

City of Piedmont
COUNCIL AGENDA REPORT

DATE: November 18, 2019

TO: Mayor and Council

FROM: Kevin Jackson, Director of Planning & Building

SUBJECT: Consideration of Wireless Communication Facilities Permit Applications and Exceptions filed by Crown Castle NG West LLC and SureSite for sites PHS01 to PHS08 and PHS10 to PHS18 (Applications #19-0188) and License for Use of City-owned Streetlights

RECOMMENDATION

Adopt the resolutions approving the Wireless Communication Facilities (WCF) Permit applications and plans, as well as the license agreement for use of City-owned streetlights, as recommended by both the City Attorney and staff, for sites identified by the following addresses (near or across from):

- 340-370 Highland Avenue (PHS01)
- 150 Highland Avenue (PHS02)
- 799 Magnolia Avenue (PHS03)
- 740 Magnolia Avenue (PHS004)
- 303 Hillside Avenue (PHS05)
- 428 El Cerrito Avenue (PHS06)
- 355 Jerome Avenue (PHS07)
- 1166 Winsor Avenue (PHS08)
- 201 Hillside Avenue (PHS10)
- 237 El Cerrito Avenue (PHS11)
- 410 Hillside Court (PHS12)
- 338 Magnolia Avenue (PHS13)
- 96 Fairview Avenue (PHS14)
- 108 MacKinnon Place (PHS15)
- 100 Palm Drive (PHS16)
- 185 Wildwood Avenue (PHS17)
- 523 Boulevard Way (PHS18)

EXECUTIVE SUMMARY

Crown Castle NG West LLC and SureSite Consulting Group, henceforth referred to as “Applicant,” request City Council review and approval of wireless communications facilities (WCF) permits and exceptions for proposed installations at 17 sites located within the public right-of-way in neighborhoods generally north and west of Piedmont Park, Piedmont High School, and

Piedmont Middle School. The group of applications for WCF permits and exceptions are for a proposed small cell telecommunications network intended to improve data coverage and capacity to the immediate area around each installation. The proposed projects include three installations at existing streetlight locations, 13 installations on utility poles, and one strand-mounted antenna located adjacent to a utility pole. None of the proposed facilities include underground equipment vaults beneath the sidewalk. The applications include requests for exceptions from WCF permit development standards to meet state and federal requirements. In addition, the project includes a request for a license with the City of Piedmont for the use of three City-owned streetlights in the public right-of-way for wireless communication facilities.

ITEM CONSIDERATION AND HEARING PROCESS

The consideration and hearing for this item will be segmented due to conflicts of interest which exist for Councilmembers Teddy King and Betsy Andersen. Vice-Mayor King owns property within 500 feet of a potential wireless communication facility located across from 237 El Cerrito Avenue (PHS11). Councilmember Andersen owns property within 500 feet of three potential wireless communication facilities located near 355 Jerome Avenue (PHS07), 338 Magnolia Avenue (PHS13), and 108 MacKinnon Place (PHS15). Under the Political Reform Act both Vice-Mayor King and Councilmember Andersen must recuse themselves from any discussion or decision related to the wireless communication facilities identified above because they are presumed to have a conflict of interest with those specific facilities due to the proximity of their property to the facility locations. However, the Political Reform Act also allows an agency to segment a decision in which any public official has a financial interest, to allow participation by the official. Consequently, the item will be segmented in accordance with the Political Reform Act.

City Administrator Sara Lillevand owns property within 500 feet of the installation sites near 355 Jerome Avenue (PHS07), 338 Magnolia Avenue (PHS13), and 108 MacKinnon Place (PHS15). For this reason, Planning & Building Department Director Kevin Jackson has overseen the preparation of this staff report and presents it to the City Council. The City Administrator, as well as Vice-Mayor King and Councilmember Andersen, will leave the Council Chamber during the consideration and action on sites PHS07, PHS11, PHS13, and PHS15.

The item will be heard and acted upon in the following manner:

1. Receive an introductory staff report consisting of a general overview of the basic design of the proposed wireless communication facilities;
2. Vice-Mayor King and Councilmember Andersen will state their conflict for the record and leave the Council Chamber;
3. City Administrator Lillevand will leave the Council Chamber;
4. Staff will then proceed with providing a staff report consisting of specific information on sites near 355 Jerome Avenue (PHS07), 237 El Cerrito Avenue (PHS11), 338 Magnolia Avenue (PHS13), and 108 MacKinnon Place (PHS15), and Council will be able to ask questions of staff;
5. Mayor will open public comment related only to those sites located near 355 Jerome Avenue, 237 El Cerrito Avenue, 338 Magnolia Avenue, and 108 MacKinnon Place;

6. Mayor will close public comment related to those four sites and bring back to Council for deliberation only on those four sites. At the conclusion of deliberations, Council will vote on whether to approve resolutions deciding the four wireless communication facilities permit applications as it relates to those four sites only. Once the Council votes on the action related to those four sites, that action is final, and action on those four sites cannot be reconsidered;
7. Vice-Mayor King, Councilmember Andersen, and City Administrator Lillevand will then return to the dais after which the Council will receive a staff report consisting of information on the thirteen remaining wireless communication facilities;
8. Mayor will open public comment related only to the remaining thirteen sites;
9. Mayor will close public comment related to those thirteen sites and bring back to Council for deliberation only on the remaining thirteen sites. At the conclusion of deliberations, Council will vote on resolutions deciding Wireless Communication Facilities Permit applications filed by Crown Castle NG West LLC, and a license of City-owned streetlights.

BACKGROUND

In November 2016, Crown Castle NG West LLC filed nine applications to install wireless communication facilities (WCF) as part of a distributed antenna system. Enclosures for support equipment consisted of underground vaults. In June 2017, the Park Commission reviewed the possible impacts to street trees and made recommendations to the City Council regarding the protection of street trees, and the Planning Commission reviewed the proposals and made recommendations to City Council on the design and location of each proposed wireless communications facility, which led Crown Castle to revise the project and resubmit plans in response.

The City Council considered the applications at a duly noticed public hearing held at its regular meeting in October 2017. The City Council denied the applications for sites at or near 150 Highland Avenue (PHS02), 303 Hillside Avenue (PHS05), 428 El Cerrito Avenue (PHS06), 352 Jerome Avenue (PHS07), and 1159 Winsor Avenue (PHS08), and the City Council approved, with conditions, the applications for sites at or near 340-370 Highland Avenue (PHS01), 799 Magnolia Avenue (PHS03), and 740 Magnolia Avenue (PHS04).

On November 16, 2017, Crown Castle filed a complaint against the City of Piedmont in federal court. The suit addressed both the City's approvals and denials of the above WCF permit applications.

On November 20, 2017, the City Council approved the WCF permit application for a new light post and wireless communication facility in Piedmont Park, across from 314 Wildwood Avenue (site PHS09), subject to conditions of approval. Site PHS09 was not subject to litigation and was not included in settlement negotiations.

Lengthy, court-supervised settlement negotiations related to the Crown Castle complaint resulted in a settlement agreement which improved the design of the wireless communication facilities and offered a potential resolution to the pending litigation should the City Council ultimately approve facilities which are consistent with the location and design of the facilities, as configured in the settlement agreement.

On December 17, 2018, the City Council approved the settlement agreement. The settlement agreement provided for Crown Castle to file applications for 18 small wireless communication facilities permits as described in the settlement agreement. As part of the settlement agreement terms, the Council is required to review the permit applications, and if the applications meet the requirements of the settlement agreement and the City Council provides final approval of the permit applications, Crown Castle is obligated to dismiss the pending litigation.

Crown Castle has now submitted applications to build 17 small wireless communication facilities within the public right-of-way on utility poles and streetlights, pursuant to the settlement agreement. The proposals include antennas and telecommunications equipment mounted on poles and inside ground-mounted cabinets along residential streets. An 18th application (PHS19) was withdrawn by Crown Castle on October 3, 2019. Crown Castle has also filed an application to install a facility within Piedmont Park near the entrance on Wildwood Avenue, near 314 Wildwood Avenue (PHS09). This application, which is being processed separately, is currently incomplete.

On October 29, 2019, the Planning Commission held a public hearing and considered the nine additional WCF permit sites stipulated by the settlement agreement (sites PHS10 to PHS18). The Planning Commission opened the public hearing, took public comments, reviewed the draft resolutions of approval, and passed a resolution recommending that the City Council conditionally approve site PHS14 at 96 Fairview Avenue with measures to protect the adjacent street tree. For the remaining sites, the Planning Commission adopted a motion recommending City Council denial of the locations of the sites but recommended approval of the concealment design. Several Commissioners noted the excellent design of the concealment of the wireless facility equipment and the improvements over the designs reviewed by the Planning Commission in 2017. Draft meeting minutes are included with this staff report as Attachment G, as a link to City website.

DISCUSSION

The WCF permit applications for City Council consideration consist of a total of 17 sites. The project includes eight locations in proposals filed in 2017 plus an additional nine sites. These additional sites were included in the Applicant's telecommunications network because all of the applications no longer have the 700 MHz radios that were proposed in the 2017 applications. Instead, the applications use only 1900 and 2100 MHz bandwidths to serve the area in the 2017 proposal. Elimination of the 700 MHz radios allows for smaller antennas and radios that have a smaller broadcast range. In order to serve the same area, the project includes the nine additional sites. An analysis of the proposed coverage to be provided by the project is included with this staff report as Attachment F.

Most of the sites are proposed for existing streetlight or utility pole locations. Site PHS08 would have a new utility pole location for the purpose of protecting a palm street tree near the existing utility pole location (which would also remain). Antennas are proposed to be located atop streetlights, with an antenna that is 2 feet tall, and atop utility poles with antennas with maximum height of 3 feet. The radios are proposed to be concealed in ground-mounted or pole-mounted equipment cabinets at the streetlight locations or mounted on the sides of the utility poles. One site at 150 Highland Avenue (PHS02) would have equipment in a cabinet mounted to the side of the streetlight, concealed by traffic signs on two sides. The antennas and the radios are proposed to be concealed in shrouds. One site near 355 Jerome Avenue (PHS07) would have a "strand-mounted" design, meaning that the antenna is located on the communication line running between two utility

poles, with a supporting bar attached to utility pole #110110146. Application considerations include requests for exceptions to WCF permit standards to comply with federal and state law.

City staff believe the types of wireless communication facilities provided in the project applications and plans, and prepared pursuant to the settlement agreement, are compliant with state, federal and City rules and regulations and provide significant benefits to the City and its residents. Key features of the proposed WCF applications include:

1. No underground equipment vaults, with fewer impacts to street trees
2. Smaller, more compact radios and antennas
3. No noise-generating equipment
4. 10-inch diameter radome shrouds atop streetlight locations
5. 14-inch diameter radome shrouds atop utility pole locations
6. Trash receptacle equipment enclosure design (only at sites PHS01 and PHS03)
7. Small side-mounted equipment enclosures on utility poles
8. Encroachment permits for future maintenance work
9. Radios 2203 and 8843, appropriately sized for the sites
10. Power and communication cables concealed in 2-inch-wide risers

In response to the comments and concerns expressed by the Planning Commission and members of the public during the public hearing and in correspondence leading up to October 29, 2019, City staff recommends the conditions of approval presented at the Planning Commission, as well as the following additional conditions of approval:

- The Applicant shall take all feasible measures to reduce tree pruning for utility pole installations pursuant to recommendations of the project arborist.
- Applicant shall provide the City of Piedmont with both post-construction emissions report and annual emissions testing report. In addition, the electromagnetic radio frequency emissions associated with the project must be within FCC limits at all times.
- The Applicant shall provide the City of Piedmont with a survey of property lines at 410 Hillside Court (PHS12) and 108 MacKinnon Place (PHS15) prior to issuance of construction permits. All WCF installations must be in the public right-of-way.
- Crown Castle shall relocate all equipment if the equipment is within an area designated as an underground utilities district.
- Existing sidewalk width must be maintained and not reduced and Crown Castle may not reconfigure the City sidewalk.
- Existing separation to fire hydrants must be maintained and not reduced.
- Plans submitted for construction permits shall show that the antenna installation at site PHS07 near 355 Jerome Avenue is equipped with a concealment device in the form of an antenna shroud or wrap and that cables are concealed within sleeves extending from the utility pole to the antenna.

ZONING AND CODE COMPLIANCE

WCF installations, located on street lights and on utility poles, are subject to the Piedmont Municipal Code, including the following regulations: Division 17.46 (Wireless Communication Facilities), Chapter 3 (Trees), Chapter 5 (Building Code), and Chapter 18 (Streets and Sidewalks) of the City Code.

The City Code requires the Applicant to demonstrate the facilities are necessary to close a significant gap in the operator's service coverage or capacity. In accordance with standards established by FCC Order 18-133, the Applicant can be deemed to meet this requirement by instead demonstrating that a denial of the proposed facilities will materially inhibit the Applicant's ability to either provide service in a new geographic area, or materially inhibit the introduction of new services or improvement of existing services. The Applicant has submitted evidence that denial of the project will materially affect its ability to provide services, introduce new services, and improve existing services.

The table provided as Attachment A provides detailed information for each of the proposed WCF installations. As shown in the table, the facilities individually meet WCF permit application development standards, City regulations for trees, sidewalks, and noise, and Public Works development standards, subject to standard and project-specific conditions of approval. A summary of the projects' compliance with City requirements is provided below.

Piedmont Municipal Code Section 17.46.040 Location

Location within the City

The Applicant proposes to construct new WCF installations in the public right-of-way on streetlights and utility poles. The location preference in the City Code (section 17.46.040) is, in order of preference, (i) on publicly-owned property outside of the public right of way, in Zone B within the city, (ii) on publicly-owned facilities in any other zone outside of the public right of way, or (iii) public rights-of-way. All of the proposed sites are within the public right-of-way, the third preference. ***Complies.***

Collocation Preference

The Applicant proposes to construct WCF installations on streetlights and utility poles and to conceal the equipment in shrouds and enclosures. The Applicant has stated its willingness to collocate with additional wireless service providers. The location preference in the City Code (section 17.46.040) is to locate on or in an existing structure in which the wireless communication facility can be concealed, to collocate on an existing wireless communication facility, or to locate on a new structure that can be incorporated in an inconspicuous or compatible manner with the surrounding area. *Collocation* as used in the City Code means the location of two or more wireless communication facilities on a single support structure. Collocation limits the proliferation of new antennas and associated visual clutter. ***Complies.***

Site Agreement

The nine additional proposed WCF installations (sites PHS10 to PHS18) are not located on City-owned facilities. The sites at 340-370 Highland Avenue (PHS01), 150 Highland Avenue (PHS02), and 799 Magnolia Avenue (PHS03) are located on City-owned streetlights. The Applicant has

negotiated the attached license agreement for the use of City streetlight, included as Attachment E. ***Complies.***

Piedmont Municipal Code Section 17.46.070 Development Standards.

Collocation

The Applicant proposes to construct WCF installations on streetlights and utility poles and to conceal the equipment in shrouds and enclosures. The Applicant has stated its willingness to collocate with additional wireless service provider, see above. ***Complies.***

Height Limit

The applications propose WCF installations ranging in heights from 39 feet tall to 57 feet 2.5 inches. The height limit for WCF installations in the City Code (section 17.46.070.A.2) is 35 feet, measured from the ground to the highest point of the facility, in Zone A. The Applicant requests exceptions to this limit pursuant to Section 17.46.080.D.2 of the Piedmont City Code. Pursuant to section 17.46.080.D.2, an applicant may apply for an exception to the standards for wireless communication facilities if the applicant contends that the City is required by state or federal law to approve the facility. The Applicant has submitted information stating that an exception is warranted on the basis of CPUC safety regulations. ***Complies.***

Screening

The applications propose radome shrouds and radio enclosures to conceal and screen the proposed WCF installations. The screening requirement for WCF permits in the City Code (section 17.46.070.A.2) states that roof-mounted equipment and antennas must be located to minimize visibility. ***Not applicable because the installations are not roof-mounted.***

Concealed or Camouflaged

City Code (section 17.46.070.A.3) states wireless communication facilities must be designed to minimize visual impacts. When feasible, the facilities must be concealed or camouflaged. The facilities must have a non-reflective finish and be painted or otherwise treated to minimize visibility and the obstruction of views. The facilities may not bear signs, other than certification, warning, emergency contacts, or other signage required by law or expressly required by the city. The Applicant proposes radome shrouds and radio enclosures to conceal and screen the proposed WCF installations. Equipment shrouds and risers will be painted to match the adjacent structure. The plans show facility signage that is small and consists of required safety warnings. ***Complies.***

Public Health, Peace and Safety

On July 9, 2019, the Applicant submitted Radio Frequency (RF) Emissions Compliance Reports prepared by Waterford Consultants, LLC, consulting engineers. The reports state that the projects as proposed will be in full compliance with the Federal Communications Commission (FCC) regulations and guidelines limiting human exposure to RF emissions. The reports conclude that for each of the nine sites the exposure to electromagnetic field/radio frequency emissions from the proposed antennas would be less than 1% of the safe exposure limits established by the FCC. The Waterford Consultants report was reviewed by the City's technical expert, CTC Technology & Energy. The requirement to maintain public health, peace and safety for wireless communication facilities in the City Code section 17.46.070.A.4 states that a wireless communication facility may not adversely affect the public health, peace and safety. ***Complies.***

Physical Safety in the Right-of-Way

City Code section 17.46.070.A.5 states that a wireless communication facility located in the public right-of-way may not cause: (i) physical or visual obstruction, or safety hazard, to pedestrians, cyclists, or motorists; or (ii) inconvenience to the public's use of the right-of-way. Equipment, walls, and landscaping located above grade must be at least 18 inches from the front of the curb and not interfere with the public's use of the right-of-way. Proposed pole-mounted equipment cabinets will be a minimum of 7 feet above the ground. Ground-mounted cabinets will be located at the opposite edge of sidewalk from the curb. No sites will utilize underground equipment vaults. Additionally, as compared to the 2017 project designs previously reviewed by the Fire Department, the current project designs filed in 2019 are smaller, have lower-powered equipment, or are located further from the edge of curb and away from travel lanes. Also, conditions of approval have been prepared by staff relating to construction management and on-going maintenance of the facilities to ensure that traffic impacts are minimized and emergency vehicle access is maintained.

Lastly, the Applicant requests exceptions to the 18-inch setback from front of curb limit pursuant to section 17.46.080.D.2 of the Piedmont City Code, which states that an applicant may apply for an exception to the standards for wireless communication facilities if the applicant contends that the City is required by state or federal to approve the facility. The Applicant requests to adjust utility poles closer than 18 inches to the front of curb to maintain current ADA clearances on the adjacent sidewalks. *Complies.*

Compliance with State and Federal Law

City Code section 17.46.070.A.6 requires each WCF application to comply with state and federal statutes governing local agencies' land use authority regarding the siting of wireless communication facilities, including without limitation 47 USC sections 253, 332(c)(7), 47 USC section 1455 (also known as section 6409 of the 2012 Middle Class Tax Relief and Jobs Act), California Government Code sections 50030, 65850.6 and 65964, and California Public Utilities Code sections 7901 and 7901.1. Each reference to a state and federal statute is to the statute as it may be as amended from time-to-time and to the extent the statute remains in effect. *Complies.*

Piedmont Municipal Code Chapter 18 Streets and Sidewalks Ordinance**Sidewalk Obstruction Section 18.22**

Equipment cabinets are proposed to be pole-mounted a minimum of 7 feet above the adjacent sidewalks or located in equipment cabinets concealed in trash receptacle at sites PHS01 and PHS03. No sites will utilize underground equipment vaults. Conditions of approval have been prepared by staff relating to construction management and on-going maintenance of the facilities to ensure that sidewalk impacts are minimized and pedestrian access is maintained. Section 18.22 of the Streets and Sidewalks Ordinance of the Piedmont Municipal Code states that it is illegal to obstruct a sidewalk or roadway, as follows, "It shall be unlawful for any person to place or cause to be placed anywhere upon any sidewalk or roadway, anything which shall obstruct, restrict or prevent the use of any portion of such sidewalk or roadway; provided, that this section shall not apply to the articles or things listed in section 18.16." *Complies.*

Noise - Section 5.4.11 of the Piedmont City Code

Section 5.4.11 of the Piedmont City Code regulates mechanically generated noise sources. It states, "Machines and other devices located on the exterior of structures which generate sounds perceptible

outside the perimeters of the lot on which the machine or other device is located shall be installed with such sound transmission control measures to adequately minimize or eliminate the transmission of the sound to a level not to exceed 50 decibels, A-weighted, beyond property perimeters. This section is directed to and includes, but is not limited to, pool and spa filter systems, air conditioning units, and exterior mounted blowers for exhaust systems.” According to the application materials, the project designs do not include any noise-generating equipment. ***Complies.***

Chapter 3 (Trees)

Article IV of City Code Chapter 3, Trees, provides the regulations applicable to City trees. Pursuant to section 3.14, City Approval Required, the vegetation on public property is owned by the City of Piedmont. No person other than a City employee or other contractual agent of the City may plant, prune, treat, or remove vegetation on public property. The current applications do not include underground equipment vaults that were part of the 2017 applications and that were found to have significant impacts on the root systems of adjacent trees. For the current applications, the Applicant filed arborist reports prepared by Hortscience on July 9, 2019, which found that the impacts to street trees would be related to clearance for pole installations, only. As conditioned, the Applicant must obtain Public Works Director approval before installing the utility poles and before conducting clearance pruning. The Public Works Director may direct the pruning work. ***Complies, as conditioned.***

Public Works Standard Details

The City of Piedmont provides City-Council approved Public Works Standard Details for utilities and private developers doing work in the public right-of-way. These standards ensure that work involving the City’s sidewalks, planters, medians, roads, and other areas are standardized, safe, and designed to maintain convenient access to pedestrians, bicyclists, and vehicles. Pursuant to the Public Works Standard Details General Requirements in the Public Right-of-Way (General Requirements), modifications to the standard details are permitted in cases where modifications are required to achieve the intent of the standard details, existing physical conditions at the site of the work require modifications of the standard details to maintain or improve public safety, or the outcome of the modifications will result in an equivalency in function and appearance of the standard details. Crown Castle’s projects are consistent with the Public Works Standard Details requirements because the Applicant has worked with the City Engineer and Planning & Building staff to ensure that the WCF permit applications address site-specific physical conditions and maintain safe and convenient access to pedestrians, bicyclists, and vehicles. All of the proposed small cell facilities have been presented to the City simultaneously and reviewed by the City Engineer and Public Works Director. ***Complies.***

CONFORMANCE TO DESIGN GUIDELINES AND GENERAL PLAN

Compliance with the Piedmont General Plan is a requirement of the Piedmont Design Guidelines and Wireless Communication Facilities Ordinance. The Piedmont General Plan includes policies and actions intended to preserve the residential character of the community. The City of Piedmont General Plan includes goals and policies related to wireless communication facilities, public spaces, civic center, street trees, undergrounding of utilities, and public sidewalks.

The proposed designs are consistent with the Piedmont Design Guidelines and General Plan in that the scale and mass of the communication equipment are appropriate for the streetlights, utility poles, and streetscape in the residential (Zone A) and Civic Center (Zone B) areas; the facilities are concealed and camouflaged to blend with their surroundings; and the projects satisfy Piedmont General Plan Policy 35.8, “Telecommunication Services: Collaborate with telecommunication service providers to

foster access to emerging communication and information technology for Piedmont residents,” and Policy 37.4, “Siting and Design of Infrastructure: Ensure that the siting and design of infrastructure facilities, including water tanks and telecommunication towers mitigate the potential for adverse visual impacts and are consistent with policies in the Design and Preservation Element.”

The following Piedmont Design Guidelines are applicable to structures including utilities in the public right-of-way:

Site Design Guidelines

Design Guideline 3.02, Relation to the Public Realm, states, “Improvements...which abut the public realm should reinforce the City’s efforts to make these spaces attractive and visually cohesive.” The current applications propose relatively small radio enclosures and antennas that minimize their visibility. In addition, they are attached to the streetlights and utility poles in a manner consistent with the design of the streetlight and with other utility equipment on the utility poles and, in the case of the antenna, are meant to be seen as an extension of the pole itself. ***Complies.***

Design Guideline 3.03.01.1, Significant Views, Compatibility with Nearby Lots, states, “The siting and construction of a new or modified existing structure, including its site plantings at mature growth, should make all reasonable efforts to avoid adverse impacts on significant views currently available to existing nearby residences.” The current applications propose radios in cabinets and cables in risers that hug the pole in a manner that avoids an adverse impact on views. Poletop antennas are proposed instead of antennas attached to the side of the streetlights and utility poles in order to mitigate the overall bulk of the equipment. At sites where the height of the utility pole with the antenna is proposed to increase in order to meet state and/or federal regulations, the size of the equipment has been kept as small as possible to minimize impacts of views. ***Complies.***

Design Guideline 3.03.02.1, Visual and Acoustical Privacy, Access to Direct and Indirect Light, Compatibility with Contiguous Lots, states “The siting of a new or modified existing structure, the location of its exterior openings, and the location of exterior mounted appliance ventilation and exhaust ports should respect the visual and acoustical privacy of the residences located on contiguous properties, including their outdoor living areas or open spaces.” The proposed WCF equipment is relatively small in size and is closely attached to streetlights and utility poles. The applications propose no equipment that produces mechanically-generated noise. Therefore, there will be no adverse impact on visual and acoustical privacy or access to direct and indirect light. ***Complies.***

Building Design: General Guidelines

Design Guideline 4.04.01.1, Mechanical Equipment, Neighborhood and Contiguous Parcel Compatibility, states, “Noise and odor generating equipment, such as water pumps, heat pumps, air conditioning condensers, kitchen hood exhaust fans, and pool equipment, should be located so that noise generation is within the maximum decibel limit regulated by the Piedmont Building Code.” The applications meet this guideline because the proposed facilities do not include mechanical equipment that generates noise in excess of that allowed by the Piedmont Building Code. ***Complies.***

Design Guideline 4.04.02.1, Mechanical Equipment, On-Site Aesthetic Design Compatibility, states, “Site- and ground-mounted mechanical or electrical equipment should be screened using plant materials, fencing, walls, or other approved means to shield the equipment from view.” The proposed

WCF include concealment and screening devices: a radome to shroud the antenna, cabinets to enclose the radios, and 2-inch wide risers to enclose the cables. ***Complies.***

Design Guideline 4.04.02.4, Mechanical Equipment, On-Site Aesthetic Design Compatibility, states, “Runs of all supply, exhaust, and venting plumbing, conduits, and flues should be concealed within the walls of a building. If concealment is infeasible, the run should be minimized, discretely placed, and painted to match the adjacent wall.” The cabling for the proposed WCF equipment will be discretely placed within 2-inch wide risers attached to the utility pole PHS07 so that the run is as concealed as possible. ***Complies.***

Design Guideline, 4.04.02.5, Mechanical Equipment, On-Site Aesthetic Design Compatibility, states, “Utility connections should be screened or painted to blend in with the exterior materials to which they are mounted.” As conditioned, and where feasible, the equipment attached to the streetlights and utility poles will be painted to closely match the color of the pole. ***Complies.***

Following review of plans, staff believe that the WCF permit applications, as conditioned in the attached draft resolutions, are consistent with these Design Guidelines and General Plan requirements.

CEQA COMPLIANCE

Based upon the applications, plans and documentation submitted in connection with the project applications, the project has been determined to be categorically exempt from the California Environmental Quality Act (CEQA), pursuant to Section 15303 of the CEQA Guidelines, Construction or Conversion of Small Structures, subsection (d) (water main, sewage, electrical, gas, and other utility extensions, including street improvements, of reasonable length to serve such construction) because the proposed wireless communication facilities are small utility structures located in a developed setting. No exceptions to the above exemption has been identified that would make the proposals ineligible for use of a categorical exemption because the projects’ settings are not in a location that is particularly sensitive, the surrounding area is developed and urbanized, and existing utilities are located at or near each of the proposed installations, there are no unusual circumstances relating to the proposed installations, and no scenic highways, hazardous waste sites, or historical resources could be affected by the project.

CITY COUNCIL ACTION

The City Council is the reviewing body for a wireless communication facilities permit in Zones A and B, in the public right-of-way, or on a city-owned property or facility, following a recommendation by the Planning Commission (Section 17.46.080.A.1). These sites are within the City-owned public right-of-way in Zones A and B.

When taking action on the requested applications, the City Council must make findings pursuant to Piedmont Municipal Code section 17.46.080.D. The City Council shall take the Planning Commission’s 2017 and 2019 recommendations under consideration, pursuant to section 17.46.080 of the City of Piedmont Municipal Code. The City Council may also consider the Park Commission’s 2017 recommendation. The City Council’s decision is final.

Pursuant to Piedmont Municipal Code Section 17.46.080.D, a project must meet all of the findings required by the Wireless Communication Facilities Ordinance to be approved. Staff has prepared draft resolutions (Attachments B, C, and D) describing how each of the facilities meet the requirements of

the City Code in the judgement of staff. In making its decision, the City Council should consider evidence and the materials in the public record (e.g. staff reports, consultant reports, the plans, applications, public testimony, and statements made by City staff, and those of fellow Council Members).

Required findings include conformance with the development standards, as well as conformance with the Piedmont Design Guidelines, which requires conformance with the Piedmont General Plan. Section 17.46.080.D. reads, as follows.

- “1. Findings. Before approving a wireless communication facility permit, the reviewing body must make the following findings:
- a. The facility is necessary to close a significant gap in the operator’s service coverage or capacity.
 - b. The applicant has evaluated and met the priority location standards of section 17.46.040 A above.
 - c. The proposal satisfies each of the applicable development standards in section 17.46.070 above.
 - d. The proposed design is consistent with the Piedmont Design Guidelines (including the General Plan).
 - e. The proposed facility has been located and designed for collocation to the greatest extent reasonably feasible, and the applicant has submitted a statement of its willingness to allow other wireless service providers to collocate on the proposed facility.”

Notably, the 2018 settlement agreement with Crown Castle does not constrain or otherwise limit the discretion of the City Council to approve, deny, or conditionally approve permit applications for facilities proposed by Crown Castle. However, denial of the permit applications or approval of an altered project beyond the terms of the settlement agreement would authorize Crown Castle to terminate the settlement agreement.

Staff recommends that the City Council take the following actions:

1. Open the public hearing for proposed WCF permit applications for installations near 355 Jerome Avenue (PHS07), 237 El Cerrito Avenue (PHS11), 338 Magnolia Avenue (PHS13), and 108 MacKinnon Court (PHS15);
2. Make the finding that the permit applications are categorically exempt from the California Environmental Quality Act (CEQA), pursuant to Section 15303 of the CEQA Guidelines, Construction or Conversion of Small Structures, subsection (d) (water main, sewage, electrical, gas, and other utility extensions, including street improvements, of reasonable length to serve such construction) for the reasons stated in the staff report; and
3. Adopt the following Resolution 1 Approving Sites PHS07, PHS11, PHS13 and PHS15;
4. After Vice-Mayor King, Councilmember Andersen and City Administrator Lillevand return to the Chamber, open the public hearing for the remaining 13 WCF permit applications and license agreement;

5. Make the finding that the permit applications are categorically exempt from the California Environmental Quality Act (CEQA), pursuant to Section 15303 of the CEQA Guidelines, Construction or Conversion of Small Structures, subsection (d) (water main, sewage, electrical, gas, and other utility extensions, including street improvements, of reasonable length to serve such construction) for the reasons stated in the staff report; and
6. Adopt the following resolutions:
 - a. Resolution 2 Approving Sites PHS01, PHS02, and PHS03 on Streetlights;
 - b. Resolution 3 Approving Sites PHS04, PHS05, PHS06, PHS08, PHS10, PHS12, PHS14, PHS16, PHS17, and PHS18; and
 - c. Resolution 4 Approving License Agreement for the Use of City-owned Structures for Wireless Communication Facilities on City Streetlights.

ATTACHMENTS:

	<u>Pages</u>	<u>Document</u>
A	15-23	WCF Permit Applications Detail Table
B	24-34	Resolution 1 Approving Sites PHS07, PHS11, PHS13 and PHS15
C	35-44	Resolution 2 Approving Site PHS01, PHS02, and PHS03 on Streetlights
D	45-55	Resolution 3 Approving Sites PHS04, PHS05, PHS06, PHS08, PHS10, PHS12, PHS14, PHS16, PHS17, and PHS18 on Utility Poles
E	56-73	Resolution 4 Approving License Agreement for the Use of City-owned Structures for Wireless Communication Facilities 1.) License Agreement
F	74-85	CTC Report: System Level Review of Crown Castle 19 Site PCS/AWS Small Cell Wireless Design
G	(online)	Planning Commission Meeting Minutes for October 29, 2019 at the following link to the City website: http://piedmont.hosted.civiclive.com/common/pages/DisplayFile.aspx?itemId=16193650
H		(Correspondence - to be posted on November 15, 2019)

Separate and available on the City website at <https://go.usa.gov/xVhkM>

Maps of Proposed Crown Castle WCF Sites

- Site PHS01 [Application Materials and Plans](#)
- Site PHS02 [Application Materials and Plans](#)
- Site PHS03 [Application Materials and Plans](#)
- Site PHS04 [Application Materials and Plans](#)
- Site PHS05 [Application Materials and Plans](#)
- Site PHS06 [Application Materials and Plans](#)
- Site PHS07 [Application Materials and Plans](#)
- Site PHS08 [Application Materials and Plans](#)
- Site PHS10 [Application Materials and Plans](#)
- Site PHS11 [Application Materials and Plans](#)
- Site PHS12 [Application Materials and Plans](#)
- Site PHS13 [Application Materials and Plans](#)
- Site PHS14 [Application Materials and Plans](#)
- Site PHS15 [Application Materials and Plans](#)
- Site PHS16 [Application Materials and Plans](#)
- Site PHS17 [Application Materials and Plans](#)
- Site PHS18 [Application Materials and Plans](#)

By: Kevin Jackson, Director of Planning & Building
Pierce Macdonald-Powell, Senior Planner

ATTACHMENT A – Applications Detail Table

2019 Site Number	Location (at or near)	Pole Type	Antenna	Radio Equipment and Enclosure	Complies with City Codes and Regulations	Complies with General Plan and Design Guidelines	Complies with Public Works Standard Details
<p>Application PHS01</p>	<p>340-370 Highland Avenue Zone B Civic Center >50 feet from home or school</p>	<p>Existing Streetlight #496</p>	<p>Canister type 2-foot long, 8-inch diameter pole top Model dbSpectra DB362NXD3S-M 10.25-inch diameter radome antenna shroud 5-foot long taper 33 feet 7 inches tall Signal emits .869% of the FCC limit.</p>	<p>Ground-mounted enclosure Trash can enclosure type 3-foot 7-inch tall 2-foot 9-inch diameter Smart meter Ericsson Radio 8843 320 watts of total power Frequency specifications 1850-1910 MHz uplink, 1930-1990 MHz downlink and 1710-1780 MHz uplink, 2110-2180 MHz downlink</p>	<p>Based on the reasons outlined in the staff report summary, the project complies with Piedmont Municipal Code Section 17.46.040, WCF Location; Piedmont Municipal Code Section 17.46.070, WCF Development Standards; Piedmont Municipal Code Chapter 18, Streets and Sidewalks Ordinance; Piedmont Municipal Code Section 5.4.11, Noise; and Piedmont Municipal Code Chapter 3, Trees</p>	<p>This project complies because the scale and mass of the communication equipment are appropriate for the streetlight and streetscape in the area and the equipment is concealed and camouflaged to blend with the surroundings and satisfies General Plan Policy 35.8, Telecommunication Services and Policy 37.4, Siting and Design of Infrastructure; and Design Guidelines Section 3.02 Relation to the Public Realm; Section 3.03.01.1 Significant Views, Compatibility with Nearby Lots; Section 3.03.02.1 Visual and Acoustical Privacy, Access to Direct and Indirect Light, Compatibility with Contiguous Lots; Section 4.04.01.1 Mechanical Equipment, Neighborhood and Contiguous Parcel Compatibility; Section 4.04.02.1 Mechanical Equipment, On-Site Aesthetic Design Compatibility; Section 4.04.02.4 Mechanical Equipment, On-Site Aesthetic Design Compatibility; and Section 4.04.02.5 Mechanical Equipment, On-Site Aesthetic Design Compatibility</p>	<p>The project is consistent because it addresses site-specific physical conditions and maintains safe and convenient access to pedestrians, bicyclists, and vehicles. All of the proposed facilities have been presented to the City as part of a comprehensive plan and reviewed by the City Engineer and Public Works Director. The designs are subject to the terms of the existing settlement agreement. Per the Public Works Standard Details General Requirements, City Council agreements, such as the settlement agreement take precedence over the requirements of the Standard Details.</p>
<p>Application PHS02</p>	<p>150 Highland Avenue Zone A > 40 feet from residence at 150 Highland</p>	<p>Existing Streetlight #1282</p>	<p>Canister type 2-foot long, 8-inch diameter pole top Model dbSpectra DB362NXD3S-M 10.25-inch diameter radome antenna enclosure 5-foot long taper 33 feet 10 inches tall Signal emits .869% of the FCC limit.</p>	<p>Pole-mounted enclosure Cabinet between City signs 30 x 22 x 22 inches Ericsson Radio 8843 320 watts of total power Frequency specs: 1850-1910 MHz uplink, 1930-1990 MHz downlink and 1710-1780 MHz uplink, 2110-2180 MHz downlink</p>	<p>Based on the reasons outlined in the staff report summary, the project complies with Piedmont Municipal Code Section 17.46.040, WCF Location; Piedmont Municipal Code Section 17.46.070, WCF Development Standards; Piedmont Municipal Code Chapter 18, Streets and Sidewalks Ordinance; Piedmont Municipal Code Section 5.4.11, Noise; and Piedmont Municipal Code Chapter 3, Trees Trench was relocated to protect street trees identified in arborist report.</p>	<p>This project complies because the scale and mass of the communication equipment are appropriate for the streetlight and streetscape in the area and the equipment is concealed and camouflaged to blend with the surroundings and satisfies General Plan Policy 35.8, Telecommunication Services and Policy 37.4, Siting and Design of Infrastructure; and Design Guidelines Section 3.02 Relation to the Public Realm; Section 3.03.01.1 Significant Views, Compatibility with Nearby Lots; Section 3.03.02.1 Visual and Acoustical Privacy, Access to Direct and Indirect Light, Compatibility with Contiguous Lots; Section 4.04.01.1 Mechanical Equipment, Neighborhood and Contiguous Parcel Compatibility; Section 4.04.02.1 Mechanical Equipment, On-Site Aesthetic Design Compatibility; Section 4.04.02.4 Mechanical Equipment, On-Site Aesthetic Design Compatibility; and Section 4.04.02.5 Mechanical Equipment, On-Site Aesthetic Design Compatibility</p>	<p>The project is consistent because it addresses site-specific physical conditions and maintains safe and convenient access to pedestrians, bicyclists, and vehicles. All of the proposed facilities have been presented to the City as part of a comprehensive plan and reviewed by the City Engineer and Public Works Director. The designs are subject to the terms of the existing settlement agreement. Per the Public Works Standard Details General Requirements, City Council agreements, such as the settlement agreement take precedence over the requirements of the Standard Details.</p>

2019 Site Number	Location (at or near)	Pole Type	Antenna	Radio Equipment and Enclosure	Complies with City Codes and Regulations	Complies with General Plan and Design Guidelines	Complies with Public Works Standard Details
Application PHS03	799 Magnolia Avenue Zone B 93 feet to school	New Streetlight	Canister type 2-foot long, 8-inch diameter pole top Model dbSpectra DB362NXD3S-M 10.25-inch diameter radome antenna enclosure 5-foot long taper 33 feet 3 inches tall Signal emits .869% of FCC limit.	Ground-mounted enclosure Trash can enclosure type 3-foot 7-inch tall 2-foot 9-inch diameter Smart meter Ericsson Radio 8843 320 watts of total power Frequency specs: 1850-1910 MHz uplink, 1930-1990 MHz downlink and 1710-1780 MHz uplink, 2110-2180 MHz downlink	Based on the reasons outlined in the staff report summary, the project complies with Piedmont Municipal Code Section 17.46.040, WCF Location; Piedmont Municipal Code Section 17.46.070, WCF Development Standards; Piedmont Municipal Code Chapter 18, Streets and Sidewalks Ordinance; Piedmont Municipal Code Section 5.4.11, Noise; and Piedmont Municipal Code Chapter 3, Trees	This project complies because the scale and mass of the communication equipment are appropriate for the streetlight and streetscape in the area and the equipment is concealed and camouflaged to blend with the surroundings and satisfies General Plan Policy 35.8, Telecommunication Services and Policy 37.4, Siting and Design of Infrastructure; and Design Guidelines Section 3.02 Relation to the Public Realm; Section 3.03.01.1 Significant Views, Compatibility with Nearby Lots; Section 3.03.02.1 Visual and Acoustical Privacy, Access to Direct and Indirect Light, Compatibility with Contiguous Lots; Section 4.04.01.1 Mechanical Equipment, Neighborhood and Contiguous Parcel Compatibility; Section 4.04.02.1 Mechanical Equipment, On-Site Aesthetic Design Compatibility; Section 4.04.02.4 Mechanical Equipment, On-Site Aesthetic Design Compatibility; and Section 4.04.02.5 Mechanical Equipment, On-Site Aesthetic Design Compatibility	The project is consistent because it addresses site-specific physical conditions and maintains safe and convenient access to pedestrians, bicyclists, and vehicles. All of the proposed facilities have been presented to the City as part of a comprehensive plan and reviewed by the City Engineer and Public Works Director. The designs are subject to the terms of the existing settlement agreement. Per the Public Works Standard Details General Requirements, City Council agreements, such as the settlement agreement take precedence over the requirements of the Standard Details.
Application PHS04	740 Magnolia Avenue Zone B > 50 feet from Rec Building	New Utility Pole	Canister type 3-foot-long, 8-inch diameter pole top Model dbSpectra DB362-XD3S-M 14-inch diameter radome enclosure 8-feet 6-inch taper 43 feet 8.5 inches tall Signal emits .049% of the FCC limit.	Pole-mounted enclosures Two AK009A shrouds 24 x 9 x 6.5 inches, each shroud Four Ericsson Radio 2203 5 watts of power per radio Four radios total Frequency specs: 1900 and 2100 MHZ	Based on the reasons outlined in the staff report summary, the project complies with Piedmont Municipal Code Section 17.46.040, WCF Location; Piedmont Municipal Code Section 17.46.070, WCF Development Standards; Piedmont Municipal Code Chapter 18, Streets and Sidewalks Ordinance; Piedmont Municipal Code Section 5.4.11, Noise; and Piedmont Municipal Code Chapter 3, Trees	This project complies because the scale and mass of the communication equipment are appropriate for the streetlight and streetscape in the area and the equipment is concealed and camouflaged to blend with the surroundings and satisfies General Plan Policy 35.8, Telecommunication Services and Policy 37.4, Siting and Design of Infrastructure; and Design Guidelines Section 3.02 Relation to the Public Realm; Section 3.03.01.1 Significant Views, Compatibility with Nearby Lots; Section 3.03.02.1 Visual and Acoustical Privacy, Access to Direct and Indirect Light, Compatibility with Contiguous Lots; Section 4.04.01.1 Mechanical Equipment, Neighborhood and Contiguous Parcel Compatibility; Section 4.04.02.1 Mechanical Equipment, On-Site Aesthetic Design Compatibility; Section 4.04.02.4 Mechanical Equipment, On-Site Aesthetic Design Compatibility; and Section 4.04.02.5 Mechanical Equipment, On-Site Aesthetic Design Compatibility	The project is consistent because it addresses site-specific physical conditions and maintains safe and convenient access to pedestrians, bicyclists, and vehicles. All of the proposed facilities have been presented to the City as part of a comprehensive plan and reviewed by the City Engineer and Public Works Director. The designs are subject to the terms of the existing settlement agreement. Per the Public Works Standard Details General Requirements, City Council agreements, such as the settlement agreement take precedence over the requirements of the Standard Details.

2019 Site Number	Location (at or near)	Pole Type	Antenna	Radio Equipment and Enclosure	Complies with City Codes and Regulations	Complies with General Plan and Design Guidelines	Complies with Public Works Standard Details
Application PHS05	303 Hillside Avenue Zone A 28 feet to neighboring residence (garage) at 301 Hillside	New Utility Pole #110118165	Canister type 3-foot-long, 8-inch diameter pole top Model dbSpectra DB362-XD3S-M 14-inch diameter radome enclosure 8-foot 6-inch taper 52 feet 8 ½ inches tall Signal emits .033% of the FCC limit.	Pole-mounted enclosures Two AK009A shrouds 24 x 9 x 6.5 inches, each shroud Four Ericsson Radio 2203 5 watts of power per radio Four radios total Frequency specs: 1900 and 2100 MHZ	Based on the reasons outlined in the staff report summary, the project complies with Piedmont Municipal Code Section 17.46.040, WCF Location; Piedmont Municipal Code Section 17.46.070, WCF Development Standards; Piedmont Municipal Code Chapter 18, Streets and Sidewalks Ordinance; Piedmont Municipal Code Section 5.4.11, Noise; and Piedmont Municipal Code Chapter 3, Trees. Exception required for height greater than 35 feet in Zone A Exception requested for distance to curb less than 18 inches.	This project complies because the scale and mass of the communication equipment are appropriate for the streetlight and streetscape in the area and the equipment is concealed and camouflaged to blend with the surroundings and satisfies General Plan Policy 35.8, Telecommunication Services and Policy 37.4, Siting and Design of Infrastructure; and Design Guidelines Section 3.02 Relation to the Public Realm; Section 3.03.01.1 Significant Views, Compatibility with Nearby Lots; Section 3.03.02.1 Visual and Acoustical Privacy, Access to Direct and Indirect Light, Compatibility with Contiguous Lots; Section 4.04.01.1 Mechanical Equipment, Neighborhood and Contiguous Parcel Compatibility; Section 4.04.02.1 Mechanical Equipment, On-Site Aesthetic Design Compatibility; Section 4.04.02.4 Mechanical Equipment, On-Site Aesthetic Design Compatibility; and Section 4.04.02.5 Mechanical Equipment, On-Site Aesthetic Design Compatibility	The project is consistent because it addresses site-specific physical conditions and maintains safe and convenient access to pedestrians, bicyclists, and vehicles. All of the proposed facilities have been presented to the City as part of a comprehensive plan and reviewed by the City Engineer and Public Works Director. The designs are subject to the terms of the existing settlement agreement. Per the Public Works Standard Details General Requirements, City Council agreements, such as the settlement agreement take precedence over the requirements of the Standard Details.
Application PHS06	428 El Cerrito Avenue Zone A 19 feet from residence at 460 El Cerrito Ave	Utility Pole #110118128 New pole	Canister type 3-foot-long, 8-inch diameter pole top Model dbSpectra DB362-XD3S-M 14-inch diameter radome enclosure 8-foot 6-inch taper 57 feet 2.5 inches tall Signal emits .057% of the FCC limit.	Pole-mounted enclosures Two AK009A shrouds 24 x 9 x 6.5 inches, each shroud Four Ericsson Radio 2203 5 watts of power per radio Four radios total Frequency specs: 1900 and 2100 MHZ	Based on the reasons outlined in the staff report summary, the project complies with Piedmont Municipal Code Section 17.46.040, WCF Location; Piedmont Municipal Code Section 17.46.070, WCF Development Standards; Piedmont Municipal Code Chapter 18, Streets and Sidewalks Ordinance; Piedmont Municipal Code Section 5.4.11, Noise; and Piedmont Municipal Code Chapter 3, Trees Exception requested for height greater than 35 feet in Zone A. Exception requested for distance from front of curb less than 18 inches.	This project complies because the scale and mass of the communication equipment are appropriate for the streetlight and streetscape in the area and the equipment is concealed and camouflaged to blend with the surroundings and satisfies General Plan Policy 35.8, Telecommunication Services and Policy 37.4, Siting and Design of Infrastructure; and Design Guidelines Section 3.02 Relation to the Public Realm; Section 3.03.01.1 Significant Views, Compatibility with Nearby Lots; Section 3.03.02.1 Visual and Acoustical Privacy, Access to Direct and Indirect Light, Compatibility with Contiguous Lots; Section 4.04.01.1 Mechanical Equipment, Neighborhood and Contiguous Parcel Compatibility; Section 4.04.02.1 Mechanical Equipment, On-Site Aesthetic Design Compatibility; Section 4.04.02.4 Mechanical Equipment, On-Site Aesthetic Design Compatibility; and Section 4.04.02.5 Mechanical Equipment, On-Site Aesthetic Design Compatibility	The project is consistent because it addresses site-specific physical conditions and maintains safe and convenient access to pedestrians, bicyclists, and vehicles. All of the proposed facilities have been presented to the City as part of a comprehensive plan and reviewed by the City Engineer and Public Works Director. The designs are subject to the terms of the existing settlement agreement. Per the Public Works Standard Details General Requirements, City Council agreements, such as the settlement agreement take precedence over the requirements of the Standard Details.

2019 Site Number	Location (at or near)	Pole Type	Antenna	Radio Equipment and Enclosure	Complies with City Codes and Regulations	Complies with General Plan and Design Guidelines	Complies with Public Works Standard Details
Application PHS07	355 Jerome Avenue Zone A 17 feet from residence at 355 Jerome Ave, 21 feet in the air	Utility Pole #110110146	Canister type 2-foot tall 8-inch diameter, strand mount Model dbSpectra DB362NXD3S-M No pole height change No enclosure. Signal emits .178% of the FCC limit.	Pole-mounted enclosures Two AK009A shrouds 24 x 9 x 6.5 inches, each shroud Four Ericsson Radio 2203 5 watts of power per radio Four radios total Frequency specs: 1900 and 2100 MHZ	Based on the reasons outlined in the staff report summary, the project complies with Piedmont Municipal Code Section 17.46.040, WCF Location; Piedmont Municipal Code Section 17.46.070, WCF Development Standards; Piedmont Municipal Code Chapter 18, Streets and Sidewalks Ordinance; Piedmont Municipal Code Section 5.4.11, Noise; and Piedmont Municipal Code Chapter 3, Trees Enclosures for antenna and cables required as condition of approval.	This project complies because the scale and mass of the communication equipment are appropriate for the streetlight and streetscape in the area and the equipment is concealed and camouflaged to blend with the surroundings and satisfies General Plan Policy 35.8, Telecommunication Services and Policy 37.4, Siting and Design of Infrastructure; and Design Guidelines Section 3.02 Relation to the Public Realm; Section 3.03.01.1 Significant Views, Compatibility with Nearby Lots; Section 3.03.02.1 Visual and Acoustical Privacy, Access to Direct and Indirect Light, Compatibility with Contiguous Lots; Section 4.04.01.1 Mechanical Equipment, Neighborhood and Contiguous Parcel Compatibility; Section 4.04.02.1 Mechanical Equipment, On-Site Aesthetic Design Compatibility; Section 4.04.02.4 Mechanical Equipment, On-Site Aesthetic Design Compatibility; and Section 4.04.02.5 Mechanical Equipment, On-Site Aesthetic Design Compatibility	The project is consistent because it addresses site-specific physical conditions and maintains safe and convenient access to pedestrians, bicyclists, and vehicles. All of the proposed facilities have been presented to the City as part of a comprehensive plan and reviewed by the City Engineer and Public Works Director. The designs are subject to the terms of the existing settlement agreement. Per the Public Works Standard Details General Requirements, City Council agreements, such as the settlement agreement take precedence over the requirements of the Standard Details.
Application PHS08	1166 Winsor Avenue (was 1159 Winsor Avenue in 2017) Zone A > 50 feet to nearest residences 1162 Winsor Ave, greater than 50 feet to school buildings	New Utility Pole Location	Canister type 3-foot tall, 8-inch diameter, pole top 14-inch diameter, radome enclosure 8-foot 6-inch taper 43 feet 8 ½ inches tall Signal emits .063% of the FCC limit.	Pole-mounted enclosures Two AK009A shrouds 24 x 9 x 6.5 inches, each shroud Four Ericsson Radio 2203 5 watts of power per radio Four radios total Frequency specs: 1900 and 2100 MHZ	Based on the reasons outlined in the staff report summary, the project complies with Piedmont Municipal Code Section 17.46.040, WCF Location; Piedmont Municipal Code Section 17.46.070, WCF Development Standards; Piedmont Municipal Code Chapter 18, Streets and Sidewalks Ordinance; Piedmont Municipal Code Section 5.4.11, Noise; and Piedmont Municipal Code Chapter 3, Trees Exception required for height greater than 35 feet in Zone A.	This project complies because the scale and mass of the communication equipment are appropriate for the streetlight and streetscape in the area and the equipment is concealed and camouflaged to blend with the surroundings and satisfies General Plan Policy 35.8, Telecommunication Services and Policy 37.4, Siting and Design of Infrastructure; and Design Guidelines Section 3.02 Relation to the Public Realm; Section 3.03.01.1 Significant Views, Compatibility with Nearby Lots; Section 3.03.02.1 Visual and Acoustical Privacy, Access to Direct and Indirect Light, Compatibility with Contiguous Lots; Section 4.04.01.1 Mechanical Equipment, Neighborhood and Contiguous Parcel Compatibility; Section 4.04.02.1 Mechanical Equipment, On-Site Aesthetic Design Compatibility; Section 4.04.02.4 Mechanical Equipment, On-Site Aesthetic Design Compatibility; and Section 4.04.02.5 Mechanical Equipment, On-Site Aesthetic Design Compatibility	The project is consistent because it addresses site-specific physical conditions and maintains safe and convenient access to pedestrians, bicyclists, and vehicles. All of the proposed facilities have been presented to the City as part of a comprehensive plan and reviewed by the City Engineer and Public Works Director. The designs are subject to the terms of the existing settlement agreement. Per the Public Works Standard Details General Requirements, City Council agreements, such as the settlement agreement take precedence over the requirements of the Standard Details.

2019 Site Number	Location (at or near)	Pole Type	Antenna	Radio Equipment and Enclosure	Complies with City Codes and Regulations	Complies with General Plan and Design Guidelines	Complies with Public Works Standard Details
Application PHS10	201 Hillside Avenue Zone A 64 feet to nearest residence at 201 Hillside Avenue	New Utility Pole #110118103	Canister type 3-foot long, 8-inch diameter pole top Model dbSpectra DB362-XD3S-M 14-inch diameter radome enclosure 8-foot 6-inches taper 57 feet 2.5 inches tall Signal emits .028% of the FCC limit.	Pole-mounted enclosures Two AK009A shrouds 24 x 9 x 6.5 inches, each shroud Four Ericsson Radio 2203 5 watts of power per radio Four radios total Frequency specs: 1900 and 2100 MHZ	Based on the reasons outlined in the staff report summary, the project complies with Piedmont Municipal Code Section 17.46.040, WCF Location; Piedmont Municipal Code Section 17.46.070, WCF Development Standards; Piedmont Municipal Code Chapter 18, Streets and Sidewalks Ordinance; Piedmont Municipal Code Section 5.4.11, Noise; and Piedmont Municipal Code Chapter 3, Trees Exception required for height greater than 35 feet in Zone A.	This project complies because the scale and mass of the communication equipment are appropriate for the streetlight and streetscape in the area and the equipment is concealed and camouflaged to blend with the surroundings and satisfies General Plan Policy 35.8, Telecommunication Services and Policy 37.4, Siting and Design of Infrastructure; and Design Guidelines Section 3.02 Relation to the Public Realm; Section 3.03.01.1 Significant Views, Compatibility with Nearby Lots; Section 3.03.02.1 Visual and Acoustical Privacy, Access to Direct and Indirect Light, Compatibility with Contiguous Lots; Section 4.04.01.1 Mechanical Equipment, Neighborhood and Contiguous Parcel Compatibility; Section 4.04.02.1 Mechanical Equipment, On-Site Aesthetic Design Compatibility; Section 4.04.02.4 Mechanical Equipment, On-Site Aesthetic Design Compatibility; and Section 4.04.02.5 Mechanical Equipment, On-Site Aesthetic Design Compatibility	The project is consistent because it addresses site-specific physical conditions and maintains safe and convenient access to pedestrians, bicyclists, and vehicles. All of the proposed facilities have been presented to the City as part of a comprehensive plan and reviewed by the City Engineer and Public Works Director. The designs are subject to the terms of the existing settlement agreement. Per the Public Works Standard Details General Requirements, City Council agreements, such as the settlement agreement take precedence over the requirements of the Standard Details.
Application PHS11	237 El Cerrito Avenue Zone A 17 feet from nearest residence at 237 El Cerrito Avenue, 52 feet in the air	New Utility Pole #110110200	Canister type 3-foot long, 8 inch diameter, pole top Model dbSpectra DB362-XD3S-M 14-inch diameter radome enclosure 8-foot 6-inches taper 57 feet 2.5 inches tall Signal emits .028% of the FCC limit.	Pole-mounted enclosures Two AK009A shrouds 24 x 9 x 6.5 inches, each shroud Four Ericsson Radio 2203 5 watts of power per radio Four radios total Frequency specs: 1900 and 2100 MHZ	Based on the reasons outlined in the staff report summary, the project complies with Piedmont Municipal Code Section 17.46.040, WCF Location; Piedmont Municipal Code Section 17.46.070, WCF Development Standards; Piedmont Municipal Code Chapter 18, Streets and Sidewalks Ordinance; Piedmont Municipal Code Section 5.4.11, Noise; and Piedmont Municipal Code Chapter 3, Trees. Exception required for height greater than 35 feet in Zone A.	This project complies because the scale and mass of the communication equipment are appropriate for the streetlight and streetscape in the area and the equipment is concealed and camouflaged to blend with the surroundings and satisfies General Plan Policy 35.8, Telecommunication Services and Policy 37.4, Siting and Design of Infrastructure; and Design Guidelines Section 3.02 Relation to the Public Realm; Section 3.03.01.1 Significant Views, Compatibility with Nearby Lots; Section 3.03.02.1 Visual and Acoustical Privacy, Access to Direct and Indirect Light, Compatibility with Contiguous Lots; Section 4.04.01.1 Mechanical Equipment, Neighborhood and Contiguous Parcel Compatibility; Section 4.04.02.1 Mechanical Equipment, On-Site Aesthetic Design Compatibility; Section 4.04.02.4 Mechanical Equipment, On-Site Aesthetic Design Compatibility; and Section 4.04.02.5 Mechanical Equipment, On-Site Aesthetic Design Compatibility.	The project is consistent because it addresses site-specific physical conditions and maintains safe and convenient access to pedestrians, bicyclists, and vehicles. All of the proposed facilities have been presented to the City as part of a comprehensive plan and reviewed by the City Engineer and Public Works Director. The designs are subject to the terms of the existing settlement agreement. Per the Public Works Standard Details General Requirements, City Council agreements, such as the settlement agreement take precedence over the requirements of the Standard Details.

2019 Site Number	Location (at or near)	Pole Type	Antenna	Radio Equipment and Enclosure	Complies with City Codes and Regulations	Complies with General Plan and Design Guidelines	Complies with Public Works Standard Details
Application PHS12	410 Hillside Court Zone A 18 feet to residence at 410 Hillside Court, 47 feet in the air	New Utility Pole #110118153	Canister type 3-foot long, 8-inch diameter, pole top Model dbSpectra DB362-XD3S-M 14-inch diameter radome enclosure 8 foot 6 inches taper 52 feet 8.5 inches tall Signal emits .033% of the FCC limit.	Pole-mounted enclosures Two AK009A shrouds 24 x 9 x 6.5 inches, each shroud Four Ericsson Radio 2203 5 watts of power per radio Four radios total Frequency specs: 1900 and 2100 MHZ	Based on the reasons outlined in the staff report summary, the project complies with Piedmont Municipal Code Section 17.46.040, WCF Location; Piedmont Municipal Code Section 17.46.070, WCF Development Standards; Piedmont Municipal Code Chapter 18, Streets and Sidewalks Ordinance; Piedmont Municipal Code Section 5.4.11, Noise; and Piedmont Municipal Code Chapter 3, Trees. Exception required for height greater than 35 feet in Zone A. Application states 58 feet 2.5 inches tall. As conditioned, height shall be 52 feet 8.5 inches to clarify application and plans.	This project complies because the scale and mass of the communication equipment are appropriate for the streetlight and streetscape in the area and the equipment is concealed and camouflaged to blend with the surroundings and satisfies General Plan Policy 35.8, Telecommunication Services and Policy 37.4, Siting and Design of Infrastructure; and Design Guidelines Section 3.02 Relation to the Public Realm; Section 3.03.01.1 Significant Views, Compatibility with Nearby Lots; Section 3.03.02.1 Visual and Acoustical Privacy, Access to Direct and Indirect Light, Compatibility with Contiguous Lots; Section 4.04.01.1 Mechanical Equipment, Neighborhood and Contiguous Parcel Compatibility; Section 4.04.02.1 Mechanical Equipment, On-Site Aesthetic Design Compatibility; Section 4.04.02.4 Mechanical Equipment, On-Site Aesthetic Design Compatibility; and Section 4.04.02.5 Mechanical Equipment, On-Site Aesthetic Design Compatibility	The project is consistent because it addresses site-specific physical conditions and maintains safe and convenient access to pedestrians, bicyclists, and vehicles. All of the proposed facilities have been presented to the City as part of a comprehensive plan and reviewed by the City Engineer and Public Works Director. The designs are subject to the terms of the existing settlement agreement. Per the Public Works Standard Details General Requirements, City Council agreements, such as the settlement agreement take precedence over the requirements of the Standard Details.
Application PHS13	338 Magnolia Avenue Zone A 31 feet to 338 Magnolia Ave	New Utility Pole #110482679	Canister type 3-foot long, 8-inch diameter, pole top Model dbSpectra DB362-XD3S-M 14-inch diameter radome enclosure 8 foot 6 inches taper 57 feet 2.5 inches tall Signal emits .028% of the FCC limit.	Pole-mounted enclosures Two AK009A shrouds 24 x 9 x 6.5 inches, each shroud Four Ericsson Radio 2203 5 watts of power per radio Four radios total Frequency specs: 1900 and 2100 MHZ	Based on the reasons outlined in the staff report summary, the project complies with Piedmont Municipal Code Section 17.46.040, WCF Location; Piedmont Municipal Code Section 17.46.070, WCF Development Standards; Piedmont Municipal Code Chapter 18, Streets and Sidewalks Ordinance; Piedmont Municipal Code Section 5.4.11, Noise; and Piedmont Municipal Code Chapter 3, Trees. Exception required for height greater than 35 feet in Zone A.	This project complies because the scale and mass of the communication equipment are appropriate for the streetlight and streetscape in the area and the equipment is concealed and camouflaged to blend with the surroundings and satisfies General Plan Policy 35.8, Telecommunication Services and Policy 37.4, Siting and Design of Infrastructure; and Design Guidelines Section 3.02 Relation to the Public Realm; Section 3.03.01.1 Significant Views, Compatibility with Nearby Lots; Section 3.03.02.1 Visual and Acoustical Privacy, Access to Direct and Indirect Light, Compatibility with Contiguous Lots; Section 4.04.01.1 Mechanical Equipment, Neighborhood and Contiguous Parcel Compatibility; Section 4.04.02.1 Mechanical Equipment, On-Site Aesthetic Design Compatibility; Section 4.04.02.4 Mechanical Equipment, On-Site Aesthetic Design Compatibility; and Section 4.04.02.5 Mechanical Equipment, On-Site Aesthetic Design Compatibility.	The project is consistent because it addresses site-specific physical conditions and maintains safe and convenient access to pedestrians, bicyclists, and vehicles. All of the proposed facilities have been presented to the City as part of a comprehensive plan and reviewed by the City Engineer and Public Works Director. The designs are subject to the terms of the existing settlement agreement. Per the Public Works Standard Details General Requirements, City Council agreements, such as the settlement agreement take precedence over the requirements of the Standard Details.

2019 Site Number	Location (at or near)	Pole Type	Antenna	Radio Equipment and Enclosure	Complies with City Codes and Regulations	Complies with General Plan and Design Guidelines	Complies with Public Works Standard Details
Application PHS14	96 Fairview Avenue Zone A 32 feet to residence at 90 Fairview Avenue	New Utility Pole #110135595	Canister type 3-foot long, 8-inch diameter, pole top Model dbSpectra DB362-XD3S-M 14-inch diameter radome enclosure 8-foot 6-inches taper 57 feet 2.5 inches tall Signal emits .028% of the FCC limit.	Pole-mounted enclosures Two AK009A shrouds 24 x 9 x 6.5 inches, each shroud Four Ericsson Radio 2203 5 watts of power per radio Four radios total Frequency specs: 1900 and 2100 MHZ	Based on the reasons outlined in the staff report summary, the project complies with Piedmont Municipal Code Section 17.46.040, WCF Location; Piedmont Municipal Code Section 17.46.070, WCF Development Standards; Piedmont Municipal Code Chapter 18, Streets and Sidewalks Ordinance; Piedmont Municipal Code Section 5.4.11, Noise; and Piedmont Municipal Code Chapter 3, Trees. Exception required for height greater than 35 feet in Zone A.	This project complies because the scale and mass of the communication equipment are appropriate for the streetlight and streetscape in the area and the equipment is concealed and camouflaged to blend with the surroundings and satisfies General Plan Policy 35.8, Telecommunication Services and Policy 37.4, Siting and Design of Infrastructure; and Design Guidelines Section 3.02 Relation to the Public Realm; Section 3.03.01.1 Significant Views, Compatibility with Nearby Lots; Section 3.03.02.1 Visual and Acoustical Privacy, Access to Direct and Indirect Light, Compatibility with Contiguous Lots; Section 4.04.01.1 Mechanical Equipment, Neighborhood and Contiguous Parcel Compatibility; Section 4.04.02.1 Mechanical Equipment, On-Site Aesthetic Design Compatibility; Section 4.04.02.4 Mechanical Equipment, On-Site Aesthetic Design Compatibility; and Section 4.04.02.5 Mechanical Equipment, On-Site Aesthetic Design Compatibility	The project is consistent because it addresses site-specific physical conditions and maintains safe and convenient access to pedestrians, bicyclists, and vehicles. All of the proposed facilities have been presented to the City as part of a comprehensive plan and reviewed by the City Engineer and Public Works Director. The designs are subject to the terms of the existing settlement agreement. Per the Public Works Standard Details General Requirements, City Council agreements, such as the settlement agreement take precedence over the requirements of the Standard Details.
Application PHS15	108 MacKinnon Place Zone A 33 feet to residence at 112 Hillside Ct	New Utility Pole #110112771	Canister type 3-foot long, 8 inch diameter, pole top Model dbSpectra DB362-XD3S-M 14-inch diameter radome enclosure 8-foot 6-inches taper "Western Utility PR-251" 39 feet 2.5 inches tall Signal emits .063% of the FCC limit.	Pole-mounted enclosures Two AK009A shrouds 24 x 9 x 6.5 inches, each shroud Four Ericsson Radio 2203 5 watts of power per radio Four radios total Frequency specs: 1900 and 2100 MHZ	Based on the reasons outlined in the staff report summary, the project complies with Piedmont Municipal Code Section 17.46.040, WCF Location; Piedmont Municipal Code Section 17.46.070, WCF Development Standards; Piedmont Municipal Code Chapter 18, Streets and Sidewalks Ordinance; Piedmont Municipal Code Section 5.4.11, Noise; and Piedmont Municipal Code Chapter 3, Trees. Exception required for height greater than 35 feet in Zone A.	This project complies because the scale and mass of the communication equipment are appropriate for the streetlight and streetscape in the area and the equipment is concealed and camouflaged to blend with the surroundings and satisfies General Plan Policy 35.8, Telecommunication Services and Policy 37.4, Siting and Design of Infrastructure; and Design Guidelines Section 3.02 Relation to the Public Realm; Section 3.03.01.1 Significant Views, Compatibility with Nearby Lots; Section 3.03.02.1 Visual and Acoustical Privacy, Access to Direct and Indirect Light, Compatibility with Contiguous Lots; Section 4.04.01.1 Mechanical Equipment, Neighborhood and Contiguous Parcel Compatibility; Section 4.04.02.1 Mechanical Equipment, On-Site Aesthetic Design Compatibility; Section 4.04.02.4 Mechanical Equipment, On-Site Aesthetic Design Compatibility; and Section 4.04.02.5 Mechanical Equipment, On-Site Aesthetic Design Compatibility.	The project is consistent because it addresses site-specific physical conditions and maintains safe and convenient access to pedestrians, bicyclists, and vehicles. All of the proposed facilities have been presented to the City as part of a comprehensive plan and reviewed by the City Engineer and Public Works Director. The designs are subject to the terms of the existing settlement agreement. Per the Public Works Standard Details General Requirements, City Council agreements, such as the settlement agreement take precedence over the requirements of the Standard Details.

2019 Site Number	Location (at or near)	Pole Type	Antenna	Radio Equipment and Enclosure	Complies with City Codes and Regulations	Complies with General Plan and Design Guidelines	Complies with Public Works Standard Details
Application PHS16	100 Palm Drive Zone A 31 feet to nearest residence at 100 Palm Dr	New Utility Pole #110112788	Canister type 3-foot long, 8 inch diameter, pole top Model dbSpectra DB362-XD3S-M 14-inch diameter radome enclosure 8-foot 6-inch taper "Western Utility PR-251" 52 feet 8.5 inches tall Signal emits .032% of the FCC limit.	Pole-mounted enclosures Two AK009A shrouds 24 x 9 x 6.5 inches, each shroud Four Ericsson Radio 2203 5 watts of power per radio Four radios total Frequency specs: 1900 and 2100 MHZ	Based on the reasons outlined in the staff report summary, the project complies with Piedmont Municipal Code Section 17.46.040, WCF Location; Piedmont Municipal Code Section 17.46.070, WCF Development Standards; Piedmont Municipal Code Chapter 18, Streets and Sidewalks Ordinance; Piedmont Municipal Code Section 5.4.11, Noise; and Piedmont Municipal Code Chapter 3, Trees. Exception required for height greater than 35 feet in Zone A. Exception requested for distance to front of curb less than 18 inches to maintain ADA access.	This project complies because the scale and mass of the communication equipment are appropriate for the streetlight and streetscape in the area and the equipment is concealed and camouflaged to blend with the surroundings and satisfies General Plan Policy 35.8, Telecommunication Services and Policy 37.4, Siting and Design of Infrastructure; and Design Guidelines Section 3.02 Relation to the Public Realm; Section 3.03.01.1 Significant Views, Compatibility with Nearby Lots; Section 3.03.02.1 Visual and Acoustical Privacy, Access to Direct and Indirect Light, Compatibility with Contiguous Lots; Section 4.04.01.1 Mechanical Equipment, Neighborhood and Contiguous Parcel Compatibility; Section 4.04.02.1 Mechanical Equipment, On-Site Aesthetic Design Compatibility; Section 4.04.02.4 Mechanical Equipment, On-Site Aesthetic Design Compatibility; and Section 4.04.02.5 Mechanical Equipment, On-Site Aesthetic Design Compatibility	The project is consistent because it addresses site-specific physical conditions and maintains safe and convenient access to pedestrians, bicyclists, and vehicles. All of the proposed facilities have been presented to the City as part of a comprehensive plan and reviewed by the City Engineer and Public Works Director. The designs are subject to the terms of the existing settlement agreement. Per the Public Works Standard Details General Requirements, City Council agreements, such as the settlement agreement take precedence over the requirements of the Standard Details.
Application PHS17	185 Wildwood Avenue Zone A 55 feet to 185 Wildwood	Existing Utility Pole No Pole # on plans	Canister type 3-foot long, 8 inch diameter, pole top Model dbSpectra DB362-XD3S-M 14-inch diameter radome enclosure 8-foot 6-inch taper 39 feet 2 .5 inch tall Signal emits .063% of the FCC limit	Pole-mounted enclosures Two AK009A shrouds 24 x 9 x 6.5 inches, each shroud Four Ericsson Radio 2203 5 watts of power per radio Four radios total Frequency specs: 1900 and 2100 MHZ	Based on the reasons outlined in the staff report summary, the project complies with Piedmont Municipal Code Section 17.46.040, WCF Location; Piedmont Municipal Code Section 17.46.070, WCF Development Standards; Piedmont Municipal Code Chapter 18, Streets and Sidewalks Ordinance; Piedmont Municipal Code Section 5.4.11, Noise; and Piedmont Municipal Code Chapter 3, Trees. Exception required for height greater than 35 feet in Zone A.	This project complies because the scale and mass of the communication equipment are appropriate for the streetlight and streetscape in the area and the equipment is concealed and camouflaged to blend with the surroundings and satisfies General Plan Policy 35.8, Telecommunication Services and Policy 37.4, Siting and Design of Infrastructure; and Design Guidelines Section 3.02 Relation to the Public Realm; Section 3.03.01.1 Significant Views, Compatibility with Nearby Lots; Section 3.03.02.1 Visual and Acoustical Privacy, Access to Direct and Indirect Light, Compatibility with Contiguous Lots; Section 4.04.01.1 Mechanical Equipment, Neighborhood and Contiguous Parcel Compatibility; Section 4.04.02.1 Mechanical Equipment, On-Site Aesthetic Design Compatibility; Section 4.04.02.4 Mechanical Equipment, On-Site Aesthetic Design Compatibility; and Section 4.04.02.5 Mechanical Equipment, On-Site Aesthetic Design Compatibility.	The project is consistent because it addresses site-specific physical conditions and maintains safe and convenient access to pedestrians, bicyclists, and vehicles. All of the proposed facilities have been presented to the City as part of a comprehensive plan and reviewed by the City Engineer and Public Works Director. The designs are subject to the terms of the existing settlement agreement. Per the Public Works Standard Details General Requirements, City Council agreements, such as the settlement agreement take precedence over the requirements of the Standard Details.

2019 Site Number	Location (at or near)	Pole Type	Antenna	Radio Equipment and Enclosure	Complies with City Codes and Regulations	Complies with General Plan and Design Guidelines	Complies with Public Works Standard Details
Application PHS18	523 Boulevard Way Zone A 52 feet to 513 Boulevard Way	New Utility Pole #110112972	Canister type 3-foot long, 8-inch diameter, pole top Model dbSpectra DB362-XD3S-M 14-inch diameter radome enclosure 8-foot 6-inch taper "Western Utility PR-251" 52 feet 8.5 inch tall Signal emits .033% of the FCC limit.	Pole-mounted enclosures Two AK009A shrouds 24 x 9 x 6.5 inches, each shroud Four Ericsson Radio 2203 5 watts of power per radio Four radios total Frequency specs: 1900 and 2100 MHZ	Based on the reasons outlined in the staff report summary, the project complies with Piedmont Municipal Code Section 17.46.040, WCF Location; Piedmont Municipal Code Section 17.46.070, WCF Development Standards; Piedmont Municipal Code Chapter 18, Streets and Sidewalks Ordinance; Piedmont Municipal Code Section 5.4.11, Noise; and Piedmont Municipal Code Chapter 3, Trees. Exception required for height greater than 35 feet in Zone A.	This project complies because the scale and mass of the communication equipment are appropriate for the streetlight and streetscape in the area and the equipment is concealed and camouflaged to blend with the surroundings and satisfies General Plan Policy 35.8, Telecommunication Services and Policy 37.4, Siting and Design of Infrastructure; and Design Guidelines Section 3.02 Relation to the Public Realm; Section 3.03.01.1 Significant Views, Compatibility with Nearby Lots; Section 3.03.02.1 Visual and Acoustical Privacy, Access to Direct and Indirect Light, Compatibility with Contiguous Lots; Section 4.04.01.1 Mechanical Equipment, Neighborhood and Contiguous Parcel Compatibility; Section 4.04.02.1 Mechanical Equipment, On-Site Aesthetic Design Compatibility; Section 4.04.02.4 Mechanical Equipment, On-Site Aesthetic Design Compatibility; and Section 4.04.02.5 Mechanical Equipment, On-Site Aesthetic Design Compatibility	The project is consistent because it addresses site-specific physical conditions and maintains safe and convenient access to pedestrians, bicyclists, and vehicles. All of the proposed facilities have been presented to the City as part of a comprehensive plan and reviewed by the City Engineer and Public Works Director. The designs are subject to the terms of the existing settlement agreement. Per the Public Works Standard Details General Requirements, City Council agreements, such as the settlement agreement take precedence over the requirements of the Standard Details.

RESOLUTION No. _____

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF PIEDMONT (“CITY”), STATE OF CALIFORNIA,
APPROVING, SUBJECT TO CONDITIONS, WIRELESS COMMUNICATION
FACILITIES PERMITS SUBMITTED BY CROWN CASTLE NG WEST LLC
THROUGH SURESITE CONSULTING GROUP FOR SITES LOCATED AT OR
NEAR 355 JEROME AVENUE (PHS07), 237 EL CERRITO AVENUE (PHS11),
338 MAGNOLIA AVENUE (PHS13), AND 108 MACKINNON PLACE (PHS15)
(PART OF APPLICATION PROJECT #19-0188)**

WHEREAS, Crown Castle NG West LLC through SureSite Consulting Group LLC (“Applicant”) is requesting permits from the City of Piedmont (“City”) for wireless communication facilities (“WCF”) installations within the public right-of-way at or near 355 Jerome Avenue, 237 El Cerrito Avenue, 338 Magnolia Avenue, and 108 MacKinnon Place, sites identified in the application materials as PHS07, PHS11, PHS13, and PHS15, respectively. An additional site identified as PHS09 was filed separately, and an additional site PHS19 was withdrawn from the project applications on October 3, 2019. The proposed WCF installation designs includes a single canister antenna atop utility poles or strand-mounted antenna, cables within covered risers on the sides of the utility poles, and equipment in enclosures mounted to the side of the utility poles a minimum of 7 feet above adjacent grade, the construction of which requires a WCF permit; and

WHEREAS, pursuant to Piedmont City Code sections 17.46.080 A and B, the Planning Commission reviewed the application for a WCF permit for site PHS07 at 355 Jerome Avenue at a duly noticed public hearing on June 12, 2017, and the Planning Commission reviewed the applications for WCF permits for sites PHS11, PHS13, and PHS15 at 237 El Cerrito Avenue, 338 Magnolia Avenue and 108 MacKinnon Place, at a duly noticed public hearing on October 29, 2019, making recommendations to the City Council, which is the decision-making body because these facilities are proposed in Zone A and located within the City-owned public right-of-way; and

WHEREAS, the equipment proposed to be installed, including the machinery in the pole-mounted enclosure, is considered to be an exterior installation and thereby subject to Building Code requirements related to mechanically-generated noise sources provided in City Code Section 5.4.11, and the Applicant’s responses to the WCF permit applications state that the WCF permit design does not include noise-generating equipment; and

WHEREAS, the Applicant filed requests for exceptions to the WCF permit development standards pursuant to section 17.46.080.D.2 of the City Code, which provides the basis for the approval of exceptions to the City’s height limit for sites PHS11, PHS13 and PHS15 and exceptions to the City’s minimum setback to the front of curb due to conflicts with federal and state law; and

WHEREAS, based upon the evidence and after reviewing the applications, plans and any and all testimony and documentation submitted in connection with such application, the City Council finds that the project is categorically exempt from the

California Environmental Quality Act (CEQA), pursuant to Section 15303 of the CEQA Guidelines, Construction or Conversion of Small Structures, subsection (d) (water main, sewage, electrical, gas, and other utility extensions, including street improvements, of reasonable length to serve such construction) because the proposed wireless communication facilities are small utility structures located in a developed setting. No exceptions to the above exemption has been identified that would make the proposals ineligible for use of a categorical exemption because the projects' settings are not in a location that is particularly sensitive, the surrounding area is developed and urbanized, and existing utilities are located at or near each of the proposed installations, there are no unusual circumstances relating to the proposed installations, and no scenic highways, hazardous waste sites, or historical resources could be affected by the project; and

WHEREAS, based upon the evidence and after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, the City Council finds that the project, as conditioned, conforms to the criteria and standards of Piedmont City Code section 17.46.080.D.1, as follows;

- a. The City Code requires the Applicant to demonstrate the facilities are necessary to close a significant gap in the operator's service coverage or capacity. In accordance with standards established by FCC Order 18-133, the Applicant can be deemed to meet this requirement by instead demonstrating that a denial of the proposed facilities will materially inhibit the Applicant's ability to either provide service in a new geographic area, or materially inhibit the introduction of new services or improvement of existing services, and the Applicant has submitted evidence that denial of the project will materially affect its ability to provide services, introduce new services, and improve existing services; and
- b. The Applicant has evaluated and met the priority for location standards of Piedmont City Code section 17.46.040.A.1 in that the proposed sites are in Zone A and in the public right-of-way;
- c. The proposals satisfy each of the applicable development standards in Piedmont City Code section 17.46.070 as follows:
 - A. Development Standards:
 1. Collocation. The new wireless communication facilities are proposed on existing utility pole locations and the wireless communication facilities are designed to accommodate future collocation(s) of other wireless communication facilities unless the city determines that collocation would be infeasible because of physical or design issues specific to the site; and
 2. Height limits; Screening. The new antennas for sites PHS11, PHS13, and PHS15 will be 36 inches tall and the facilities at sites PHS11 and PHS13 are proposed at a height of 57 feet 2.5 inches, as measured to adjacent grade, and the facility at PHS15 at 108 MacKinnon Place is proposed at a height of 39 feet 2.5 inches, as measured to adjacent grade. The Applicant requests exceptions to the 35-foot height limit (Code section 17.46.070.A.2) pursuant to Code Section 17.46.080.D.2 for sites PHS11, PHS13, and PHS15 and has submitted information stating that exceptions are warranted on the basis of CPUC safety regulations. Site PHS07 at 355 Jerome Avenue is 21 feet as measured to adjacent grade. As conditioned, the antennas for sites PHS11, PHS13, and

PHS15 will be concealed in a radome shroud. As conditioned, plans submitted for construction permits shall show that the antenna for Site PHS07 will be concealed in a light-weight adhesive wrap. Radio equipment will be located in enclosures mounted to the sides of the utility poles. Cables will be concealed within 2-inch-wide risers mounted to the side of the utility poles or sleeve running from the utility pole to the strand-mounted antenna; and

3. Visual impact. As conditioned, the proposed wireless communication facilities are designed to minimize visual impacts because: the cables are proposed to be within 2-inch-wide risers attached to the sides of the poles; the pole-mounted enclosures provide the concealment for the communication equipment; the antenna shall be no taller than 36 inches; a 14-inch-diameter radome shroud or light-weight adhesive wrap encase the antennas; and the facilities will have a non-reflective finish and be painted or otherwise treated to minimize visibility and glare; and

As conditioned, the facilities will not bear signs, other than required FCC certifications, warnings, emergency contacts, or other signage required by law or expressly required by the city; and

4. Public health, peace and safety. As conditioned, the wireless communication facilities will not adversely affect the public health, peace and safety. The Applicant submitted on July 9, 2019 a RF Emissions Compliance Report prepared by Waterford Consultants, LLC, consulting engineers stating that the project as proposed will be in full compliance with the Federal Communications Commission regulations and guidelines limiting human exposure to radio frequency emissions; and
5. Public right-of-way. The proposed wireless communication facilities are located in the public right-of-way. The designs and location, and the placement of equipment do not cause: (i) physical or visual obstruction, or safety hazard, to pedestrians, cyclists, or motorists; or (ii) inconvenience to the public's use of the right-of-way. The equipment is located at least 7 feet vertically from the adjacent grade, has adequate vertical and horizontal clearance, and does not otherwise interfere with the public's use of the right-of-way. As conditioned, the cover of any proposed utility hand hole vault will have a slip resistant surface; and
6. Compliance with laws. The proposed wireless communication facility complies with federal and state statutes governing local agencies' land use authority regarding the siting of wireless communication facilities, including without limitation 47 USC §253, 332(c)(7), 1455(a); California Government Code §§ 50030, 65850.6 and 65964; and California Public Utilities Code sections 7901 and 7901.1. Each reference to federal and state statutes is to the statute as it may be as amended from time-to-time and to the extent the statute remains in effect; and
 - A. Public Works Standard Details. As conditioned, the proposed wireless communication facilities will comply with the Public Works Standard Details for construction within the public right-of-way and exceptions to specific Public Works Standard Details have been reviewed and approved

by the Public Works Director and City Engineer and incorporated into conceptual plans for the facilities which was reviewed by the City Council on December 17, 2018; and

- B. Operation and Maintenance Standards. As conditioned, the proposed wireless communication facilities will comply with the operation and maintenance standards provided in Piedmont City Code section 17.46.070.B; and
- C. Term of Permit. As conditioned, the approved permits for wireless communication facilities will be valid for an initial period of ten years commencing on the approval date of this Resolution subject to renewals pursuant to local, state and federal law; and
- d. Design Guidelines and General Plan. The proposed designs of PHS07, PHS11, PHS13 and PHS15 are consistent with the Piedmont General Plan in that the scale and mass of the communication equipment are appropriate for the utility poles and streetscape in the Zone A area, the facilities are concealed and camouflaged to blend with their surroundings; and the projects satisfy Piedmont General Plan Policy 35.8, “Telecommunication Services: Collaborate with telecommunication service providers to foster access to emerging communication and information technology for Piedmont residents” and Policy 37.4, “Siting and Design of Infrastructure: Ensure that the siting and design of infrastructure facilities, including water tanks and telecommunication towers mitigate the potential for adverse visual impacts and are consistent with policies in the Design and Preservation Element.” In addition, the proposed designs are consistent with relevant Piedmont Design Guidelines as follows:
- The facilities meet Design Guideline 3.02, “Relation to the Public Realm,” in that applications propose relatively small radio enclosures and antennas that minimize their visibility. In addition, they are attached to the utility poles in a manner consistent with other utility equipment on the poles and, in the case of the antenna, are meant to be seen as an extension of the pole itself; and
 - The facilities meet Design Guideline 3.03.01.1, “Significant Views,” in that the applications propose radios in enclosures and cables in risers that hug the pole in a manner that avoids an adverse impact on views. Pole top antennas are proposed at sites PHS11, PHS13, and PHS15 instead of antennas attached to the side of the utility pole in order to mitigate the overall bulk of the equipment. At sites PHS11, PHS13, and PHS15 where the height of the utility pole with the antenna is proposed to increase in order to meet state and/or federal regulations, the size of the equipment has been kept as small as possible to minimize impacts on views. Site PHS07 includes a small strand-mounted antenna with a stabilizing arm with a 2-foot-tall antenna to reduce visual impacts; and
 - The facilities meet Design Guideline 3.03.02.1, “Visual and Acoustical Privacy, Access to Direct and Indirect Light,” in that the proposed equipment is relatively small in size and is closely attached to utility poles. The application proposes no equipment that produces mechanically-

generated noise. Therefore, there will be no adverse impact on visual and acoustical privacy or access to direct and indirect light; and

- The facilities meet Design Guideline 4.04.01.1, “Mechanical Equipment, Noise,” in that the proposed facilities do not include noise-generating equipment; and
 - The facilities meet Design Guideline 4.04.02.1, “Mechanical Equipment, Aesthetic Design,” in that the proposed facilities include concealment and screening devices: a radome to shroud the antenna, two pole-mounted enclosures for the radios, and 2-inch-wide risers to enclose the cables; and
 - The facilities meet Design Guideline 4.04.02.4, “Mechanical Equipment, Aesthetic Design,” in that the cabling for the proposed WCF equipment will be discretely placed within 2-inch-wide risers attached to the utility pole so that the run is as concealed as possible; and
 - The facilities meet Design Guideline 4.04.02.5, “Mechanical Equipment, Aesthetic Design,” in that as conditioned, and where feasible, the equipment attached to the utility pole will be painted to closely match the color of the pole; and
- e. Future Collocation. Although future collocations at these sites may not be feasible, the proposed facilities have been located and designed for future collocation to the greatest extent reasonable feasible, and the Applicant has submitted a statement of its willingness to allow other wireless service providers to collocate on the proposed facilities, recognizing that such collocation may be subject to review by the City.

NOW, THEREFORE, BE IT RESOLVED that the City Council resolves that:

SECTION 1. The above recitals are correct and are material to this Resolution and are incorporated into this Resolution as findings of the City Council.

SECTION 2. Based on the findings and facts set forth heretofore, the staff report and evidence presented at the public hearing, the City Council approves the applications for wireless communication facilities permits for proposed facilities sited at or near 355 Jerome Avenue (PHS07), 237 El Cerrito Avenue (PHS11), 338 Magnolia Avenue (PHS13), and 108 MacKinnon Place (PHS15) in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Conditions in construction documents.** These conditions of approval shall be included as a sheet in the plan set submitted for any City building permit, excavation permit or encroachment permit application (“City-required construction permits”) for the work approved herein.
2. **Utility pole location at PHS13, 338 Magnolia Avenue.** The Applicant shall reuse the existing utility pole location exactly for the installation of the new utility pole to reduce impacts to adjacent trees per the Applicant’s arborist recommendations.
3. **Design, heights of facilities and diameter of radome shroud.** The antennas shall have a maximum height of 36 inches at sites PHS11, PHS13, and PHS15, and the antennas shall be shown on plans submitted for construction permits to have a maximum 14-inch diameter dimension shroud. Cables shall be concealed in two 2-

- inch-wide risers mounted directly to the utility pole. The antenna for PHS07 shall have a maximum height of 2 feet and the maximum height of site PHS07 shall be 21 feet, as measured to lowest adjacent grade. The antenna at PHS07 shall be concealed in a light-weight adhesive wrap and the cables shall be concealed in a 2-inch-wide flexible conduit leading from the utility pole to the antenna. The maximum height, measured from lowest adjacent grade, of sites PHS11 and PHS13 shall be 57 feet 2.5 inches. The maximum height of PHS15 shall be 39 feet 2.5 inches tall, as measured to lowest adjacent grade. The pole-mounted radio enclosures used at these facilities shall have maximum dimensions of 24 inches by 6.5 inches by 9 inches. Any proposed hand-hole vaults shall have slip resistant lids to the satisfaction of the City Engineer. Stand-off brackets shall mount equipment as close as possible to the side of the utility pole, pursuant to General Order 95 or amendments. Shrouds, enclosures, and other equipment shall be painted a dark, non-reflective color to match the color of the structure on which it is mounted.
4. **Survey.** Prior to issuance of permits for construction, the Applicant shall provide a survey prepared by a licensed land surveyor of the property lines at 108 Mackinnon Place and 116 Arbor Drive adjacent to the utility pole at site PHS15. All installations must be within the public right-of-way.
 5. **Sidewalk widths.** No wireless communication facility or utility pole shall obstruct the sidewalk or reduce the existing width of the sidewalk adjacent to the utility pole. No wireless communication facility or utility pole shall restrict the existing separation between a utility pole and a fire hydrant. If exceptions to the required setback to the front of curb are necessary to maintain existing sidewalk width, then the Applicant shall locate the utility pole closer to the front of curb, but no closer than 6 inches. Crown Castle is not authorized by this approval to reconfigure City sidewalks.
 6. **Patch and repair.** The Applicant shall patch and repair City sidewalks and other improvements in the public right-of-way affected by Applicant's project construction, such as curbs or walls, to match the color, texture, materials, and scoring pattern of the existing improvements, including custom integral concrete color in accordance with City of Piedmont standard plans and as directed by the Director of Public Works. Directional bore shall be utilized over trenching at the reasonable discretion of the Public Works Director.
 7. **Contractor's general liability insurance.** To ensure that the contractor doing work in the City will be responsible for damages caused by the work to City property or to neighboring property, prior to issuance of any required City permits for construction the Applicant shall require all contractors performing work on the Project to maintain a General Commercial Liability policy covering bodily injury, including death, and property damage that may arise out of or result from the contractor's operations. Such insurance shall be written for not less than \$1,000,000 per occurrence. The insurance shall include an endorsement requiring 10 days prior notice to the City if the insurance is to be cancelled or changed, and the Applicant shall ensure that the contractor immediately arranges for substitute insurance coverage. If the contractor's insurance carrier states in writing that it is unable to provide the required endorsement, then the Applicant shall be responsible for providing the City with the required notice if the insurance is to be cancelled or

changed. If the Applicant self-performs the installation of the facilities, the Applicant shall maintain property insurance and coverage for contractors, which is substantially equivalent to the contractor's requirement of this section.

8. **Defense of legal challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including without limitation to CEQA issues, the Applicant shall defend, indemnify, and hold harmless the City against any and all liability, fees and costs arising out of the defense, including without limitation the costs of City's own selected legal counsel(s). If such an action is filed, the Applicant and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers, employees, consultants, and volunteers.
9. **Future modifications.** The Applicant shall give the City of Piedmont Planning & Building Department 30-days advance notice before the Applicant or Applicant's agent changes, adds, reconfigures, or removes, equipment. Future modifications of the approved installations that extend beyond the approved project site or that remove or subvert the concealment designs of the approved antennas and equipment, including the pole-mounted enclosures containing the radio units, the perimeter of the radome shrouds concealing the antenna(s), the light-weight adhesive wrap enclosing the antenna at PHS07, shall constitute a new application and shall require new application forms and fees. Applications that extend beyond the approved project site, or that remove or subvert the concealment design of the approved antennas and equipment, or any other request to modify the installation that does not qualify for treatment as an eligible facilities request under Section 6409(a) shall not be eligible for Planning Director review under 47 U.S.C. §1455(a) processing.
10. **Construction Management Plan.** Prior to issuance of City required construction permits for the approved projects, the Applicant or contractor shall develop a comprehensive Construction Management Plan and file it with the Public Works Director. The Construction Management Plan shall address noise, vibrations, traffic control, access to neighboring properties, parking, debris removal, dust control, sanitary facilities, site safety security, and other potential construction impacts, as well as other details involving the means and methods of completing the projects, including the construction route and the days and hours permitted for excavation. Outside construction involving high levels of noise, including excavation, hammering, and pile driving, shall be limited to Monday through Saturday, from 8:30 a.m. to 4:30 p.m. Construction personnel shall be instructed not to park in front of driveways to private residences. The plan shall specify the sequencing of pruning, demolition, and construction activities. The City Public Works Director may require modifications and amendments to the Construction Management Plan throughout the course of the Project and until the Final Inspection is approved by the City.
 - a. **Construction Site Control of Stormwater.** The California Regional Water Quality Control Board requires all projects that disturb the site to comply with Provision C.6 of the San Francisco Bay Regional Stormwater NPDES Permit in order to prevent construction site discharges of pollutants and other regulated

materials during construction. Prior to the issuance of a building permit, the Applicant shall submit a construction stormwater management plan prepared by a licensed Civil Engineer to achieve timely and effective compliance with Provision C.6. Permit Provision C.6.c.ii provides sources for site specific, and seasonally- and phase-appropriate, effective Best Management Practices (BMPs) that must be incorporated into the stormwater management plan. Copies of the Municipal Regional Stormwater Permit are available from the Piedmont Public Works Department and on-line at cleanwaterprogram.org.

- b. **Continual street access for emergency vehicles.** The Construction Management Plan shall specifically address methods of providing continual street access for emergency vehicles at all times by means of a traffic control permit application submitted by the Applicant and reviewed and approved by the Public Works Director.
 - c. **Haul routes.** All equipment and vehicle haul routes shall be provided to the City for review and approval. To the extent possible, haul routes shall attempt to minimize or eliminate use of minor residential roadways. Street and pavement conditions shall be observed and documented by the City on all haul routes prior to commencement of construction. Damage or observable and unusual wear and tear to haul routes on city roadways as specified by the City shall be repaired at Applicant's expense after Final Inspection.
11. **Maintenance of facilities.** Applicant shall obtain City of Piedmont permits for maintenance work in the public right-of-way. Except for emergency maintenance needs, the maintenance of the wireless communication facilities shall not occur from 7:30 a.m. to 9:30 a.m. or from 2:30 p.m. to 4:00 p.m. during regular school days of any public schools located in any direction within one-quarter mile of the wireless facility. The prohibited hours for regular maintenance may be adjusted by the Director of Public Works upon at least 30 days written notice to the Applicant to accommodate changes in the hours of instruction at the nearby public schools.
 12. **Project Security.** Applicant shall provide a performance bond or other form of security, in a form acceptable to the Director of Public Works, and in an amount sufficient to cover the cost of removal and restoration of the public right-of-way. Applicant shall provide an estimated cost of removal and restoration in the form of a quote from a bonded and licensed contractor.
 13. **Insurance.** The Applicant shall provide adequate and appropriate insurance covering the Applicant's construction, excavation, and related work involving the project, in a policy form approved by the Director of Public Works and City Attorney, and specifically covering bodily injury, property damage, products and completed operations, in an amount not less than \$1,000,000.00 per occurrence and an aggregate policy limit not less than \$5,000,000.00, and not written on a claims-based policy form.
 14. **Height verification.** Prior to completion of the project and final inspection by the City, the Applicant shall provide the Building Official written verification by a licensed land surveyor stating that the height of the new wireless communication equipment mounted on the utility poles is less than or equal to the height measured from grade adjacent to the utility pole as shown on the approved plans, subject to

- the conditions of approval. If a height exceeds the approved height, then the Applicant or contractor shall immediately reduce the height of the equipment until it is in compliance with the approved plan.
15. **Concealment design and project site.** As provided in the proposed plans, each antenna radome shroud or light-weight adhesive wrap and equipment enclosure provides concealment for each installation. The outer edge of the equipment as shown in elevation and in 'plan view' are identified as the "project site." Future modifications shall incorporate the highest industry standards for compact designs that minimize visibility and shall not defeat the concealment strategies outlined in this condition of approval.
 16. **Term.** The approval of the wireless communication facilities permit is valid for a term of 10 years. At the end of the term, the Applicant shall remove its equipment.
 17. **Cables and cabling.** To the best extent possible, the cables to the antennas atop the utility poles or strand mounted shall be enclosed within the risers, sleeves or other shrouds. No more than 5 inches of exposed cables, cabling or wires shall be evident on plans filed for City-required construction permits or evident on each of the wireless communication facility installation after completion of construction.
 18. **City monitoring of City street trees.** The Applicant and its contractors, partners, or agents are prohibited from performing any tree pruning related to construction, pre-construction clearance, or on-going maintenance and operation after construction. Tree trimming is restricted and may only occur with the approval of the Director of Public Works. The pruning of trees in the public right-of-way or on City-owned property is the exclusive responsibility of the Piedmont Department of Public Works, or its designee.
 19. **Arborist's Report and Certified Tree Preservation Plan.** Before the issuance of a building permit, the Property Owner shall submit an Arborist's Report and Certified Tree Preservation Plan that includes tree preservation measures to preserve trees within 25 feet of construction. The tree preservation measures shall be on the appropriate sheets of the construction plans. The arborist shall be on-site during critical construction activities, including initial and final grading, to ensure the protection of the existing trees that are intended to be retained. The arborist shall document in writing and with photographs the tree protection measures used during these critical construction phases. If some trees have been compromised, mitigation measures must be specified in writing, and implementation certified by the Project Arborist. Trees proposed for removal shall have an in-lieu replacement tree planted elsewhere on the property, which shall be shown on the final landscape plan. Replacement tree size is subject to staff review, and shall be commensurate with the size and numbers of trees to be removed. They shall generally be a minimum of 24" box size. Before the Final Inspection, the Arborist shall file a report to the City certifying that all tree preservation measures as recommended have been implemented to his/her satisfaction and that all retained trees have not been compromised by the construction. Applicant shall conduct utility pole installation so that clearance pruning does not remove more than 25% of tree canopy.
 20. **Operation and Maintenance Standards.** The facility shall comply with the provisions of City Code Section 17.46.070.B as follows:

- a. Contact and site information. Prior to issuance of a construction permit, the owner or operator of a wireless communication facility must submit basic contact and site information to the city, including name and contact information for the authorizing representative of the Joint Pole Authority or PG&E, and notify the city within 30 days of any changes to this information, including the transfer of ownership. The contact and site information must include: (i) the name, address, email address, telephone number, and legal status of the owner of the facility, including official identification number and FCC certification, and, if different from the owner, the identity and legal status of the person or entity responsible for operating and maintaining the facility; and (ii) the name, address, email address, and telephone number of a local contact person for emergencies.
- b. Signage. The owner and/or operator must post an identification sign at each facility, including owner/operator emergency telephone numbers. The design, materials, colors, and location of the identification signs shall be subject to review and approval by the Director. If at any time a new owner or operator provider takes over operation of the facility, the new operator shall notify the Director of the change in operation within 30 days and the required and approved signs shall be updated within 30 days to reflect the name and phone number of the new wireless service provider. The colors, materials and design of the updated signs shall match those of the required and approved signs. No sign shall be greater than 7.5 inches by 7.5 inches in size unless required by law. The facility shall not bear signs other than certification, warning, emergency contacts, or other signage required by law or expressly required by the City.
- c. Non-Interference. Each wireless communication facility must at all times comply with laws, codes, and regulations, and avoid interfering with any city property, facilities, operations, utilities, or equipment.
- d. Facility maintenance. Each wireless communication facility must at all times be maintained in good repair, free from trash, debris, litter, graffiti, and other forms of vandalism. The operator must repair any damage as soon as reasonably possible, but no later than the earlier of 10 days from the time of itself becoming aware of the non-compliance or the receipt of written notification from the City. The Applicant shall provide a post-construction report and an annual report with the following information: equipment model and manufacturer, frequency bandwidths, effective radiated power, and emission levels measured to nearest building(s) with a comparison to FCC limits.
- e. Noise. A wireless communication facility must be operated to comply with Chapter 5 of the City Code. Should the noise emanating from the facility be found to exceed the limits provided in City Code Chapter 5, operation of the facility shall cease immediately and shall not resume until a noise verification study prepared by a licensed acoustical engineer shows the facility's compliance with City Code Chapter 5 noise limits. The acoustical engineer shall be selected by the City and the cost of the engineer's services shall be paid by the Applicant or wireless communications service provider.

- f. Removal. All wireless communication facility equipment must be removed within 30 days of the discontinuation of the use, and the site and other property restored to its original, preconstruction condition. In addition, the service provider must provide the City with a notice of intent to vacate a site a minimum of 30 days before the vacation.
21. **Modifications to public facilities.** Should the City require modification to public right-of-way or other public facilities in the area of this facility that results in a conflict with the present location of the approved wireless communications facility, including the creation of a utility undergrounding district, the wireless communication facility equipment shall, if necessary as determined by the Director of Public Works, be removed or relocated at the Applicant's expense subject to review and approval of the Director of Public Works.
22. **Expiration of Wireless Communication Facilities Permit.** An encroachment permit, excavation permit or building permit must be issued within one year of the approval of the City Council, and construction completed within two years of the approval of the City Council, or this approval shall be null and void.
23. **Construction Completion Schedule.** Work on the Project, once begun, shall be promptly executed with continuous good faith and reasonable progress. Since timely completion of this Project is of the essence, the Applicant shall submit for approval a Construction Completion Schedule, which will specify, in detail, the duration and percentage complete of each phase.
- a. The Construction Completion Schedule with associated construction values for each benchmark shall set forth completion dates for the following benchmarks as needed: i) Completion of Excavation; ii) Completion of Electrical; iii) Completion of Mechanical; iv) Completion of Facilities; v) Completion of Hardscaping and Landscaping; and any further construction benchmarks and conditions as may be determined by the Director of Public Works.
 - b. Before the Project begins, the Director of Public Works shall make a determination as to the reasonableness of the proposed completion dates applicable to the Project, and that determination shall constitute the "Approved Schedule" and be binding on the Applicant.

SECTION 4. All portions of this resolution are severable. If an individual component of this Resolution is adjudged by a court to be invalid and unenforceable, then the remaining portions will continue in effect.

[END OF DOCUMENT]

RESOLUTION No. _____

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF PIEDMONT (“CITY”), STATE OF CALIFORNIA,
APPROVING, SUBJECT TO CONDITIONS, WIRELESS COMMUNICATION
FACILITIES PERMITS SUBMITTED BY CROWN CASTLE NG WEST LLC
THROUGH SURESITE CONSULTING GROUP FOR SITES LOCATED AT OR
NEAR 340-370 HIGHLAND AVENUE (PHS01), 150 HIGHLAND AVENUE
(PHS02), AND 799 MAGNOLIA AVENUE (PHS03)
(PART OF APPLICATION PROJECT #19-0188)**

WHEREAS, Crown Castle NG West LLC through SureSite Consulting Group LLC (“Applicant”) is requesting permits from the City of Piedmont (“City”) for wireless communication facilities (“WCF”) installations within the public right-of-way at or near 340-370 Highland Avenue, 150 Highland Avenue, and 799 Magnolia Avenue, sites identified in the application materials as PHS01, PHS02, and PHS03, respectively. An additional site identified as PHS09 was filed separately, and an additional site PHS19 was withdrawn from the project applications on October 3, 2019. The proposed WCF installation designs include a single canister antenna atop City streetlights, cables within streetlight poles, and equipment in enclosures mounted to the side of the streetlight pole at site PHS02 or within ground-mounted enclosures at sites PHS01 and PHS03, the construction of which requires a WCF permit; and

WHEREAS, pursuant to Piedmont City Code sections 17.46.080 A and B, the Planning Commission reviewed the application for a WCF permit for site PHS01, at or near 340-370 Highland Avenue, site PHS02 near 150 Highland Avenue, and site PHS03 near 799 Magnolia Avenue at a duly noticed public hearing on June 12, 2017, making recommendations to the City Council, which is the decision-making body because these facilities are proposed in Zones A and B and located within the City-owned public right-of-way; and

WHEREAS, the equipment proposed to be installed, including the machinery in the pole-mounted enclosure, is considered to be an exterior installation and thereby subject to Building Code requirements related to mechanically-generated noise sources provided in City Code Section 5.4.11 and the Applicant’s responses to the WCF permit application states that the WCF permit design does not include noise-generating equipment; and

WHEREAS, based upon the evidence and after reviewing the applications, plans and any and all testimony and documentation submitted in connection with such application, the City Council finds that the project is categorically exempt from the California Environmental Quality Act (CEQA), pursuant to Section 15303 of the CEQA Guidelines, Construction or Conversion of Small Structures, subsection (d) (water main, sewage, electrical, gas, and other utility extensions, including street improvements, of reasonable length to serve such construction) because the proposed wireless communication facilities are small utility structures located in a developed setting. No exceptions to the above exemption has been identified that would make the proposals

ineligible for use of a categorical exemption because the projects' settings are not in a location that is particularly sensitive, the surrounding area is developed and urbanized, and existing utilities are located at or near each of the proposed installations, there are no unusual circumstances relating to the proposed installations, and no scenic highways, hazardous waste sites, or historical resources could be affected by the project; and

WHEREAS, based upon the evidence and after reviewing the applications, plans and any and all testimony and documentation submitted in connection with such application, the City Council finds that the project, as conditioned, conforms to the criteria and standards of Piedmont City Code section 17.46.080.D.1, as follows;

- a. The City Code requires the Applicant to demonstrate the facilities are necessary to close a significant gap in the operator's service coverage or capacity. In accordance with standards established by FCC Order 18-133, the applicant can be deemed to meet this requirement by instead demonstrating that a denial of the proposed facilities will materially inhibit the applicant's ability to either provide service in a new geographic area, or materially inhibit the introduction of new services or improvement of existing services, and the Applicant has submitted evidence that denial of the project will materially affect its ability to provide services, introduce new services, and improve existing services; and
- b. The Applicant has evaluated and met the priority for location standards of Piedmont City Code section 17.46.040.A.1 in that the proposed sites are in Zones A and B and in the public right-of-way;
- c. The proposals satisfy each of the applicable development standards in Piedmont City Code section 17.46.070 as follows:
 - A. Development Standards:
 1. Collocation. The new wireless communication facilities are proposed on an existing streetlight pole locations and the wireless communication facilities are designed to accommodate future collocation(s) of other wireless communication facilities unless the city determines that collocation would be infeasible because of physical or design issues specific to the site; and
 2. Height limits; Screening. The new antennas for sites PHS01, PHS02, and PHS03 will be 24 inches tall and are proposed at a height of 33 feet 7 inches, 33 feet 10 inches, and 33 feet 3 inches, as measured to adjacent grade, respectively. As conditioned, the antennas for sites PHS01, PHS02, and PHS03 will be concealed in 10-inch diameter radome shrouds. Radio equipment will be located in an enclosure mounted to the sides of the streetlight pole, sandwiched between street signs, or in ground-mounted cabinets inside trash receptacles. Cables will be concealed within the streetlight poles; and
 3. Visual impact. As conditioned, the proposed wireless communication facilities are designed to minimize visual impacts because: the cables are proposed to be within streetlight poles; the street signs sandwiching the pole-mounted enclosure provide the concealment for the communication equipment; the cabinets inside trash receptacles provide concealment for the communication equipment, the antennas shall be no taller than 24 inches; a 10-inch diameter

radome shrouds encase the antennas; and the facilities will have a non-reflective finish and be painted or otherwise treated to minimize visibility and glare; and

As conditioned, the facilities will not bear signs, other than required FCC certifications, warnings, emergency contacts, or other signage required by law or expressly required by the city; and

4. Public health, peace and safety. As conditioned, the wireless communication facilities will not adversely affect the public health, peace and safety. The Applicant submitted on July 9, 2019 a RF Emissions Compliance Report prepared by Waterford Consultants, LLC, consulting engineers stating that the project as proposed will be in full compliance with the Federal Communications Commission regulations and guidelines limiting human exposure to radio frequency emissions; and
5. Public right-of-way. The proposed wireless communication facilities are located in the public right-of-way. The designs and location, and the placement of equipment do not cause: (i) physical or visual obstruction, or safety hazard, to pedestrians, cyclists, or motorists; or (ii) inconvenience to the public's use of the right-of-way. The equipment is located at least 7 feet vertically from the adjacent grade, has adequate vertical and horizontal clearance, and does not otherwise interfere with the public's use of the right-of-way. As conditioned, the cover of any proposed utility hand hole vault will have a slip resistant surface; and
6. Compliance with laws. The proposed wireless communication facility complies with federal and state statutes governing local agencies' land use authority regarding the siting of wireless communication facilities, including without limitation 47 USC §253, 332(c)(7), 1455(a); California Government Code §§ 50030, 65850.6 and 65964; and California Public Utilities Code sections 7901 and 7901.1. Each reference to federal and state statutes is to the statute as it may be as amended from time-to-time and to the extent the statute remains in effect; and
 - A. Public Works Standard Details. As conditioned, the proposed wireless communication facilities will comply with the Public Works Standard Details for construction within the public right-of-way and exceptions to specific Public Works Standard Details have been reviewed and approved by the Public Works Director and City Engineer and incorporated into conceptual plans for the facilities which was reviewed by the City Council on December 17, 2018; and
 - B. Operation and Maintenance Standards. As conditioned, the proposed wireless communication facilities will comply with the operation and maintenance standards provided in Piedmont City Code section 17.46.070.B; and
 - C. Term of Permit. As conditioned, the approved permits for wireless communication facilities will be valid for an initial period of ten years commencing on the approval date of this Resolution subject to renewals pursuant to local, state and federal law; and

- d. Design Guidelines and General Plan. The proposed designs of PHS01, PHS02, and PHS03 are consistent with the Piedmont General Plan in that the scale and mass of the communication equipment are appropriate for the streetlights and streetscape in the Zone A and B area, the facilities are concealed and camouflaged to blend with their surroundings; and the projects satisfy Piedmont General Plan Policy 35.8, “Telecommunication Services: Collaborate with telecommunication service providers to foster access to emerging communication and information technology for Piedmont residents” and Policy 37.4, “Siting and Design of Infrastructure: Ensure that the siting and design of infrastructure facilities, including water tanks and telecommunication towers mitigate the potential for adverse visual impacts and are consistent with policies in the Design and Preservation Element.” In addition, the proposed designs are consistent with relevant Piedmont Design Guidelines as follows:
- The facilities meet Design Guideline 3.02, “Relation to the Public Realm,” in that applications propose relatively small radio enclosures and antennas that minimize their visibility. In addition, they are attached to the streetlights in a manner consistent with City streetlight design and, in the case of the antenna, are meant to be seen as an extension of the streetlight itself; and
 - The facilities meet Design Guideline 3.03.01.1, “Significant Views,” in that the applications propose radios in enclosures and cables inside the streetlight pole in a manner that avoids an adverse impact on views. Antennas are proposed atop streetlights at sites PHS01, PHS02, and PHS03 in order to mitigate the overall bulk of the equipment. ; and
 - The facilities meet Design Guideline 3.03.02.1, “Visual and Acoustical Privacy, Access to Direct and Indirect Light,” in that the proposed equipment is relatively small in size and is closely attached to streetlights. The application proposes no equipment that produces mechanically-generated noise. Therefore, there will be no adverse impact on visual and acoustical privacy or access to direct and indirect light; and
 - The facilities meet Design Guideline 4.04.01.1, “Mechanical Equipment, Noise,” in that the proposed facilities do not include noise-generating equipment; and
 - The facilities meet Design Guideline 4.04.02.1, “Mechanical Equipment, Aesthetic Design,” in that the proposed facilities include concealment and screening devices: a radome to shroud the antenna, equipment cabinet concealed between street signs, equipment cabinets concealed inside trash receptacles, and cables concealed inside the streetlight poles; and
 - The facilities meet Design Guideline 4.04.02.4, “Mechanical Equipment, Aesthetic Design,” in that the cabling for the proposed WCF equipment will be discretely placed inside the streetlight poles so that the run is as concealed as possible; and
 - The facilities meet Design Guideline 4.04.02.5, “Mechanical Equipment, Aesthetic Design,” in that as conditioned, and where feasible, the equipment attached to the streetlights will be painted to closely match the color of the pole; and

- e. Future Collocation. Although future collocations at these sites may not be feasible, the proposed facilities have been located and designed for future collocation to the greatest extent reasonable feasible, and the Applicant has submitted a statement of its willingness to allow other wireless service providers to collocate on the proposed facilities, recognizing that such collocation may be subject to review by the City.

NOW, THEREFORE, BE IT RESOLVED that the City Council resolves that:

SECTION 1. The above recitals are correct and are material to this Resolution and are incorporated into this Resolution as findings of the City Council.

SECTION 2. Based on the findings and facts set forth heretofore, the staff report and evidence presented at the public hearings, the City Council approves the applications for wireless communication facilities permits for proposed facilities sited at or near 340-370 Highland Avenue (site PHS01), 150 Highland Avenue (site PHS02) and 799 Magnolia Avenue (site PHS03) in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Conditions in construction documents.** These conditions of approval shall be included as a sheet in the plan set submitted for any City building permit, excavation permit or encroachment permit application (“City-required construction permits”) for the work approved herein.
2. **Design, heights of facilities and diameter of radome shroud.** The antennas shall have a maximum height of 24 inches, and shall have a radome no wider than 10 inches in diameter. The maximum height of site PHS01 shall be 33 feet 7 inches, as measured to lowest adjacent grade. The maximum height, measured from lowest adjacent grade, of sites PHS02 shall be 33 feet 10 inches. The maximum height of PHS03 shall be 33 feet 3 inches tall, as measured to lowest adjacent grade. Cables shall be concealed inside streetlight poles and not visible on the exterior of the streetlight. Any proposed hand-hole vaults shall have slip resistant lids to the satisfaction of the City Engineer. No stand-off brackets shall be used for pole-mounted equipment cabinets. Banner mounting hardware shall be replaced on all streetlights. Shrouds, enclosures, and equipment shall be painted a dark, non-reflective color to match the structure it is mounted on to the satisfaction of the City Engineer.
3. **Sidewalk widths.** No wireless communication facility or streetlight pole shall obstruct the sidewalk or reduce the existing width of the sidewalk adjacent to the streetlight pole. If exceptions to the required setback to the front of curb are necessary to maintain existing sidewalk width, then the Applicant shall locate the streetlight pole closer to the front of curb, but no closer than 6 inches. Crown Castle is not authorized by this approval to reconfigure City sidewalks.
4. **Patch and repair.** The Applicant shall patch and repair City sidewalks and other improvements in the public right-of-way affected by Applicant’s project construction, such as curbs or walls, to match the color, texture, materials, and scoring pattern of the existing improvements, including custom integral concrete color in accordance with City of Piedmont standard plans and as directed by the Director of Public Works. Directional bore shall be utilized over trenching at the

- reasonable discretion of the Public Works Director. Applicant shall replace banner mounting hardware.
5. **Contractor's general liability insurance.** To ensure that the contractor doing work in the City will be responsible for damages caused by the work to City property or to neighboring property, prior to issuance of any required City permits for construction the Applicant shall require all contractors performing work on the Project to maintain a General Commercial Liability policy covering bodily injury, including death, and property damage that may arise out of or result from the contractor's operations. Such insurance shall be written for not less than \$1,000,000 per occurrence. The insurance shall include an endorsement requiring 10 days prior notice to the City if the insurance is to be cancelled or changed, and the Applicant shall ensure that the contractor immediately arranges for substitute insurance coverage. If the contractor's insurance carrier states in writing that it is unable to provide the required endorsement, then the Applicant shall be responsible for providing the City with the required notice if the insurance is to be cancelled or changed. If the Applicant self-performs the installation of the facilities, the Applicant shall maintain property insurance and coverage for contractors, which is substantially equivalent to the contractor's requirement of this section.
 6. **Defense of legal challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including without limitation to CEQA issues, the Applicant shall defend, indemnify, and hold harmless the City against any and all liability, fees and costs arising out of the defense, including without limitation the costs of City's own selected legal counsel(s). If such an action is filed, the Applicant and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers, employees, consultants, and volunteers.
 7. **Future modifications.** The Applicant shall give the City of Piedmont Planning & Building Department 30-days advance notice before the Applicant or Applicant's agent changes, adds, reconfigures, or removes, equipment. Future modifications of the approved installations that extend beyond the approved project site or that remove or subvert the concealment designs of the approved antennas and equipment, including the pole-mounted enclosures containing the radio units, the perimeter of the radome shrouds concealing the antenna(s), the light-weight adhesive wrap enclosing the antenna at PHS07, shall constitute a new application and shall require new application forms and fees. Applications that extend beyond the approved project site, or that remove or subvert the concealment design of the approved antennas and equipment, or any other request to modify the installation that does not qualify for treatment as an eligible facilities request under Section 6409(a) shall not be eligible for Planning Director review under 47 U.S.C. §1455(a) processing.
 8. **Construction Management Plan.** Prior to issuance of City required construction permits for the approved projects, the Applicant or contractor shall develop a comprehensive Construction Management Plan and file it with the Public Works Director. The Construction Management Plan shall address noise, vibrations, traffic control, access to neighboring properties, parking, debris removal, dust control,

- sanitary facilities, site safety security, and other potential construction impacts, as well as other details involving the means and methods of completing the projects, including the construction route and the days and hours permitted for excavation. Outside construction involving high levels of noise, including excavation, hammering, and pile driving, shall be limited to Monday through Saturday, from 8:30 a.m. to 4:30 p.m. Construction personnel shall be instructed not to park in front of driveways to private residences. The plan shall specify the sequencing of pruning, demolition, and construction activities. The City Public Works Director may require modifications and amendments to the Construction Management Plan throughout the course of the Project and until the Final Inspection is approved by the City.
- a. **Construction Site Control of Stormwater.** The California Regional Water Quality Control Board requires all projects that disturb the site to comply with Provision C.6 of the San Francisco Bay Regional Stormwater NPDES Permit in order to prevent construction site discharges of pollutants and other regulated materials during construction. Prior to the issuance of a building permit, the Applicant shall submit a construction stormwater management plan prepared by a licensed Civil Engineer to achieve timely and effective compliance with Provision C.6. Permit Provision C.6.c.ii provides sources for site specific, and seasonally- and phase-appropriate, effective Best Management Practices (BMPs) that must be incorporated into the stormwater management plan. Copies of the Municipal Regional Stormwater Permit are available from the Piedmont Public Works Department and on-line at cleanwaterprogram.org.
 - b. **Continual street access for emergency vehicles.** The Construction Management Plan shall specifically address methods of providing continual street access for emergency vehicles at all times by means of a traffic control permit application submitted by the Applicant and reviewed and approved by the Public Works Director.
 - c. **Haul routes.** All equipment and vehicle haul routes shall be provided to the City for review and approval. To the extent possible, haul routes shall attempt to minimize or eliminate use of minor residential roadways. Street and pavement conditions shall be observed and documented by the City on all haul routes prior to commencement of construction. Damage or observable and unusual wear and tear to haul routes on city roadways as specified by the City shall be repaired at Applicant's expense after Final Inspection.
9. **Maintenance of facilities.** Applicant shall obtain City of Piedmont permits for maintenance work in the public right-of-way. Except for emergency maintenance needs, the maintenance of the wireless communication facilities shall not occur from 7:30 a.m. to 9:30 a.m. or from 2:30 p.m. to 4:00 p.m. during regular school days of any public schools located in any direction within one-quarter mile of the wireless facility. The prohibited hours for regular maintenance may be adjusted by the Director of Public Works upon at least 30 days written notice to the Applicant to accommodate changes in the hours of instruction at the nearby public schools.
10. **Project Security.** Applicant shall provide a performance bond or other form of security, in a form acceptable to the Director of Public Works, and in an amount sufficient to cover the cost of removal and restoration of the public right-of-way.

Applicant shall provide an estimated cost of removal and restoration in the form of a quote from a bonded and licensed contractor.

11. **Insurance.** The Applicant shall provide adequate and appropriate insurance covering the Applicant's construction, excavation, and related work involving the project, in a policy form approved by the Director of Public Works and City Attorney, and specifically covering bodily injury, property damage, products and completed operations, in an amount not less than \$1,000,000.00 per occurrence and an aggregate policy limit not less than \$5,000,000.00, and not written on a claims-based policy form.
12. **Height verification.** Prior to completion of the project and final inspection by the City, the Applicant shall provide the Building Official written verification by a licensed land surveyor stating that the height of the new wireless communication equipment mounted on the streetlights is less than or equal to the height measured from grade adjacent to the streetlights as shown on the approved plans, subject to the conditions of approval. If a height exceeds the approved height, then the Applicant or contractor shall immediately reduce the height of the equipment until it is in compliance with the approved plan.
13. **Concealment design and project site.** As provided in the proposed plans, each antenna radome shroud or light-weight adhesive wrap and equipment enclosure provides concealment for each installation. The outer edge of the equipment as shown in elevation and in 'plan view' are identified as the "project site." Future modifications shall incorporate the highest industry standards for compact designs that minimize visibility and shall not defeat the concealment strategies outlined in this condition of approval.
14. **Term.** The approval of the wireless communication facilities permit is valid for a term of 10 years. At the end of the term, the Applicant shall remove its equipment.
15. **Cables and cabling.** The cables to the antennas atop the streetlights shall be enclosed inside the streetlight poles. No cabling shall be visible on the exterior of the streetlight on plans filed for City-required construction permits or evident on each installation after completion of construction.
16. **City monitoring of City street trees.** The Applicant and its contractors, partners, or agents are prohibited from performing any tree pruning related to construction, pre-construction clearance, or on-going maintenance and operation after construction. Tree trimming is restricted and may only occur with the approval of the Director of Public Works. The pruning of trees in the public right-of-way or on City-owned property is the exclusive responsibility of the Piedmont Department of Public Works, or its designee.
17. **Operation and Maintenance Standards.** The facility shall comply with the provisions of City Code Section 17.46.070.B as follows:
 - a. Contact and site information. The owner or operator of a wireless communication facility must submit basic contact and site information to the city, and notify the city within 30 days of any changes to this information, including the transfer of ownership. The contact and site information must include: (i) the name, address, email address, telephone number, and legal

status of the owner of the facility, including official identification number and FCC certification, and, if different from the owner, the identity and legal status of the person or entity responsible for operating and maintaining the facility; and (ii) the name, address, email address, and telephone number of a local contact person for emergencies.

- b. Signage. The owner and/or operator must post an identification sign at each facility, including owner/operator emergency telephone numbers. The design, materials, colors, and location of the identification signs shall be subject to review and approval by the Director. If at any time a new owner or operator provider takes over operation of the facility, the new operator shall notify the Director of the change in operation within 30 days and the required and approved signs shall be updated within 30 days to reflect the name and phone number of the new wireless service provider. The colors, materials and design of the updated signs shall match those of the required and approved signs. No sign shall be greater than two square feet in size unless required by law. The facility shall not bear signs other than certification, warning, emergency contacts, or other signage required by law or expressly required by the City.
 - c. Non-Interference. Each wireless communication facility must at all times comply with laws, codes, and regulations, and avoid interfering with any city property, facilities, operations, utilities, or equipment.
 - d. Facility maintenance. Each wireless communication facility must at all times be maintained in good repair, free from trash, debris, litter, graffiti, and other forms of vandalism. The operator must repair any damage as soon as reasonably possible, but no later than the earlier of 10 days from the time of itself becoming aware of the non-compliance or the receipt of written notification from the City. The Applicant shall provide a post-construction and an annual report with the following information: equipment model and manufacturer, frequency bandwidths, effective radiated power, and emission levels measured to nearest building(s) with a comparison to FCC limits.
 - e. Noise. A wireless communication facility must be operated to comply with Chapter 5 of the City Code. Should the noise emanating from the facility be found to exceed the limits provided in City Code Chapter 5, operation of the facility shall cease immediately and shall not resume until a noise verification study prepared by a licensed acoustical engineer shows the facility's compliance with City Code Chapter 5 noise limits. The acoustical engineer shall be selected by the City and the cost of the engineer's services shall be paid by the Applicant or wireless communications service provider.
 - f. Removal. All wireless communication facility equipment must be removed within 30 days of the discontinuation of the use, and the site and other property restored to its original, preconstruction condition. In addition, the service provider must provide the City with a notice of intent to vacate a site a minimum of 30 days before the vacation.
18. **Modifications to public facilities**. Should the City require modification to public right-of-way or other public facilities in the area of this facility that results in a conflict with the present location of the approved wireless communications facility,

the wireless communication facility equipment shall, if necessary as determined by the Director of Public Works, be removed or relocated at the Applicant's expense subject to review and approval of the Director of Public Works.

19. **Expiration of Wireless Communication Facilities Permit.** An encroachment permit, excavation permit or building permit must be issued within one year of the approval of the City Council, and construction completed within two years of the approval of the City Council, or this approval shall be null and void.
20. **Construction Completion Schedule.** Work on the Project, once begun, shall be promptly executed with continuous good faith and reasonable progress. Since timely completion of this Project is of the essence, the Applicant shall submit for approval a Construction Completion Schedule, which will specify, in detail, the duration and percentage complete of each phase.
 - a. The Construction Completion Schedule with associated construction values for each benchmark shall set forth completion dates for the following benchmarks as needed: i) Completion of Excavation; ii) Completion of Electrical; iii) Completion of Mechanical; iv) Completion of Facilities; v) Completion of Hardscaping and Landscaping; and any further construction benchmarks and conditions as may be determined by the Director of Public Works.
 - b. Before the Project begins, the Director of Public Works shall make a determination as to the reasonableness of the proposed completion dates applicable to the Project, and that determination shall constitute the "Approved Schedule" and be binding on the Applicant.

SECTION 4. All portions of this resolution are severable. If an individual component of this Resolution is adjudged by a court to be invalid and unenforceable, then the remaining portions will continue in effect.

[END OF DOCUMENT]

RESOLUTION No. _____

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF PIEDMONT (“CITY”), STATE OF CALIFORNIA,
APPROVING, SUBJECT TO CONDITIONS, WIRELESS COMMUNICATION
FACILITIES PERMITS SUBMITTED BY CROWN CASTLE NG WEST LLC
THROUGH SURESITE CONSULTING GROUP FOR SITES LOCATED AT OR
NEAR 740 MAGNOLIA AVENUE (PHS04), 303 HILLSIDE AVENUE (PHS05),
428 EL CERRITO AVENUE (PHS06), 1166 WINSOR AVENUE (PHS08),
201 HILLSIDE AVENUE (PHS10), 410 HILLSIDE COURT (PHS12),
96 FAIRVIEW AVENUE (PHS14), 100 PALM DRIVE (PHS16),
185 WILDWOOD AVENUE (PHS17), AND 523 BOULEVARD WAY (PHS18)
(PART OF APPLICATION PROJECT #19-0188)**

WHEREAS, Crown Castle NG West LLC through SureSite Consulting Group LLC (“Applicant”) is requesting permits from the City of Piedmont (“City”) for wireless communication facilities (“WCF”) installations within the public right-of-way at or near 740 Magnolia Avenue, 303 Hillside Avenue, 428 El Cerrito Avenue, 1166 Winsor Avenue, 201 Hillside Avenue, 410 Hillside Court, 96 Fairview Avenue, 100 Palm Drive, 185 Wildwood Avenue, and 523 Boulevard Way, sites identified in the application materials as PHS04, PHS05, PHS06, PHS08, PHS10, PHS12, PHS14, PHS16, PHS17, and PHS18, respectively. An additional site identified as PHS09 was filed separately, and an additional site PHS19 was withdrawn from the project applications on October 3, 2019. The proposed WCF installation designs include a single canister antenna atop utility poles, cables within covered risers on the sides of the utility poles, and equipment in enclosures mounted to the side of the utility poles a minimum of 7 feet above adjacent grade, the construction of which requires a WCF permit; and

WHEREAS, pursuant to Piedmont City Code sections 17.46.080 A and B, the Planning Commission reviewed the application for a WCF permit for site PHS04 (740 Magnolia Avenue), PHS05 (303 Hillside Avenue), PHS06 (428 El Cerrito Avenue), and PHS08 (1166 Winsor Avenue/1159 Winsor Avenue), at a duly noticed public hearing on June 12, 2017, and the Planning Commission reviewed the applications for WCF permits for sites PHS10 (201 Hillside Avenue), PHS12 (410 Hillside Court), PHS14 (96 Fairview Avenue), PHS16 (100 Palm Drive), PHS17 (185 Wildwood Avenue), and PHS18 (523 Boulevard Way), at a duly noticed public hearing on October 29, 2019, making recommendations to the City Council, which is the decision-making body because these facilities are proposed in Zones A and B and located within the City-owned public right-of-way; and

WHEREAS, the equipment proposed to be installed, including the machinery in the pole-mounted enclosure, is considered to be an exterior installation and thereby subject to Building Code requirements related to mechanically-generated noise sources provided in City Code Section 5.4.11 and the Applicant’s responses to the WCF permit application states that the WCF permit design does not include noise-generating equipment; and

WHEREAS, the Applicant filed requests for exceptions to the WCF permit development standards pursuant to section 17.46.080.D.2 of the City Code, which provides the basis for the approval of exceptions to the City's height limit for sites PHS05, PHS06, PHS08, PHS10, PHS12, PHS14, PHS17, and PHS18 and exceptions to the City's minimum setback to the front of curb due to conflicts with federal and state law; and

WHEREAS, based upon the evidence and after reviewing the applications, plans and any and all testimony and documentation submitted in connection with such application, the City Council finds that the project is categorically exempt from the California Environmental Quality Act (CEQA), pursuant to Section 15303 of the CEQA Guidelines, Construction or Conversion of Small Structures, subsection (d) (water main, sewage, electrical, gas, and other utility extensions, including street improvements, of reasonable length to serve such construction) because the proposed wireless communication facilities are small utility structures located in a developed setting. No exceptions to the above exemption has been identified that would make the proposals ineligible for use of a categorical exemption because the projects' settings are not in a location that is particularly sensitive, the surrounding area is developed and urbanized, and existing utilities are located at or near each of the proposed installations, there are no unusual circumstances relating to the proposed installations, and no scenic highways, hazardous waste sites, or historical resources could be affected by the project; and

WHEREAS, based upon the evidence and after reviewing the application, plans and any and all testimony and documentation submitted in connection with such application, the City Council finds that the project, as conditioned, conforms to the criteria and standards of Piedmont City Code section 17.46.080.D.1, as follows;

- a. The City Code requires the Applicant to demonstrate the facilities are necessary to close a significant gap in the operator's service coverage or capacity. In accordance with standards established by FCC Order 18-133, the Applicant can be deemed to meet this requirement by instead demonstrating that a denial of the proposed facilities will materially inhibit the Applicant's ability to either provide service in a new geographic area, or materially inhibit the introduction of new services or improvement of existing services, and the Applicant has submitted evidence that denial of the project will materially affect its ability to provide services, introduce new services, and improve existing services; and
- b. The Applicant has evaluated and met the priority for location standards of Piedmont City Code section 17.46.040.A.1 in that the proposed sites are in Zones A and B and in the public right-of-way;
- c. The proposals satisfy each of the applicable development standards in Piedmont City Code section 17.46.070 as follows:
 - A. Development Standards:
 1. Collocation. The new wireless communication facilities are proposed on existing utility pole locations and the wireless communication facilities are designed to accommodate future collocation(s) of other wireless communication facilities unless the city determines that collocation would be infeasible because of physical or design issues specific to the site; and

2. Height limits; Screening. The antennas will be 36 inches tall. The facility at PHS17 will be 39 feet 2.5 inches tall. The facilities at PHS04 and PHS08 are proposed at a height of 43 feet 8.5 inches tall. Sites PHS05, PHS12, PHS16, and PHS18 are proposed at a height of 52 feet 8.5 inches. The facilities at sites PHS06, PHS10, and PHS14 will 57 feet 2.5 inches tall. The Applicant requests exceptions to the 35-foot height limit (Code section 17.46.070.A.2) pursuant to Code Section 17.46.080.D.2 for all of the sites except PHS04, which is located in Zone B, and has submitted information stating that exceptions are warranted on the basis of CPUC safety regulations. As conditioned, the antennas for all of the sites will be concealed in a radome shroud. Radio equipment will be located in enclosures mounted to the sides of the utility poles. Cables will be concealed within 2-inch-wide risers mounted to the side of the utility poles; and
3. Visual impact. As conditioned, the proposed wireless communication facilities are designed to minimize visual impacts because: the cables are proposed to be within two 2-inch-wide risers attached to the sides of the poles; the pole-mounted enclosures provide the concealment for the communication equipment; the antennas shall be no taller than 36 inches; a 14-inch-diameter radome shroud encases the antennas; and the facilities will have a non-reflective finish and be painted or otherwise treated to minimize visibility and glare; and

As conditioned, the facilities will not bear signs, other than required FCC certifications, warnings, emergency contacts, or other signage required by law or expressly required by the city; and
4. Public health, peace and safety. As conditioned, the wireless communication facilities will not adversely affect the public health, peace and safety. The Applicant submitted on July 9, 2019 a RF Emissions Compliance Report prepared by Waterford Consultants, LLC, consulting engineers stating that the project as proposed will be in full compliance with the Federal Communications Commission regulations and guidelines limiting human exposure to radio frequency emissions; and
5. Public right-of-way. The proposed wireless communication facilities are located in the public right-of-way. The designs and location, and the placement of equipment do not cause: (i) physical or visual obstruction, or safety hazard, to pedestrians, cyclists, or motorists; or (ii) inconvenience to the public's use of the right-of-way. The equipment is located at least 7 feet vertically from the adjacent grade, has adequate vertical and horizontal clearance, and does not otherwise interfere with the public's use of the right-of-way. As conditioned, the cover of any proposed utility hand hole vault will have a slip resistant surface; and
6. Compliance with laws. The proposed wireless communication facility complies with federal and state statutes governing local agencies' land use authority regarding the siting of wireless communication facilities, including without limitation 47 USC §253, 332(c)(7), 1455(a); California Government Code §§ 50030, 65850.6 and 65964; and California Public Utilities Code sections 7901 and 7901.1. Each reference to federal and state statutes is to the statute as it may be as amended from time-to-time and to the extent the statute remains in effect; and

- A. Public Works Standard Details. As conditioned, the proposed wireless communication facilities will comply with the Public Works Standard Details for construction within the public right-of-way and exceptions to specific Public Works Standard Details have been reviewed and approved by the Public Works Director and City Engineer and incorporated into conceptual plans for the facilities which was reviewed by the City Council on December 17, 2018; and
- B. Operation and Maintenance Standards. As conditioned, the proposed wireless communication facilities will comply with the operation and maintenance standards provided in Piedmont City Code section 17.46.070.B; and
- C. Term of Permit. As conditioned, the approved permits for wireless communication facilities will be valid for an initial period of ten years commencing on the approval date of this Resolution subject to renewals pursuant to local, state and federal law; and
- d. Design Guidelines and General Plan. The proposed designs of PHS04, PHS05, PHS06, PHS08, PHS10, PHS12, PHS14, PHS16, PHS17, and PHS18 are consistent with the Piedmont General Plan in that the scale and mass of the communication equipment are appropriate for the utility poles and streetscape in the Zone A and B areas, the facilities are concealed and camouflaged to blend with their surroundings; and the projects satisfy Piedmont General Plan Policy 35.8, "Telecommunication Services: Collaborate with telecommunication service providers to foster access to emerging communication and information technology for Piedmont residents" and Policy 37.4, "Siting and Design of Infrastructure: Ensure that the siting and design of infrastructure facilities, including water tanks and telecommunication towers mitigate the potential for adverse visual impacts and are consistent with policies in the Design and Preservation Element." In addition, the proposed designs are consistent with relevant Piedmont Design Guidelines as follows:
- The facilities meet Design Guideline 3.02, "Relation to the Public Realm," in that applications propose relatively small radio enclosures and antennas that minimize their visibility. In addition, they are attached to the utility poles in a manner consistent with other utility equipment on the poles and, in the case of the antenna, are meant to be seen as an extension of the pole itself; and
 - The facilities meet Design Guideline 3.03.01.1, "Significant Views," in that the applications propose radios in enclosures and cables in risers that hug the pole in a manner that avoids an adverse impact on views. Pole top antennas are proposed at sites PHS04, PHS05, PHS06, PHS08, PHS10, PHS12, PHS14, PHS16, PHS17, and PHS18 instead of antennas attached to the side of the utility pole in order to mitigate the overall bulk of the equipment. At sites PHS05, PHS06, PHS08, PHS10, PHS12, PHS14, PHS16, PHS17, and PHS18 where the height of the utility pole with the antenna is proposed to increase in order to meet state and/or federal regulations, the size of the equipment has been kept as small as possible to minimize impacts on views; and

- The facilities meet Design Guideline 3.03.02.1, “Visual and Acoustical Privacy, Access to Direct and Indirect Light,” in that the proposed equipment is relatively small in size and is closely attached to utility poles. The application proposes no equipment that produces mechanically-generated noise. Therefore, there will be no adverse impact on visual and acoustical privacy or access to direct and indirect light; and
 - The facilities meet Design Guideline 4.04.01.1, “Mechanical Equipment, Noise,” in that the proposed facilities do not include noise-generating equipment; and
 - The facilities meet Design Guideline 4.04.02.1, “Mechanical Equipment, Aesthetic Design,” in that the proposed facilities include concealment and screening devices: a radome to shroud the antenna, two pole-mounted enclosures for the radios, and two 2-inch-wide risers to enclose the cables; and
 - The facilities meet Design Guideline 4.04.02.4, “Mechanical Equipment, Aesthetic Design,” in that the cabling for the proposed WCF equipment will be discretely placed within 2-inch-wide risers attached to the utility pole so that the run is as concealed as possible; and
 - The facilities meet Design Guideline 4.04.02.5, “Mechanical Equipment, Aesthetic Design,” in that as conditioned, and where feasible, the equipment attached to the utility pole will be painted to closely match the color of the pole; and
- e. Future Collocation. Although future collocations at these sites may not be feasible, the proposed facilities have been located and designed for future collocation to the greatest extent reasonable feasible, and the Applicant has submitted a statement of its willingness to allow other wireless service providers to collocate on the proposed facilities, recognizing that such collocation may be subject to review by the City.

NOW, THEREFORE, BE IT RESOLVED that the City Council resolves that:

SECTION 1. The above recitals are correct and are material to this Resolution and are incorporated into this Resolution as findings of the City Council.

SECTION 2. Based on the findings and facts set forth heretofore, the staff report and evidence presented at the public hearing, the City Council approves the applications for wireless communication facilities permits for proposed facilities sited at or near 740 Magnolia Avenue, 303 Hillside Avenue, 428 El Cerrito Avenue, 1166 Winsor Avenue, 201 Hillside Avenue, 410 Hillside Court, 96 Fairview Avenue, 100 Palm Drive, 185 Wildwood Avenue, and 523 Boulevard Way, sites identified in the application materials as PHS04, PHS05, PHS06, PHS08, PHS10, PHS12, PHS14, PHS16, PHS17, and PHS18, respectively, in accordance with the plans and specifications on file with the City, subject to the following conditions:

1. **Conditions in construction documents.** These conditions of approval shall be included as a sheet in the plan set submitted for any City building permit, excavation permit or encroachment permit application (“City-required construction permits”) for the work approved herein.

2. **Design, heights of facilities and diameter of radome shroud.** The antennas shall have a maximum height of 36 inches at sites PHS04, PHS05, PHS06, PHS08, PHS10, PHS12, PHS14, PHS16, PHS17, and PHS18. The radome shroud on the antenna shall be shown on plans submitted for construction permits to have a maximum 14-inch diameter dimension. The maximum height of site PHS17 shall be 39 feet 2.5 inches, the maximum height of sites PHS04 and PHS08 shall be 43 feet 8.5 inches, the maximum height of sites PHS05, PHS12, PHS16, and PHS18 shall be 52 feet 8.5 inches, and the maximum height of sites PHS06, PHS10, and PHS14 shall be 57 feet 2.5 inches, as measured to lowest adjacent grade. Cables shall be concealed in two 2-inch-wide risers mounted directly to the pole. The pole-mounted radio enclosures used at these facilities shall have maximum dimensions of 24 inches by 6.5 inches by 9 inches. Any proposed hand-hole vaults shall have slip resistant lids to the satisfaction of the City Engineer. Stand-off brackets shall mount equipment as close as possible to the side of the utility pole, pursuant to General Order 95 or amendments. Shrouds, enclosures, risers, and equipment shall be painted a dark, non-reflective color to match the structure on which the equipment is mounted to the satisfaction of the City Engineer.
3. **Survey.** Prior to issuance of permits for construction, the Applicant shall provide a survey prepared by a licensed land surveyor of the property lines at 410 Hillside Court adjacent to the utility pole at site PHS12 . All wireless communication facility equipment must be in the public right-of-way.
4. **Sidewalk widths.** No wireless communication facility or utility pole shall obstruct the sidewalk or reduce the existing width of the sidewalk adjacent to the utility pole. No wireless communication facility or utility pole shall restrict the existing separation between a utility pole and a fire hydrant. If exceptions to the required setback to the front of curb are necessary to maintain existing sidewalk width, then the Applicant shall locate the utility pole closer to the front of curb, but no closer than 6 inches. Crown Castle is not authorized by this approval to reconfigure City sidewalks.
5. **Patch and repair.** The Applicant shall patch and repair City sidewalks and other improvements in the public right-of-way affected by Applicant's project construction, such as curbs or walls, to match the color, texture, materials, and scoring pattern of the existing improvements, including custom integral concrete color in accordance with City of Piedmont standard plans and as directed by the Director of Public Works. Directional bore shall be utilized over trenching at the reasonable discretion of the Public Works Director.
6. **Contractor's general liability insurance.** To ensure that the contractor doing work in the City will be responsible for damages caused by the work to City property or to neighboring property, prior to issuance of any required City permits for construction the Applicant shall require all contractors performing work on the Project to maintain a General Commercial Liability policy covering bodily injury, including death, and property damage that may arise out of or result from the contractor's operations. Such insurance shall be written for not less than \$1,000,000 per occurrence. The insurance shall include an endorsement requiring 10 days prior notice to the City if the insurance is to be cancelled or changed, and the Applicant shall ensure that the contractor immediately arranges for substitute insurance

- coverage. If the contractor's insurance carrier states in writing that it is unable to provide the required endorsement, then the Applicant shall be responsible for providing the City with the required notice if the insurance is to be cancelled or changed. If the Applicant self-performs the installation of the facilities, the Applicant shall maintain property insurance and coverage for contractors, which is substantially equivalent to the contractor's requirement of this section.
7. **Defense of legal challenges.** If there is a third party administrative, legal or equitable action challenging the project approvals, including without limitation to CEQA issues, the Applicant shall defend, indemnify, and hold harmless the City against any and all liability, fees and costs arising out of the defense, including without limitation the costs of City's own selected legal counsel(s). If such an action is filed, the Applicant and City shall then enter into an agreement regarding selection of counsel and other provisions related to the defense. For this purpose, "City" includes the City and its elected and appointed officials, agents, officers, employees, consultants, and volunteers.
 8. **Future modifications.** The Applicant shall give the City of Piedmont Planning & Building Department 30-days advance notice before the Applicant or Applicant's agent changes, adds, reconfigures, or removes, equipment. Future modifications of the approved installations that extend beyond the approved project site or that remove or subvert the concealment designs of the approved antennas and equipment, including the pole-mounted enclosures containing the radio units, the perimeter of the radome shrouds concealing the antenna(s), the light-weight adhesive wrap enclosing the antenna at PHS07, shall constitute a new application and shall require new application forms and fees. Applications that extend beyond the approved project site, or that remove or subvert the concealment design of the approved antennas and equipment, or any other request to modify the installation that does not qualify for treatment as an eligible facilities request under Section 6409(a) shall not be eligible for Planning Director review under 47 U.S.C. §1455(a) processing.
 9. **Construction Management Plan.** Prior to issuance of City required construction permits for the approved projects, the Applicant or contractor shall develop a comprehensive Construction Management Plan and file it with the Public Works Director. The Construction Management Plan shall address noise, vibrations, traffic control, access to neighboring properties, parking, debris removal, dust control, sanitary facilities, site safety security, and other potential construction impacts, as well as other details involving the means and methods of completing the projects, including the construction route and the days and hours permitted for excavation. Outside construction involving high levels of noise, including excavation, hammering, and pile driving, shall be limited to Monday through Saturday, from 8:30 a.m. to 4:30 p.m. Construction personnel shall be instructed not to park in front of driveways to private residences. The plan shall specify the sequencing of pruning, demolition, and construction activities. The City Public Works Director may require modifications and amendments to the Construction Management Plan throughout the course of the Project and until the Final Inspection is approved by the City.

- a. **Construction Site Control of Stormwater.** The California Regional Water Quality Control Board requires all projects that disturb the site to comply with Provision C.6 of the San Francisco Bay Regional Stormwater NPDES Permit in order to prevent construction site discharges of pollutants and other regulated materials during construction. Prior to the issuance of a building permit, the Applicant shall submit a construction stormwater management plan prepared by a licensed Civil Engineer to achieve timely and effective compliance with Provision C.6. Permit Provision C.6.c.ii provides sources for site specific, and seasonally- and phase-appropriate, effective Best Management Practices (BMPs) that must be incorporated into the stormwater management plan. Copies of the Municipal Regional Stormwater Permit are available from the Piedmont Public Works Department and on-line at cleanwaterprogram.org.
 - b. **Continual street access for emergency vehicles.** The Construction Management Plan shall specifically address methods of providing continual street access for emergency vehicles at all times by means of a traffic control permit application submitted by the Applicant and reviewed and approved by the Public Works Director.
 - c. **Haul routes.** All equipment and vehicle haul routes shall be provided to the City for review and approval. To the extent possible, haul routes shall attempt to minimize or eliminate use of minor residential roadways. Street and pavement conditions shall be observed and documented by the City on all haul routes prior to commencement of construction. Damage or observable and unusual wear and tear to haul routes on city roadways as specified by the City shall be repaired at Applicant's expense after Final Inspection.
10. **Maintenance of facilities.** Applicant shall obtain City of Piedmont permits for maintenance work in the public right-of-way. Except for emergency maintenance needs, the maintenance of the wireless communication facilities shall not occur from 7:30 a.m. to 9:30 a.m. or from 2:30 p.m. to 4:00 p.m. during regular school days of any public schools located in any direction within one-quarter mile of the wireless facility. The prohibited hours for regular maintenance may be adjusted by the Director of Public Works upon at least 30 days written notice to the Applicant to accommodate changes in the hours of instruction at the nearby public schools.
11. **Project Security.** Applicant shall provide a performance bond or other form of security, in a form acceptable to the Director of Public Works, and in an amount sufficient to cover the cost of removal and restoration of the public right-of-way. Applicant shall provide an estimated cost of removal and restoration in the form of a quote from a bonded and licensed contractor.
12. **Insurance.** The Applicant shall provide adequate and appropriate insurance covering the Applicant's construction, excavation, and related work involving the project, in a policy form approved by the Director of Public Works and City Attorney, and specifically covering bodily injury, property damage, products and completed operations, in an amount not less than \$1,000,000.00 per occurrence and an aggregate policy limit not less than \$5,000,000.00, and not written on a claims-based policy form.

13. **Height verification.** Prior to completion of the project and final inspection by the City, the Applicant shall provide the Building Official written verification by a licensed land surveyor stating that the height of the new wireless communication equipment mounted on the utility poles is less than or equal to the height measured from grade adjacent to the utility pole as shown on the approved plans, subject to the conditions of approval. If a height exceeds the approved height, then the Applicant or contractor shall immediately reduce the height of the equipment until it is in compliance with the approved plan.
14. **Concealment design and project site.** As provided in the proposed plans, each antenna radome shroud or light-weight adhesive wrap and equipment enclosure provides concealment for each installation. The outer edge of the equipment as shown in elevation and in 'plan view' are identified as the "project site." Future modifications shall incorporate the highest industry standards for compact designs that minimize visibility and shall not defeat the concealment strategies outlined in this condition of approval.
15. **Term.** The approval of the wireless communication facilities permit is valid for a term of 10 years. At the end of the term, the Applicant shall remove its equipment.
16. **Cables and cabling.** To the best extent possible, the cables to the antennas atop the utility poles or strand mounted shall be enclosed within the risers, sleeves or other shrouds. No more than 5 inches of exposed cables, cabling or wires shall be evident on plans filed for City-required construction permits or evident on each of the wireless communication facility installation after completion of construction.
17. **City monitoring of City street trees.** The Applicant and its contractors, partners, or agents are prohibited from performing any tree pruning related to construction, pre-construction clearance, or on-going maintenance and operation after construction. Tree trimming is restricted and may only occur with the approval of the Director of Public Works. The pruning of trees in the public right-of-way or on City-owned property is the exclusive responsibility of the Piedmont Department of Public Works, or its designee.
18. **Arborist's Report and Certified Tree Preservation Plan.** Before the issuance of a building permit, the Property Owner shall submit an Arborist's Report and Certified Tree Preservation Plan that includes tree preservation measures to preserve trees within 25 feet of construction. The tree preservation measures shall be on the appropriate sheets of the construction plans. The arborist shall be on-site during critical construction activities, including initial and final grading, to ensure the protection of the existing trees that are intended to be retained. The arborist shall document in writing and with photographs the tree protection measures used during these critical construction phases. If some trees have been compromised, mitigation measures must be specified in writing, and implementation certified by the Project Arborist. Trees proposed for removal shall have an in-lieu replacement tree planted elsewhere on the property, which shall be shown on the final landscape plan. Replacement tree size is subject to staff review, and shall be commensurate with the size and numbers of trees to be removed. They shall generally be a minimum of 24" box size. Before the Final Inspection, the Arborist shall file a report to the City certifying that all tree preservation measures as recommended have been implemented to his/her satisfaction and that all retained trees have not been

compromised by the construction. Applicant shall conduct utility pole installation so that clearance pruning does not remove more than 25% of tree canopy.

19. Operation and Maintenance Standards. The facility shall comply with the provisions of City Code Section 17.46.070.B as follows:

- a. Contact and site information. Prior to issuance of permits for construction, the owner or operator of a wireless communication facility must submit basic contact and site information to the city, including name and contact information for the authorizing representative of the Joint Pole Authority or PG&E, and notify the city within 30 days of any changes to this information, including the transfer of ownership. The contact and site information must include: (i) the name, address, email address, telephone number, and legal status of the owner of the facility, including official identification number and FCC certification, and, if different from the owner, the identity and legal status of the person or entity responsible for operating and maintaining the facility; and (ii) the name, address, email address, and telephone number of a local contact person for emergencies.
- b. Signage. The owner and/or operator must post an identification sign at each facility, including owner/operator emergency telephone numbers. The design, materials, colors, and location of the identification signs shall be subject to review and approval by the Director. If at any time a new owner or operator provider takes over operation of the facility, the new operator shall notify the Director of the change in operation within 30 days and the required and approved signs shall be updated within 30 days to reflect the name and phone number of the new wireless service provider. The colors, materials and design of the updated signs shall match those of the required and approved signs. No sign shall be greater than 7.5 inches by 7.5 inches in size unless required by law. The facility shall not bear signs other than certification, warning, emergency contacts, or other signage required by law or expressly required by the City.
- c. Non-Interference. Each wireless communication facility must at all times comply with laws, codes, and regulations, and avoid interfering with any city property, facilities, operations, utilities, or equipment.
- d. Facility maintenance. Each wireless communication facility must at all times be maintained in good repair, free from trash, debris, litter, graffiti, and other forms of vandalism. The operator must repair any damage as soon as reasonably possible, but no later than the earlier of 10 days from the time of itself becoming aware of the non-compliance or the receipt of written notification from the City. The Applicant shall provide a post-construction report and an annual report with the following information: equipment model and manufacturer, frequency bandwidths, effective radiated power, and emission levels measured to nearest building(s) with a comparison to FCC limits.
- e. Noise. A wireless communication facility must be operated to comply with Chapter 5 of the City Code. Should the noise emanating from the facility be found to exceed the limits provided in City Code Chapter 5, operation of the facility shall cease immediately and shall not resume until a noise verification

study prepared by a licensed acoustical engineer shows the facility's compliance with City Code Chapter 5 noise limits. The acoustical engineer shall be selected by the City and the cost of the engineer's services shall be paid by the Applicant or wireless communications service provider.

- f. Removal. All wireless communication facility equipment must be removed within 30 days of the discontinuation of the use, and the site and other property restored to its original, preconstruction condition. In addition, the service provider must provide the City with a notice of intent to vacate a site a minimum of 30 days before the vacation.
20. **Modifications to public facilities.** Should the City require modification to public right-of-way or other public facilities in the area of this facility that results in a conflict with the present location of the approved wireless communications facility, including the creation of a utility undergrounding district, the wireless communication facility equipment shall, if necessary as determined by the Director of Public Works, be removed or relocated at the Applicant's expense subject to review and approval of the Director of Public Works.
 21. **Expiration of Wireless Communication Facilities Permit.** An encroachment permit, excavation permit or building permit must be issued within one year of the approval of the City Council, and construction completed within two years of the approval of the City Council, or this approval shall be null and void.
 22. **Construction Completion Schedule.** Work on the Project, once begun, shall be promptly executed with continuous good faith and reasonable progress. Since timely completion of this Project is of the essence, the Applicant shall submit for approval a Construction Completion Schedule, which will specify, in detail, the duration and percentage complete of each phase.
 - a. The Construction Completion Schedule with associated construction values for each benchmark shall set forth completion dates for the following benchmarks as needed: i) Completion of Excavation; ii) Completion of Electrical; iii) Completion of Mechanical; iv) Completion of Facilities; v) Completion of Hardscaping and Landscaping; and any further construction benchmarks and conditions as may be determined by the Director of Public Works.
 - b. Before the Project begins, the Director of Public Works shall make a determination as to the reasonableness of the proposed completion dates applicable to the Project, and that determination shall constitute the "Approved Schedule" and be binding on the Applicant.

SECTION 4. All portions of this resolution are severable. If an individual component of this Resolution is adjudged by a court to be invalid and unenforceable, then the remaining portions will continue in effect.

[END OF DOCUMENT]

Resolution _____

A RESOLUTION APPROVING A LICENSE AGREEMENT BETWEEN THE CITY OF
PIEDMONT AND CROWN CASTLE NG WEST LLC

RESOLVED, that the City Council approves a license agreement between the City of Piedmont and Crown Castle NG West, LLC for use of City owned-streetlight poles or standalone poles in the right of way.

[END OF RESOLUTION]

LICENSE AGREEMENT**BETWEEN****CITY OF PIEDMONT AND CROWN CASTLE NG WEST LLC**

This License Agreement ("Agreement") is entered into as of _____, 2019 ("Effective Date") by and between the City of Piedmont, a municipal corporation (the "City"), and Crown Castle NG West LLC, a Delaware limited liability company ("Crown Castle").

RECITALS

- A. Crown Castle owns, maintains, operates and controls, in accordance with regulations promulgated by the Federal Communications Commission and the California Public Utilities Commission ("PUC"), telecommunications networks in public rights-of-way ("ROW"), among other locations, in the State of California.
- B. Crown Castle is a registered competitive local exchange carrier ("CLEC") and holds a valid full-facilities-based certificate of public convenience and necessity ("CPCN") issued by the PUC on April 13, 2006 (Decision 06-04-030).
- C. Pursuant to the CPCN, Crown Castle seeks to enter the City's ROW, to install, maintain and operate a telecommunications network, which is composed of a distributed antenna system, and/or small cell network or other technologies (the "Network"). Some elements of the Network include, without limitation, optical converters, DWDM and CWDM multiplexers, antennas, fiber optic cables, wires, and related equipment.
- D. The Network is to be installed at locations approved by the City, as set forth in a Wireless Communications Facilities Permit ("WCFP") or other related approvals referenced in this Agreement ("Network Facilities"), and is to be located within the City's ROW on City-owned streetlight poles or stand-alone light pole ("City Poles") or on Crown Castle-owned or third-party owned utility poles.
- E. To construct the Network Facilities, Crown Castle desires at certain locations and at no cost to City, to attach Network Facilities to certain City Poles or to remove and install a new or replacement City Pole (the "Sites"). The Sites are specifically listed in **Exhibit A**.
- F. Crown Castle desires to obtain from City, and City is willing to enter into this License Agreement with Crown Castle, which provides the right to use or replace City Poles at the Sites listed in **Exhibit A** to locate, place, attach, install, operate, use, control, repair, replace, upgrade, enhance and maintain the Network Facilities in a manner consistent with the WCFP, the Wireless Ordinance, and this Agreement.
- G. This License Agreement was approved by the Parties in October 2016 but was not implemented due to litigation between the Parties. The License Agreement is now being modified as to the rent because of changes in the law or regulations since 2016 and modified to amend the City Pole sites listed in Exhibit A, and reapproved and executed by the Parties.

In consideration of the Recitals set forth above, the terms and conditions of this Agreement and other valuable consideration, the adequacy of which is hereby acknowledged, the parties agree as follows:

*License Agreement
Crown Castle NG West LLC
page 1 of 17*

ARTICLE 1
INSTALLATION OF THE NETWORK

1.1 **Permitted Installation.** Crown Castle may at Crown Castle's sole cost and expense and during the term of this Agreement, locate, place, attach, install, operate, use, control, repair, replace, upgrade, enhance and maintain the Network Facilities at the Sites listed in **Exhibit A**, subject to the terms and conditions of this Agreement. Crown Castle shall undertake and perform any work authorized by this Agreement in a skillful and workmanlike manner. Crown Castle's installation of Network Facilities at the Sites shall be subject to the additional terms and conditions set forth herein. Permitted installations are those specifically set forth on **Exhibit A**. No changes, including increases in size, height, width or ancillary equipment shall be permitted without the express permission of the City as the City in section 1.2.

1.1.1 The installation of the Network Facilities at the Sites shall all be made in accordance with the plans and specifications as may be approved by the City and after obtaining all necessary permits for all work in the ROW and/or on City property. Approval of plans and specifications and the issuance of any permits by the City shall not release Crown Castle from the responsibility for, or the correction of, any errors, omissions or other mistakes that may be contained in the plans, specifications and/or permits. Crown Castle shall be responsible for notifying the City and all other relevant parties immediately upon discovery of such omissions and/or errors and with obtaining any amendments for corrected City-approved permits, as may be necessary.

1.1.2 The installation of the Network Facilities at the Sites shall be performed in accordance with traffic control plans for temporary construction work that are approved by the City, which approval shall not unreasonably be withheld.

1.1.3 At least ten (10) days prior to the installation of the Network Facilities at the Sites, Crown Castle shall deliver to the City a schedule for the proposed work related to the construction of the Sites as well as a list of the names of all agents and contractors of Crown Castle authorized by Crown Castle to access the Sites.

1.1.4 Crown Castle shall be responsible for coordination of work to avoid any interference with existing utilities, substructures, facilities and/or operations at the Sites. Crown Castle shall be the City's point of contact and all communications shall be through Crown Castle.

1.1.5 Crown Castle and its employees, agents and contractors shall comply with all applicable local, state, and federal laws and regulations, including without limitation those laws which govern worker health and safety and reporting the use, handling, treatment, removal, or disposal of toxic or hazardous substances, materials or wastes, and shall obtain all required regulatory and governmental permits and licenses necessary to perform the work authorized herein and shall take all required steps to minimize dust and noise in conformance with City Ordinances and any other applicable governmental standards.

1.1.6 The City shall have access to inspect any work conducted by Crown Castle during the installation, maintenance and/or repair of the Sites.

1.2 **Modification and/or Expansion of the Network.** If, during the term of this Agreement, Crown Castle pursuant to the prior written approval of the City and/or any and all permits required by the City, including but not limited to all land use permits, expands the Network by using other City Poles or on other real property owned by the City not described in Exhibit A, or obtains approval from the City to modify the facilities located at the locations set forth on Exhibit A to add facilities not currently authorized by the WCFP, the parties may enter into an amendment to this Agreement that modifies Exhibit A to reflect the additional locations or additional facilities on existing sites that Crown Castle desires to use and such other or different terms, including rent, that may apply to any other locations or the additional facilities. Any agreed-upon expansion of the Network or modification of the Sites and the applicable terms and conditions of such expansion or modification, pursuant to this Section 1.2 shall be subject to the City's Wireless Ordinance and must be set forth in writing and agreed to by the parties. The City shall be under no obligation to agree to any modification or expansion to the network or any portion thereof.

1.3 **Compliance with Laws.** This Agreement is subject to the terms and conditions of the WCFP and any and all applicable Laws and Crown Castle shall comply with any such Laws in the exercise of its rights and performance of its obligations under this Agreement. "Laws" or "Law" as used in this Agreement means any and all statutes, constitutions, ordinances, resolutions, regulations, judicial decisions, rules, permits, approvals or other applicable requirements of the City or other governmental entity or agency having joint or several jurisdiction over Crown Castle's activities under this Agreement or having jurisdiction that is applicable to any aspect of this Agreement, including the City's Wireless Ordinance, that are in force on the Effective Date and as they may be enacted, issued or amended during the term of this Agreement, to the extent consistent with the WCFP.

1.4 **Permits.** In addition to the WCFP, Crown Castle shall obtain any necessary ministerial permits and pay all fees associated therewith relating to the installation of Network Facilities at the Sites as required by Law, including without limitation, those permits listed below (the "Permits").

1.4.1 **Encroachment Permits.** Crown Castle shall obtain any necessary encroachment permits from the City for the installation of Network Facilities at the Sites if required by the City's Municipal Code ("Code").

1.4.2 **Building Permits.** Crown Castle shall obtain any necessary building permits from the City for the installation of Network Facilities at the Sites if required by the Code or State Law.

1.4.3 **Compliance with Permits.** All work performed pursuant to this Agreement shall be performed in strict compliance with the applicable Permits and all applicable regulatory requirements.

1.5 **Coordination of Excavation with Other Permittees.** At least thirty (30) days prior to commencing excavation work in the City's ROW or other real property of the City pursuant to this Agreement, Crown Castle shall notify the City's Public Works Director in writing. The notice shall describe the work to be performed, the specific ROW of the City or other real property of the City that will be used, and the dates such work is anticipated to be performed. The City's Property Management Coordinator will provide Crown Castle with a notice form that identifies other existing or potential users ("User") of the City's ROW or other real property of the City who are likely to be affected by such excavation work. Crown Castle shall provide the City's notice form to the Users identified by the City. Each User receiving such notice shall have thirty (30) days from the date thereof to inform Crown Castle and the City in writing that such User desires to perform work jointly with Crown Castle. To the extent

reasonably feasible, and subject to Crown Castle and User entering into a written agreement for such work and/or use, Crown Castle shall coordinate its work with any User who timely informs Crown Castle that it desires to perform work jointly in the City's ROW or other real property of the City, provided that such User obtains any required ROW agreement and permits from the City as required before such User performs any work in the City's ROW or other real property of the City, including the installation of any facilities, or uses any facilities installed by Crown Castle on their behalf. The notice requirement in this Section is in addition to any notice otherwise required by applicable Laws, such as Government Code section 4216.2, and does not replace or otherwise affect the requirements of other applicable Laws.

1.6 Replacement Streetlights and other City Facilities. It is understood that Crown Castle will replace certain City Poles required for the Network Facilities, at the locations of which are indicated in **Exhibit A**, with new poles or facilities that meet the requirements of the WCFP, are capable of supporting the Network Facilities, and comply with all encroachment and building permits, applicable City, state and federal specifications, and Laws ("Replacement Poles"). Crown Castle shall replace the City Poles and any other equipment or facilities necessary to place the lights or facilities back in operation for all uses in place prior to the removal and replacement of the pole. The City shall own the Replacement Poles. Crown Castle shall provide such transfer or dedication documentation as the City reasonably requests.

1.6.1 The parties understand and agree that the City intends to use the Replacement Poles for City purposes, including but not limited to streetlights and other lighting. The City may install such other facilities on, or otherwise make use of, the Replacement Poles as it deems desirable, including granting access to the Replacement Poles by third parties; provided that such uses do not interfere with Crown Castle's use of the Sites as permitted hereunder and as authorized by the WCFP, and provided further that the City may not allow other communications providers to use the Replacement Poles. Crown Castle shall reasonably cooperate with the City and all other licensees using the Replacement Poles.

1.6.2 Except for the installation of the lights and ancillary equipment on or in the Replacement Poles and/or as set forth in section 1.6.3, below, Crown Castle shall not be responsible for maintenance, repair, or replacement of City-owned lights, light bulbs and equipment or equipment owned by third parties authorized by the City on the Replacement Poles.

1.6.3 If a Replacement Pole falls or is damaged such that there is an imminent threat of harm to persons or property, then the City may cause the Replacement Pole to be removed to the side of the street or a location that City believes reasonably eliminates the risk of such imminent threat of harm to persons or property. Crown Castle shall, after written notice from the City that any Replacement Pole has been damaged or removed, cause the Replacement Pole to be repaired or replaced within thirty (30) days after the City's written notice. The cost to repair and/or replace any Replacement Pole, including the replacement City streetlight, bulb and ancillary equipment shall be paid by Crown Castle; provided, however, that if the Replacement Pole is damaged or destroyed by the City or a third party user that the City has given the right to use the Replacement Pole, then the City and/or its third party user shall pay the cost to repair and/or replace the Replacement Pole. To the extent that Crown Castle seeks reimbursement for a third party either directly or through applicable insurance, the City shall assign to Crown Castle any rights the City may have against such third party for such claim.

1.7 Rent. Crown Castle is solely responsible for the payment of all lawful rent in connection with Crown Castle's performance under this Agreement, including those set forth below.

1.7.1 Annual Rent. Crown Castle shall pay to the City an annual rent (“Node Rent”) for each City Pole to which Crown Castle has attached Network Facilities in the amount of One Thousand Five Hundred Dollars (\$1,500.00).

1.7.1.1. Rent Modification based on the FCC has adopted an order (FCC 18-133)(the FCC Order) that regulates, among other things to the Compensation or rent for small cells but this Order is currently the subject of litigation. Therefore, notwithstanding section 1.7.1, Crown agrees to pay and City agrees to accept a payment of annual rent as follows: for the first two (2) years of the License, the sum of five hundred dollars (\$500.00) per facility per year. Thereafter for the remaining term of the License, not including any extensions, Crown Castle will pay and City will accept the minimum payment as determined by the FCC for each facility per year. The minimum payment is currently two hundred seventy dollars (\$270.00 per facility per year). If the FCC increases the minimum payment during the term of this License, then effective upon the effective date of the increase, Crown will pay the increased amount. The increase shall be pro-rated for the remaining portion of the year and, therefore, the increased rent shall be paid annually on the Effective Date. In no event shall the rent be decreased even if the FCC decreases the minimum rent.

1.7.1.2 Once the litigation surrounding the FCC Order is finally resolved, if relevant provisions of the FCC Order are vacated or invalidated, Crown Castle shall have the obligation to pay and City shall have the right to collect from Crown, upon thirty (30) days’ notice, the full outstanding difference between the License Fee and the Alternative License Fee for all Municipal Facilities used by Licensee from the beginning of the Term unless the final order of the Court is prospective only. Additionally, Crown Castle shall automatically be required to pay the Rent as stated in section 1.7.1 in full for the remainder of the Term.

1.7.1.3 Rent for Extensions of the Term. If the term of this License is extended as provided in section 2.1, Crown Castle shall continue to pay the rent described in these sections provided, however, that for each extension (1) the parties may, by mutual agreement in writing, modify and increase the rent; (2) if the FCC Order is still in place, City may elect to prepare a Cost Study, at Crown Castle’s cost, and the rent shall be increased about the then current FCC minimum rent in accordance with the Cost Study., The Cost Study shall determined based on the City’s actual costs as permitted by the FCC Order and court decisions (“Costs”) what the rent will be on an annual basis going forward. The Parties agree that such Costs shall include, but are not limited to, costs related to staff review and administration, legal counsel, third-party consultants, activity related to maintaining Municipal Facilities under this Agreement, and activity related to monitoring Equipment related to this Agreement. City shall complete the Cost Study and establish the Adjusted Rent. Until the Cost Study is complete, the License Fee in place at the time the Cost Study is requested shall remain in effect.

1.7.2 Payment of Node Rent. Crown agrees to pay the first two (2) years Node Rent for each Node set forth on Exhibit A upon in a lump sum due no later than forty-five (45) days after the Effective Date. Thereafter, the Node Rent payment shall be due and payable not later than forty five (45) days after each anniversary of the Effective Date beginning for the Node Rent due for year 3 and thereafter and may be prorated accordingly. Should additional nodes be added to this License, the Node Rent shall be due and

payable upon the effective date of the amendment of this License and annually thereafter as set forth in this section.

1.7.3 Late Payment Charges. Crown Castle hereby acknowledges that late payment by Crown Castle to City of Node Rent will cause City to incur costs not contemplated by this Agreement, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges. Accordingly, if any installment of Node Rent or any other sum due from Crown Castle shall not be received by City within ten (10) business days after such amount is due, Crown Castle shall pay to City a late charge of six percent (6%) of such unpaid amount, plus interest in accordance with Section 8.4 of the Agreement. In no event shall the late charge or interest exceed the maximum allowable by law. The parties hereby agree that such late charge will automatically accrue by reason of any late payment by Crown Castle. Acceptance of such late charge by City shall in no event constitute a waiver of Crown Castle's default with respect to such overdue amount, nor shall it prevent City from exercising any of the other rights and remedies granted hereunder.

1.7.4 Accounting Matters. Crown Castle shall maintain accurate books of account at its principal office or another location of its choosing, for the purpose of determining the amounts due to City under this Section 1.7. City, or a consultant acting on behalf of City, may inspect Crown Castle's books of account relative to City at any time during regular business hours on ten (10) business days prior written notice and may audit the books from time to time, but in each case only to the extent necessary to confirm the accuracy of payments due under this Section 1.7. If City receives a request for records related to information obtained from Crown Castle pursuant to this section, City agrees to promptly provide Crown Castle with written notice of the request. Crown Castle will then have the time specified in the City's notice to determine whether it considers any of the information confidential proprietary information and whether it will take legal action to preclude disclosure of the requested information. Crown Castle understands that the City's notice of a request for records under the California Public Records Act (Gov. Code, section 6250, et seq.) will require a prompt response from Crown Castle given the City's obligation to respond to such a request within 10 days of its receipt. Absent a timely response, City may release the requested records. City shall have no monetary liability to Crown Castle for release of information pursuant to a request under the California Public Records Act or any subpoena; nor shall City be obligated to defend against any challenge related to a California Public Records Act request or a subpoena for records that Crown Castle asserts are confidential. Crown Castle further agrees to be liable for and pay all judgments against the City, as well as attorney fees and costs, resulting from a challenge related to a records request or subpoena for records that Crown Castle asserts are confidential.

1.7.5 Adjustment to Rent; "Most Favored Nation" The parties agree that Crown Castle is considering license or lease agreement similar to this Agreement with cities adjacent to or in close proximity to Piedmont. During this License and any renewals or extensions thereto, Crown agrees that the Node Rent under this lease will be increased to the equal to any rent paid by Crown Castle to the city of Oakland or any other city in the East Bay within 15 miles of Piedmont. In no event shall the Node Rent be decreased. Crown Castle shall, within 60 days of execution, provide written notice to City of each license or lease for use of city facilities, such as light poles, in the right of way for any city referenced above and the annual rent in the license or lease. If the rent is for a comparable Node, the Node Rent for this lease shall be adjusted effective the date of the rent payment by Crown Castle to Oakland or the city involved. If Crown Castle believes that the license or lease is not comparable with this Agreement, it shall so state and explain its reasoning. Thereafter, the City shall determine whether the license or lease is comparable. If the parties do not agree, the dispute resolution and default provisions in this Agreement shall apply.

1.7.5 One time Administrative Fee. Within thirty (30) days of the date of the execution of this License, and thereafter for each node that may be added to this License, within thirty (30) days of the execution of the amendment adding such node, Crown Castle shall pay to the City the sum of \$1000 per node to cover the City's administrative and legal costs related to this License.

1.8 **Access to the Sites.** Crown Castle will be given reasonable access to each of the Sites for the purposes of routine installation, repair, maintenance or removal of Network Facilities. A schedule of routine maintenance shall be provided to the City upon request. If any such maintenance activities have the potential to result in an interruption of any City services at the Site, Crown Castle shall provide the City with a minimum of three (3) days prior written notice of such maintenance activities. Such maintenance activities shall, to the extent feasible, shall be done with minimal impairment, interruption, or interference to City services. If an emergency repair of the Network Facilities or the Replacement Poles is necessary, Crown Castle may be allowed reasonable access to the Sites at any time. In the event of an emergency, Crown Castle will endeavor to provide the City's Property Management Coordinator with prior written notice and shall, in any event, promptly provide written notice to the City of the emergency repair. An "emergency" for purposes of this section means there is an outage or disruption in Services.

1.8.1 Crown Castle shall allow a representative of the City to observe any repair, maintenance or removal work performed at the Sites.

ARTICLE 2 TERM AND TERMINATION

2.1 **Term.** This Agreement shall extend for a term of ten (10) years commencing on the Effective Date, unless it is earlier terminated by either party in accordance with the provisions herein. The term of this Use Agreement shall be renewed automatically for three (3) successive terms of five (5) years each on the same terms and conditions as set forth herein, unless Crown Castle notifies the City of its intention not to renew not less than thirty (30) calendar days prior to commencement of the relevant renewal term.

2.2 **Termination of Use.** Notwithstanding Section 2.1 above, Crown Castle may terminate its use of any or all of the Sites by providing the City with ninety (90) days prior written notice. In the event of any such termination, Crown Castle's payment obligations to the City shall terminate simultaneously with the termination of use, provided Crown Castle removes its equipment and restores the Sites, as set forth in Article 3, below and in the Wireless Ordinance, prior to the termination date.

ARTICLE 3 REMOVAL AND RELOCATION

3.1 **Removal Due to Public Project.** Upon receipt of a written demand from the City pursuant to this Article 3, Crown Castle, at its sole cost and expense, shall remove and relocate any part of the Network, constructed, installed, used and/or maintained by Crown Castle under this Agreement, whenever the City reasonably determines that the removal and/or relocation of any part of the Network is needed for any of the following purposes: (a) due to any work proposed to be done by or on behalf of the City or any other governmental agency, including but not limited to, any change of grade, alignment or width of any street, sidewalk or other public facility, installation of curbs, gutters or landscaping and installation, construction, maintenance or operation of any underground or aboveground facilities such as sewers, water mains, drains, storm drains, pipes, gas mains, poles, power lines, telephone lines, cable television lines and tracks; (b) because any part of the Network is interfering with or adversely affecting the proper operation of City-owned light poles, traffic signals, or other City facilities; or (c) to

protect or preserve the public health and safety. The City shall cooperate with Crown Castle in relocating any portion of the Network removed pursuant to this Section 3.1 in a manner that allows Crown Castle to continue providing service to its customers, including, but not limited to, expediting approval of any necessary permits required for the relocation of that portion of the Network relocated under this Section 3.1.

3.2 Removal Due to Termination. No later than ninety (90) days after termination of this Agreement pursuant to the provisions of this Agreement, Crown Castle shall, at its sole cost and expense, remove the Network or the terminated portion thereof and, if such removal disturbs the Sites or adjacent property (including City ROW or City property), restore each Site and its adjacent property to its original condition, reasonable wear and tear excepted, and further excepting landscaping and related irrigation equipment, or other aesthetic improvements made by Crown Castle to the Site or adjacent property, or as otherwise required by the City. For Replacement Poles, Crown Castle shall install a replacement streetlight or facility as directed by City's Public Works Director, or his or her designee. Alternatively, the City may allow Crown Castle, in the City's sole and absolute discretion, to abandon the Network, or any part thereof, in place and convey it to the City.

3.3 Abandonment. In the event Crown Castle ceases to operate and abandons the Network, or any part thereof, for a period of ninety (90) days or more, Crown Castle shall, at its sole cost and expense and within the time period specified in this Section 3.4, vacate and remove the Network or the abandoned part thereof. If such removal disturbs the Site or adjacent property (including City ROW or City property), Crown Castle shall also, at its sole cost and expense, restore the Site or adjacent property to its original condition, reasonable wear and tear excepted, and further excepting landscaping and related irrigation equipment, or other aesthetic improvements made by Crown Castle to the Site or adjacent property. Alternatively, the City may allow Crown Castle, in the City's sole and absolute discretion, to abandon the Network, or any part thereof, in place and convey it to the City.

3.4 No Relocation Compensation. The parties understand and agree that Crown Castle is not and shall not be entitled to compensation for any relocation of its Network that may be required under Section 3.1. Crown Castle further acknowledges that Crown Castle is not entitled to relocation assistance or any other compensation or benefits under the Uniform Relocation Assistance Act or any other applicable provision of law upon termination of this Agreement.

ARTICLE 4 MAINTENANCE AND REPAIR

4.1 Electricity Use. Crown Castle shall pay for the electricity and other utilities services it consumes in its operations at the rate charged by the servicing utility company. Each Node shall be separately metered for electricity and any other utilities services Crown Castle's facilities require and paid for through a Crown Castle account, unless Crown Castle and the City expressly agree otherwise in writing. In no event shall the City be responsible for any electricity or other utility use charges incurred by Crown Castle for Crown Castle nodes or other facilities.

4.2 Maintenance and Repair. Crown Castle shall, at Crown Castle's sole cost and expense, perform all maintenance and repairs reasonably needed to maintain the Network in good condition and neat and orderly appearance, and in compliance with all applicable Laws. In the event any part of the Network requires replacement because such part cannot be repaired, Crown Castle shall, at Crown Castle's sole cost and expense, replace the irreparable part of the Network. Crown Castle shall not cause rubbish, garbage or debris on or around the Network Facilities or the Sites and shall not permit any

rubbish, garbage or debris to accumulate on or around in any enclosed areas around the Network Facilities and the Sites. If the City gives Crown Castle written notice of a failure by Crown Castle to maintain the Network Facilities, Crown Castle shall use its best efforts to remedy such failure within forty-eight (48) hours after receipt of such written notice.

4.3 **Repair of ROW.** Crown Castle shall be responsible for any damage, ordinary wear and tear excepted, to street pavement, existing facilities and utilities, curbs, gutters, sidewalks, landscaping, and all other public or private facilities, to the extent caused by Crown Castle's construction, installation, maintenance, access, use, repair, replacement, relocation, or removal of the Network in the City's ROW. Crown Castle shall promptly repair such damage and return the City's ROW and any affected adjacent property to a safe and satisfactory condition to the City in accordance with the City's applicable street restoration standards or to the property owner if not the City. Crown Castle's obligations under this Section 4.4 shall survive for one (1) year past the completion of such reparation and restoration work and return of the affected part of the City's ROW by Crown Castle to the City.

4.4 **Bond.** Crown Castle shall provide a bond in an amount determined by the City to represent the estimated cost of Crown Castle's obligations under Sections 3 and 4 of this Agreement, which the City may require Crown Castle to increase from time to time (but no more frequently than every five years during the Term) to reflect the reasonable estimated cost of performing such obligations, to secure performance of Crown Castle's obligations under Sections 3 and 4.

ARTICLE 5 TAXES

5.1 **Taxes.** Crown Castle agrees that it will be solely responsible for the payment of any and all applicable taxes, fees and assessments levied on its ownership, use and maintenance of the Network and this Agreement. Pursuant to Section 107.6 of the California Revenue and Taxation Code, the City hereby advises, and Crown Castle recognizes and understands, that Crown Castle's use of the City's ROW, the Replacement Poles, and /or other non-ROW city property and facilities may create a possessory interest subject to real property taxation and that Crown Castle may be subject to, and responsible for, the payment of real property taxes levied on such interest. Crown Castle will co-operate with the Alameda County Assessor in providing any information necessary for the Assessor to make a property tax determination. Crown Castle reserves the right to challenge any such assessment, and the City agrees to cooperate with Crown Castle in connection with any such challenge.

ARTICLE 6 INDEMNIFICATION

6.1 **Indemnification and Waiver.** Crown Castle agrees to indemnify, defend, protect, and hold harmless the City, its council members, officers, and employees from and against any and all claims, demands, losses, damages, liabilities, fines, charges, penalties, administrative and judicial proceedings and orders, judgments, and all costs and expenses incurred in connection therewith, including reasonable attorney's fees and costs of defense (collectively, the "Losses") directly or proximately resulting from Crown Castle's activities undertaken pursuant to this Use Agreement, except to the extent arising from or caused by the negligence or willful misconduct of the City, its council or board members, officers, employees, agents, or contractors.

6.1.1 **Waiver of Claims.** Crown Castle waives any and all claims, demands, causes of action, and rights it may assert against the City on account of any loss, damage, or injury to any Equipment or any loss or degradation of the Services as a result of any event or occurrence which is beyond the reasonable control of the City.

6.1.2 **Limitation of the City's Liability.** Except as provided for above, the City shall be liable only for the cost of repair to damaged Equipment arising from the negligence or willful misconduct of the City, its employees, agents, or contractors

6.1.3 **Waiver of Punitive and Consequential Damages.** Both parties hereby waive the right to recover punitive or consequential damages from the other party.

ARTICLE 7 INSURANCE

7.1 **Minimum Insurance Requirements.** Crown Castle shall obtain and maintain at its sole cost and expense for the duration of this Agreement insurance pursuant to the terms and conditions described in this Article.

(a) **Minimum Insurance.** Crown Castle shall at all times during the term of this Agreement carry, maintain, and keep in full force and effect, insurance as follows:

(i) **General Liability:** A policy or policies of Commercial General Liability Insurance, with minimum limits of \$2,000,000 combined single-limit per-occurrence for bodily injury, personal injury, death, loss and property damage resulting from wrongful or negligent acts by Crown Castle. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. The limits may be met by a combination of primary and excess or umbrella policies.

(ii) **Automobile Liability:** A policy or policies of Commercial Vehicle Liability Insurance covering personal injury and property damage, with minimum limits of \$1,000,000 combined single-limit per-accident for bodily injury and property damage covering any vehicle utilized by Crown Castle in performing the work covered by this Agreement.

(iii) **Workers' Compensation and Employer's Liability:** Workers' compensation limits as required by the Labor Code, and Employer's Liability limits of \$1,000,000 per accident, disease each employee, and disease policy limit.

(b) **Other Insurance Provisions.** The policies shall contain, or be endorsed to contain, the following provisions:

(i) General Liability and Automobile Liability Coverage:

(1) The City, and its elected and appointed council members, board members, commissioners, officers and officials (the "Insureds") shall be named as additional insureds on all required insurance policies, except for Workers' Compensation and Employer's Liability policies.

(2) Crown Castle's insurance coverage shall be primary insurance as respects the Insureds with respect to the matters covered by this Agreement. Any insurance or self-insurance maintained by the Insureds shall be in excess of Crown Castle's insurance and shall not contribute with it.

(3) Any failure of Crown Castle to comply with reporting provisions of the policies shall not affect coverage provided to the Insureds.

(4) Crown Castle's insurance shall apply separately to each of the Insureds against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability. Each of the Insureds is subject to all policy terms and conditions and has an obligation, as an Insured, to report claims made against them to the insurance carrier.

(5) Worker's Compensation and Employers Liability Coverage. The insurer shall agree to waive all rights of subrogation against the Insureds for losses arising from work performed by Crown Castle in the City's ROW.

(ii) All Coverages. Except for non-payment of premium, each insurance policy required by this clause shall be endorsed to state that coverage shall provide thirty (30) days' prior written notice of cancellation be given to the City. If for any reason insurance coverage is canceled or, reduced in coverage or in limits, Crown Castle shall, within two (2) business days of notice from the insurer, notify the City by phone or fax of the changes to or cancellation of the policy and shall confirm such notice via certified mail, return receipt requested.

(c) **Acceptability of Insurers.** Insurance shall be placed with insurers with an A.M. Best rating of no less than A:-VII.

(d) **Verification of Coverage.** Crown Castle shall furnish the City with certificates of insurance required by this Article 7. The certificates for each insurance policy are to be signed by a person, either manually or electronically, authorized by that insurer to bind coverage on its behalf. All certificates are to be received and approved by the City before work commences; reasonable approval shall not be withheld.

ARTICLE 8 DEFAULT

8.1 Default.

8.1.1. **Defined.** A "Default" shall be deemed to have occurred under this Agreement if a party fails to cure such within thirty (30) days after written notice specifying such breach, provided that if the breach is of a nature that it cannot be cured within thirty (30) days, a default shall not have occurred so long as the breaching party has commenced to cure within said time period and thereafter diligently pursues such cure to completion.

8.1.2. **Remedies.** Upon the failure of a party to timely cure any breach after notice thereof from the other party and expiration of the above cure periods, then the non-defaulting party may, subject to the terms of Section 6.3 (Limitation of Liability), terminate this Agreement and pursue all remedies provided for in this Agreement and/or any remedies it may have under applicable law or principles of equity relating to such breach.

8.2 **City Termination Right.** In addition to the remedies set forth in Section 8.1.2, the City shall have the right to terminate this Agreement if (i) the City is mandated by law, a court order or decision, or the federal or state government to take certain actions that will cause or require the removal of the Network Facilities from the Sites; or (ii) if Crown Castle's CPCN is terminated, revoked, expired, or otherwise abandoned. Such termination rights shall be subject to Crown Castle's rights to just compensation, if any, for any taking of a protected property right.

8.3 **No Waiver.** A waiver by either party at any time of any of its rights as to anything herein contained shall not be deemed to be a waiver of any breach of covenant or other matter subsequently occurring.

ARTICLE 9 INTERFERENCE

9.1 Crown Castle shall operate the Network in a manner that will not cause interference with City non-public safety communications systems and to the services and facilities of other licensees or lessees of City property located at or near the Sites that were in operation prior to the installation of the Network or that are in operation prior to any modifications Crown Castle may make to the Network.

9.2 Crown Castle's Network and facilities shall not cause interference with public safety communications systems operated by City or any other public agency, regardless of the date such systems or any components thereof have been placed in service. Nor shall Crown Castle's Network and facilities cause interference with the City's use of the Replacement Poles for their intended purpose as streetlights, traffic lights, and/or stand-alone light poles.

9.3 If such interference with the facilities described in Sections 9.1 and 9.2 occur, Crown Castle shall, upon receipt of written notice thereof from City, immediately commence commercially reasonable, diligent, efforts to correct or eliminate such interference. If such interference cannot be corrected by Crown Castle to the reasonable satisfaction of City within the cure period set forth for in the City's notice, which notice shall not be less than 30 days absent an emergency or danger to public health and safety requiring shorter notice, such interference shall be deemed a material breach under this Agreement and City may terminate this Agreement.

ARTICLE 10 MISCELLANEOUS PROVISIONS

10.1 **Nonexclusive Use.** Crown Castle acknowledges that this Agreement does not provide Crown Castle with exclusive use of the City's ROW or any municipal facility and that City retains the right to permit other providers of communications services to install equipment or devices in the City's ROW and on municipal facilities. Crown Castle acknowledges that the City may make information available to other providers of communications services concerning the presence or planned deployment of the Network in the City's ROW.

10.2 **Notices.** All notices which shall or may be given pursuant to this Agreement shall be in writing and served by (1) electronic mail; and (2) personally served or transmitted through first class United States mail, or by express mail providing for overnight delivery, postage prepaid, to the following address or such other address of which a party may give written notice:

*License Agreement
Crown Castle NG West LLC
page 12 of 17*

City: City of Piedmont
120 Vista Avenue
Piedmont, CA 94611
ATTN: Mayor

Crown Castle: CROWN CASTLE NG WEST LLC
c/o Crown Castle
2000 Corporate Drive
Canonsburg, PA 15317-8564
Attn: Ken Simon, General Counsel
(724) 416-2000

with a copy which shall not constitute legal notice to:

CROWN CASTLE NG WEST LLC
c/o Crown Castle
2000 Corporate Drive
Canonsburg, PA 15317-8564
Attn: Small Cell Contracts Administration
(724) 416-2000

Such notice shall be deemed made when personally delivered; if mailed via first class U.S. Mail, such notice shall be deemed made three (3) calendar days after the date of deposit in the U.S. Mail; if mailed via express/overnight mail, such notice shall be deemed made two (2) calendar days after the date of deposit in a designated overnight delivery mailbox or other like facility. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

10.3 Attorneys' Fees. If legal action is brought by either party because of a breach of this Agreement or to enforce a provision of this Agreement, the prevailing party is entitled to recover reasonable attorneys' fees and court costs.

10.4 Assignment. This Agreement shall not be assigned by Crown Castle without the express written consent of the City, which consent shall not be unreasonably withheld, conditioned, or delayed. Notwithstanding the foregoing, Crown Castle shall have the right to assign or delegate all or part of this agreement to an affiliated entity (*i.e.* any entity controlling, controlled by, or under common control with Crown Castle) without the express consent of, but with written notice to the City.

10.5 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, legal representatives, successors, assigns and transferees.

10.6 Entire Agreement; Modification; Waiver. This Agreement constitutes the entire agreement between the parties relating to the subject matter hereof. All prior and contemporaneous agreements, representations, negotiations, and understandings of the parties, oral or written, relating to the subject matter hereof, are merged into and superseded by this Agreement. Any modification or amendment to this Agreement shall be of no force and effect unless it is in writing and signed by the parties. No waiver of any of the provisions of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar. No waiver or consent shall constitute a continuing waiver or consent or

commit either party to provide a waiver in the future except to the extent specifically set forth in writing. No waiver shall be binding unless executed in writing by the party making the waiver.

10.7 Severability. If any one or more of the provisions of this Agreement shall be held by a court of competent jurisdiction in a final judicial action to be void, voidable, or unenforceable, such provision or provisions shall be deemed separable from the remaining provisions of this Agreement and shall in no way affect the validity of the remaining portions of this Agreement.

10.8 Governing Law. This Agreement shall be interpreted and enforced according to, and the parties' rights and obligations governed by, the domestic law of the State of California or applicable federal law, without regard to laws regarding choice of applicable law. Any proceeding or action to enforce this Agreement, or otherwise directly related to this Agreement shall occur in the federal court with jurisdiction over Alameda County or the state courts located in Alameda County, California.

10.9 Survival of Terms. All of the terms and conditions in this Agreement related to payment, removal due to termination or abandonment, indemnification, limits of City's liability, attorneys' fees and waiver shall survive termination of this Agreement.

10.10 Captions and Paragraph Headings. Captions and paragraph headings used herein are for convenience only. They are not a part of this Agreement and shall not be used in construing this Agreement.

10.11 Exhibits. All Exhibits referenced in this Agreement are hereby incorporated as though set forth in full herein.

10.12 Drafting. The parties agree that this Agreement is the project of joint draftsmanship and that should any of the terms be determined by a court, or in any type of quasi-judicial or other proceeding, to be vague, ambiguous and/or unintelligible, that the same sentences, phrases, clauses or other wording or language of any kind shall not be construed against the drafting party in accordance with California Civil Code Section 1654, and that each party to this Agreement waives the effect of such statute.

10.13 Execution in Counterparts. This Agreement may be executed in one or more identical counterparts and all such counterparts together shall constitute a single instrument for the purpose of the effectiveness of this Agreement.

10.14 Authority to Execute This Agreement. Each person or persons executing this Agreement on behalf of a party, warrants and represents that he or she has the full right, power, legal capacity and authority to execute this Agreement on behalf of such party and has the authority to bind such party to the performance of its obligations under this Agreement without the approval or consent of any other person or entity.

10.15 No Warranty by the City. The City makes no representations or warranties regarding the suitability, condition or fitness of the Sites for the installation, maintenance or use of the Replacement Poles or the Network Facilities.

10.16 Agreement Applicable Only to the Sites. This Agreement shall not be construed to permit construction, installation, maintenance or use of Network Facilities on any property other than the Sites.

10.17 **No Abrogation of Legal Responsibilities.** The City's execution of this Agreement shall not abrogate, in any way, Crown Castle's responsibility to comply with all permitting requirements or to comply with all Laws with respect to its performance of the activities permitted under this Agreement.

10.18 City use of Fiber owned by Crown Castle. Crown Castle agrees to provide the City with the infeasible right to the exclusive City use of two (2) strands of dark fiber in fiber bundles owned by Crown Castle at no cost to the City. Upon city's request, Crown Castle and The City shall meet and confer regarding the locations of available fiber. City shall notify Crown Castle in writing of the fiber it desires to use pursuant to this section. Crown Castle and City shall cooperate in good faith to facilitate the use of this fiber by City.

10.19 Wi-Fi services. Crown Castle agrees that it will provide space for install Wi-Fi equipment and permit the City or City's contractor to utilize space and or the installed equipment on the Crown Castle poles within the City to provide Wi-Fi services to the public. City acknowledges that Crown Castle does not itself provide Wi-Fi services and will not have any obligation under this section other than to provide space on the poles/Nodes for the City or its contractor to provide such services and any additional equipment and maintenance required to provide this service. .

[Signatures Begin on Following Page]

In witness whereof, and in order to bind themselves legally to the terms and conditions of this Agreement, the duly authorized representatives of the parties have executed this Agreement as of the Effective Date.

City: **CITY OF PIEDMONT**, a California municipal corporation

By: _____

[name typed]

Its: _____

Date: _____, 2016

Crown Castle: **CROWN CASTLE NG WEST LLC**

By: _____

Its: VP/General Manager, SCN, West Region

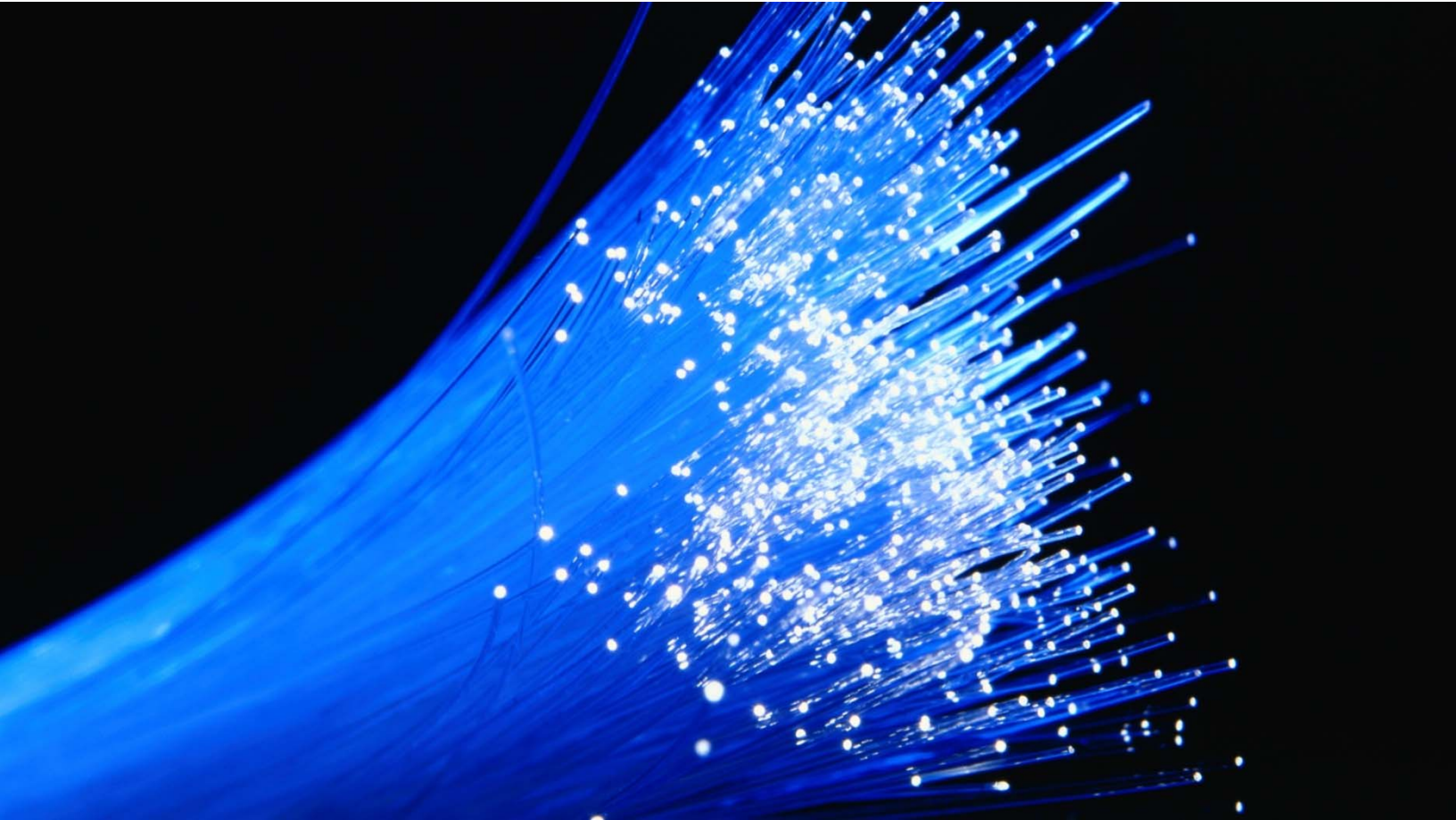
Date: _____, 2016

EXHIBIT A

List of Network Facilities

ctc technology & energy

engineering & business consulting



System Level Review of Crown Castle 19 Site PCS/AWS Small Cell Wireless Design

**Prepared for the City of Piedmont
November 2019 (Revised)**

Columbia Telecommunications Corporation

10613 Concord Street • Kensington, MD 20895 • Tel: 301-933-1488 • Fax: 301-933-3340 • www.ctcnet.us

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1 Executive Summary

The City received a revised 19-site small cellular deployment application from Crown Castle (the applicant) on behalf of Verizon Wireless (Verizon) to replace an earlier nine-site design (eight sites were challenged in the pending lawsuit; one site was approved and not challenged. The 19 sites include the eight original challenged sites, the one approved and not challenged site and 10 new sites). The original design supported all three Verizon wireless bands (700 MHz, 1900 MHz PCS and 2100 MHz AWS). As discussed below, in our opinion:

1. The revised design covers essentially the same area as the original design but requires additional sites to address Verizon coverage goals due to the removal of the 700 MHz wide area coverage band and lower powered site radio interface equipment and the additional sites are necessary to achieve a substantially similar coverage as what would have been achieved with the 700MHz radios.
2. The RF from the sites is within and significantly below the FCC Guidelines for RF both at ground level below the antennas and horizontally.

Columbia Telecommunications Corporation (CTC) is an independent telecommunications consulting firm that has been retained by the City to perform a technical review of the revised applications and assist city staff with technical negotiations with Crown Castle.

Note that our analysis does not include a review or evaluation of the appropriateness of the proposed facilities or sites. Rather, our analysis is confined to the technical aspects of the applications and includes:

1. A review of the technical equipment that is being proposed by the applications and the suitability of such equipment to meet the purposes set forth by the applications.
2. An evaluation of the coverage and network maps submitted by the applicant for both the initial applications and the revised configuration to determine coverage areas.
3. A review of the RF emissions studies submitted by the applicant to confirm that the proposal would not exceed the Federal Communications Commission (FCC) RF emissions guidelines.

We recommend the revised applications from a technical standpoint. In summary:

- Our review of the proposed technical equipment finds the equipment suitable to meet the purposes set forth by the applications.
- The revised 19-site PCS/AWS design services essentially the same area as the nine site three band configuration.

- Our RF emissions studies for the sites that have been previously¹ designed confirm that at each site, the total calculated RF emissions would not exceed the FCC's guidelines at ground level as well at the antenna's height above ground in the horizontal plane.

¹ For the 10 new sites, detailed engineering designs have not been submitted.

2 Brief Background on Cellular Coverage and Technical Issues

The following brief discussion presents a framework for understanding our analysis of Verizon's proposed wireless cover and our findings.

2.1 Wireless Coverage and Target Signal Levels

Wireless coverage for modern 4G technology broadband services is determined by a carrier's radio frequency (RF) signal amplitude and signal quality within a desired service area. Signals need to be at a minimum amplitude to override noise and, in many cases, interference from other wireless facilities. Signal levels also need to be maintained at a power level such that user devices are not constantly connecting and reconnecting (either because of a loss of signal or because an existing connection is overpowered by another wireless access point).

Handing off a user from one access site to another is part of the mechanics of dealing with users who are in motion—particularly in an urbanized area with multiple signal paths and tower sites. Further, modern 4G technologies as employed by Verizon and other carriers operate with sophisticated encoding technology that permit higher transmission speeds in areas where signal levels are higher than those required for minimum data rate transfers.

While the Federal Communications Commission (FCC) has no defined signal coverage technical standards for the services provided by commercial wireless carriers, the industry and equipment manufacturers have generally established target signal levels for various service environments. Typically referenced service environments include outdoor coverage, in-vehicle coverage, and in-building coverage.

For 4G technology, target levels are specified in terms of the logarithmic power ratios expressed in decibels (dB) of signal power, with a reference level of 0 dBm being equal to 1 milliwatt of signal power. Modern cellular equipment is extremely sensitive and can operate at signal levels as low as -120 dBm RSRP.²

2.2 Proposed Verizon Coverage

Crown Castle provided Verizon coverage maps illustrating the proposed service delivered by nine small sites operating in the 700 MHz band and 19 sites operating in the PCS/AWS bands

² Reference Signals Received Power, measured in dBm, indicates the power of an LTE cellular signal.

These exhibits are computer-generated maps providing the estimated signal level based on the most up-to-date computer modeling software available to the wireless industry.^{3,4} The program, named “Atoll,”⁵ examines terrain, foliage, and structures along a pathway from the core transmission facility (i.e., sites like the existing three sites listed above) and creates a map that displays the average signal level calculated for that service area.

In the Verizon maps and the corresponding engineering materials, Verizon specified its target coverage levels as follows:

- -85 dBm or greater for reliable in-building, in-vehicle, and outdoor service (green)
- -100 to -85 dBm for reliable in-vehicle and outdoor service (yellow)
- -120 to -100 dBm for (spotty) outdoor service (red)
- -120 dBm or less indicates no service or unreliable wireless service (white pixels)

2.2.1 Initial 700 MHz Band Wireless Coverage

The 700 MHz band, due to its lower frequency, has greater coverage than either the PCS or AWS bands. Figure 1 thus illustrates the existing coverage in the target area for the 700 MHz band. Blue dots were added to the Verizon exhibit to show the locations of the new sites, not included on the original applications. Note the additional sites are all located in areas that would have been provided either in-building or in-vehicle coverage from the original nine 700MHz sites.

³ Noman Shabbir, Muhammad T. Sadiq, Hasnain Kashif, and Rizwan Ullah, “Comparison of Radio Propagation Models for Long Term Evolution (LTE) Network,” *International Journal of Next-Generation Networks (IJNGN)* Vol.3, No.3, September 2011,

https://www.researchgate.net/publication/51943548_Comparison_of_Radio_Propagation_Models_for_Long_Term_Evolution_LTENetwork (accessed October 2018).

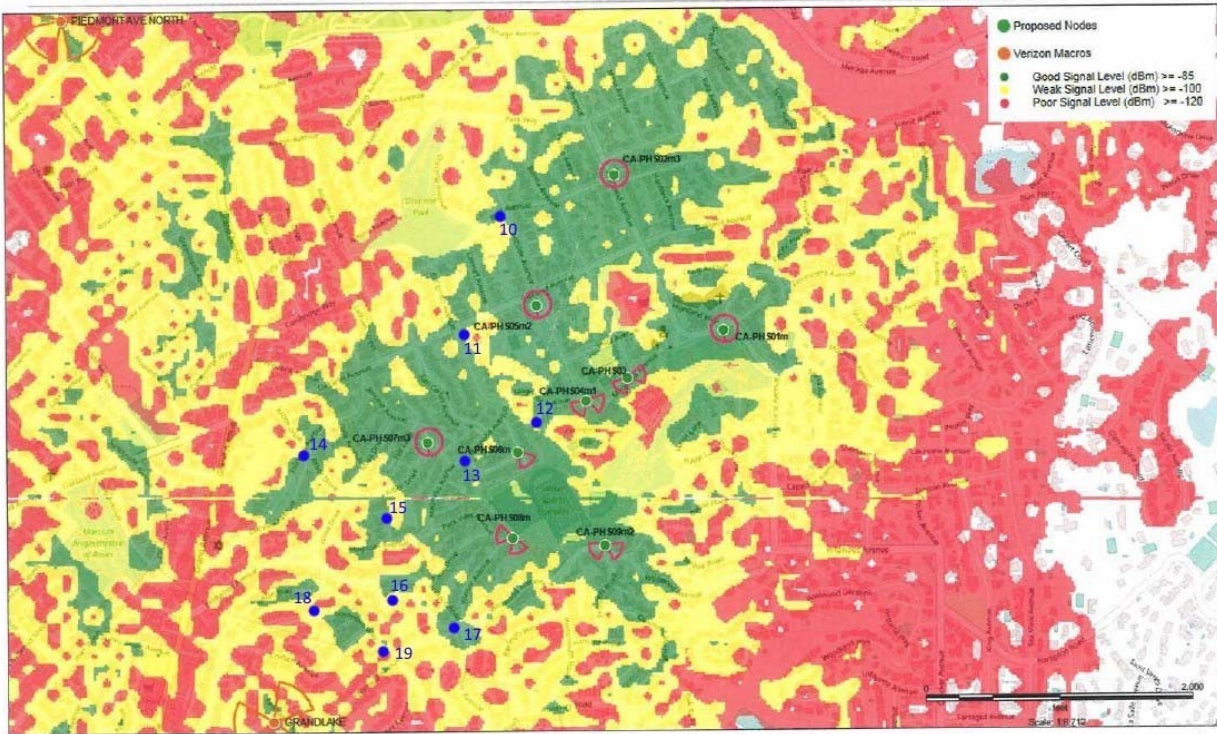
⁴ Marwa Elbagir Mohammed and Khalid Hamid Bilal, “LTE Radio Planning Using Atoll Radio Planning and Optimization Software,” *International Journal of Science and Research (IJSR)*, Volume 3 Issue 10, October 2014, <https://www.researchgate.net/publication/317032936> (accessed October 2018).

⁵ Forsk, www.forsk.com (accessed October 2018).

Figure 1: Original Coverage in the 700 MHz Band (Source: Verizon)



PROPOSED 700 MHz COVERAGE

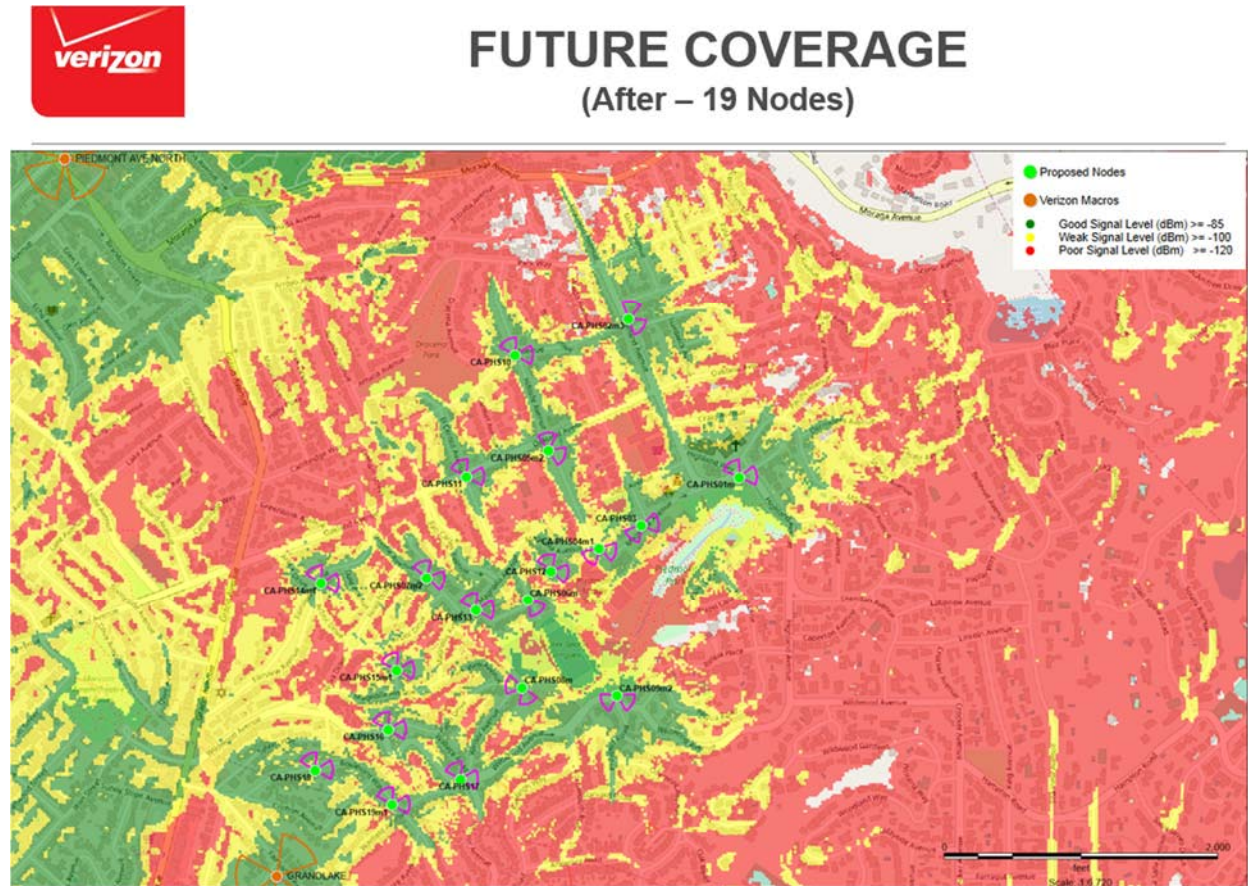


2.2.2 19 Sites PCS/AWS Band Wireless Coverage

Figure 2 is a map exhibit of coverage in 19 sites for the PCS/AWS band. In comparison with the original 700 MHz service coverage, more sites are required for the PCS/AWS band to address the same target area. The PCS/AWS band operates at three times the frequency of the 700 MHz band, therefore, coverage is reduced for a facility of equivalent antenna height, gain, and transmitter power. The higher frequencies attenuate more rapidly due to a variety of propagation issues which, on average, reduce the coverage radius of the site by a factor 2-3 in comparison to the 700 MHz band.

Note that new sites 18 and 19 are situated at the southwest end of the original 700 MHz coverage map, they each have directional antennas focusing all the coverage north or the sites. The coverage shown south of these sites comes from the existing Grand Lake Verizon macro site.

Figure 2: Proposed PCS/AWS Coverage in the AWS Band (Source: Verizon)



2.3 FCC Guidelines for Human Exposure to Radio Frequency Fields

The FCC's guidelines for evaluating human exposure to RF signals were first established in 1985. The current guidelines were adopted in August 1997 in FCC OET Bulletin 65.⁶ The guidelines are expressed in terms of Maximum Permissible Exposure (MPE) to electric and magnetic field strength and power density. The guidelines cover the frequency range of 300 kHz to 100 GHz. The guidelines cover two separate tiers of exposure:

1. **Occupational/controlled** exposure limits apply to situations in which persons are exposed as a consequence of their employment and in which those persons who are exposed have been made fully aware of the potential for exposure and can exercise control over their exposure.
2. **General population/uncontrolled** exposure limits apply to situations in which the general public may be exposed or in which persons who are exposed as a consequence of their

⁶ "Evaluating Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields," OET Bulletin 65, edition 97-01. <https://www.fcc.gov/general/oet-bulletins-line#65>

employment may not be made fully aware of the potential for exposure or cannot exercise control over their exposure.

Figure 3 is a plot of MPE as a function of RF.

Figure 3: FCC Limits for Maximum Permissible Exposure (mW/cm²)

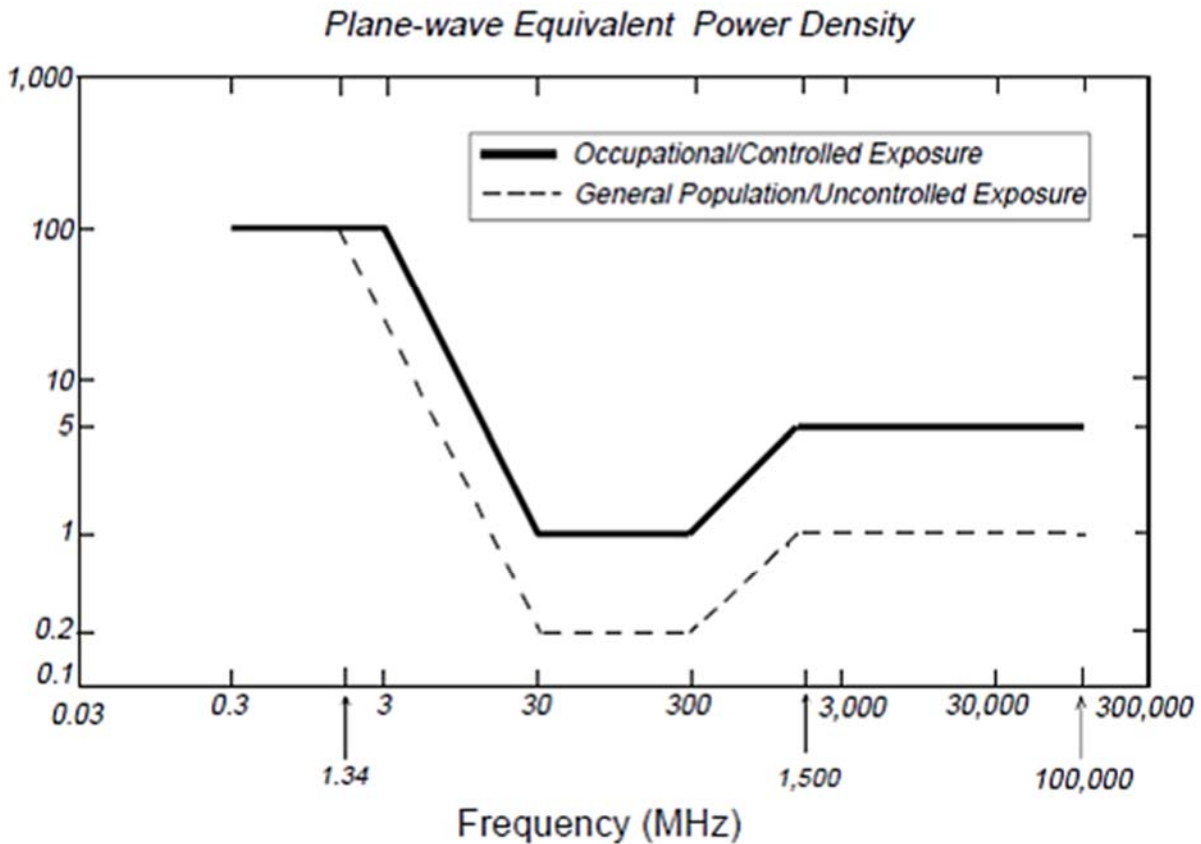
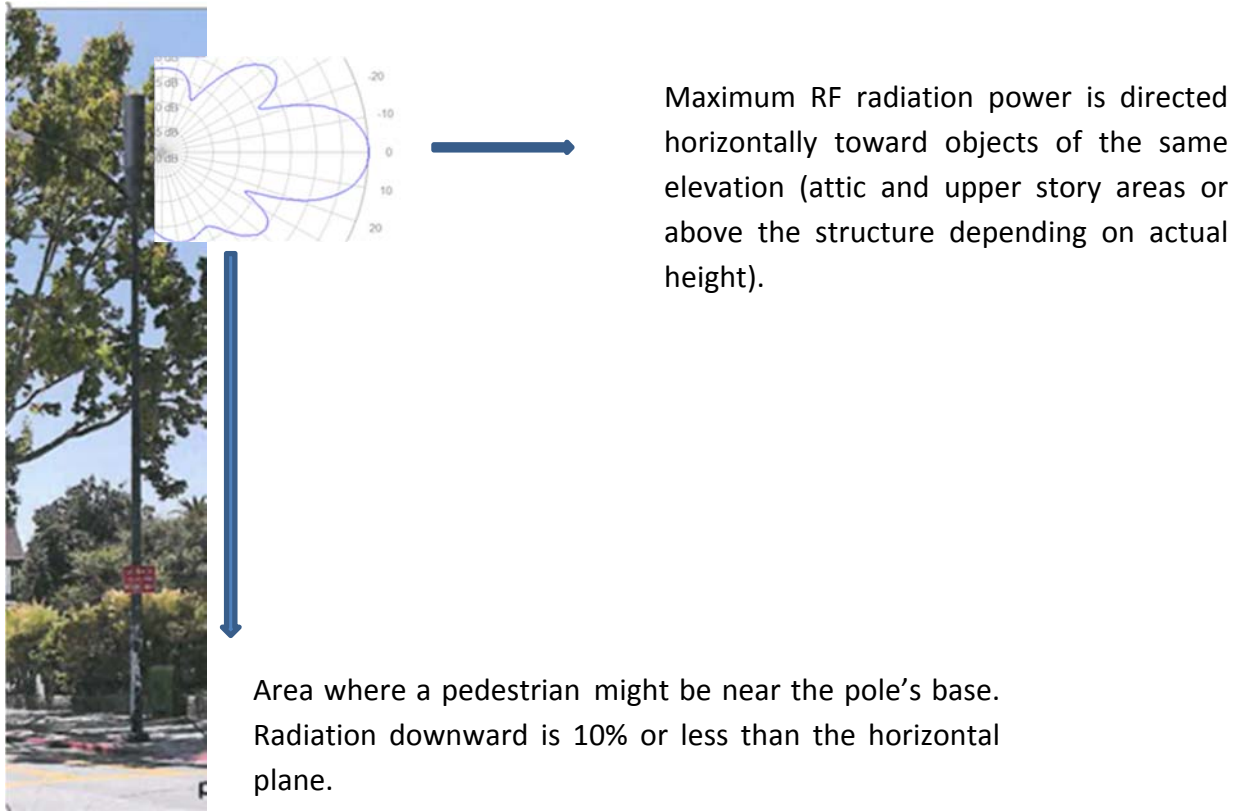


Figure 4 illustrates the areas where the greatest RF exposure is present—specifically, at or near the base of the antenna mounting structure and horizontally at an elevated location near the antenna.

Figure 4: Most Critical Areas for Consideration of RF Exposure (Example Site 3)



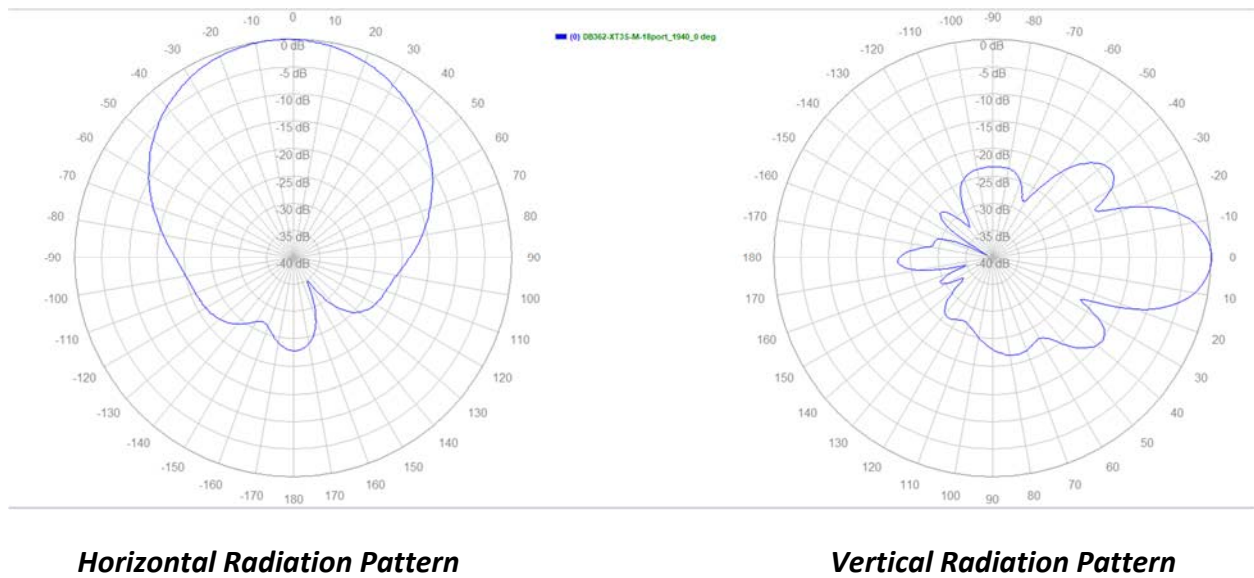
While we do not have the detailed engineering information on all 19 sites to review at this time, we have examined the four sites at the lower elevations on street light pole that have the highest-powered radio equipment for compliance with the FCC guidelines (sites 1, 2, 3 and 9).

Table 1: Communications Equipment Specifications – Site 3 (Source: Crown Castle)

Item	PCS (1900 MHz)	AWS (2100 MHz)
dBSpectra DB-362NXD-3S-M	Shared Antenna	Shared Antenna
Horizontal Beamwidth (°)	66	66
Bearing Azimuth (°)	0	0
Gain (dB)	9.4	9.4
Vertical Beamwidth (°)	23	23
RAD Above Ground (feet)	32' 7"	32' 7"
Dimensions (inches)	8.2" Dia x 24" H	Shared Antenna
Coordinates	37.823568/-122.233254	Shared Antenna
Radio Ericsson	8843	8843
Power (Watts)	160	160
ERP (Watts)	880	880

As part of our assignment we performed an independent analysis of the expected RF exposure levels at Site 3. Figure 6 provides graphs of the RF energy emitted by the proposed antenna in the horizontal and vertical planes. Note that in the horizontal plane, the radiation pattern is directional with all of the signal power into a 66° arc. In the vertical plane, the maximum radiation is focused outward, perpendicular to the utility pole. In the downward direction (toward the ground at the pole) the radiation is at least 16 dB (1/40th) below the radiation in the horizontal plane.

Figure 6: Site 3 Antenna Radiation Pattern⁷



⁷ This antenna can support 3 separate, simultaneous, independent major coverage lobes (beams) in both 1900 and 2100 MHz (PCS/AWS band) amplitude in dB relative to maximum value in the respective plane. Only one beam is shown.

Based on the specifications of the proposed antenna and transmission equipment, we concur with the applicant's findings that the maximum general-population RF exposure calculated for the site at both the base and at the antenna's horizontal plane (see Figure 5) is within the FCC's MPE. For this site we find that:

1. The exposure level is less than 5% of the FCC MPE population RF exposure at ground level.
2. The RF exposure elevated locations at the antenna maximum beam, height of 32' 7" and a distance of 35' from the site is 50% of the FCC MPE population RF exposure.
3. The RF exposure elevated locations at the antenna maximum beam where the emission is 100% or less of the FCC MPE population RF exposure is 25' from the site.

Item # 3 – Crown Castle Small Cell Wireless Applications
Correspondence Received Before 3:00PM on Friday, November 15th

To whom it may concern,

I am strongly against cell towers in Piedmont, anywhere!

As a Real Estate Broker here, I can guarantee that they will diminish the value of homes that they are near, and they are visibly horrible looking...

Once more information becomes available what these devices really are and how dangerous they are,, of course we will have to disclose to our buyers, and people will rightfully want to stay clear of those homes and locations.

Please vote this down!

Sincerely,

Anian Tunney

Dear Planning and City Council members,

Unfortunately we can not attend the meeting tonight. With that said, you have received many emails from our eloquent neighbors including, but not limited to, Stephen Kozinchik, Shary Nunan, Dr. Vibha Gupta and we are all in agreement that we are horrified by Crown Castle's intention of putting up cell phone towers surrounding our schools and field.

I am sorry to say that I am a Verizon customer. With that said, my coverage is perfect. However, I intend to change my cell phone coverage to another company as Verizon does not respect their customer's concerns .

All of our neighbors agree that there would be a devaluation of our property value if the cell phone towers are allowed. You are supposed to be the stewards of our wonderful city of Piedmont. We have always said that the schools are the industry of Piedmont . Their consistent high test scores increase the value of our homes. If outsiders get the news that their children will be surrounded by cell phone towers, I expect there will be many people who decide Piedmont is not a great place to raise children. That would create a decrease in home values, people will not vote in favor of bond issues to increase revenue for the schools and that will trickle down to effect teacher's salaries,, and also effect the fire department and police department.

I agree with Dr. Gupta, Stephen Kozinchik, Penny Robb, Shay Nunan and many more of my neighbors and implore the city council to listen to all of us, directly affected or indirectly affected, and stand up and fight for the right thing to do for our city.....no new cell phone towers!!!!

Respectfully,

Mike and Dale Humphries

We would like to add our names to the long list of neighbors on Jerome and El Cerrito (and throughout Piedmont) who oppose Crown Castle/Verizon's proposed cell sites. We agree with Stephen's excellent summary of concerns, and implore you to do the right thing and deny this application.

Thank you,
Mary Purcell and Matt Kretzer

Dear City Council Members,

Our Mackinnon Place neighbor group is unable to make it to the meeting tonight but wanted to send along our thoughts for the record. We realize everyone on the council has been put in a very difficult situation with the Crown Castle applications and appreciate all your countless hours and thoughtful work on this issue.

For the record our neighbor group has many concerns which include:

- 1.** The basic idea of having a cell tower so close to our homes and within 100 feet of more than **12** children between the ages of 6-15.
- 2.** The idea of (4) cell towers within 1 block of our neighborhood. We thought ours was the only one in the area, but according to the map we are looking 18 tightly deployed towers in the area, which is causing major concerns.
- 3.** Everyone is **EXTREMELY** concerned about the health effects of cell towers to everyone in our neighborhood and especially our children. We realize this cannot be a consideration, but we are voicing our extreme concern "for the record" and our absolute rejection of any un-studied policy/regulation that deems cell towers a safe technology that may be unleashed on our community.
- 4.** We are all concerned about possible plummeting property values from having a cell tower installed on our MacKinnon Place culdesac. With property values expected to fall at least 20%, the collective hit to the owners of our seven neighborhood homes could exceed \$3 Million in lost value. * This does not include down hill neighbor properties on Nova.
- 5.** We are concerned that the chosen location is allowing the cell tower to "tap into" the utility pole on our street. We are in process (with PG&E Case #) to remove the pole as part of a future under grounding project, and do not want to become partners with Crown Castle in our quest to remove the MacKinnon utility pole. We would like to see the new cell tower powered from a different pole that is down the stairs on Nova, with any under-grounding of their power needs heading down the staircase towards Nova.
- 6.** If (#5 Above) is not possible, we need to come to terms with the City and Crown Castle that there will be "no interference" or additional costs incurred by neighbor group related to the

future removal of the MacKinnon utility pole, due to the installation of the new Crown Castle cell tower.

With that being said. . . Our neighbor group is satisfied with the location of the Cell tower location chosen in the current Crown Castle application and the lower powered model being chosen.

1. Per (#5) above we ask the City and Crown Castle to work with us in exploring powering the cell tower from another location on Nova.
2. We ask the City and Crown Castle to work with our neighbor group on the height & model of the new cell tower sheathing choices.
3. We ask the City and Crown Castle to work with our neighbor group on removing the bare minimum of tree branches of the tree adjacent to the new cell tower to keep it hidden as much as possible.

Thanks for all your hard work and working with us on the few aspects of the new cell tower installation mentioned above.

Steve Humphries

Dear Planning and City Council members,

Please add us to the long list of neighbors, opposing new cell phone towers!

Thanks you.

Boleyn Ni & Checheng Ko

Dear City Council & Kevin,

I understand that the first set of cell sites (sites 1-9) will not go through the Planning Commission, even though Crown Castle submitted new applications for those sites with materially different installation plans. Given the difference in the plans between the original and new applications for cell sites 1-9, should the Planning Commission not review them to give a recommendation prior to it going to a vote in the City Council?

Or does the original recommendation for those first 9 sites (mostly denials if I remember correctly) still hold for them?

Thanks,

-Sherk Chung

Dear Ms. McDonald,

Please advise when and who at the City will respond to my questions presented in relation to the Crown and Castel permit Application for PHS 12 radio/antenna installation at 410 Hillside Court. I request a response this week to allow adequate time for me to review prior to the City Council Meeting November 18.

Sincerely,

Michael Costello

Good morning Michael,

Yes, you are correct. There is still an inconsistency in the plans and application materials. In July 2019 we asked Crown Castle to better coordinate the application materials and plans, but there are still issues.

The application states 58 feet 2.5 inches but the plans show 52 feet 8.5 inches.

If the City Council decides to approve this project location, staff will recommend a condition of approval limiting the height of the installation to 52 feet 8.5 inches, as shown on the plans.

Please let me know if you have additional questions.

Sincerely,

Pierce Macdonald-Powell

Pierce,

Thank you for your prompt response confirming there is an error in the Crown Castle Permit Application.

I would like responses to the four other inconsistencies I noted in my original e-mail dated 10/28/19.

Sincerely,

Michael Costello

Good morning Michael,

Thank you for your email and patience while we respond to questions and work through the details of Crown Castle's proposal.

Please find the settlement agreement staff report on the City website at the following link:
<https://www.piedmont.ca.gov/common/pages/DisplayFile.aspx?itemId=15975611>

The analysis of the coverage starts on page 57. The staff report outlines the benefits of the design to the Piedmont community and the need for additional sites to provide the level of service proposed in 2017, while also providing much smaller and lower power radios and antennas.

The original analysis of coverage is in the staff report for the City Council on October 2, 2017 at the following link on the City website:
<https://www.piedmont.ca.gov/common/pages/DisplayFile.aspx?itemId=14248778>

The coverage report starts on page 520 (this report also includes all of the 2017 plans and reports so it may take a minute to download).

I have forwarded your questions about the emissions reports to Crown Castle and their RF engineers and I look forward to sending you their response.

Sincerely,

Pierce Macdonald-Powell

Dear Pierce,

Please advise me when I should expect to receive a reply to my previous e-mail.

Also Please advise where the RF "Heat Map" showing the RF coverage intensities shared with the Planning Commission at the last meeting is available on-line or how I can obtain a copy.

Sincerely,

Michael Costello

Dear Planning Commission and City Council members,

To those of you on the Planning Commission who voted to deny 8 of the 9 Crown Castle cell antennas, **thank you so much!!** I think everyone at the meeting, and many other Piedmont residents, feel that you really listened with open minds and made your decision based on reason, rather than fear, and in response to the strong preference of your constituents. I am so relieved and grateful for your efforts and for your recommendation. I hope this is the beginning of a sea change in Piedmont, where residents and all of you, our representatives, can consider with open minds what is truly best for everyone in this city. When 700 residents (not 640 as reported by the Piedmont Post) signed a petition asking City Council members to "vigorously fight" these applications, we all knew this might result in going to court. Our city is worth it, our homes and our lives are worth it, and we will support you in every way we can to deny these applications and create a wireless policy that has more protections for the city of Piedmont.

Given that the legal landscape has recently changed, I believe it's essential for the Planning Commission to review Crown Castle applications for cell antennas 1-9 in addition to the 9 just reviewed. Both the Planning Commission and City Council should be aware of the following recent rulings and pending actions:

1. **The California Supreme Court** recently emphasized that a city's unique location and visual appeal are a valid basis for restrictive wireless zoning ordinances. (T-Mobile West LLC v. City & County of San Francisco (2019) 6 Cal.5th 1107, 1114.)
2. **The US Court of Appeals, D.C. Circuit**, ruled that FCC has been "arbitrary and capricious" in attempting to be exempt from two kinds of previously required review: historic-preservation review under the National Historic Preservation Act (NHPA) and environmental review under the National Environmental Policy Act (NEPA). Congress enacted NEPA to "encourage productive and enjoyable harmony between man and his environment" and "promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man" among other purposes. Given that FCC was found to be arbitrary and capricious in attempting to exempt small cells from these reviews, local authorities like the Piedmont Planning Commission and Piedmont City Council have been strengthened to require both reviews.
3. **ADA/FHAA Compliance:** The most recent Telecommunications Act case pertaining to the Americans with Disabilities Act demonstrates that disability law **is not** overridden by the TCA (see *G. v. Fay School, Inc.* (D. Mass 2017) 282 F.Supp.3d 381, 395). Moreover, the Fair Housing Act Amendments of 1988 squarely applies to the problem of RF radiation impacting disabled residents. Under the FHAA, public entities must "make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling". 42 U.S.C. § 3604(f)(3)(B). Tripp May, attorney, advised the City Council of Orinda in September 2019 that their ordinance can be drafted broadly enough to keep the door open to disability accommodation for people with RF sickness or other conditions exacerbated by RF. This allows and requires the City of Piedmont to make accommodations by relocating tower permits away from residents with RF sickness or other conditions exacerbated by RF. The City of Santa Cruz is currently developing an ADA/FHAA accommodation notice procedure, and at least one other Californian city (Redlands) has acknowledged the obligation to make accommodations by relocating a tower permit.
4. There are bills in both Houses of Congress proposing that the current FCC orders become void. The TCA clearly protects local authority over their rights of way. The FCC has misinterpreted the TCA and these bills have been introduced to correct that misinterpretation.
5. Andrew Campanelli, Esq., and an attorney working in the telecommunications arena for twenty years, will be filing a federal lawsuit in California within the next 30 days to achieve a declaratory ruling that the recent FCC rulings are void ab initio.

The rulings that have already occurred make it clear that local authority is empowered to protect its rights of way and citizens. They make a path for you to deny unnecessary cell antennas and to

fight vigorously to uphold protections for Piedmont residents even if this means going to court, just as others have had to do and are currently doing because of FCC's overreach of forcing these unwanted installations into cities. Sherk Chung, expert in rf technologies, has repeatedly told you that Piedmont has blanket coverage, and does not have a deficit in either cell coverage or capacity. It is your responsibility to accurately represent the wishes of your constituents, and to allow your consulting attorney to provide the best legal arguments to support you in that goal. Andrew Campanelli is available to consult with you and/or your attorneys--his number is 516-746-1600. Ariel Strauss, a local attorney with expertise in this area, is also available to consult with you. His number is 510-900-9502.

Thank you,
Shary Nunan

Dear City Council,

As representatives of the residents of Piedmont, we know you're aware that it is your responsibility to tell your attorneys what **our** goals are, and if they can't help meet these goals, to seek consultation from attorneys who can help you meet **our** goals. 700 residents (not 640 as the Piedmont Post recently reported) signed a petition asking you to create a robust wireless policy to help protect Piedmont residents from unneeded cellular infrastructure. Two options for attorneys who can advise you on legal protective policies are Andrew Campanelli, Esq. (New York) and attorneys at Greenfire Law in Berkeley.

Below is a list of key sections that should be included in the Piedmont wireless policy; each key section has a list of other California cities known to have adopted the section. Adopting these sections would go a very long way towards resolving the issues that are occurring with the current Crown Castle applications. Please let us know when we can expect these sections to be included in Piedmont's wireless policy. We have sent you recommendations for the wireless policy previously, with no response or change to the policy. Sherk Chung, who has more expertise than any of us on these issues, has offered his time for consultation. If for any reason you plan not to pursue these revisions, please explain your reasoning.

This list has been compiled for the Berkeley wireless ordinance:

Key Points for Berkeley Telecom Ordinances

final WiRED recommendations Nov. 2, 2019

Cities known to have adopted each point are in parentheses. Ordinances are hyperlinked.

- **1. FCC CLAUSE:** Include a clause voiding relevant sections of the ordinance, or requiring modification, in the event of a regulatory change or overturning of the FCC Order. (see report by [Next Century Cities](#)) **Laws, permits, and re-certifications need to be CONDITIONAL**, so that they may be revoked or modified if out of compliance or if/when federal law is modified. ([Fairfax](#), [Sonoma](#))
- Also include a SEVERABILITY clause.

- **2. PERMITS**
- 2.a. **Conditional Use Permits:** Maintain that each wireless facility requires a Conditional Use Permit (Planning Dept, ZAB, or Public Works) followed by an encroachment permit which is reopened every 3 to 5 years ([Sonoma City](#))
- 2.b. **Significant Gap in coverage:** Require that a significant gap in coverage be proven by applicant before approval of a wireless antenna and confirmed by an independent engineer. ([Calabastas](#), [Old Palos Verdes](#))
- **Least Intrusive Methods:** Require the least intrusive methods to fill any gaps for small cells and other wireless facilities. A justification study which includes the rationale for selecting the proposed use; a detailed explanation of the coverage gap that the proposed use would serve; and how the proposed use is the least intrusive means for the applicant to provide service. Said study shall include all existing structures and/or alternative sites evaluated for potential installation of the proposed facility and why said alternatives are not a viable option. ([Old Palos Verdes](#))
- 2.c. **Radio-frequency Data Report:** Require a thorough radio-frequency (RF) data report as part of the permit submittal for consultants. For all applications, require both an RF Compliance Report signed by a registered, independent professional engineer, and a supporting RF Data Request Form. ([Calabastas](#), [Palos Verdes](#), [Suisin City](#), [Sonoma](#))
- 2.d. **Mock-up, Construction Drawings, Site Survey, Photo Simulations:** Require full-size mock-up of proposed Small Cell Facilities (SCF) and other pertinent information in order to adequately consider potential impacts. (Larkspur, [Calabastas](#), [Palos Verdes](#). Also see [Boulder, CO](#) Report)
- Require **Balloon Tests**. ([Town of Hempstead](#) 2013)
- 2.e. **Public notification:** Telecom related Planning Commission, Public Works, and Zoning Adjustment Board hearings shall be publicized in the most widely read local newspapers and local online news sources* and on the City website no less than 30 days prior to the date of the hearing or meeting. Due to the “shot clock”, City may require applicants to hold a publicly noticed meeting two weeks prior to submitting an application. Applicants shall mail all affected residents and businesses date, time, and location of hearings at least two weeks prior.
- **Community Meeting:** The applicant is required to [publicize in local newspapers and local online news sources* and] hold a community meeting at least two weeks prior to the hearing on the use permit. ([San Anselmo](#), [Palos Verdes](#)) Applicants shall mail all affected residents and businesses date, time, and location of hearings at least two weeks prior.
- 2.f. **Notification:** Notify property owners, residents, tenants, business owners, and workers within 3000 feet of a proposed wireless installation within one week of application submittal and again within one week of permit approval.
- 2.g. **Independent Expert.** The City shall retain an independent, qualified consultant to review any application for a permit for a wireless telecommunications facility. The review is intended to be a review of technical aspects of the proposed wireless telecommunications facility and shall address any or all of the following: xxxx ([Old Palos Verdes](#)) Paid by applicant ([San Anselmo](#))

- 2.h. **Trees:** No facility shall be permitted to be installed in the drip line of any tree in the right-of-way. (Old Palos Verdes, 15' in [Los Altos](#)) (See Berkeley's Heritage Tree ordinance.)
- 2.i. **Transfer of Permit:** The permittee shall not transfer the permit to any person prior to the completion of the construction of the facility covered by the permit, unless and until the transferee of the permit has submitted the security instrument required by section 12.18.080(B)(5). (Palos Verdes)
- 2.j. **General Liability Insurance:** To protect the City, the permittee shall obtain, pay for and maintain, in full force and effect until the facility approved by the permit is removed in its entirety from the public right-of-way, an insurance policy or policies of commercial general liability insurance, with minimum limits of Two Million Dollars (\$2,000,000) for each occurrence and Four Million Dollars (\$4,000,000) in the aggregate, that fully protects the City from claims and suits for bodily injury and property damage. The insurance must name the City and its elected and appointed council members, boards, commissions, officers, officials, agents, consultants, employees and volunteers as additional named insureds, be issued by an insurer admitted in the State of California with a rating of at least a A:VII in the latest edition of A.M. Best's Insurance Guide, and include an endorsement providing that the policies cannot be canceled or reduced except with thirty (30) days prior written notice to the city, except for cancellation due to nonpayment of premium.... (Old Palos Verdes, [Fairfax](#), [Newark](#) San Anselmo has an indemnification clause.)
- 2.k. **Attorneys' Fees:** The Permittee is required to pay any/all costs of legal action. ([Suisin City](#))
- 2.l. **Speculative Equipment:** Pre-approving wireless equipment or other alleged improvements that the applicant does not presently intend to install, but may wish to install at an undetermined future time, does not serve the public interest. The City shall not pre-approve telecom equipment or wireless facilities. ([Fairfax](#), Old Palos Verdes, [Sebastopol](#))
- 2.m. Citizens] may appeal decisions made. ([San Anselmo](#))
- **3. ACCESS Americans with Disabilities Act (ADA):** All facilities shall be in compliance with the ADA. ([New Palos Verdes](#), [Fairfax](#), [Sebastopol](#), Mill Valley, Sonoma City, [Suisin City](#)) Electromagnetic Sensitivity (EMS) is a disabling characteristic, recognized by the Federal Access Board since 2002: <https://www.access-board.gov/research/completed-research/indoor-environmental-quality/introduction>. The main treatment for this condition is avoidance of exposure to wireless radiation. Under the 1990 Americans with Disabilities Act, people who suffer from exposure to Electromagnetic Fields (EMF) are part of a protected disabled class under Title 42 U.S. Code § 12101 et seq.: <https://www.govinfo.gov/content/pkg/USCODE-2010-title42/pdf/USCODE-2010-title42-chap126-sec12102.pdf> (Heed Berkeley's pioneering disability rights laws and Berkeley's Precautionary Principle ordinance NO. 6,911-N.S "to promote the health, safety, and general welfare of the community.")
- **4. SETBACKS:**

- 4.a. **Prohibited Zones** for Small Cells: Prohibits small cell telecommunication facilities in residential zones and multi-family zoning districts ([Calabasas](#), [Mill Valley](#), [Los Altos](#), [Sonoma City](#))
- 4.b. **Preferred or Disfavored Locations:** In addition to residential areas, designate areas where cell towers are disfavored and not permitted, i.e. near schools, residential areas, city buildings, sensitive habitats, on ridge lines, public parks, Historic Overlay Districts, in open spaces or where they are favored i.e. commercial zoning areas, industrial zoning areas. ([Calabasas](#), [Sebastopol](#), [Boulder Report](#))
- 4.c. **Disfavored Location:** Small cell installations are not permitted in close proximity to residences, particularly near sleeping and living areas. Viable and defensible setbacks will vary based on zoning. (ART ordinance) 1500 foot minimum setback from residences that are not in residential districts!
- 4.d. **1500 Foot Setback from other small cell** installations: Locate small cell installations no less than 1500 feet away from the Permittee's or any Lessee's nearest other small cell installation. ([Calabasas](#), Petaluma, Fairfax, [Mill Valley](#), Suisin City, Palos Verdes, [Sebastopol](#) San Ramon, [Sonoma City](#), -[Boulder Report](#))
- 4.e. **1500 Foot Minimum Setback** from any educational facility, child/elder/healthcare facility, or park. (ART Ordinance) The California Supreme Court ruled on April 4, 2019 that [San Francisco may regulate based on "negative health](#) consequences, or safety concerns that may come from telecommunication deployment.” ([Sebastopol](#) forbids potential threat to public health, migratory birds, or endangered species, also in combination with other facilities. Refer to Berkeley's Precautionary Principle Ordinance)
- 4.f. **500 Foot Minimum Setback from any business/workplace** (Petaluma, [Suisin City](#))
- **5. LOCATION PREFERENCE:**
- 5.a. **Order of preference:** The order of preference for the location of small cell installations in the City, from most preferred to least preferred, is: (1) Industrial zone (2) Commercial zone (3) Mixed commercial and residential zone (4) Residential zone ([ART Ordinance](#) and New Palos Verdes) [Residential zone ban]
- 5.b. **Fall Zone:** The proposed small cell installation shall have an adequate fall zone to minimize the possibility of damage or injury resulting from pole collapse or failure, ice fall or debris fall, and to avoid or minimize all other impacts upon adjoining property
- 5.c. **Private Property:** If a facility (such as a street light pole, street signal pole, utility pole, utility cabinet, vault, or cable conduit) will be located on or in the property of someone other than the owner of the facility, the applicant shall provide a duly executed and notarized authorization from the property owner(s) authorizing the placement of the facility on or in the property owner's property. (Palos Verdes) [Many Berkeleyans do not want wireless antennas allowed on private property which would set neighbor against neighbor. If a permit is considered for private property, not just the property owners but all those who spend time or own/rent property within 1500 feet must be notified immediately of how they may weigh in, and be informed of the decision immediately with possibility of appeal if a permit is granted.]
- 5.d. **Endangerment, interference:** No person shall install, use or maintain any facility which in whole or in part rests upon, in or over any public right-of-way, when such installation, use or maintenance endangers or is reasonably likely to endanger the safety

of persons or property, or when such site or location is used for public utility purposes, public transportation purposes or other governmental use, or when such facility unreasonably interferes with or unreasonably impedes the flow of pedestrian or vehicular traffic including any legally parked or stopped vehicle, the ingress into or egress from any residence or place of business, the use of poles, posts, traffic signs or signals, hydrants, mailboxes, permitted sidewalk dining, permitted street furniture or other objects permitted at or near said location.

- **6. TESTING:**
- **6.a. Random Testing for RF Compliance:** The City shall employ a qualified, independent * RF engineer to conduct an annual random and unannounced test of the Permittee's small cell **and other** wireless installations located within the City to certify their compliance with all Federal Communications Commission (FCC) RF emission limits. The reasonable cost of such tests shall be paid by the Permittee. ([Fairfax](#), ([ART](#), Old Berkeley. [Suisin City](#) requires annual inspections and testing.)
- **6.b. RF/EMF Testing:** Berkeley's current law states that the City Manager "may" require independent testing of telecom equipment. Change "may" to "shall" and delete the word "Manager" so that, if s/he does not find time to hire an independent expert, other City staff or a Council Committee may do so. The law needs to require independent testing of all equipment, unannounced in advance, twice annually, with permittees required to reimburse the City for costs and to pay a deposit in advance. Dates, addresses, and results of testing shall be posted on the City website and published in local media. ** [Montgomery County Maryland studied RF radiation levels from small cells and found that [FCC exposure levels were exceeded within 11 feet.](#)]
- **6.c. Violation of Compliance Notification:** In the event that such independent tests reveal that any small cell installation(s) owned or operated by Permittee or its Lessees, singularly or in the aggregate, is emitting RF radiation in excess of FCC exposure standards as they pertain to the general public, the City shall notify the Permittee and all residents living within 1500 feet of the installation(s) of the violation(s), and the Permittee shall have 48 hours to bring the installation(s) into compliance. Failure to bring the installation(s) into compliance shall result in the forfeiture of all or part of the Compliance Bond, and the City shall have the right to require the removal of such installation(s), as the City in its sole discretion may determine is in the public interest. ([ART](#))
- **6.d. Non-acceptance of Applications:** Where such annual recertification has not been properly or timely submitted, or equipment no longer in use has not been removed within the required 30-day period, no further applications for wireless installations will be accepted by the City until such time as the annual re-certification has been submitted and all fees and fines paid. ([ART](#))
- **7. RIGHT TO KNOW:** The City shall inform the public via website and local news publications ** of any past, current, and pending Master Licensing Agreement between the City and Telecom companie(s), Design Standards for Small Cells or other telecom equipment, and any other telecom agreements, as well as notifying the public within 3 days of receiving permit applications, calendaring related hearings/meetings, and approving permits. Notice shall include location and date of expected installations, and

actual dates of installations. A map featuring all telecom equipment shall be on the City website and available to residents who request to see it at 2180 Milvia St. If additional staff need to be hired to handle telecom applications, inspections, recertifications, etc., the City shall require applicants and permittees, who are profiting from using Berkeley's public right of way, to cover the reasonable cost.

- **8. RECERTIFICATION:**

- 8.a. **Annual Recertification:** Each year, commencing on the first anniversary of the issuance of the permit, the Permittee shall submit to the City an affidavit which shall list all active small cell wireless installations it owns within the City by location, certifying that (1) each active small cell installation is covered by liability insurance in the amount of \$2,000,000 per installation, naming the City as additional insured; and (2) each active installation has been inspected for safety and found to be in sound working condition and in compliance with all federal safety regulations concerning RF exposure limits. ([ART](#)) Any installation that is out of compliance will be promptly removed; the permit for that installation will be terminated, with all associated expenses paid by the applicant.
- 8.b. **Recertification Fees:** Recertification fees will be calculated each year by the City. They will be based on the anticipated costs of City for meeting the compliance requirements put in place by this ordinance. The total costs will be divided by the number of permits and assigned to the permit-holders as part of the re-certification process
- 8.c. **Noise Restrictions ([Sonoma City](#)):** Each wireless telecommunications facility shall be operated in such a manner so as not to cause any disruption to the community's peaceful enjoyment of the city.
 - Non-polluting backup generators shall only be operated during periods of power outages, and shall not be tested on weekends, holidays, or between the hours of 5:00 p.m. and 9:00 a.m.
 - At no time shall any facility be permitted to exceed 45 DBA and the noise levels specified in Municipal Code XXX. ([Los Altos](#))
- 8.d. **Noise Complaints:** If a nearby property owner registers a noise complaint, the City shall forward the same to the permittee. Said complaint shall be reviewed and evaluated by the applicant. The permittee shall have 10 business days to file a written response regarding the complaint which shall include any applicable remedial measures. If the City determines the complaint is valid and the applicant has not taken steps to minimize the noise, the City may hire a consultant to study, examine and evaluate the noise complaint and the permittee shall pay the fee. The matter shall be reviewed by City staff. If sound proofing or other sound attenuation measures are required to bring the project into compliance with the Code, the City may impose conditions on the project to achieve said objective. (Old Palos Verdes, [Calabasas](#))
- 9.a. **AESTHETICS and UNDERGROUNDING:** At every site where transmitting antennas are to be placed, all ancillary equipment shall be placed in an underground chamber beneath the street constructed by the Permittee. ([Calabasas](#), [Mill Valley](#), [Petaluma](#)) The chamber shall include battery power sufficient to provide a minimum of 72 hours of electricity to the ancillary equipment. ***
- Permittee is responsible for placing on the pole two signs with blinking lights, with design approved by City, each in the opposite direction, to inform people walking on the

sidewalk, what is installed on the pole. Should a sign be damaged, Permittee shall replace it within 5 business days. ([Town of Hempstead](#) required a 4 foot warning sign on each pole.)

-
- 9.b. **Aesthetic Requirements:** According to the Baller Stokes & Lide law firm, some of the aesthetic considerations that local governments may consider include: ****
 - Size of antennas, equipment boxes, and cabling;
 - Painting of attachments to match mounting structures;
 - Consistency with the character of historic neighborhoods;
 - Aesthetic standards for residential neighborhoods, including “any minimum setback from dwellings, parks, or playgrounds and minimum setback from dwellings, parks, or playgrounds; maximum structure heights; or limitations on the use of small, decorative structures as mounting locations.” (Boulder, CO Report)

* **“Independent”** means: The RF engineering company has never provided services to a telecom corporation, and the company’s employee who tests exposure levels has also never provided services to a telecom corporation.

** **Right to Know** - Publish on City website, in online local news: Berkeley Daily Planet, Berkeleyside, and local newspapers: Berkeley Voice, Berkeley Times (2019. Update as needed.)

*** **Undergrounding** - A single shielded multi-wire cable from the underground chamber shall be used to transmit radiation to the antennae for the purpose of transmitting data. If the pole is of hollow metal, the cable shall be inside the pole; if the pole is solid wood, the cable can be attached to the pole. Installation shall include its own analogue electricity meter and Permittee shall pay the electrical utility a monthly charge for the amount of electricity used.

Except during construction, or essential maintenance, automobiles and trucks, of an allowed weight, shall be allowed to park at the site of the underground chamber. If maintenance is required within the underground chamber the Permittees shall place a notice on the parked car or truck, to be moved within 24 hours. If no vehicle is parked on top of the underground chamber the Permitted shall place a No Parking sign for up to 24 hours.

**** WiRED deleted four of the points that were either not approved or not understood.

Various [cities' wireless facilities ordinances](#) are hyperlinked in the Key Points emailed on Nov 2, 2019. Scroll down ~20 pages to find them:

<https://mdsafetech.org/cell-tower-and-city-ordinances/>

More cities than those listed have adopted these points.

Shary Nunan

Hi, gentle ping since I didn't hear back from anyone yet. Thanks,

-Sherk

Thank you Shary for a very clearly articulated message! For the record, I am in agreement with Shary on this, as I'm sure the overwhelming majority of Piedmont residents will be as well.

Cheers,

Sherk Chung

Shary

Your letter was extremely powerful. I wish you could put it in the Post and on line, word for word. This is a watershed moment, because if these towers go in, we won't be able to take them out..

Anian Pettit Tunney

Dear Pierce,

Thanks for forwarding the documents and pointing me in the right direction.

The quality of the RF coverage maps Figures 1 and 2 on pages 7 and 8 of the Settlement are very poor quality and undecipherable. Do you have originals of these maps and any other similar maps from the Settlement Report? If not please request original copies from Crown Castle.

Thanks for your help.

Sincerely,

Michael Costello

So then does that mean that original recommendation by the City Planning Commission to deny the installation of the cell towers (for sites 1-8) still stands?

Thanks,

Sherk Chung

Dear City Council,

I walk our three young children up and down Highland Ave multiple times a day. The pedestrian disruption caused by the installation, as well as, the maintenance of a site at 150 Highland is entirely unnecessary. Having to cross back and forth or walk along the side of Highland Ave to get to and from school, Piedmont park, or Mulberry's is not safe. I hope that in making your decision you will consider the safety of every pedestrian who uses Highland Ave. Please vote to deny all 18 sites in Piedmont.

Kind regards,

Mary Cvet

So just to clarify, the city planning commission's recommendation is to deny installation of cell sites 1 through 8?

Thanks,

Sherk Chung

Dear neighbors,

We have recently heard from a City Council member that the City Council is planning to approve the 18 cell antennas because they're afraid of a lawsuit. Can you please email them with a cc to us all to let them know that you're willing to contribute to a legal fund? A simple sentence or two is fine, and there's no need to mention any amount unless you want to. We simply need to drive home the point that we are all very serious about stopping the progression which includes 68 4G cell antennas throughout Piedmont to be followed by 5G antennas every other telephone pole or roof. There are so many reasons why this is unnecessary and a bad idea, and it is well worth anything we can all contribute to save our property values and the health of our children and ourselves. Please forward this email to every Piedmont resident you know, asking them to email the City Council, either with a cc to us all or a bcc to me. I will keep track of the number of people who offer to contribute to the legal fund, and will send an email to the City Council with the total so that this no longer can be used as a reason to approve the antennas.

Thanks,
Shary Nunan

Shary: I am absolutely happy to contribute to the Legal Defense Fund as I previously indicated to you. Since I believe the fear of costs of litigation has been a primary, if not THE primary, reason for the misguided approval of Crown Castle applications, I have long felt that the Defense Fund can take this issue off the table for the City Council. Once those "Above Highland" realize that most of the future 68 sites will be sited on locations like Seaview, Hampton, St. James, Estates, etc., we will be able to raise a sizable Fund. Hopefully the City Council will now do right by the City of Piedmont and its concerned citizens on this crucial issue affecting the future of our special town.

Bruce Mowat

I agree, and I will also contribute

Anian

Dear City Council,

We have heard from you that a primary reason for approving cell antennas in Piedmont is to avoid a lawsuit. We have many citizens in Piedmont who are willing to contribute to a legal fund so that this issue can be removed from your reasoning.

Andrew Campanelli, an attorney who has represented cities on these issues many times over the past 20 years, assures us that Piedmont is not at risk in paying for damages or Crown Castle's attorney fees. He said that a lawsuit in this kind of situation will be at most \$50,000. You are welcome to call him to verify this. Even if the case went beyond this, there are many Piedmont residents who want to support every effort to stop the rollout of antennas throughout Piedmont, starting with the 18 you are decisioning on November 18th. I am willing to contribute to a legal fund that results from the City of Piedmont denying Crown Castle the cell towers. You should be hearing from others as well.

Thank you,
Shary Nunan

Dear City Council Members,

I am also willing to contribute funds for a lawsuit. I think we need to postpone your decision as long as possible.

Anian Tunney

I am also willing to contribute to a legal fund.

Lisa Carnazzo

Dear City Council,

I hope you will consider **denying the cell site at 150 Highland Avenue** just as you did 2 years ago. One of the reasons you denied this location is because it's an extremely busy area for cars and pedestrians and isn't an appropriate place for a cell site. Crown Castle has said the sites will require monthly maintenance which means trucks will clog up our street and adversely affect the peace and safety at this busy intersection which goes against City Code section 17.46.070.A.4.

A member of the planning commission stated at its last meeting on 10/29/19 **there is no logic behind the locations Crown Castle chose**. They went for what was easiest instead of what is the least invasive. Putting a cell site 6 feet from my front yard and 25 feet from my home is intrusive. Crown Castle is supposed to find the least intrusive sites and they haven't. They selected sites that are listed as the City's third location preference.

TREE: An arborist report submitted by Crown Castle says a tree 15 inches away from the light pole will need to be trimmed by 10%. Crown Castle has stated in previous meetings that a tree is like putting a wall around the cell tower. This will be an ongoing problem. Since no person other than a City employee or other contractual agent of the City may prune the tree, who will be responsible for this? The arborist report states: "The distances between the tree and the pole was

measured at 15 inches and the crown extended approximately 18 feet to the north in the direction of the street light pole.”

POLE: The light pole already has a speed limit sign and a digital speed reader because speeding is a constant problem in this area. We don't need any more visual clutter on the light pole at this intersection. Drivers are so distracted they are constantly running over the pedestrian sign in the crosswalk.

TRENCH: Please do not allow Crown Castle to dig up a **225 foot trench** from the light pole at 150 Highland Ave, all the way across Highland Ave which is one of the busiest and biggest streets in Piedmont and down Blair Ave. None of the other sites require this much trenching. This would cause a major disruption to car and pedestrian traffic.

VAULT: I'm still unsure how Crown Castle plans to remove and replace 56 square feet of sidewalk without affecting the tree or digging into my front yard. The tree has roots disrupting the surface of the sidewalk, making it uneven. Any disruption to the sidewalk will affect the tree. Also, there isn't 56 square feet of sidewalk to remove. Behind the light pole to my front yard is only 6 feet. If they try to put the underground vault north of the light pole (toward the crosswalk) there is only 6.5 feet of sidewalk from the crosswalk to an existing PG&E and cable underground vault. If they try to put the vault south of the light pole then they are moving closer to the tree and its roots. The arborist report states: “The crown is full and the tree roots had begun to grow over the existing curb.

VIEW: The view from my master bedroom, bathroom, living room and entry way will be of a cluttered light pole/cell site that will only become more cluttered with co-location. We learned in previous meetings, sites can be extended by 10% or 10 feet without the City's approval. A Crown Castle engineer admitted they never even looked at co-location sites of towers already in Piedmont.

HOME VALUE: Local real estate agents have said they will need to disclose the cell site to buyers which will decrease home values by 20%. My next door neighbor is moving next year and I told a friend they should look at his house and she said not if there's a cell site in front of the home. Proof this will have a negative impact to homeowners.

Lastly, I hope you have seen this investigation done by the Chicago Tribune. A reporter had 4 iPhone 7's tested according to federal guidelines at a lab and found radio frequency radiation exposure measured over the legal safety limit and more than double what Apple reported to federal regulators. The FCC says on its website if a cell phone is approved for sale it will never exceed the maximum allowable exposure limit. This test at an independent lab shows otherwise, now the FCC is investigating. This brings up the question about whether cell phones always meet the FCC's safety standards set up to protect us, clearly in this case it didn't. **What about these cell sites? Do we trust Crown Castle to properly monitor them? I don't, especially when they've repeatedly had errors throughout their applications. In fact, at the Planning Commission meeting on 10/29/19, they didn't even get the name of our City right. The paperwork they handed out to the commission said Palo Alto.**

<https://www.chicagotribune.com/investigations/ct-cell-phone-radiation-testing-20190821-72qgu4nzlfd5kyuhteieh4da-story.html>

This application at 150 Highland Avenue is just as intrusive as the previous application by Crown Castle because of the proximity to homes, especially mine and 2 Pala Avenue. **Please do the right thing and deny this application for 150 Highland Avenue. We do not need or want better cell service. We will happily contribute to a legal fund so you don't feel pressured to approve the cell site based on fear of a lawsuit from Crown Castle.**

Thank you,
Chris & Lisa Carnazzo

Dear City Counsel -

I am happy to donate to a legal fund, and know many others that would be as well.

Shary's note of ~\$50k in fees - if accurate - seems like a small price to pay to provide ourselves with options and additional time to investigate options.

Zack Linfoord

Dear City Council Members,

Mike and I are also willing to contribute funds to fight the cell phone towers (past sites included) that Crown Castle has proposed.

We believe it's up to you. Once the phone towers go up we won't be able to tear them down or stop their momentum.

Be strong! We're all in this together.

Sincerely,
Dale and Mike Humphries

Myself and Kris are also willing to contribute funds towards a legal fund.

Dr. Vibha Gupta
Dr. Kristopher Kuhl

Dear City Council,

It strikes me as unfair that you are prohibited from considering the health effects of Crown Castle infrastructure on humans, but both Verizon and Crown Castle get to comment on it when warning their investors about loss of profits due to lawsuits related to health. Consider these Annual Reports from 2017 (provided by the Environmental Health Trust):

Verizon Communications Inc. 2017 Annual Report

"Our wireless business also faces personal injury and wrongful death lawsuits relating to alleged health effects of wireless phones or radio frequency transmitters. We may incur significant expenses in defending these lawsuits. **In addition, we may be required to pay significant awards for settlements.**"

Crown Castle 2017 Annual Report

"A potential connection between radio frequency emissions and certain negative health effects, including some forms of cancer, has been the subject of substantial study by the scientific community in recent years. **We cannot guarantee that claims relating to radio frequency emissions will not arise in the future or that the results of such studies will not be adverse to us...If a connection between radio frequency emissions and possible negative health effects were established, our operations, costs, or revenues may be materially and adversely affected.** "

I wonder why Verizon and Crown Castle have to warn investors about the possible connection between their infrastructure and negative health effects? Maybe it's because of this recent report by the **American Cancer Society**:

"For years, the understanding of the potential risk of radiation from cell phones has been hampered by a lack of good science. This report from the National Toxicology Program (NTP) is good science.

"The NTP report linking radio-frequency radiation (RFR) to two types of cancer marks a paradigm shift in our understanding of radiation and cancer risk. The findings are unexpected; we wouldn't reasonably expect non-ionizing radiation to cause these tumors. This is a striking example of why serious study is so important in evaluating cancer risk. **It's interesting to note that early studies on the link between lung cancer and smoking had similar resistance, since theoretical arguments at the time suggested that there could not be a link.**

"The new report covers only partial findings from the study, but importantly one of the two cancers linked to cell phone radiation was malignant gliomas in the brain. The association with gliomas and acoustic neuromas had been suspected from human epidemiology studies. The second cancer, called a schwannoma, is an extremely rare tumor in humans and animals, reducing the possibility that this is a chance finding. And importantly, the study found a 'dose/response' effect: the higher the dose, the larger the effect, a key sign that this association may be real.

"The fact that this finding was observed only in male rats has some wondering if the data is not reliable. It's important to note that these sorts of gender differences often appear in carcinogen studies, so the fact they show up here should not detract from the importance of the findings...

"The NTP was given the difficult task of trying to answer important questions about the potential cancer risk posed by cell phones, and the group did not shirk from its responsibility. NTP staff were clearly aware of the potential importance of this study and

went the extra distance to ensure the best science is used. They used double the number of animals required for this type of study; they convened not one but three panels to look at abnormal tissues from treated animals to ensure that what was identified as a brain and heart tumor was indeed a brain and heart tumor; they solicited review from multiple scientists from outside the NTP to critically review all aspects of the data analysis and study findings, to ensure the findings would stand up to the critical assessment expected once these unexpected findings were released.

Maybe Verizon and Crown Castle are warning their investors because the **World Health Organization Expert Committee on Electromagnetic Fields called for the upgrading of non-ionizing radiation from "possibly carcinogenic" to "probably carcinogenic" or even "carcinogenic" on 4/22/2019.**

Or maybe they're worried because of the recent article in **Scientific American** reporting that, based on 500 peer-reviewed studies, 240 scientists who are arguably "the majority of experts on the effects of non-ionizing radiation" signed an International EMF Scientist Appeal calling for stronger exposure limits due to the fact that:

"Numerous recent scientific publications have shown that EMF affects living organisms at levels well below most international and national guidelines. Effects include increased cancer risk, cellular stress, increase in harmful-free radicals, genetic damages, structural and functional changes of the reproductive system, learning and memory deficits, neurological disorders, and negative impacts on general well-being in humans. Damage goes well beyond the human race, as there is growing evidence of harmful effects to both plant and animal life."

Even a mainstream TV station, **Fox News, just did a special report because Jama Pediatrics (a peer-reviewed medical journal published by the American Medical Association) reported "lower microstructural integrity of white brain matter" and slowed brain development in preschoolers linked to exposure to screens. Fox News interviewed a technology safety educator, Cecilia Doucette, who recommended "hard-wiring phones and tablets to shut off radiation" when young children are near them.** Crown Castle must be concerned that educated parents also won't want to expose their children to 24/7 radiation from a nearby cell antenna. I can understand why Verizon is warning their investors that lawsuits could result in "significant awards or settlements" and Crown Castle is warning their investors that "public perception of possible health risks associated with cellular or other wireless connectivity services may slow or diminish the growth of wireless companies, which may in turn slow or diminish our growth."

Here is the link (<http://bit.ly/5GSciAmJMM>) to the Scientific American article for Piedmont residents, but I'll understand if you think it's important to avoid reading about research on health in order to ensure that your decisions aren't affected by considerations of health.

Thank you, in advance, for your efforts to protect us all. I know you're worried about a lawsuit with Crown Castle but I've received emails from numerous residents willing to contribute to a

legal fund. We have your back, and we hope you have ours on November 18th and in future decisioning on wireless infrastructure in Piedmont.

Thanks,

Shary Nunan

Dear Piedmont City Council Members,

My wife, Susan Varner, & I are interested protecting the health of Piedmont residents, beauty of the neighborhood - and the investment we have made in our home.

Please deny the Crown Castle application to install a 15' taller utility pole and cellular transmitter (and the related equipment vault) across the street from our house at 432 El Cerrito Ave. We think this denial would be reasonable in order to preserve our view, prevent the nuisance of noise 24/7 from the equipment vault - and protect our property value.

Should this denial result in the City of Piedmont needing to defend itself from a related law suit we are committed to joining our neighbors in donating to a fund for legal defense. Thank you for representing our interests.

Best Regards,
Rick Fehr

Shary,

Very well written article. Thank you for sending it to all of us. I concur!

Best,
Patty White

Dear City Council,

I implore you to say No to the cell towers that Crown Castle would like to install. Cell coverage is just fine in Piedmont, and there is no clear evidence that it's safe to have cell towers near our homes. People here are having babies and raising small children, it just doesn't seem right to add more radiation to our environment. Let's put the towers in less-populated areas than places like Hillside and Blair.

Please say no!!! FYI, if Crown Castle dares to sue, the citizens of Piedmont will help out financially. None of us wants these towers.

Thank you,
Alissa Welch

We agree with the attached letter and support the denial of the proposed cell tower at 150 Highland Avenue. Please support your Planning Commission's denial.

Liz and Stan Silverman

Hi Shary,

Count me in on contributing to a legal fund. I will be directly informing the City Council of that in my forthcoming communication to them.

Stephen Kozinchik

Hello Shary.

Thank you for organizing this effort. John and I would also contribute to the legal fund.

Amy Ajello

My family would also be willing to contribute, as I'm sure a large number of Piedmont residents would as well. I would also support a measure to raise funds for legal defense.

Cheers,

Sherk Chung

If the City does not accept the proposal to deny the cell towers and use these defense funds, would we use the funds to sue the City or Crown in order to protect the people here?

Just wondering who should actually control the funds, and what rules apply to their use.

Peter Harvey

Dear Pierce,

I have not received the legible heat maps. When will the maps be provided? I hole Friday since the City council Meeting is on Monday.

Sincerely,

Micael Costello

Pierce,

I have not received the legible heat maps. Please let me know if i can get them Friday before the City Council Meeting Monday.

Sincerely,

Mike Costello

Dear Pierce and City Council Members,

I am disturbed that I, a person with no RF knowledge or experience, determined the Waterford RF Compliance Report based on faulty information and had to be revised and resubmitted and the City did not discover the error and reject the Permit Application in the first place. I must point out that every RF Report Waterford provided has similar errors. When I reviewed the other reports I found they all had incorrect determination of the surrounding home elevations since the numbers of stories were incorrectly listed and the the base elevation of the poles in relation to the base elevation of the homes were always assumed to be the same with in 150' radius which is never the case in Piedmont. If Waterford cannot be relied upon to gather this most basic information and certify it with a professional engineer how can the remainder of the report's contence be relied upon to be true and factual?? Has the City engaged a Third Party consultant knowledgable in small cell tower design to review and advise the City if the RF Reports and the Permits in general are reliable? Based on my cursory review and findings of the report I think that is the City's most purdent way to proceed. Since the C&C Permit data has been proven to inaccurate for most and probable all the permit applications based on my findings alone the permits should all be returned for revisions and the "Shot Clocks" restarted if and when they are resubmitted.

I think you responded to my questions 1 and 2 but not 3 and 4. Please address these questions and also explain your statement in regards to questions 2

"...has little effect on the review of the current WCF permit applications. "

1) Type of Application (page 4) identifies the installation as a Collocation - Small Cell Facility (Existing Structure). This application proposes the installation of a new pole that is taller than the existing pole. The "Small Cell Facility (New Structure)category states "Replacements of existing structures are considered new structures." This category seems more appropriate and has a shot clock of 90 days. Please explain why the "New Structure" category is not selected.

2) Existing Facilities (page 6) has not been completed and should be since a new pole is proposed and a new pole should be considered an "upgrade" to an existing facility per condition d) Addition of feed line (s) and or riser because of the new fiber optic cable and condition h) Increased of the height of free standing tower. Please explain why this application is not an "upgrade" based on these two conditions.

3) Height of the antenna top shown on Drawing SP-2 dated 9/20/19 is 52' - 8.5 " while Part E paragraph b (page 12) and other sections of the application and the SureSite Project Description

and Statement states the antenna height is 58'-2.5". Either the application and SureSite description or the drawing SP-2 is incorrect. One or the other document needs to be revised and resubmitted and if not the application should be denied

4) Part F paragraph d (page 15) states "Yes. The project was designed using the Citie's design standards and guidelines. In addition to the settlement agreement" but the document titled "Piedmont Pole Height Exception Explanation " that is part of the term of the settlement agreement includes a table listing the maximum pole height with antenna for PHS12 as 52'-8.5". The proposed height of 58'-2.5" is clearly not in compliance with the settlement agreement and should be denied.

The City staff has not responded to my original statement:

The PHS12 pole location on Hillside Ct is the worst location proposed relation to the the home density. As you can see above there are three homes with in 37' ft of the pole and I could not find another pole location with that quantity of homes with in 37' .

This location is also near the center of the 19 proposed locations with poles 3, 4, 5, 6, 7 and 13 within approximately 500' as measured on Google maps. The informational document on the City website "Overview of Small Cell Technologies Operations and Deployment" by Lee Afflerbach states Small Cell site are spaced 700' to 1,500'. Based on this presentation, removing pole PHS13 from the system should not significantly effect the overall system performance.

In addition to the above as the Nancy and Darrell Lim stated ate the Planning Commision Meeting the PHS12 pole is located in their front yard since there is no sidewalk on their lot. All the other poles on or near house lots the are located between the curb and the sidewalks allowing for a buffer zone of some sort for the installation of new equipment collected on the pole 20" from their front window. This installation is aesthetically damaging to their home and our dense neighborhood in general.

I am very disappointed that the City Staff recommended approval of PHS12 and hope the City Council will review each of the pole on a case by case basis if they do not reject all due to the unreliability of Crown and Castle to provide valid supporting documentation for their Applications.

Sincerely,

Mke Costello

To: Piedmont City Council
citycouncil@piedmont.ca.gov

November 14, 2019

Re; Crown Castle Wireless Communications Facilities Applications
City Council Meeting of Nov. 18, 2019

I. Introduction.

These comments supplement our October 24, 2019 letter in light of the subsequent Planning Commission meeting of Oct. 29, 2019 and Staff Report posted to the City's website on Nov. 8, 2019.

Before any member of the Council votes "yes" on these 5G Applications, we respectfully request that you ask yourself whether you would have any problem with a 5G tower placed 15-25 feet from your bedroom window continuously emitting RF radiation 24 hours a day--every day for all of the rest of your days in Piedmont. Wholly apart from health concerns, the aesthetics would be most disturbing. If you would be reluctant to have such a tower near your house, you must vote "No" because you should not inflict on your defenseless neighbors and fellow Piedmonters (who look to you for protection) a burden and risk which you yourself are unwilling to bear.

We are not alarmists; nor do we think the sky is falling. However, any fair-minded person would have to agree that the scientific/medical jury is still out on the question of what may be the long-term effects of exposure to continual and powerful 5G radiation. The Nov. 13, 2019 *Piedmont Post* prints a compelling letter from a resident who cites excerpts from the Verizon and Crown Castle reports to their shareholders in which they raise the potential of harm to health caused by the radio frequency emissions of their equipment. Yet, Crown Castle says to Piedmont that there is no danger. This inconsistent reporting is most concerning. The letter writer

also refers to reports from the American Cancer Society, National Toxicology Program and World Health Organization, which are enough to cause a reasonable person to at least question Crown Castle's unsupported claim that the proposed 5G installations pose no health problem. Apparently, that's not what Crown Castle and Verizon are telling their investors. Only time will tell.

Some history:

"Camels--More Doctors Smoke Camels." Advertisement 1946

"L&M--Just What the Doctor Ordered." Advertisement 1951.

"Lucky Strike--Smoke a Lucky to Feel Your Level Best." Advertisement 1949.

These ads of 70 years ago from cigarette vendors sounded reassuring at the time. But they were dead wrong. Why should we take any real long-term solace from the bland assurances of a 5G vendor? If we could all return 70 years from now, what might we then think about Crown Castle's safety opinion? Maybe all will have turned out well; maybe not.

There may be a feeling on the Council that this Crown Castle dispute has lasted long enough and that, while nothing is perfect, it's time to approve and move on. Please do not allow such thoughts to guide your vote. Placing a transmitter at 201 Hillside (and other locations) is a brand new development, and we are doing our best to now appeal to you.

If you approve the Crown Castle Applications, you will leave many of us in residential neighborhoods living in close proximity to cell phone towers that emit high-powered radiation 24/7 that nobody can ensure is safe to humans. These 5G transmitters will have been crammed into Piedmont based on FCC 1996 technical standards which have never been updated

even though the technical world has totally evolved over the past 23 years, when we were in the era of blackberries and flip-top phones. Today's 5G system will carry information at a much higher frequency, and carry immense amounts of data using closely-spaced towers near residential bedrooms.

II. Aesthetic, Property Value and Historical Character Considerations.

The Planning Commission properly denied the Crown Castle Applications for reasons other than health concerns. This is just what the City Council should do. Such a denial may be done by the City Council entirely without having to reach health questions which may be federally preempted.

Judging from what has been submitted, there is no real clamor in Piedmont for a new 5G system, and no great civic problem that 5G will solve. City Code Div. 17.46 governs installation of wireless communications facilities, Sec. 17.46.010 provides, in relevant part, that the purpose of this Division is "to protect and promote ...property values, and the character and aesthetic quality of the city." Thus both aesthetics and property values are highlighted under the Code. Piedmont's concern about a potential lawsuit should not allow Crown Castle to sue its way into town. Rather the City should do all it can do to protect its residential neighborhoods.

At the Oct. 29 meeting, members of the Planning Commission referred to the aesthetic problems with Crown Castle's plans and their inconsistency with the historical heritage of Piedmont. These members had concerns about location, views, trees, proximity to homes as well as the concentration and number of tower sites. It was noted that Crown Castle seeks to locate its transmitters in the Piedmont public way, which is the third priority for wireless locations under Sec. 17.46.040 (A)(1) of the City Code. Also, many of the towers will exceed the 35 foot height limit of Sec. 17.46.070(A)(2) of the Code. It seemed to some members that Crown

Castle was basically doing what it wanted to do with little concern about the impact on the City and its unique historical and architectural heritage.

Evidence has been presented that Crown Castle's Applications will depress Piedmont property values and have a negative aesthetic impact. Neither of these areas of concern is subject to any FCC preemption. The City is well within its powers to deny these Crown Castle Applications on aesthetic and historical compatibility grounds.

The Planning Commission's action, although a "recommendation" to the Council, should be given significant deference by the Council. After all, this is the body that has been elected by the voters of Piedmont to be expert on what gets built in this town. The Planning Commission meeting (with its 4-0 vote against Crown Castle) should be considered much more than a dress rehearsal for this City Council Meeting. A lot of work went into that meeting, and it should be given a heavy weight here.

The Staff has recommended approval of the Crown Castle Applications with additional conditions added as a result of the Planning Commission meeting. But the Planning Commission **denied** (not approved) the Applications. Additional conditions would seem to be appropriate following an approval--not a denial. In any event, the added conditions do not really meet the fundamental concerns of the grouping, number, historical and aesthetic objections raised by the Commission. We appreciate (and the Planning Commission repeatedly mentioned) all the good work Staff has done with respect to these Applications. However, Staff is not the decision maker here; nor was Staff elected by the voters of Piedmont. Staff's views should not be given more weight than the 4-0 vote of the elected members of the Planning Commission.

III. Pending Federal Litigation Involving Piedmont.

Our comments of October 24 urged that the City should take a prudent pause until we can learn more about the validity of the FCC regulations (including the FCC RF emission standards). We referred to Piedmont's litigation which is currently pending in the federal Ninth Circuit. This litigation (brought by numerous local governments across the U.S. against the FCC) seeks to invalidate the FCC's Order of Sept. 2018 (upon which the Crown Castle Applications are based) on a number of grounds including its interference with "Piedmont's ability to manage and regulate-wireless communication facilities", its provisions regarding compensation and its so-called "shot clock" review time. See Release by City of Piedmont dated Oct. 16, 2018 and the Sept. 17, 2018 letter to the FCC from Mayor Mc Bain in which the Mayor states that "the City of Piedmont is **strongly opposed**" (emphasis in original) to the FCC regulations. Thus, on Oct. 15, 2018, Piedmont elected to intervene in this federal litigation.

IV. Preempted health concerns.

We offer the following in case the Council is not convinced that the Planning Commission had more than adequate reason to deny the Applications on aesthetics and other non-FCC preempted grounds.

In addition to "shot clocks" and other matters at issue in the federal Ninth Circuit litigation, it is important to note that this lawsuit also specifically asks the Court to decide whether the failure of the FCC to update its 1996 small cell emission environmental standards is a violation of the National Environmental Policy Act ("NEPA") and the Administration Procedure Act ("APA") by failing to consider potential 5G health risks in light of the 2019 5G technical environment. NEPA in particular requires any federal agency (including the FCC) to consider the environmental impacts of its actions and prepare an Environmental Impact Statement reflecting the 2019 technical world. The FCC has failed to do this. See, for example, Section I

of the Opening Brief of Montgomery County (the lead plaintiff) filed June 10, 2019.

Montgomery County also notes, on p. 11 of its Brief, that the FCC itself has acknowledged that its 1996 RF standards are not the final word and that changes will be necessary “as knowledge increases in the field.” The FCC has said, with respect to wireless devices, that “more and better longer-term studies should explore whether there is a better basis for RF safety standards than is currently used.”

<https://www.fcc.gov/consumers/guides/wireless-devices-and-health-concerns>

In view of the foregoing, it is appropriate that local citizens should be able to look to their local government to protect them, and there is much Piedmont can do. Its hands are not tied.

“Congress could not have meant for the Telecommunications Act to imply that having cellular phone service is more important to a community than having the freedom to decide what health risks are worth undertaking or than maintaining the value of neighborhood homes: the most valuable asset most homeowners have.” S. Martin, *Communication Tower Sitings*, <https://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=1154&context=btlj> at p. 501.

At least the City should do all it can to not intentionally expose its residents to potential harm. Thus, it is entirely appropriate for the City to call a “time out” until the legal situation (to which Piedmont is a party) has clarified. Let’s see what the Courts do with Piedmont’s (and the other local government’s) lawsuit before Crown Castle installs these RF emitting devices throughout town.

The FCC does not always get it right. We noted in our earlier paper that, just three months ago, the DC Circuit, in the *United Keetoowah* case,

struck down an FCC Order which created a wireless small cell exemption from NEPA. The Court held that the FCC had mischaracterized and downplayed the impacts of small cell deployment on the environment and on historic preservation. According to FCC Commissioner J. Rosenworcel: “For those paying attention, that means that the agency tasked with the future of connectivity didn’t get it right. It’s time to go back to the drawing board and do better.”

<https://www.smartcitiesdive.com/news/appeals-court-ruling-undercuts-fccs-plan-for-speedy-5g-rollout/560701/>. Likewise, a few months ago in *T-Mobile v. SF*, the Calif. Supreme Court upheld a city’s rejection of 5G on aesthetic considerations alone.

V. Conclusion.

More thought and time is needed. It was noted by a speaker and in written comments submitted to the Planning Commission that fiber optics and wifi are alternatives to 5G--without the downsides. The City’s Answer 17 to its Frequently Asked Questions notes that Sen. Feinstein has introduced legislation to “nullify recent FCC orders and regulations regarding small cell wireless facilities.”

We don’t ask for a denial of the Crown Castle Applications based only on preempted health concerns. We ask for a denial based on the architectural, aesthetic and historical concerns which were voiced by members of the Planning Commission in denying the Applications. Should the Council be unwilling to rule based on these non-federally preempted criteria, we ask that the Council at a minimum put these Applications on hold until the pending legal attack by Piedmont on the FCC regulations is decided by the Ninth Circuit.

Sincerely,

Ernest & Jane Reddick

138 Hillside Ave.