAN FRANCISCO PUBLIC WORKS CODE ARTICLE 27 AND REVISING AND SUPERSEDING DEPARTMENT OF PUBLIC WORKS ORDER NO. 205791**

Section 1. PURPOSES OF ORDER

- A. This Order implements the requirements of Public Works Code Article 27, adopted by the Board of Supervisors in Ordinance No. 76-14, as amended in Ordinance No. 198-17.
- B. Public Works is adopting this Public Works Order to correct, amend, and clarify various aspects of Public Works Order No. 205791 and the Design Criteria for Stand-alone Poles contained in Exhibit G to Order No. 205791. This Order, therefore, supersedes Order No. 205791 in its entirety.

Section 2. DEFINITIONS

- A. Use of Defined Terms.

Unless the context otherwise specifies or requires, when capitalized the terms defined in this Section shall mean the following for all purposes of this Order:

1. “Business Day” means any Monday through Friday that is not observed as an official holiday by the City.
2. “Day” means any calendar day. For the purposes hereof, the time in which an act is to be performed shall be computed by excluding the first Day and including the last. For the purposes hereof, if the time in which an act is to be performed falls on a Day that is not a Business Day the time for performance shall be extended to the following Business Day.
3. “Feasible Location” means a proposed location for a Surface-Mounted Facility that meets both the Applicant’s technical requirements and the criteria for Preferred Locations under Public Works Code § 2704(b).
4. “Installation Period” means a time set forth in a Surface-Mounted Facility Site Permit for Permittee to Substantially Complete Installation of the permitted

Surface-Mounted Facility. Unless a longer period is otherwise stated in the Permit, the Installation Period shall be one year after the issuance of the Permit.

5. "Order" means these Department of Public Works Regulations Implementing the Requirements of San Francisco Public Works Code Article 27.
6. "Public Works Code" means the S.F. Public Works Code.
7. "Personal Wireless Service" means commercial mobile services provided under a license issued by the FCC.
8. "Personal Wireless Service Facility" means antennas and related facilities used to provide or facilitate the provision of Personal Wireless Service.
9. "Stand-alone Pole" means a new pole that will be installed in the Public Right-of-Way by a Telecommunications Service Provider for the purpose of supporting a Personal Wireless Service Facility.
10. "Substantially Complete Installation" or "Substantial Completion of Installation" means when the Permittee has installed: (a) all of the Permittee's equipment approved in a Permit; and (b) any street tree required in the Permit.
11. "Surface-Mounted Facility" means any Utility facility (physical element or structure) that is installed, attached, or affixed in the Public Right-of-Ways on a site that is above the surface of the street and that requires the Permittee to excavate in order to install the facility in the Public Right-of-Ways. The term Surface-Mounted Facility shall not include Utility Poles, bus shelters, and associated kiosks. The term Surface-Mounted Facility shall include Stand-alone Poles used for a Personal Wireless Service Facility.
12. "Telecommunications Services Provider" means an entity that either: (a) uses spectrum licensed from the Federal Communications Commission to provide Personal Wireless Services; or (b) has obtained a certificate of public convenience and necessity from the California Public Utilities Commission to provide telecommunications services; and (c) has been issued a Utility Conditions Permit by the Department.
13. "Utility Pole" means a power pole, telephone pole, or other similar pole containing overhead electrical facilities, subject to California Public Utilities Commission General Order 95, and located within the Public Right-of-Way.

B. Defined Terms Used in Article 27.

The capitalized terms used in this Order shall have the same meaning as set forth in Public Works Code § 2702.

C. Undefined Terms Used in Article 27.

The following terms are used in Public Works Code Article 27 but are not capitalized. They shall have the following meanings when used in Article 27 or in this Order:

1. "Adjacent" as used in Article 27 means the following:
  - (a) On the same side of the street and in front of the building or in front of the next building on either side, when a proposed location for a Surface-Mounted Facility is near a Historic Resource.<sup>1</sup>
  - (b) On the same side of the street and in front of, when a proposed location for a Surface-Mounted Facility is near a City park or Open Space or public or private elementary or middle school.
2. "Open Space" means an area of land protected or conserved by the City on which development is indefinitely set aside. "Open Space" shall not include empty lots, paper streets, or street islands.

Section 3. REQUIREMENTS FOR CHOOSING LOCATIONS FOR SURFACE-MOUNTED FACILITIES

A. Preferred Locations.

1. The Department shall not approve a location that an Applicant has identified as a Preferred Location for a Surface-Mounted Facility as required by Public Utilities Code § 2704(a) unless the Preferred Location satisfies the requirements of Public Works Code § 2704(b).
2. Notwithstanding the foregoing, the Placement Criteria set forth in Exhibit A are guidelines that are intended to ensure that a proposed Surface Mounted Facility will not interfere with public use of the streets. For this reason, the Department may waive any of the criteria in Exhibit A should the Department determine that the application of any particular criteria would prevent the use of a Preferred Location for a Surface-Mounted Facility that would otherwise satisfy the requirements of Public Works Code § 2704(b).

B. Use of Disfavored Locations.

1. The Department shall not issue a Surface-Mounted Facility Site Permit at a disfavored location unless the Applicant sufficiently demonstrates that physical or technical

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<sup>1</sup> The historic resource status of a proposed location can be determined at the following: <https://sf.gov/check-your-property-historic-resource-status>

constraints require the Applicant to install a propose Surface-Mounted Facility in a disfavored location.

2. A request under Public Utilities Code § 2704(c) to use any disfavored locations for a Surface-Mounted Facility due to physical or technical constraints must be in writing.
3. The Department shall notify the Applicant within five (5) Business Days after receipt of such a request whether the Department will approve the request.
4. If the request is approved, the Applicant may include the disfavored locations in its Preferred Location List that will be submitted to the Department following the community meeting.

C. Waiver of Location Approval Requirements.

1. The Department may waive the location approval requirements of Article 27 in their entirety as authorized under Public Works Code § 2703(b) provided the Applicant sufficiently demonstrates that physical or technical constraints limit its choice to a single location.
2. A request to waive the location approval requirements must be in writing.
3. The Department shall notify the Applicant within five (5) Business Days after receipt of such a request whether the Department will tentatively approve the waiver.
4. If the Department tentatively approves the waiver, the Department shall refer the proposed location for the Surface-Mounted Facility to the Planning Department. The Planning Department shall determine whether to impose any Conditions on its approval of the Application. If the proposed location is Adjacent to a park or Open Space, the Department shall also refer the approved location to the Recreation and Park Department. The Recreation and Park Department shall determine whether to impose any Conditions on its approval of the Application. These requirements shall not apply to Stand-alone Poles that meet the Design Criteria for Stand-alone Poles contained in Exhibit G attached hereto.
5. The Planning Department and/or Recreation and Park Department will provide a response to the Department and the Applicant in writing within a reasonable time.
6. If the waiver has been tentatively approved, and the review by the Planning and/or Recreation and Park Departments has been completed if necessary, the Department will notice a public hearing on the proposed waiver and approved location. Notice of the hearing shall be issued in the manner required by Public Works Code § 2713(b) and

Sections 8.G and 9.D of this Order. The Notice of Hearing on Waiver shall be in the form attached hereto as Exhibit F.

7. If the Director approves the waiver and proposed location following the hearing, the Applicant may submit an Application for a Surface-Mounted Facility Permit at the approved location.

D. Waiver for Stand-alone Poles.

1. The Department may approve a request for a waiver under Public Works Code § 2703(b) from a Telecommunications Services Provider seeking a Permit to install a Stand-alone Pole only if the Applicant demonstrates: (a) there are no existing Utility Poles or other poles the Applicant could use to install its Personal Wireless Service Facility within a two hundred foot (200') radius of Applicant's proposed location; (b) the proposed location is not within a two hundred foot (200') of an existing Personal Wireless Service Facility in the Public Right-of-Way; (c) the proposed location meets the Placement Criteria for Stand-alone Poles contained in Exhibit A-2 attached hereto; and (d) the proposed Personal Wireless Service Facility meets the Design Criteria for Stand-alone Poles contained in Exhibit G attached hereto.
2. If the Department finds that the Applicant has met the threshold criteria set for in Section 3.D.1, the Department may grant the waiver only if the Department finds that, on balance, the following factors weigh in favor of granting the waiver:
  - (a) The proposed location for the Stand-alone Pole is the optimal location for the Applicant to meet its service needs in the immediate vicinity, including the need for the proposed Personal Wireless Service Facility to be in close proximity to Applicant's other Personal Wireless Service Facilities to provide better service to the community;
  - (b) The Applicant has made reasonable efforts to determine whether one or more other Telecommunications Services Providers have a need for a Personal Wireless Service Facility within two hundred feet (200') of the proposed location and would be willing to jointly use a Stand-alone Pole at the proposed location; and
  - (c) The proposed location for the Stand-alone Pole is in close proximity to the point of connection for power to minimize trenching.
3. Notwithstanding the requirements of Section 3.D.1.d, the Department may grant a waiver for a Stand-alone Pole that does not meet the Design Criteria provided: (A) the Stand-alone Pole would be jointly used by at least two Telecommunications Services Providers; or (B) the proposed design has been approved by the Planning Department and/or Recreation and Park Department (if applicable) as set forth in Section 20(c)(3).

## Section 4. COMMUNITY MEETINGS

### A. Submission of Preferred Locations to the Department.

1. Prior to a community meeting, the Applicant may submit its Preferred Locations, Feasible Locations, and site plans to the Department so that the Department can advise the Applicant in advance of the meeting whether: (a) the Applicant has identified all Feasible Locations; (b) any or all of the Applicant's Preferred Locations and/or Feasible Locations appear to comply with the Placement Criteria; (c) any or all of the Applicant's Preferred Locations and or Feasible Locations could be rejected under the Placement Criteria because they are in areas that the Department determines would be suitable for a street tree; and (d) the Department would consider waiving any of the Placement Criteria for one or more of the Applicant's Preferred Locations and/or Feasible Locations.
2. The Department recommends that the Applicant provide notice to the Department of its Preferred Locations at least fourteen (14) Business Days prior to the community meeting, so that the Department can provide its input prior to the community meeting.

### B. Notice of Community Meeting.

1. An Applicant shall issue a notice of a community meeting at least fourteen (14) Days prior to the meeting.
2. The Applicant shall mail and post the notice of community meeting to the Persons identified in Public Works Code § 2713(b) and Section 8.G of this Order.
3. In addition to the date, time, and place for the community meeting, the notice of a community meeting on any Preferred Locations for a Surface-Mounted Facility shall contain the following information:
  - (a) A list of all Feasible Locations for the proposed Surface-Mounted Facility identified by the Applicant;
  - (b) A list of all of the Applicant's Preferred Locations for the proposed Surface-Mounted Facility;
  - (c) The physical dimensions of the proposed Surface-Mounted Facility;
  - (d) A reasonably accurate photo-simulation of the proposed Surface-Mounted Facility, showing its approximate scale, at each of the Preferred Locations;

- (e) A discussion of any technological limitations on the proposed location for the Surface-Mounted Facility, including identifying any other equipment owned by the Applicant that will be connected to the Applicant's proposed Surface-Mounted Facility;
- (f) A statement of the Applicant's need for and use of the proposed Surface-Mounted Facility;
- (g) If applicable, a statement that any Persons may propose that a mural be painted on the Surface-Mounted Facility if a Permit is issued (unless the Department as granted an exception to the mural requirement);
- (h) A statement identifying the translation services that will be available at the community meeting and that any Persons requiring translation services at the meeting shall submit a request to the Applicant in writing at least three (3) Days prior to community meeting; and
- (i) The following statement at the top of the notice:

**"IMPORTANT NOTICE CONCERNING YOUR RIGHTS**

PLEASE TAKE NOTICE that [Applicant Name] intends to apply for a Surface-Mounted Facility Site Permit to install a Surface-Mounted Facility in your neighborhood. As required by S.F. Public Works Code § 2705, [Applicant Name] is conducting a community meeting to develop a list of preferred locations for the proposed Surface-Mounted Facility and prioritize its preferred locations for submission to the Department of Public Works. While you will have an opportunity at a later date to protest the issuance of a Surface-Mounted Facility Site Permit at one or more of the preferred locations, the community meeting will be your only opportunity to work with [Applicant Name] in the selection of one or more preferred locations."

**C. Location and Time for Community Meeting.**

1. The Applicant shall use its best efforts to hold the community meeting at a location that is within 1,500 (fifteen hundred) feet of at least one of the Applicant's Preferred Location for the Surface-Mounted Facility. If there are no suitable locations within this distance, the community meeting shall be held at a suitable location that is near one of the Applicant's Preferred Locations.

2. The Applicant shall schedule the community meeting on Business Days after 5:00 p.m. or on weekends.

D. Purpose of Community Meeting.

In addition to the items set forth in Public Works Code § 2705(a), the Applicant shall discuss at the community meeting:

1. How the Applicant's Preferred Locations should be prioritized;
2. Whether any of the Applicant's Feasible Locations should be added to the Preferred Location List;
3. Whether there are any locations that were not identified by the Applicant that should be added to the Applicant's Preferred Location List;
4. Whether any of Applicant's Preferred Locations should be removed from the Preferred Location List because they are unacceptable to the community;
5. Ways in which the Applicant can mitigate the visual impact of the proposed Surface-Mounted Facility by installing one (1) or more street tree (if applicable) or other screening devices or means; and
6. (a) How the community can work with the Applicant, the Department, and the San Francisco Arts Commission to install a mural on the permitted Surface-Mounted Facility; or (b) due to the Applicant's intent to pay a mural "in-lieu" fee, that the community can explore using the funds for a neighborhood beautification project.

E. Translation Services.

1. Prior to the community meeting, the Applicant shall determine the language(s) that are relevant to the neighborhood where the proposed Surface-Mounted Facility will be located so that translation services can be made available.
2. A language is relevant if at least twenty (20) percent of the residents of the neighborhood speak that language at home. The Applicant can make this determination by reviewing the San Francisco Planning Department's Neighborhoods Socio-Economic Profiles.<sup>2</sup>

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<sup>2</sup> This document can be found at:

<http://www.sf-planning.org/modules/showdocument.aspx?documentid=8779>

3. If the Applicant is unable make a determination what languages are relevant, the Applicant shall consult with the Department before issuing the notice of community meeting. The Applicant shall translate the notice and provide translation services in any of the languages requested by the Department.
4. The Applicant shall also provide translation services in any languages requested in response to the Applicant's notice of community meeting.

F. Subsequent Review of Additional Locations and Community Outreach.

1. Following the community meeting, the Applicant shall review any locations identified during the community meeting that the Applicant has reason to believe are Feasible Locations for Applicant's proposed Surface-Mounted Facility.
2. If the Applicant intends to add, delete, or reprioritize its Preferred Locations as a result of the community meeting, the Applicant shall provide all Persons that attended the meeting with a revised list of its Preferred Locations.

Section 5. EXTENSIONS OF TIME TO PROCESS APPLICATIONS FOR SURFACE-MOUNTED FACILITY SITE PERMITS

A. Extensions for State Video Franchise Holders.

1. Should an Applicant that has been issued a state video franchise require any additional time to complete any of the tasks required of an Applicant for a Surface-Mounted Facility, the Applicant shall submit a request for an extension in writing to the Department setting forth the amount of additional time required. The request shall be deemed granted unless the Department notifies the Applicant in writing within two (2) Business Days that the request has been denied.
2. Should the Department or any City department reviewing an Application for a Surface-Mounted Facility Site Permit or a Preferred Location List submitted by Applicant that has been issued a state video franchise require any additional time to complete any of the tasks required of the Department or such City department, they shall submit a request in writing to the Applicant. If the Applicant will not agree to the extension, the Applicant must notify the City in writing within three (3) Business Days after the request that the extension has been denied.
3. Any extension granted by the Applicant or the City pursuant to the requirements of this Section 5 shall be considered a mutual agreement under Public Utilities Code § 5885(c)(5) to extend the time deadline for processing an Application for a Surface-Mounted Facility Site Permit.

4. The Department shall consider the Applicant's failure to meet any of the time deadlines required by Public Works Code Article 27 as the Applicant's agreement under Public Utilities Code § 5885(c)(5) to extend the time deadline set forth in Public Utilities Code § 5885(c)(2) for processing an Application for a Surface-Mounted Facility Site Permit.

B. Extensions for All Other Applicants.

If the Department's resources do not allow the Department to meet any of the time deadlines imposed by Article 27 for an Applicant that does not hold a state video franchise, including an Applicant that is a City department, the Department may extend any of those deadlines by notifying the Applicant in writing.

Section 6.           PREFERRED LOCATION LISTS

A. Submission.

1. An Applicant shall not submit a Preferred Location List to the Department until the completion of the community meeting in which the Preferred Locations were identified and discussed.
2. Unless the Department has waived the Pre-Application Approval Process pursuant to Public Works Code § 2703(b) and Section 3.C, above, no Application for a Surface-Mounted Facility Site Permit shall be approved without the submission and Department approval of a Preferred Location List.
3. A single Applicant may submit up to five Preferred Location Lists to the Department every five (5) Business Days.
4. Upon request of the Applicant, the Department may grant an extension of the time to submit a Preferred Location List beyond the ten (10) Days set forth Public Works Code § 2707. In no event, however, will the Department extend the time to submit a Preferred Location List to more than twenty (20) Days after the completion of the community meeting.

B. Form of Preferred Location List.

1. A Preferred Location List shall be submitted on the form attached hereto as Exhibit B.1.

2. In addition to the Preferred Location List, the Applicant shall provide the Department with a reasonably accurate photo-simulation of the proposed Surface-Mounted Facility, showing its approximate scale, at each of the Preferred Locations.

C. Order of Processing.

In accordance with S.F. Campaign and Governmental Conduct Code § 3.400, the Department shall process all Preferred Location Lists in the order in which they are received.

D. Planning Department Review of Preferred Location Lists.

1. The Department shall refer all Preferred Locations Lists to the Planning Department for its review.
2. As set forth in Public Works Code § 2708(b)(5), the Planning Department has fourteen (14) Days to review a Preferred Location List, unless the Applicant agrees to extend the time for the department's review.
3. The Planning Department may disapprove a Preferred Location if the Planning Department determines that the Preferred Location does not satisfy the criteria for Preferred Locations contained in Public Works Code §§ 2704(b)(1), (2), (4), and (5).
4. The Planning Department may add Conditions to its approval of a Preferred Location if the Planning Department determines that Conditions are required for the Preferred Location to satisfy the criteria for Preferred Locations described in Public Works Code §§ 2704(b)(1), (2), (4), and (5).
5. The Planning Department may disapprove the Applicant's request to use a disfavored location if the Planning Department determines that such use will unreasonably affect the defining characteristics of the disfavored locations described in Public Works Code §§ 2704(c)(1) through (5) and (7).
6. The Planning Department may impose Conditions on the Applicant's request to use a disfavored location if the Planning Department determines that such Conditions are necessary to ensure that such use will not unreasonably affect the defining characteristics of the disfavored locations described in Public Works Code §§ 2704(b)(1) through (5) and (7).

E. Recreation and Park Department Review of Preferred Location Lists.

1. The Department shall refer all Preferred Locations Lists that contain a Preferred Location or disfavored location that is Adjacent to a City park or Open Space to the Recreation and Park Department for its review.
2. As set forth in Public Works Code § 2709(b)(5), the Recreation and Park Department has fourteen (14) Days to review a Preferred Location List, unless the Applicant agrees to extend the time for the Department's review.
3. The Recreation and Park Department may disapprove a Preferred Location if the Recreation and Park Department determines that the Preferred Location does not satisfy the criteria for Preferred Locations described in Public Works Code § 2704(b)(6).
4. The Recreation and Park Department may add Conditions to its approval of a Preferred Location if the Recreation and Park Department determines that Conditions are required for the Preferred Location to satisfy the criteria for Preferred Locations described in Public Works Code § 2704(b)(6).
5. The Recreation and Park Department may disapprove the Applicant's request to use a disfavored location described in Public Works Code § 2704(c)(6) if the Recreation and Park Department determines that such use will unreasonably affect the Aesthetic Character of an Adjacent City park or Open Space.
6. The Recreation and Park Department may impose Conditions on the Applicant's request to use a disfavored location described in Public Works Code § 2704(c)(6) if the Recreation and Park Department determines that such Conditions are necessary to ensure that such use will not unreasonably affect the Aesthetic Character of an Adjacent City park or Open Space.

F. Approval or Rejection of Preferred Location Lists.

1. The Department may reject a Preferred Location List if the Department or any City department that reviewed the Preferred Location List determines that none of the Applicant's Preferred Locations or disfavored locations satisfies the requirements of Article 27, including the Placement Criteria. The Department shall include in the written notice the reasons for the rejection.
2. If the Preferred Location List is approved, the Department shall include in the written notice of approval: (a) any of the information set forth in Public Works Code § 2707(b) that is applicable to the Applicant's Preferred Locations; (b) if applicable, the street tree that will be required at each of the Applicant's Preferred Locations, or whether an in-lieu fee will be required instead; and (c) if applicable, the identity of any Persons that should be notified of the proposed Surface-Mounted Facility for purposes of determining whether they will propose adding a mural to the Surface-Mounted Facility.

## Section 7. INSTALLATION OF STREET TREES

### A. When Installation of a Street Tree Required.

1. The Department shall notify the Department's Bureau of Urban Forestry of the Applicant's Preferred Locations for the Surface-Mounted Facility immediately upon receipt of a Preferred Location List.
2. Within ten (10) Days after receipt of such notice, the Department's Bureau of Urban Forestry will notify the Applicant whether one (1) or more of the Preferred Locations are appropriate for a street tree. The Bureau will base its determination on the standards set forth in Department Order No. 178,631, Regulating the Planting, Maintenance, or Removal of Trees and Landscape Material on Public Sidewalk Areas.<sup>3</sup> If so, the Bureau will select the appropriate species and locations for such a street tree at each of the Preferred Locations.
3. If the Department's Bureau of Urban Forestry determines that one (1) or more of the Preferred Locations are appropriate for a street tree: (a) the Applicant shall include the required street tree in the Notice of Intent; and (b) the Department shall include the required street tree in the Surface-Mounted Facility Site Permit.
4. If the Department's Bureau of Urban Forestry determines that a street tree is not appropriate for one (1) or more of Applicant's Preferred Locations, the Department shall require the Applicant to pay an "in-lieu" fee rather than to install a street tree.
5. The requirements of this Section shall not apply where the Applicant has elected under Public Works Code § 2710(b)(2) to pay an "in-lieu" fee rather than to install a street tree.

### B. Installation Requirements.

1. When required in a Surface-Mounted Facility Site Permit, the Permittee shall Substantially Complete the Installation of a required street tree within six (6) months of the installation of the permitted Surface-Mounted Facility.
2. Permittee shall notify the Department's Bureau of Urban Forestry at least three (3) Business Days prior to installation of the required street tree.
3. Permittee shall notify the Department's Bureau of Urban Forestry when Permittee has Substantially Completed the Installation of the any required street tree.

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<sup>3</sup> Copy available at:  
<https://sfpublicworks.org/services/permits/public-works-orders>

4. Should Permittee fail to install the required street tree in the time required by this Section, the Department shall provide the Permittee notice that it has thirty (30) Days to complete the installation, after which time the Department shall instead charge the Permittee the applicable “in-lieu” fee.

C. “In-Lieu” Payment into Adopt-A-Tree Fund.

1. An “in lieu” payment shall be made into the Department’s “Adopt-A-Tree” fund prior to the issuance of a Surface-Mounted Facility Site Permit.
2. As specified in Public Works Code §§ 802(h) and 807(f), the “in-lieu” fee shall be \$1847 per tree, or such adjusted amount authorized under those sections.

Section 8. REQUIREMENTS FOR NOTICE OF INTENT TO SUBMIT AN APPLICATION FOR A SURFACE-MOUNTED FACILITY SITE PERMIT

A. Department Review.

The Department shall complete its review of a Notice of Intent within three (3) Business Days of receipt from the Applicant.

B. Department Approval.

1. The Department shall not approve a Notice of Intent unless the Department determines that the Applicant has provided the Department with all of the information contained in the Notice of Intent Checklist attached hereto as Exhibit C.
2. The Department’s approval of a Notice of Intent shall be in writing, and shall inform the Applicant that it may issue public notice of the Notice of Intent, if the Department has determined that public notice is required.

C. Department Rejection.

1. The Department shall reject a Notice of Intent if the Department determines that the Applicant has not complied with all of the requirements of Public Works Code § 2712(d).
2. The Department’s rejection of a Notice of Intent shall be in writing, and shall inform the Applicant of the reasons for the rejection.

D. Five-Year Plans.

1. The Department shall determine that the Applicant complied with this requirement of Public Works Code § 2712(d)(10) if the Applicant submits a five-year plan containing all of the following information to the extent known to the Applicant:
  - (a) The number of Surface-Mounted Facilities the Applicant anticipates need to install in the next five (5) years;
  - (b) The uses of those proposed Surface-Mounted Facilities;
  - (c) The approximate locations of those proposed Surface-Mounted Facilities; and
  - (d) The approximate dates when the Applicant anticipates submitting a Proposed Location List for those Surface-Mounted Facilities.

E. Public Notice of Notice of Intent.

1. The Applicant shall send a copy of the Notice of Intent to the Persons identified in Public Works Code § 2713(b).
2. The Applicant shall also send an e-mail containing a PDF of the Notice of Intent to the neighborhood groups serving the vicinity of its proposed Surface-Mounted Facility on the same day the Applicant mails and posts the Notice of Intent, which groups are identified in lists maintained by the Planning Department and are available at: <http://www.sf-planning.org/index.aspx?page=1654>.
3. The Applicant shall also send an e-mail to the Department at the address listed in Exhibit D containing a PDF of any Notice of Intent posted by the Applicant on the same day the Applicant mails and posts the Notice of Intent.
4. The Applicant shall also send an e-mail to any City department that reviewed the Preferred Location List at the address listed in Exhibit D containing a PDF of any Notice of Intent posted by the Applicant on the same day the Applicant mails and posts the Notice of Intent.
5. The Applicant shall also post a copy of the Notice of Intent in front of every property that is identified as a Preferred Location. In addition, the Applicant shall post at least two (2) copies of the Notice of Intent on each block face within 300 feet of each Preferred Location.

F. Form of the Notice of Intent.

1. The Notice of Intent shall be in the form attached hereto as Exhibit B.2.
2. The Notice of Intent shall be translated into the languages used by the Applicant during the community meeting process as required by Section 4.E, above.

G. Time for Posting and Mailing Notice of Intent.

1. The Applicant may mail and post the Notice of Intent immediately upon the Department's approval of the Notice of Intent.
2. The Applicant must complete the mailing and posting of the Notice of Intent within six (6) months of the Department's approval of the Notice of Intent. If the Applicant fails to meet this deadline, the Department may require the Applicant to restart the community meeting process.

Section 9. NOTICE OF INTENT PROTEST PROCEDURES

A. Submission of Protest.

1. Any Person may file a protest following the issuance of a Notice of Intent either by mail or through the Department's website.
2. The procedures for filing a protest are contained in Public Works Code § 2714(a) and are explained in detail in the Department's Notice of Intent form attached hereto as Exhibit B.2.
3. The Department will notice a hearing on any protest that is submitted in the time required by Public Works Code § 2714(b). Any untimely protests will not be accepted by the Department.

B. Notice of Protest and Responses.

1. The Department shall promptly give notice of any timely protest to the Applicant and any City department that reviewed the Preferred Location List. The notice shall include a copy of the protest.

2. The Applicant, the Department, and any City department that reviewed the Preferred Location List may submit a response to the protest within five (5) Business Days of receiving the protest from the Department. The Applicant shall serve a copy of its response on the protester and any City department that reviewed the Preferred Location List. A City department shall serve a copy of its response on the Applicant, the protester and any other City department that reviewed the Proposed Location List.

C. Manner of Service.

Service of any notice or response required under this Section upon the Department shall be through the Department's website and to any of the protesters shall be by e-mail, unless a protester has not provided the Department with an e-mail address, in which case service to the protester shall be by U.S. Mail.

D. Notice of Hearing Date.

In addition to the written notice required by Public Works Code § 2713(b), the Department shall notify the general public of the hearing by doing all of the following:

1. Posting a notice on the bulletin board located inside of the Office of the Department of Public Works, City Hall Room 348;
2. Posting a notice of the meeting on the Department's website; and
3. Sending the notice to any Person requesting notice of the issuance of a Notice of Intent.

E. Conduct of Hearing.

1. This Section sets forth minimum requirements for the conduct of a hearing following a protest of a Notice of Intent. Hearing officers may establish additional rules for the conduct of the hearing, provided those rules are consistent with Public Works Code Article 27 and this Order.
2. The evidentiary portion of the hearing shall be conducted in the following manner:
  - (a) The hearing officer shall include in the record all the documentation set forth in Public Works Code § 2714(f).

- (b) The hearing officer shall include in the record any documents submitted to the Department prior to the hearing.
  - (c) Any Person attending the hearing may introduce documents into the record.
  - (d) The hearing officer shall determine in advance of the hearing how much time shall be allotted to each Person seeking to testify. The hearing officer may allot more time for the protester and the Applicant than for other Persons participating in the hearing. If there is more than one protester, the hearing officer may allot to the Applicant as much time as the aggregate time allotted for all of the protesters.
  - (e) The hearing officer shall hear testimony in the following order: (i) any protester; (ii) any Person supporting the protest; (iii) the Applicant; (iv) any Person supporting the Application; (v) the Department; and (vi) any other City department.
  - (f) Only the hearing officer may ask questions of a witness. Any Person attending the hearing may propose questions for the hearing officer to ask of a witness. The hearing officer may allot additional time to a witness when the hearing officer poses questions.
- 3. The hearing officer is not bound by the formal rules of evidence. All relevant evidence may be admitted if it is the sort of evidence upon which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule that would render the admission of such evidence improper in a civil action.
  - 4. With the agreement of the parties either on the record or in writing, the hearing officer may continue the hearing in order to receive additional evidence.

F. Hearing Continuances to Resolve Protest.

- 1. The Department encourages an Applicant for a Surface-Mounted Facility Site Permit that is the subject of a protest to meet with protesters at any time after a protest is filed come to an agreement as to the location of the Applicant's proposed Surface-Mounted Facility.
- 2. To facilitate cooperation between the Applicant and any protesters, the Applicant may request in writing that the Department continue one or more of the following:
  - (a) The date set for the hearing in the Department's notice;
  - (b) The deadline for filing a response to a protest if a protest was submitted;

- (c) The date for the hearing if a protest was submitted;
  - (d) The hearing itself if the hearing has been commenced;
  - (e) The deadline for the hearing officer to issue a report and recommendation if the hearing has been completed; and
  - (f) The deadline for the Director to issue a decision if the hearing officer has issued a report.
- 3. If the Applicant is a state video provider, the Department shall consider the Applicant's request to continue any of the deadlines identified in this Section a mutual agreement under Public Utilities Code § 5885(c)(5) to extend the time deadline for processing the Application for a Surface-Mounted Facility Site Permit.
  - 4. If the hearing officer grants a continuance prior to the hearing, the Department shall send an e-mail notice of the continuance to all Persons that filed a protest. If the continuance is granted after the hearing was held, the Department shall send an e-mail notice of the continuance to all Persons that either submitted a protest or appeared at the hearing.
- G. Resolution of Protest by Modifying the Proposed Surface-Mounted Facility or Adding Conditions of Approval.
- 1. The hearing officer may discontinue the hearing so that an Applicant for a Surface-Mounted Facility Site Permit and any protestors may discuss resolving the protest by modifying the installation of the Surface-Mounted Facility at one (1) or more of the Preferred Locations or adding conditions of approval.
  - 2. Any modifications or additional conditions agreed to under this Section must concern the Surface-Mounted Facility at one of the Preferred Locations set forth in the Notice of Intent. Using a different location for the Surface-Mounted Facility is not the type of modification or condition that can be allowed following a protest.
  - 3. If the Applicant and all of the protestors agree to the use of one (1) or more of the Preferred Locations with certain modifications to the proposed Surface-Mounted Facility and/or additional conditions of approval, the following shall occur:
    - (a) The Applicant shall submit to the Department, the hearing officer, and protestors a letter identifying any agreed upon modifications to the proposed Surface-Mounted Facility at one (1) or more of the Preferred Locations and additional Conditions of approval along with a photo-simulation of the Surface-Mounted Facility with any modifications or conditions.

- (b) As soon as possible after receipt of the letter, the hearing officer shall resume the hearing to take testimony concerning the parties' agreed to modifications to the proposed Surface-Mounted Facility at one (1) or more of the Preferred Locations and any additional conditions of approval.
  - (c) The parties' agreement shall not bind the hearing officer. The hearing officer may recommend approval of the proposed Surface-Mounted Facility Site Permit at any one (1) of the Preferred Locations with the proposed modifications and additional conditions set forth in the letter, or may recommend approval of any one (1) of the Preferred Locations contained in the original Notice of Intent with the conditions of approval contained therein.
  - (d) Nothing in this Section shall be construed to limit the hearing officer's authority to recommend disapproval of all of the Preferred Locations including the Preferred Location with the proposed modifications and additional conditions set forth in the letter.
4. If the Applicant and the protesters cannot reach an agreement, the Applicant shall advise the hearing officer in writing that there is no agreement. The Applicant shall send a copy of the notice to the protesters. Within five (5) days of receipt of notice from the Applicant, the hearing officer shall issue the hearing officer's report based on the evidence in the record during the hearing.

#### H. Hearing Officer's Report and Director's Decision.

The process for issuance of the hearing officer's report and Director's decision are set forth in Public Works Code §§ 2714(g) and 2714(h).

### Section 10. SURFACE-MOUNTED FACILITY SITE PERMITS

#### A. Application.

1. Each Applicant for a Surface-Mounted Facility Site Permit shall be submitted online and contain the information required in the Department's online Application form. A copy of the online Application form is attached hereto as Exhibit E.
2. An Application for a Surface-Mounted Facility Site Permit for a Stand-alone Pole shall include a report from a qualified engineer showing that: (a) any potential human exposure to radio frequency emissions from a proposed Personal Wireless Service Facility described in an Application would comply Federal

Communications Commission guidelines; and (b) noise at any time of the day or night from the proposed Personal Wireless Service Facility would not be greater than 45 dBA as measured at a distance three (3) feet from any residential building facade.

B. Final Determination.

As required by Public Works Code § 2715(f), the Department shall issue a final determination to approve or deny an Application for a Surface-Mounted Facility Site Permit within two (2) Days of a Department determination that the Application is complete.

C. Notice of Final Determination.

1. The Department shall mail a notice of final determination to approve or deny a Surface-Mounted Facility Site Permit to the Persons identified in Public Works Code § 2716(a) immediately upon issuance.
2. The Applicant shall post a notice of final determination to approve or deny a Surface-Mounted Facility Site Permit as required by Public Works Code § 2716(b) immediately upon issuance.

D. Contents of Notice.

A Notice of Final Determination shall be in the form attached hereto as Exhibit B.3.

E. Proof of Compliance with Posting Requirement.

Within two (2) Business Days of posting a notice of final determination, the Applicant shall submit a copy of the notice that it posted to the Department along with a written statement containing the date and time of the posting and the street addresses of all locations where the notice was posted.

F. Denials.

1. The Department shall deny an Application for a Surface-Mounted Facility for any of the reasons set forth in Public Works Code §2715(d).

2. In addition, at the request of the Applicant the Department may issue a final determination denying an Application for a Surface-Mounted Facility Site Permit after each of the following actions:
  - (a) The Department's denial of a request to allow the Applicant to include on its Preferred Location List a disfavored location identified in Public Works Code § 2704(c).
  - (b) The Department's issuance of Director's order under Public Works Code § 2703(b) denying a request to: (i) waive the location approval requirements of Article 27; or (ii) approve the Applicant's proposed location for its Surface-Mounted Facility.
  - (c) The Department's refusal to approve a Preferred Location List under Public Utilities Code § 2707(a).
  - (d) The Department's refusal to approve a Notice of Intent under Public Utilities Code 2712(c).
  - (e) The Applicant's refusal to accept any Conditions on the Applicant's use of one or more Preferred Locations for a proposed Surface-Mounted Facility that are imposed by any City department.
3. Following any of these Department actions, an Applicant may request a final determination from the Department by submitting an Application for a Surface-Mounted Facility Site Permit.

#### G. Exceptions

A Surface-Mounted Facility Site Permit shall not be required under the following circumstances:

1. The replacement of an existing Surface-Mounted Facility at the same location, provided the replacement Surface-Mounted Facility would be installed on the existing foundation and would not be substantially larger in height or volume than the existing Surface-Mounted Facility.
2. The installation of any equipment in the Public Right-of-Ways pursuant to an encroachment permit issued by the Public Works pursuant to Article 15 of the Public Works Code.

Section 11. MURALS

A. Public Outreach.

1. An Applicant for a Surface-Mounted Facility Site Permit shall make reasonable efforts to inform local residents and other interested Persons that Applicant's proposed Surface-Mounted Facility may be used for installation of a mural.
2. In addition to discussing a mural at the community meeting, the Applicant shall notify community groups in the neighborhood where the Surface-Mounted Facility is proposed to be located.
3. The requirements of this Section shall not apply where the Applicant has elected under Public Works Code § 2711(c) to pay an "in-lieu" fee rather than allow a mural to be installed on its permitted Surface-Mounted Facility.

B. Implementation.

1. Where applicable, during the entire Pre-Application Process, the Applicant and the Department will solicit designs for a mural from local residents and community groups.
2. Upon issuance of a Surface-Mounted Facility Site Permit that allows for the installation of a mural, the Permittee and the Department will work with local residents and community groups to select one or more designs that are appropriate for the neighborhood where the Surface-Mounted Facility will be installed.
3. The Permittee and the Department will then submit one or more of those designs San Francisco Arts Commission for its approval of the mural to be installed on a particular Surface-Mounted Facility. No design shall be submitted that is not approved by the Permittee. If more than one design is submitted, the Permittee may identify its preferred design. No mural shall be allowed if the design is not approved by the Arts Commission.
4. Before placing a mural on a permitted Surface-Mounted Facility, a Permittee (other than a City department), the City, and the mural artist shall enter into an agreement setting forth the terms and conditions of the artist's use of the Surface-Mounted Facility, which agreement shall be approved by the Department. No approval is required if the Permittee uses the form Mural Installation Agreement that is attached hereto as Exhibit B.4.

C. Costs.

1. The Permittee shall be solely responsible for the costs of all materials and labor that are reasonable and necessary to install the selected mural on the permitted Surface-Mounted Facility. Neither the City nor any person installing the mural shall be required to pay any of these costs.
2. The Permittee and the mural artist shall establish a budget for the installation of a mural on a permitted Surface-Mounted Facility, which budget will limit Permittee's financial responsibility.
3. In establishing a budget for the installation, the Permittee shall use a labor cost that is no lower than the minimum wage set forth in Chapter 12R of the San Francisco Administrative Code.
4. If the Permittee and the mural artist cannot agree on a budget, the Department will work with the Permittee and the mural artist to establish a budget based on the Department's understanding of the reasonable and necessary cost of the installation. The Department may consult with the San Francisco Arts Commission to determine the reasonable and necessary costs. Absent the Applicant's approval, the budget shall not exceed the amount of the "in-lieu" fee that would otherwise be applicable under Public Works Code § 2711(c)(2).
5. In order to reduce costs and expedite installation and maintenance of murals, the Department recommends that the Permittee and mural artist agree to use a graffiti-proof vinyl shield rather than painting the mural directly on the permitted Surface-Mounted Facility.

D. Exception to Mural Requirement.

1. The Department may grant an exception to the mural requirement if the Applicant demonstrates that exceptional circumstances related to either public safety or its own technical requirements prevent the installation of a mural on a permitted Surface Mounted Facility.
2. Any request for an exception must be based on a report from a licensed engineer. Under Public Works Code § 2729(f), the department may retain the services of its own technical expert in order to review and evaluate the Applicant's report.
3. The Department recommends that an Applicant apply for this exception prior to the community meeting, so that the Applicant can inform the community during the meeting that an exception to the mural requirement has been approved.
4. Stand-alone Poles are exempt from the mural requirement due to lack of space, but must still pay the in-lieu fee.

E. Enforcement.

1. The Permittee may not prohibit the installation of a mural that has been approved by the San Francisco Arts Commission.
2. The Department may issue a notice of deficiency under Section 2723(a) if the Permittee refuses to allow the installation of an approved mural.

F. Maintenance of Murals.

1. The Permittee that has allowed a mural to be installed on its permitted Surface-Mounted Facility shall be responsible for the maintenance of any mural installed on a permitted Surface-Mounted Facility, which includes removing any Graffiti from the mural.
2. The Permittee may agree to allow the mural artist to repair any damages made to the mural, but shall not be responsible for the costs of such repair to the extent such costs exceed the cost of replacing a graffiti-proof vinyl shield.

G. Payment and Use of "In-Lieu" Fees

1. An Applicant that has elected to pay an "in-lieu" fee shall pay the fee into the "Public Works Street Beautification Excavation Fund" prior to the issuance of the Surface-Mounted Facility Site Permit.
2. Any person wishing to use any "in-lieu" fees paid into "Public Works Street Beautification Excavation Fund" for beautification projects in the Public Right-of-Way shall submit a proposal to Public Works.
3. The proposal shall set forth the following: (a) the location of the proposed project; (b) the nature of the proposed project; (c) the identity of all persons involved in the project; and (d) the proposed budget for the project. The proposal shall be on the form Application for Public Right-of-Way Beautification Project attached as Exhibit B.5. If the proposal is to install a mural, the proposer must submit a Mural Design Information Form to the San Francisco Arts Commission that complies with all of the Commission's requirements.
4. The Department will consult with the Planning Department and the San Francisco Arts Commission to determine whether the proposed project is appropriate for the location. The Planning Department and San Francisco Arts Commission shall work with the proposer to address any concerns either agency has with the project.
5. Once the Planning Department and San Francisco Arts Commission have approved the project, the Department will approve the budget for the project.



2. Permittee shall Substantially Complete Installation of a Surface-Mounted Facility within sixty (60) Days of starting installation.
3. Permittee shall file with the Department a notice of Substantial Completion of Installation within five (5) Business Days of Substantial Completion of Installation of a permitted Surface-Mounted Facility.

C. Failure to Timely Start and/or Substantially Complete Installation.

If Permittee fails to timely Start Installation within the Installation Period, or Substantially Complete Installation as required by this Section, the Department may revoke the previously issued Surface-Mounted Facility Site Permit.

D. Signage.

The Substantial Completion of Installation shall include the installation of an easily readable sign on the permitted Surface-Mounted Facility that includes the information required by Public Works Code § 2722(a).

Section 13. CONSTRUCTION REQUIREMENTS

A. Compliance with Permit.

Permittee's construction of a Surface-Mounted Facility shall fully comply with Permittee's Surface-Mounted Facility Site Permit, including any Conditions contained therein.

B. Compliance with Excavation Code.

Any excavation of the Public Right-of-Way that is necessary to install Permittee's Surface-Mounted Facility shall be performed in the manner required by Article 2.4 of the Public Works Code.

C. Other Permits and Authorizations.

Permittee shall obtain all other permits and authorizations from the Department or third parties that may be required prior to construction of any Surface-Mounted Facility in the Public Right-of-Way.

D. Municipal Transportation Agency.

Permittee shall contact the Municipal Transportation Agency for traffic requirements prior to beginning construction/installation.

E. Traffic Regulations.

Permittee shall conduct its construction/installation operations in accordance with the requirements of S.F. Transportation Code.

F. Damage to Existing Facilities.

Permittee shall be solely responsible for any damage to existing facilities caused by Permittee's construction/installation activities.

Section 14. DEPARTMENT INSPECTION

A. Time for Inspection.

The Department shall inspect a permitted Surface-Mounted Facility as required by Public Works Code § 2710(b) within ten (10) Business Days after receipt of notice of Substantial Completion of Installation.

B. Requirements of Inspection.

The Department shall inspect an installed Surface-Mounted Facility to determine whether the installation is in accordance with the requirements of Article 27 of the Public Works Code and this Order, the Surface-Mounted Facility Site Permit, including any Conditions imposed by any City department, and other Applicable Law including Article 2.4 of the Public Works Code.

Section 15. INSPECTION OF PERMITTED SURFACE-MOUNTED FACILITIES

A. Frequency.

As required by Public Works Code § 2722(e), a Permittee shall inspect each permitted Surface-Mounted Facilities on a regular basis but not less than quarterly.

B. Graffiti.

1. A Permittee shall remove any Graffiti found on a Surface-Mounted Facility within three (3) Business Days after discovering the Graffiti during an inspection or being notified that there is Graffiti on a Surface-Mounted Facility.
2. In the event a Permittee fails to timely remove Graffiti from a Surface-Mounted Facility as required in this Section, in addition to issuing a notice of deficiency under Public Works Code § 2723(a) the Department shall have the option to perform or cause to be performed such removal in such manner as the Director deems expedient and appropriate on behalf of the Permittee and to charge the Permittee the actual costs incurred, including but not limited to administrative costs.

C. Maintenance and Submission of Inspection Records.

1. As required by Public Works Code § 2722(f), a Permittee shall maintain written records of any inspections, repairs, and maintenance of its permitted Surface-Mounted Facilities. Permittee's records related to Graffiti removal shall contain the following information: (a) the date the Graffiti was discovered; (b) the location of the Surface-Mounted Facility; (c) whether the discovery was made as a result of the Permittee's inspection or from a report; and (d) the date the Graffiti was removed.
2. Within ten (10) Days of any request from the Department, a Permittee shall provide the Department with a copy of its inspection records. By written notice, the Department may require a Permittee to submit its inspection records to the Department on a quarterly basis.

D. Violations.

The Department shall consider a Permittee's failure to maintain inspection records or provide a copy of those inspection records to the Department when requested a violation of the requirements of Article 27 and this Order, for which the Department may issue a notice of deficiency.

Section 16. NOTICE OF DEFICIENCY

A. Contents of Notice.

A notice of deficiency issued pursuant to Public Works Code § 2723(a) shall:

1. State the basis for the Department's determination that a permitted Surface-Mounted Facility is not in compliance with a Surface-Mounted Site Permit, Public Works Code Article 27, other Applicable Law including Public Works Code Article 2.4, or this Order;

2. State the amount of time the Permittee has to correct the deficiency, which shall take into account the nature of the deficiency; and
3. State the Department's remedies if Permittee fails to take corrective action, which can include revocation of the Permit, fines of up to \$1,000 per day, suspension of Department review of other Applications, and, for repeated failures to take corrective action, requiring the removal of the permitted Surface-Mounted Facility.

B. Compliance with Notice of Deficiency.

1. A Permittee shall timely comply with a notice of deficiency or be subject to the remedies available to the Department.
2. If a Permittee should fail to timely comply with a notice of deficiency the Department may take the corrective action and issue the penalties set forth in the notice.

C. Graffiti.

The Department may issue a notice of violation for a Permittee's failure to remove Graffiti from a permitted Surface-Mounted Facility within three (3) Days after discovering or being notified that there is Graffiti on the Surface-Mounted Facility.

Section 17. ABANDONED SURFACE-MOUNTED FACILITIES

A. Notice of Abandonment.

1. The Department shall notify a Permittee whenever the Department has reason to believe that a Surface-Mounted Facility, whether or not permitted under Public Works Code Article 27, has been abandoned, because it has not been properly maintained or is no longer being used by the Permittee.
2. The notice shall state that Permittee has sixty (60) Days to remove the abandoned Surface-Mounted Facility from the Public Right-of-Way.

B. Response to a Notice of Abandonment.

1. If Permittee disagrees with the Department's notice of abandonment, within sixty (60) Days of receipt of the notice Permittee shall notify the Department in writing that:
  - (a) The Surface-Mounted Facility is in good working order and is being used by the Permittee; or

- (b) Permittee intends to return the Surface-Mounted Facility to good working order for use by Permittee within thirty (30) Days.
  2. If the Department agrees with Permittee, the Department shall withdraw the notice.
  3. At the request of Permittee in writing, the Department may grant Permittee an extension of time after the issuance of notice of abandonment to remove or repair a Surface-Mounted Facility.
- C. Failure to Remove Abandoned Facility.
  1. If Permittee fails to remove an abandoned Surface-Mounted Facility within sixty (60) Days after the receipt of written notice of abandonment the Department may remove the facility.
  2. The Department will endeavor to remove the Surface-Mounted Facility and to return the equipment to Permittee in the same condition as it was at the time of removal. The Department, however, does not assume any responsibility for any damage to the equipment resulting from the Department's removal and storage of any abandoned equipment.
  3. The Department may deduct the cost of removing the abandoned Surface-Mounted Facility from Permittee's deposit required under Public Works Code § 2725.

Section 18. DEPOSIT

Permittee's deposit required under Public Works Code § 2725 shall be available to the Department to secure the faithful performance of the obligations of Permittee under any Surface-Mounted Facility Site Permit. If Permittee has not made such a deposit, Permittee shall submit and maintain with the Department one bond, cash deposit, or other security acceptable to the Department securing the faithful performance of the obligations of Contractor and its agent under any Permit issued under this Order. The deposit shall be in the sum of twenty-five thousand dollars (\$25,000) in favor of the "Department of Public Works, City and County of San Francisco." If the Director has deducted any amounts from such a deposit pursuant to this Order, Permittee must restore the full amount of the deposit prior to the Department's issuance of a subsequent Permit. The Department shall return the deposit to Permittee should Permittee cease to operate any Surface-Mounted Facilities in the Public Right-of-Way.

Section 19. ADDITIONAL FEES

- A. Director May Require Additional Permit Fees.

1. Pursuant to Public Works Code § 2729(f), the Director may require an Applicant for a Surface-Mounted Facility Site Permit to pay a sum in excess of the normal Permit fees.
2. The Department shall not approve an Application for a Surface-Mounted Facility Site Permit unless Applicant agrees to pay these additional Permit fees when required.

B. Imposition of Additional Permit Fees.

1. Any City department reviewing an Application for a Surface-Mounted Facility Site Permit shall determine whether its review of an Application will be unusually costly. A City department other than the Department shall provide the Department with an estimate of its additional costs along with an explanation of the reasons these additional costs must be incurred.
2. Prior to requiring additional Permit fees, the Director shall notify an Applicant that it will be unusually costly for either the Department or another City department to review an Application for a Surface-Mounted Facility Site Permit. The notice shall include an estimate of its additional costs along with an explanation of the reasons these additional costs must be incurred, and shall offer the Applicant the opportunity to withdraw or modify the Application in order to avoid any additional Permit fees.
3. Any costs incurred by a City department as set forth in Public Works Code § 2729(f) and in this Section shall be charged to the Applicant as additional Permit fees.
4. In the event the Applicant fails to pay as required, the Department may deduct the cost of the advertisement from Permittee's deposit required under Public Works Code § 2725 and Section 17, above.

C. Additional Fees for Stand-alone Poles.

The Department shall require each Applicant for a Surface-Mounted Facility Site Permit for a Stand-alone Pole to pay a Department of Public Health a fee in the amount of \$210 to review the Applicant's radio frequency emissions and noise report.

D. Costs of Technical Experts.

1. Pursuant to Public Works Code § 2729(f), any City department may retain the services of a technical expert in order to evaluate an Application for a Surface-Mounted Facility, and seek reimbursement for the cost of those services from the Applicant.

2. Prior to incurring any reimbursable costs, a City department shall notify an Applicant that it requires the services of a technical expert. The notice shall explain in detail the expert services required and offer the Applicant the opportunity to withdraw or modify the Application in order to avoid those costs.
3. If the Applicant intends to pursue the Application, the applicable City department shall then work with the Applicant to identify Persons with the necessary expertise to provide the required services and to establish a budget for the expert's services.
4. Any costs incurred by a City department as set forth in Public Works Code § 2729(f) and in this Section shall be charged to the Applicant as additional Permit fees.
5. In the event the Applicant fails to pay as required, the Department may deduct the cost of the advertisement from Permittee's deposit required under Public Works Code § 2725 and Section 17, above.

Section 20. REVIEW OF APPLICATIONS FOR SURFACE-MOUNTED FACILITY  
SITE PERMITS FOR STAND-ALONE POLES.

A. Request for Waiver of Pre-Application Location Approval Process.

Federal law establishes certain requirements for the time to process Applications for Surface-Mounted Facility Site Permits for a Stand-alone Poles. In order to meet those requirements, the following shall apply.

1. The Department shall require an Applicant for a Surface-Mounted Facility Site Permit for a Stand-alone Pole to submit a separate request in writing under Public Works Code section 2703(b) for a waiver of the Pre-Application Location Approval Process for each Stand-alone Pole along with its Application for a Surface-Mounted Facility Site Permit for the proposed location.
2. The Department shall issue a final determination on an Application for a Surface-Mounted Facility Site Permit for a Stand-alone Pole within ninety (90) Days of receipt of a request for a waiver of the Pre-Application Location Approval Process and the Application for a Surface-Mounted Facility Site Permit.
3. The Department shall issue a Director's order on the request for a waiver of the Pre-Application Location Approval Process within seventy (70) Days of receipt of the request for waiver. A denial of the request for a waiver shall be considered a final determination.
4. After a waiver request and an Application for a Surface Mounted Facility Site Permit have been submitted, the Department may suspend the expiration of the ninety (90) Day period by issuing a notice that the waiver request and/or

Application is incomplete or deficient within ten (10) Days of the submission of the waiver request and/or Application, or within ten (10) Days of submission of a revised waiver request and/or Application following the initial notice.

5. Notwithstanding the foregoing, the Applicant and the Department may at any time enter into a tolling agreement to suspend the expiration of the ninety (90) Day period.

B. Submission of Preferred Location List.

1. The Department shall require an Applicant for a Surface-Mounted Facility Site Permit for a Stand-alone Pole to submit a separate Preferred Location List for each Stand-alone Pole.
2. The Department shall issue a final determination on an Application for a Surface-Mounted Facility Site Permit for a Stand-alone Pole within ninety (90) Days of receipt of a Preferred Location List.
3. The Department shall complete its initial review of a Preferred Location List under Public Works Code section 2707 within five (five) Days of receipt of the list.
4. The Applicant shall complete its review of a Notice of Intent within five (5) Days of receipt of the notice.
5. Notwithstanding the foregoing, the Applicant and the Department may at any time enter into a tolling agreement to suspend the expiration of the ninety (90) Day period.

C. Waiver of Referral Pursuant to Public Works Code Section 2707(c)(2).

1. In consultation with the Planning Department, the Department determined that referral to the Planning Department of Preferred Location Lists for a Stand-alone Pole meeting the Design Criteria for Stand-alone Poles contained in Exhibit G attached hereto is unnecessary, because such Stand-alone Pole will not significantly detract from the Aesthetic Character of the City's neighborhoods, streetscapes, or views. For this reason, the referral to the Planning Department is waived. This waiver does not apply to a Stand-alone Pole that would impact Historic Resources.
2. In consultation with the Recreation and Park Department, the Department determined that referral to the Recreation and Park Department of Preferred Location Lists for a Stand-alone Pole meeting the Design Criteria for Stand-alone Poles contained in Exhibit G attached hereto is unnecessary because such Stand-alone Pole will not significantly impair views of City parks and Open

Spaces. For this reason, the referral to the Recreation and Park Department is waived.

3. Notwithstanding the foregoing, at the request of an Applicant Public Works may refer a waiver request to the Planning and/or Recreation and Park Department if the proposed Stand-alone Poles does not meet the Design Criteria contained in Exhibit G.

## Section 21. DEPARTMENT FORMS

### A. Use of Department Forms Required.

The Department, an Applicant for a Surface-Mounted Facility Site Permit, or a Permittee shall use the forms authorized by this Order and attached hereto as the following Exhibits:

- A.1 Placement Criteria
- A.2 Placement Criteria for Stand-alone Poles
- B.1 Preferred Location List
- B.2 Notice of Intent
- B.3 Notice of Final Determination
- B.4 Mural Installation Agreement (optional)
- B.5 Application for Public Right-of-Way Beautification Project
- C. Notice of Intent Checklist
- D. Addresses for Notice of Intent
- E. Online Application Form
- F. Notice of Hearing on Waiver
- G. Design Criteria for Stand-alone Poles

### B. Changes to Authorized Forms.

The Department may change the authorized forms as necessary to facilitate the issuance of Surface-Mounted Facility Site Permits.

### C. New Forms.

The Department may prepare and issue new authorized forms as necessary to facilitate the issuance of Surface-Mounted Facility Site Permits.

Approved:

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Nicolas Huff  
Bureau Manager

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Carla Short  
Interim Director of Public Works

## Bureau of Street-Use and Mapping

Dated: \_\_\_\_\_, 2022

Dated: \_\_\_\_\_, 2022

X

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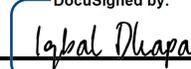


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Huff, Nicolas C0A758C115B741C...  
Bureau Manager

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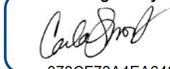


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Ko, Albert J A811FD2527F045D...  
Deputy Director and City Engineer

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Short, Carla  
Interim Director of Public Works