CITY OF PLEASANTON	POLICY NO. [*RESERVED*]
	Adopted: April 21, 2026
General Subject: Wireless Telecommunications Facilities	

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Section 1. INTRODUCTION AND BACKGROUND

Local authority over communications facilities exists at an often-complex intersection between state law, federal law, changes in technologies and public policies. Laws and regulations impact not only whether municipalities may regulate, but how, when and even for what purpose.

This policy establishes the regulatory process for all requests for the City's regulatory authorization to construct, install, operate, collocate, modify, relocate, remove or otherwise deploy wireless facilities within the City's territorial and jurisdictional boundaries.

On April 21, 2026, and pursuant to Section 18.110.030 of the Municipal Code, the City Council adopted this policy to conform the City's permit process for wireless telecommunications facilities with applicable law.

Section 2. PURPOSE AND INTENT

(a) The City intends this policy to establish reasonable, uniform and comprehensive standards and procedures for wireless facilities deployment, construction, installation, collocation, modification, operation, relocation and removal within the City's territorial boundaries, consistent with and to the extent permitted under federal and California state law.

(b) The standards and procedures contained in this policy are intended to, and should be applied, consistent with federal and state law, to protect and promote public health, safety and welfare, and balance the benefits that flow from robust, advanced wireless services with the City's local values, which include without limitation the aesthetic character of the City, its neighborhoods and community.

(c) This policy is also intended to reflect and promote the community interest by (1) ensuring that an appropriate balance between public and private interests are maintained; (2) protecting the City's visual character and property values from potential adverse impacts and/or visual blight created and/or exacerbated by wireless facilities and related communications infrastructure; (3) protecting and preserving the City's environmental resources; and (4) ensuring appropriate placement of high-quality, advanced wireless services for the City's residents, businesses and visitors.

(d) This policy is not intended to, nor shall it be interpreted or applied to: (1) prohibit or effectively prohibit any personal wireless service provider's ability to provide personal wireless services; (2) prohibit or effectively prohibit any entity's ability to provide any telecommunications service, subject to any competitively neutral and nondiscriminatory rules, regulations or other legal requirements for rights-of-way management; (3) unreasonably discriminate among providers of functionally

equivalent personal wireless services; (4) deny any request for authorization to place, construct or modify personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such wireless facilities comply with the FCC's regulations concerning such emissions; (5) prohibit any collocation or modification that the City may not deny under federal or California state law; (6) impose any unreasonable, discriminatory or anticompetitive fees that exceed the reasonable cost to provide the services for which the fee is charged; or (7) otherwise authorize the City to violate any applicable federal or California state law.

Section 3. DEFINITIONS

The abbreviation, phrases, terms and words used in this policy will have the following meanings assigned to them unless context indicates otherwise. Undefined phrases, terms or words in this section will have the meanings assigned to them in 1 U.S.C. § 1, as may be amended or superseded, and, if not defined therein, will have their ordinary meanings.

The definitions in this policy shall control over conflicting definitions for the same or similar abbreviations, phrases, terms or words as may be defined in the Municipal Code. However, if any definition assigned to any phrase, term or word in this chapter conflicts with any federal or state-mandated definition, the federal or state-mandated definition will control. All references to codified statutes, regulations or other rules shall be deemed to refer to such statutes, regulations or other rules as they may be amended or superseded.

(a) "**amateur station**" means the same as defined by the FCC in 47 C.F.R. § 97.3, which defines the term as "a station in an amateur radio service consisting of the apparatus necessary for carrying on radiocommunications." This term includes amateur radio antennas and related facilities used for amateur radio services.

(b) "**appellate authority**" means the City official or appointed/elected body responsible for review of approval authority decisions and vested with authority to hear and decide appeals. For appeals from either the Zoning Administrator or the Planning Commission, the appellate authority shall be the City Council.

(c) "**approval authority**" means the City official or appointed/elected body responsible for application review and vested with authority to approve or deny such applications. For Wireless Facility Permits, the approval authority shall be the Zoning Administrator, unless referred by the Zoning Administrator to the Planning Commission.

(d) "**architecturally integrated**" means stealth concealment that mimics the existing architecture, design, materials and finishes of the underlying structure such that the wireless facility appears to be something other than a wireless facility and part of the original structure's design.

(e) "**City**" means the City of Pleasanton, California.

(f) "**City Council**" means the City Council of the City of Pleasanton, California.

(g) "**collocation**" means the same as defined by the FCC in 47 C.F.R. § 1.6002(g).

(h) "**CPUC**" means the California Public Utilities Commission established in the California Constitution, Article XII, § 5, or its duly appointed successor agency.

(i) "**Department**" means the City of Pleasanton Community and Economic Development Department.

(j) "**Director**" means the City of Pleasanton Community and Economic Development Department Director or their designee.

(k) "**eligible facilities request**" means the same as defined in 47 U.S.C. § 1455(a)(2), and as interpreted by the FCC in 47 C.F.R. § 1.6100(b)(3).

(l) "**FCC**" means the "Federal Communications Commission", as constituted by the Communications Act of 1934, Pub. L: 73-416, 48 Stat. 1064, codified as 47 U.S.C. §§ 151 *et seq.* or its duly appointed successor agency.

(m) "**Fire Safety Authority**" means the Livermore-Pleasanton Fire Department or their designee.

(n) "**historic resource**" means any prehistoric or historic district, neighborhood, site, building, structure or object included in, or eligible for inclusion in the National Register of Historic Places or the California Register of Historical Resources, or identified in the City of Pleasanton General Plan or the Downtown Specific Plan. The term includes artifacts, records and remains related to or located within such properties. The term also includes properties with traditional religious and/or cultural importance to any Native American tribe.

(o) "**ministerial permit**" means any City-issued non-discretionary permit required to commence or complete any construction or other activity subject to the City's jurisdiction. Ministerial permits may include, without limitation, any building permit, construction permit, electrical permit, excavation permit, traffic control permit, encroachment permit and/or any similar over-the-counter approval issued by the City's departments.

(p) "**Municipal Code**" means the City of Pleasanton Municipal Code.

(q) "**OTARD**" means any "over-the-air reception device" subject to 47 C.F.R. §§ 1.4000 *et seq.*, which generally includes satellite television dishes and certain fixed wireless antennas not greater than one meter in diameter.

(r) "**personal wireless service facilities**" means the same as defined in 47 U.S.C. § 332(c)(7)(C)(ii).

(s) "**personal wireless services**" means the same as defined in 47 U.S.C. § 332(c)(7)(C)(i).

(t) "**persons entitled to notice**" means (1) all real property owners; and (2) all occupants of each physical address for all properties, each within 500 feet of the exterior boundaries of the proposed wireless facility. Mailed notice will be deemed given to real property owners when sent to the address listed on the most recent equalized assessment roll. Mailed notice will be deemed given to all occupants when sent to the real property's physical address.

(u) "**public right-of-way**" or "**public rights-of-way**" means land or an interest in land which by deed, conveyance, agreement, easement, dedication, usage or process of law is reserved for or dedicated to or open to the use by the general public for road or highway purposes. The term does not include private or public utility easements unless such easement is reserved for or dedicated to or open to the use by the general public for road or highway purposes.

(v) "**RF**" means radio frequency.

(w) "**Section 6409**" means Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156, codified as 47 U.S.C. § 1455(a).

(x) "**shot clock**" means the presumptively reasonable time defined by the FCC, or time specified under state law, if applicable, in which a state or local government must act on an application or request for authorization to place, construct or modify personal wireless service facilities.

(y) "**small wireless facility**" means the same as defined by the FCC in 47 C.F.R. § 1.6002(*l*).

(z) "**stealth**" means concealment elements, measures and techniques to: (1) architecturally integrate a wireless facility into the underlying support structure or building (*e.g.* with the use of existing or new parapet walls, cupolas, steeples, chimneys, etc.) and consistent with the style, proportion and construction quality of the underlying support structure or building); or (2) mimic or blend with the surrounding built or natural environment and adjacent uses (*e.g.*, faux trees, faux water towers, etc.), and which completely screens transmission equipment from public view. The foregoing stealth concealment techniques examples are included without limitation.

(aa) "**wireless facility**" means a personal wireless service facility.

(bb) "**Wireless Facility Permit**" means the permit approval required by the City of Pleasanton Community and Economic Development Department to authorize the use of wireless facilities subject to this policy.

(cc) "**Zoning Administrator**" means the same as defined in Section 18.08.010 of the Municipal Code, or their designee.

Section 4. APPLICABILITY

(a) **General.** This policy applies to all requests for the City's regulatory authorization to construct, install, operate, collocate, modify, relocate, remove or otherwise deploy wireless facilities within the City's territorial and jurisdictional boundaries, unless expressly exempted pursuant to this Section 4.

(b) **Wireless Facilities on City Property or Structures.** This policy applies to permit applications, submitted to the City in its regulatory capacity as the permitting agency, for wireless facilities on property or structures owned or controlled by the City; provided, however, that this policy does not govern whether or under what terms and conditions the City, in its proprietary capacity as the property or structure owner, would lease, license or otherwise allow a wireless facility on such property or structures.

(c) **Small Wireless Facilities; Eligible Facilities Requests.** Notwithstanding anything in this policy to the contrary, this policy shall not be applicable to small wireless facilities, eligible facilities requests and/or other applications submitted for approval pursuant to Section 6409.

(d) **Other Exemptions.** Notwithstanding anything in this policy to the contrary, this policy shall not be applicable to the following:

(1) wireless facilities operated for public purposes by the City or through joint powers authorities that the City is a member;

(2) wireless facilities installed completely indoors and used to extend personal wireless services into a business or the subscriber's private residence, such as a femto cell or indoor distributed antenna system;

(3) OTARD antennas;

(4) antennas and related transmission equipment used in connection with a duly authorized amateur station; or

(5) wireless facilities or other transmission equipment owned and operated by CPUC-regulated electric companies for use in connection with electrical power, generation, transmission and distribution facilities subject to CPUC General Order 131-E.

(e) **Severability.** If any provision in this policy or such provision's application to any person, entity or circumstances is or held by any court with competent jurisdiction to be invalid or unenforceable: (1) such provision or its application to such person, entity or circumstance will be deemed severed from this policy; (2) all other provisions in this policy or their application to any person, entity or circumstance will not be affected; and (3) all other provisions in this policy or their application to any person, entity or circumstance will be valid and enforceable to the fullest extent permitted by law.

Section 5. Required Permits and Approvals

(a) **Required Permits.** All wireless facilities subject to this policy shall require a Wireless Facility Permit subject to the approval authority's prior review and approval.

(b) **Referral.** The Zoning Administrator may refer any application for a Wireless Facility Permit to the Planning Commission when the Zoning Administrator, in the Zoning Administrator's discretion, determines that the application implicates a significant planning concern.

(c) **Other Permits and Regulatory Approvals.** In addition to any permit or approval required under this policy, the applicant must obtain all other permits and regulatory approvals (such as compliance with the California Environmental Quality Act) as may be required by any other federal, state, regional or local government agencies, which includes without limitation any permits and/or approvals issued by other City departments or divisions such as encroachment permits for work or facilities in the public right-of-way. All applications for ministerial permits submitted in connection with a proposed wireless facility or other infrastructure deployment must contain a valid permit issued by the City for the proposed wireless facility. Any application for any ministerial permits submitted without such permit for the proposed wireless facility may be denied without prejudice. Any permit or approval granted under this policy or deemed granted or deemed approved by the operation of law shall remain subject to any and all lawful conditions and/or legal requirements associated with such other permits or approvals. Furthermore, and to avoid potential confusion, an exemption from the permit requirement under Section 4(d) does not exempt the same wireless facilities or other infrastructure deployments from any other permits or approvals, which includes without limitation any ministerial permits from the City.

Section 6. Administrative Orders and Regulations

In addition to the requirements in this policy, the Director may adopt such orders or regulations as the Director deems necessary or appropriate to protect and maintain public health, safety, welfare and convenience. The Director is also authorized to establish other reasonable rules and regulations for duly filed applications, which may include without

limitation regular hours for application submittals and resubmittals, as the Director deems necessary or appropriate to organize, document and manage the application intake process. All such requirements, materials, rules and regulations must be in written form and publicly stated.

Section 7. PERMIT APPLICATIONS

(a) **Application Required.** The approval authority shall not approve any requests for authorization to construct, install, operate, collocate, modify, relocate, remove or otherwise deploy wireless facilities except upon a complete and duly filed application consistent with this section and any other written rules or requirements the City or the Director may establish from time to time in any publicly-stated format.

(b) **Application Fee/Deposit.** The applicant shall submit the applicable permit application fee, application review deposit, or combination application fee and review deposit adopted by City Council resolution at the time of application. If no permit application fee, application review deposit, or combination application fee and review deposit has been adopted at the time of application, then the applicant must submit a signed written statement that acknowledges that the applicant will be required to submit a deposit estimated by the Director to reimburse the City for its reasonable costs incurred in connection with the application within 10 business days after the City issues a written demand for reimbursement. Additional deposits shall be required if the deposit is inadequate and must be replenished. If the deposit exceeds the actual costs, the difference will be returned to the applicant following final inspection in event of an approval, withdrawal of the application, or the conclusion of any appeals or expiration of any appeal periods, whichever occurs later, in event of a denial.

(c) **Application Content.** All applications for a permit must include all the information and materials required by the Director for the application. The Director is authorized to develop, publish and from time-to-time update or amend permit application requirements, forms, checklists, guidelines, informational handouts and other related materials that the Director finds necessary, appropriate or useful for processing any application governed under this policy. All such requirements must be in written form and publicly stated and available. All applications shall, at a minimum, require the applicant to demonstrate that the proposed project will be in planned compliance with all applicable health and safety laws, regulations or other rules, which include without limitation all building codes, electric codes and all FCC rules for human exposure to RF emissions.

(d) **Voluntary Pre-Application Conferences.** The Department shall provide prospective applicants with the opportunity to schedule and attend a voluntary pre-application conference with Department staff. The City strongly encourages, but does not require, pre-application conferences for all applications. This voluntary pre-application conference process, including but not limited to any requests for

conferences or meetings, submittal of pre-application materials, or the occurrence of any conferences or meetings, does not, and shall not be deemed to, commence any shot clocks. This voluntary pre-application conference is intended to streamline the review process through informal discussion that includes, without limitation, the appropriate project classification and review process, any latent issues in connection with the proposed or existing wireless facility, such as compliance with generally applicable rules for public health and safety; potential stealth or concealment issues or concerns (if applicable); coordination with other City departments and/or divisions responsible for application review; and application completeness issues. To mitigate unnecessary delays due to application incompleteness, applicants are encouraged (but not required) to bring any draft applications or other materials so that City staff may provide informal feedback and guidance about whether such applications or other materials may be incomplete or unacceptable. The Department shall use reasonable efforts to provide the applicant with an appointment within five working days after receiving a written request and any applicable fee or deposit to reimburse the City for its reasonable costs to provide the services rendered in the pre-application conference.

(e) **Application Submittal.** Unless the Director establishes an alternative submittal procedure pursuant to Section 6, all applications submitted, or resubmitted in response to an incomplete notice as the case may be, under this policy must be submitted to the Department through the online permitting portal only during the Department's "Permit Center Hours" as published on the Department's website. The Department's Permit Center Hours exclude City holidays or other days that the City is closed. Any applications submitted, or resubmitted as the case may be, after such Permit Center Hours will be deemed submitted, or resubmitted, and received by the Department at the start of "Permit Center Hours" on the next scheduled working day. Any application received in a manner not authorized by this policy or alternatives established by the Director, whether delivered in-person, by mail, electronically or through any other means, will not be considered duly filed whether the City retains the submitted materials or not.

(f) **Voluntary Community Meetings.** The City strongly encourages, but does not require, applicants to schedule, notice, arrange, and attend a voluntary community meeting with all interested members of the public. Community meetings may be conducted before or after submittal. This voluntary community meeting does not cause the FCC shot clock to begin and is intended to give applicants the opportunity to hear from members of the public regarding the proposed project. Applicants should schedule any voluntary community meetings at times and in locations that are conducive to maximizing public participation. Applicants are encouraged (but not required) to bring any draft applications, plans, maps, presentations or other materials to facilitate the public's understanding of the applicant's proposed project. Applicants are also encouraged (but not required) to maintain minutes or a comment log of the community meeting. The City seeks to encourage dialogue that may allow applicants to address areas of concern and

may lessen the likelihood of appeals. Community meetings may be conducted before or after submittal. Public notice for a community meeting should be given in the manner described for persons entitled to notice, except that the applicant is responsible for the cost and implementation of noticing.

(g) **Applications Deemed Withdrawn.** To promote efficient review and timely decisions, any application governed under this policy will be automatically deemed withdrawn by the applicant when the applicant fails to tender a substantive response to the Department within 90 calendar days after the Department deems the application incomplete in a written notice to the applicant. The Director, in the Director's discretion, may grant a written extension for up to an additional 60 calendar days when the applicant submits a written request prior to the 90th day that shows good cause to grant the extension. Good cause for an extension shall include, without limitation, delays due to circumstances outside the applicant's reasonable control.

Section 8. PEER AND INDEPENDENT CONSULTANT REVIEW

(a) **Authorization.** The Director is authorized to, in the Director's discretion, select and retain an independent consultant with specialized training, experience and/or expertise in telecommunications issues in connection with any permit application. The Director may request an independent consultant review on any issue that involves specialized or expert knowledge in connection with wireless facilities deployment or permit applications for wireless facilities, which include without limitation: (1) permit application completeness and/or accuracy; (2) compliance with applicable regulations for human exposure to RF emissions; (3) whether and to what extent a proposed project will comply with applicable laws, including but not limited to this policy and its design standards; (4) the applicability, reliability and/or sufficiency of any information, analyses or methodologies used by the applicant to reach any conclusions about any issue with the City's discretion to review; and (5) any other issue identified by the Director that requires expert or specialized knowledge, which includes, without limitation, any issues related to an exception requested by the applicant pursuant to Section 15. The Director may request that the independent consultant prepare written reports, testify at public meetings, hearings and/or appeals and attend meetings with City staff and/or the applicant.

(b) **Cost Reimbursement / Deposit.** Subject to applicable laws, if the Director elects to retain an independent consultant in connection with any permit application, then the applicant shall be responsible for the actual and reasonable costs incurred by the City in connection with the services provided, which may include, without limitation, actual and reasonable costs incurred by the independent consultant to attend and participate in any meetings or hearings related to the permit application and the City's actual and reasonable costs incurred to administer the independent consultant contract. The applicant shall tender to the City a deposit in an amount equal to the estimated actual and reasonable cost for the services to be provided,

as determined by the Director if no deposit amount has been established and paid pursuant to Section 7(b) of this policy. The deposit funds shall be applied to the independent consultant's invoices as such invoices are approved by the Director. The Director may request additional deposits as reasonably necessary to ensure sufficient funds are available to cover the reasonable costs in connection with the independent consultant's services. If the deposit exceeds the total costs for the independent consultant's services, then the Director shall promptly return any unused funds to the applicant after the wireless facility has been installed and passes a final inspection. If the reasonable costs for the independent consultant's services exceed the deposit, then the Director shall invoice the applicant for the balance. The Director is authorized to develop, publish and from time-to-time, update a standard deposit agreement consistent with this section. The City shall not issue any construction or encroachment permits to any applicant with any unpaid deposit requests or invoices.

(c) **Fire Safety Authority Independent Consultants.** In addition, the Fire Safety Authority has the authority to select and retain an independent consultant with expertise and/or specialized training in fire safety and fire hazard mitigation and prevention satisfactory to the Fire Safety Authority in connection with any application. The Fire Safety Authority may request independent consultant review on any matter referred or committed to the Fire Safety Authority for review or approval. Subject to applicable laws, in the event that the Fire Safety Authority elects to retain an independent consultant in connection with any application, the applicant shall be responsible for the actual and reasonable costs in connection with the services provided, which may include without limitation any actual and reasonable costs incurred by the independent consultant to attend and participate in any meetings or hearings and the Fire Safety Authority's actual and reasonable costs to administer the independent consultant contract. The same procedures for fee deposits, cost reimbursements and refunds to the applicant as described above in Section 8(b) shall be applicable to independent consultant review required by the Fire Safety Authority.

Section 9. PUBLIC NOTICE

(a) **Mailed Notice.** Within 10 calendar days of an application being filed for a personal wireless service facility, the Department shall mail a written notice to all persons entitled to notice. The notice shall include: (1) the project location with a street address (or an approximate street address, if no address exists); (2) the City's permit application number; (3) a general project description; (4) contact information for the Department so that persons may request additional information or submit comments; and (5) a statement that persons interested in requesting a hearing must file a written request with the Director within 30 days of the date the notice was mailed by the City.

(b) **Public Hearing Notices.** At least 10 calendar days before any public hearing in connection with an application for a wireless facility, the Department shall: (1) mail

notice to the applicant, the requesting party or appellant, and persons entitled to notice; and (2) publish notice in at least one newspaper of general circulation within the City or post notice in at least three public places in the City including one public place in the area directly affected by the proceeding. The public hearing notice shall include the project location, a general project description, and the date, time and location for the public hearing. Failure to mail notices shall not invalidate the proceedings.

Section 10. APPROVALS; DENIALS; APPEALS

(a) **Initial Administrative Decision.** The Zoning Administrator may approve, conditionally approve, or deny a complete and duly filed Wireless Facility Permit application administratively if no request for a hearing is timely filed, or at an administrative hearing if a timely request for a hearing is timely filed. If the Zoning Administrator refers an application for a Wireless Facility Permit to the Planning Commission, the Planning Commission may approve, conditionally approve, or deny a complete and duly filed Wireless Facility Permit application at a public hearing.

(b) **Required Findings for Approval.** The approval authority may approve wireless communication facility applications only when the approval authority makes all the following findings:

(1) the proposed wireless facility is in a preferred location as defined in this policy; or the proposed wireless facility is in a discouraged location as defined in this policy and the applicant has demonstrated through a meaningful comparative analysis that no more preferred location would be technically feasible and potentially available;

(2) the proposed wireless facility is on a preferred support structure as defined in this policy; or the proposed wireless facility is on a discouraged support structure as defined in this policy and the applicant has demonstrated through a meaningful comparative analysis that no more preferred support structure would be technically feasible and potentially available;

(3) the proposed wireless facility complies with all applicable development standards in this policy, the Municipal Code and any other applicable regulations;

(4) the applicant has demonstrated that the proposed wireless facility will comply with all applicable FCC regulations and guidelines for human exposure to RF emissions and will not, either individually or cumulatively with other transmitters in the vicinity, result in RF exposures that exceed the FCC's maximum permissible exposure level for the general population;

(5) all public notices required for the application have been given; and

(6) any required California Environmental Quality Act findings have been made.

(c) **Conditional Approvals; Denials without Prejudice.** Subject to any applicable federal or state laws, nothing in this policy is intended to limit the approval authority's (or the appellate authority's) ability to conditionally approve or deny without prejudice any permit application governed under this policy as may be necessary or appropriate to protect and promote the public health, safety and welfare, and to advance the goals or policies in the general plan and any applicable specific plan, this policy or the Municipal Code.

(d) **Decision Notices.** Within five calendar days after the approval authority (the Zoning Administrator or Planning Commission) acts on an application or before the shot clock expires (whichever occurs first), the Department shall provide a written notice to the applicant and notify the City Council about such decision. If the approval authority (or appellate authority) denies the application (with or without prejudice), the written notice to the applicant must contain the reasons for the denial.

(e) **City Council Call for Review.** Within 10 calendar days after the approval authority approves or denies any application under this policy, any member of the City Council may advise the City Clerk in writing that the member wants the appellate authority to review the approval authority's decision provided that: (1) the provisions of this section shall control over those in Section18.144.010 (City council review) of the Municipal Code; (2) the City Clerk shall schedule the review at a public hearing of the appellate authority; (3) the appellate authority shall hear reviews *de novo*; (4) the City Clerk shall provide notice of the review hearing pursuant to Section 9(b). The City shall provide a written notice to the applicant about such decision. If the appellate authority denies the application after review (whether by affirmation or reversal), the written notice to the applicant must contain the reasons for the denial. The appellate authority's decision shall be final and not subject to any further City appeals or petitions for reconsideration.

(f) **Appeals.** Within 10 calendar days after the approval authority approves or denies any application under this policy, any interested person may file an appeal to the City Council for cause provided that: (1) the appeal provisions in this policy shall control over those in Chapter 18.144 (Appeals) of the Municipal Code; (2) an appeal must be timely and duly filed with the City Clerk on a form provided by the City Clerk, or if no such form is available, in a writing that states in plain terms the grounds for appeal and the facts that support those grounds; (3) appeals from an approval shall not be permitted when based on reasons otherwise compliant under this policy, including appeals based on the environmental effects from RF emissions that are compliant with applicable FCC regulations and guidelines; (4) the City Council shall hear appeals *de novo*; and (5) the City Clerk shall provide notice of the appeal hearing pursuant to Section 9(b). The City shall provide a written notice to the applicant about such decision. If the City Council denies the

application after review (whether by affirmation or reversal), the written notice to the applicant must contain the reasons for the denial. The City Council's decision shall be final and not subject to any further City appeals or petitions for reconsideration.

Section 11. LOCATION STANDARDS

(a) **Preface.** This section sets out criteria to determine the preferred location and support structure for wireless facilities. The City considers the most preferred location and support structure to be the least intrusive means for an applicant to provide its services to the public. Subsection (b)(1) describes general plan areas and land use designations where wireless facilities are generally most preferred. Subsection (b)(2) provides specific locations where wireless facilities are discouraged. It is possible for a proposed facility to be simultaneously in a "preferred" and "discouraged" location, for example, a facility within a commercial district that is also within 100 feet of a residential dwelling unit. In such cases, the location shall be deemed a "discouraged" location.

(b) **Locations.** To assist applicants, staff, and the approval authority to understand and respond to the community's aesthetic preferences and values, this subsection (b) describes preferred and discouraged locations for wireless facilities.

(1) **Preferred Locations.** All applicants must, to the extent technically feasible and potentially available, propose new wireless facilities in a preferred location. When a parcel is zoned Planned Unit Development ("**PUD**"), the land use designations listed under the particular PUD will apply, or if no land use designations as stated in the General Plan Land Use Map are listed, or the land use designations listed invoke multiple types of land use designations (*e.g.*, high density residential/commercial), staff may apply development standards appropriate for the parcel.

The following locations are all considered "preferred locations" and are ranked in order of most preferred to least preferred. Applicants must propose new facilities on parcels with the most preferred land use designation whenever technically feasible and potentially available. Applications must include a written justification as part of their application submittal, supported by factual and verifiable evidence, that demonstrates no location with a more preferred land use designation is technically feasible and available. Alternatively, an applicant can propose a facility in a less preferred location (without showing feasibility and availability) if the facility is stealth with concealment elements pursuant to Section 12:

(A) parcels within a land use designation of industrial;
(B) parcels within a land use designation of commercial;
(C) parcels within a land use designation of office;
(D) parcels within a land use designation of mixed use;

(E) parcels within a land use designation of agriculture;
(F) parcels within a land use designation of public and institutional;
(G) parcels that are designated as public park or parkland in the City's Parks and Recreation Master Plan;
(H) parcels with an existing City-owned water tank facility or parcels adjacent to a City-owned water tank facility;
(I) parcels with an existing school;
(J) parcels with an existing religious institution;
(K) any location within the Downtown Specific Plan Area where the wireless facility is stealth with concealment elements pursuant to Section 12 and is an installation on a rooftop or is architecturally integrated into an existing building;
(L) parcels that have no underlying zoning, (*e.g.*, portions of the Iron Horse Trail), and that are adjacent to any of the land use designations identified above.

(2) **Discouraged Locations.** When no preferred location is technically feasible and potentially available, the applicant may propose a wireless facility in a discouraged location pursuant to an exception under Section 15, including a written justification supported by factual and verifiable evidence, demonstrating that no preferred location is technically feasible and potentially available. If a wireless facility must be placed in a discouraged location, the applicant shall use the least-discouraged location that is technically feasible and potentially available. The following locations are discouraged, and ordered from least discouraged to most discouraged:

(A) any location where the wireless facility is not stealth with concealment elements pursuant to Section 12 and is within 500 feet of an existing tower or other freestanding wireless facility;
(B) any location where the wireless facility is not stealth with concealment elements pursuant to Section 12 and is visible from the I-580 or I-680 freeways, or is located within 200 feet of an historic resource;
(C) any location within the Downtown Specific Plan Area where the wireless facility is not stealth with concealment elements pursuant to Section 12, or is an installation on a tower or other freestanding wireless facility or an existing non-building structure (*e.g.,* electric transmission tower, flagpole, commercial pole sign, etc.), even if stealth with concealment elements;
(D) parcels with a land use designation of residential or parcels within a PUD with residential land use designations or development standards substantially similar to the residential land use designations;
(E) any location where the wireless facility would be within 100 feet from a residential dwelling unit (but not accessory structures, detached garages, sheds, pool houses, etc.).

(c) **Support Structures.** All applicants must, to the extent technically feasible and potentially available, propose new facilities on a preferred support structure. This subsection (c) generally describes preferred and discouraged support structures, further subject to specific support structure criteria, if any, specified in Section 11(b). The approval authority shall consider whether any more preferred support structure would be technically feasible and potentially available. The approval authority may require the applicant to use a more preferred support structure when the alternative is technically feasible and potentially available.

(1) **Preferred Support Structures.** The City's preferences for support structures are as follows, order from most preferred to least preferred:

(A) collocation on an existing structure with existing wireless facilities;
(B) installations on a rooftop;
(C) installations on a building facade;
(D) installations on an existing non-building structure (*e.g.*, electric transmission tower, flagpole, commercial pole sign, etc.)

(2) **Discouraged Support Structures.** When no preferred support structure is technically feasible and potentially available, the applicant may propose a wireless facility on a discouraged support structure pursuant to an exception under Section 15, including a written justification supported by factual and verifiable evidence, demonstrating that no preferred support structure is technically feasible and potentially available. If a wireless facility must be installed on a discouraged support structure, the applicant shall use the least-discouraged support structure that is technically feasible and potentially available. The following support structures are discouraged, and ordered from least discouraged to most discouraged:

(A) installations on a new freestanding structure outside the public rights-of-way;
(B) installations on an existing pole located within the public rights-of-way;
(C) installations on a new or replacement pole within the public rights-of-way;
(D) installations on a new freestanding pole within the public rights-of-way;

Section 12. DESIGN STANDARDS

(a) **General Design Standards.** The standards in this subsection (a) shall be applicable to all wireless facilities:

(1) **Stealth/Concealment.** All wireless facilities must be stealth to the maximum extent feasible with concealment elements, measures and techniques that mimic or blend with the underlying support structure, surrounding environment and adjacent uses.

(2) **Least Visible Equipment.** The applicant must use the smallest and least visible antennas and accessory equipment possible to accomplish the service objectives.

(3) **Overall Height.** All wireless facilities must be compliant with maximum overall height limits applicable to structures on the underlying parcel; provided, however, that facilities that are stealth with concealment elements pursuant to this Section 12 may exceed the applicable height limit by not more than 10 feet.

(4) **Equipment Mounting Height.** The bottom of any antenna or accessory equipment must be mounted at least 15 feet above grade unless topography conditions warrant a different minimum height.

(5) **Finishes.** All exterior surfaces shall be painted, colored, and/or wrapped in flat, non-reflective hues that match the underlying support structure or blend with the surrounding environment, minimizing visibility to the greatest extent feasible. All exterior surfaces on wireless facilities shall be constructed from, or coated with, graffiti-resistant materials or sealant. All finishes shall be subject to the approval authority's prior approval.

(6) **Setbacks.** All wireless facilities must be compliant with all setback requirements applicable to structures on the underlying parcel. Additionally, all towers and other freestanding wireless facilities must be setback from adjacent public rights-of-way to the greatest extent technically feasible.

(7) **Noise.** All wireless facilities must be compliant with all applicable noise regulations, which includes, without limitation, any noise regulations in the Municipal Code, including Chapter 9.04 (Noise Regulations) of the Municipal Code. The approval authority may require the applicant to incorporate appropriate noise-baffling materials and/or noise-mitigation strategies to avoid any ambient noise from equipment reasonably likely to exceed the applicable noise regulations.

(8) **Lights.** Wireless facilities may not include exterior lights other than as may be required under Federal Aviation Administration, FCC or other applicable federal or state governmental regulations. All exterior lights permitted or required to be installed must be installed in locations and within enclosures that mitigates illumination impacts on other properties to the maximum extent feasible. Any lights associated with the electronic equipment shall be appropriately shielded from public view. Light beacons and lightning arresters shall not be included in the design of the wireless facility unless the applicant demonstrates the same are required by applicable laws or regulations for health and safety purposes, or by the Federal Aviation Administration. Any light beacons or lightning arresters shall be included in the overall height calculation.

(9) **Trees and Landscaping.** Wireless facilities shall not be installed (in whole or in part) within any tree drip line. All wireless facilities proposed to be placed in a landscaped area should include landscape and/or hardscape features (which may include, without limitation, trees, shrubs and ground cover) and a landscape maintenance plan. The existing native vegetation shall be maintained to the maximum extent feasible. The approval authority may require additional landscape or hardscape features to screen the wireless facility from public view, avoid or mitigate potential adverse impacts on adjacent properties or otherwise enhance the stealth techniques required under this policy. All plants proposed or required must be native and/or drought-resistant and consistent with any landscaping requirements for the underlying zone and are further subject to approval by the approval authority.

(10) **Signage; Decals; Advertisements.** All wireless facilities must include signage that accurately identifies the equipment owner/operator, the owner/operator's site name or identification number and a 24 hours-per-day, seven day-per-week, toll-free telephone number to the owner/operator's network operations center. Wireless facilities may not bear any other signage, decals or advertisements unless expressly approved by the approval authority, required by law or recommended under FCC or other governmental agencies for compliance with RF emissions regulations.

(11) **Security Measures.** To prevent unauthorized access, theft, vandalism, attractive nuisance or other hazards, reasonable and appropriate security measures, such as locks, fences, walls, removable climbing pegs and anti-climbing devices, may be approved. Security measures shall be designed and implemented in a manner that enhances or contributes to the overall stealth techniques, and the approval authority may condition approval on additional stealth elements to mitigate any aesthetic impacts, which may include, without limitation, additional landscape or hardscape features. Barbed wire, razor ribbon, electrified fences or any similar security measures are prohibited. Cabinets and equipment shelters must be kept secured to prevent unauthorized access.

(12) **Fire Safety.** All wireless facilities shall include (A) a power shut off immediately accessible to fire service personnel, through a Knox box or similar rapid-access system approved by the Fire Safety Authority, upon arrival at the scene of a fire and/or anticipated power surge due to power being turned off or on for any reason; (B) surge protection devices capable of mitigating a direct or partial direct lightning discharge; (C) surge protection devices capable of mitigating significant electrical disturbances that may enter the wireless facility via conductive cables; (D) at least one-hour fire resistant interior surfaces to be used in the composition of all structures; and (E) monitored automatic fire notification and suppression systems for all wireless facilities as approved by the applicable Fire Safety Authority.

(13) **Secondary Power Sources.** The approval authority may approve secondary or backup power sources and/or generators on a case-by-case basis. No permanent diesel generators or other similarly noisy or noxious generators in or within 250 feet from any residence are permitted absent a showing of extraordinary need; provided, however, the approval authority may approve sockets or other connections used for temporary backup generators.

(14) **Parking; Access.** Any equipment or improvements constructed or installed in connection with any wireless facilities must not reduce any parking spaces below the minimum requirement for the subject property. Whenever feasible, existing parking and access should be used for ingress and egress from new wireless facilities rather than constructing new parking or access improvements to access the wireless facility. Any new parking or access improvements should be the minimum size necessary to reasonably accommodate the proposed use and comply with applicable safety codes.

(15) **Utilities.** All cables and connectors for telephone, primary electric and other similar utilities must be routed underground to the extent feasible in conduits large enough to accommodate future collocated wireless facilities. To the extent feasible, undergrounded cables and wires must transition directly into the pole base without any external doghouse or similar enclosure. Meters, panels, disconnect switches and other associated improvements must be placed in inconspicuous locations to the extent possible. No new overhead utility lines or service drops are permitted merely because compliance with the undergrounding requirements would increase the project cost. Microwave or other wireless backhaul is discouraged when it would involve a separate and non-stealth antenna.

(16) **Future Expansion.** To the extent feasible and aesthetically desirable, all new wireless facilities should be designed and sited in a manner that accommodates potential future collocations and other expansions that can be integrated into the proposed wireless facility or its associated structures with no or negligible visual changes to the outward appearance. The approval authority may waive this requirement when the approval authority determines future expansions at a proposed wireless facility would be aesthetically undesirable.

(17) **Compliance with Laws.** All wireless facilities must be designed and sited in compliance with all applicable federal, state, regional, and local laws, regulations, rules, restrictions and conditions, which includes without limitation the California Building Standards Code, Americans with Disabilities Act, the general plan and any applicable specific plan, the Municipal Code and any conditions or restrictions in any permit or other governmental approval issued by any public agency with jurisdiction over the project.

(18) **Licensed Engineer.** All construction plans, specifications, and reports concerning the requirements of this Section 12 must be prepared and sealed by a California licensed civil, structural, or geotechnical engineer, as applicable.

(b) **Towers and Freestanding Wireless Facilities.** In addition to all other design requirements in this policy, the following provisions shall be applied to an application for a tower or other freestanding wireless facility:

(1) **Quantity.** No more than one tower or other freestanding wireless facility shall be permitted on any one parcel unless the proposed tower or other freestanding wireless facility is stealth with concealment elements pursuant to this Section 12.

(2) **Placement.** Towers or other freestanding wireless facilities shall be located near existing structures or trees at similar heights for screening purposes wherever feasible, but not be located between the face of a building and a public right-of-way or park.

(3) **Height Limitation.** All towers and freestyle wireless facilities shall be designed at the lowest possible height necessary to achieve the applicant's service objectives with the slimmest profile possible for structural support. All towers and other freestanding wireless facilities shall not exceed the heigh limit for structures in the applicable zoning district. The height of a tower or freestanding wireless facility shall be measured from the natural undisturbed ground surface below the center of the base of the tower or freestanding wireless facility itself to the top of the pole or other support structure, highest antenna, piece of accessory equipment or stealth element, whichever is highest.

(4) **Fall Zone.** All towers and freestanding wireless facilities must be setback from habitable structures approved for residential occupancy by a distance equal to one horizontal foot for every foot of the tower height, or the distance from the highest engineered break point to the top of the tower. The approval authority may waive the setback requirement for freestanding towers that meet Class 3 structural standards for critical infrastructure as defined in the most current revision of the ANSI/TIA-222 Structural Standard for Antenna Supporting Structures, Antennas and Small Wind Turbine Support Structures.

(5) **Tower-Mounted Equipment.** All tower-mounted equipment must be mounted as close to the vertical support structure as possible to reduce its overall visual profile. Applicants must mount non-antenna, tower-mounted equipment (including, but not limited to, remote radio units/heads, surge suppressors and utility demarcation boxes) directly behind the antennas to the maximum extent feasible. All tower-mounted equipment, cables and hardware must be painted with flat/neutral colors subject to the approval authority's prior approval.

(6) **Ground-Mounted Equipment.** All ground-mounted equipment must either be concealed underground in an environmentally controlled vault, or concealed within an existing or new structure, or other enclosure(s) subject to the approval authority's prior approval. The approval authority may require additional stealth elements as the approval authority finds necessary or appropriate to blend the ground-mounted equipment, enclosure and/or other improvements into the natural and/or built environment.

(c) **Building-Mounted Wireless Facilities.** In addition to all other design requirements in this policy, the following provisions shall be applied to an application for a wireless facility installed on a building rooftop or facade:

(1) **Height Limitations.** Building-mounted wireless facilities shall not exceed the height limit for structures in the applicable zoning district. Notwithstanding the prior sentence, antennas mounted flush on the facade of an existing building that exceeds the height limit for structures in the applicable zoning district may have a height equal to the height of the building. All equipment mounted on rooftops shall be as low as possible to avoid visibility from publicly accessible areas around the building.

(2) **Architectural Integration.** To the extent feasible, new non-tower wireless facilities shall be stealth, completely concealed and architecturally integrated into the existing facade or rooftop features with no visible impacts from any publicly accessible areas at ground level (examples include, but are not limited to, antennas behind existing parapet walls or facades replaced with RF-transparent material and finished to mimic the replaced materials). When integration with existing building features is not feasible, the facilities shall be stealth, completely concealed new structures or appurtenances designed to mimic the support structure's original architecture and proportions (examples include, but are not limited to, cupolas, steeples, chimneys and water tanks). Facilities must be located behind existing parapet walls or other existing screening elements to the maximum extent feasible.

(3) **Rooftop Wireless Facilities.** All rooftop-mounted equipment must be screened from public view, including from higher elevations, with stealth techniques and concealment measures that match the underlying structure in proportion, location on the rooftop, quality, architectural style and finish to the maximum extent practicable. All roof-mounted equipment and cabinets must be set back a minimum of 10 feet from the edge of the roof, or less, if not visible at ground level and the stealth techniques and concealment measures meet the requirements of this section.

(4) **Facade-Mounted Wireless Facilities.** When wireless facilities cannot be placed behind existing parapet walls or other existing screening elements, the approval authority may approve facade-mounted equipment in accordance with this subsection (4). All facade-mounted equipment must be stealth and

concealed behind screen walls and mounted as flush to the facade as practicable. No "pop-out" screen boxes are permitted unless the design is architecturally consistent with the original building or support structure. Exposed facade-mounted antennas, including but not limited to exposed antennas painted to match the facade, are prohibited. To the extent feasible, facade-mounted equipment must be installed on the facade(s) along the building frontage that is the least prominent or publicly visible. Facade-mounted antennas and their related equipment shall not extend over public rights-of-way.

(d) **Historic Resources.** Nothing in this policy shall be construed or applied to limit the City's authority to enforce other laws or regulations intended to protect or preserve historic resources. Any wireless facility that adversely impacts any historic resource shall not be approved without an exception pursuant to Section 15.

(e) **Administrative Design Guidelines.** The Director may develop, and from time to time amend, design guidelines consistent with the generally applicable design regulations to clarify the aesthetic and public safety goals and standards in this policy for City staff, applicants and the public. The design guidelines shall provide more detailed standards to implement the general principals articulated in this section and may include specific standards for particular wireless facilities or site locations, but shall not unreasonably discriminate between functionally equivalent service providers. If a conflict arises between the development standards specified in this policy and the design guidelines adopted under this section, the development standards specified in this policy shall control.

Section 13. Standard Conditions for Approved Permits

(a) **Standard Conditions.** Except as may be authorized in subsection (b), all permits issued under this policy or deemed granted or deemed approved by the operation of law shall be automatically subject to the conditions in this subsection (a) and these conditions shall be deemed to be incorporated by reference into such permits:

(1) **Permit Term; Approval Applies to Land.** This permit will automatically expire 10 years and one day from its issuance unless the City establishes a shorter term for public safety or substantial land use reasons pursuant to California Government Code § 65964(b). Any other permits or approvals issued in connection with any collocation, modification or other change to this wireless facility, which includes without limitation any permits or other approvals deemed-granted or deemed-approved under federal or state law, will not extend this term limit unless expressly provided otherwise in such permit or approval or required under federal or state law. This permit shall run with the land and shall be valid for the term specified in these conditions of approval. No change in ownership of the wireless facility, the site, or the subject property

shall affect the permit term. This permit may not be transferred to another site or property.

(2) **Permit Renewal.** The permittee may apply for permit renewal not more than one year before this permit expires. The permittee must demonstrate that the subject wireless facility has complied with all the conditions of approval associated with this permit and will comply with all applicable provisions in this policy and the Municipal Code that exist at the time the decision to renew or not renew is rendered. The Director may modify or amend the conditions on a case-by-case basis as may be necessary or appropriate to ensure compliance with this policy, the Municipal Code or other applicable laws. Upon renewal, this permit will automatically expire 10 years and one day from its issuance.

(3) **City's Standing Reserved.** The City's grant or grant by operation of law of a permit pursuant to this policy does not waive, and shall not be construed to waive, any standing by the City to challenge any (A) provision in federal or state law or any interpretation thereof or (B) permit issued pursuant to this policy.

(4) **Compliance with Approved Plans.** Before the permittee submits any applications to the building official required to commence construction in connection with this permit, the permittee must incorporate this permit, all conditions associated with this permit, any approved photo simulations, and any approved RF emissions report into the project plans (the "**Approved Plans**"). The permittee must construct, install and operate the wireless facility in strict compliance, as determined by the approval authority, with the Approved Plans. Any alterations, modifications or other changes to the Approved Plans, whether requested by the permittee or required by other departments or public agencies with jurisdiction over the wireless facility, must be submitted in a written request subject to the Director's prior review and approval. After the Director receives a written request to approve an alteration, modification or other change to the Approved Plans, the Director may refer the request to the original approval authority if the Director finds that it substantially deviates from the Approved Plans or implicates a significant or substantial land-use concern.

(5) **CPUC GO-159A Certification.** Within 15 business days after the City's grant of this permit or any permit is deemed granted or deemed approved by the operation of law, the permittee shall serve copies of California Public Utility Commission notification letters required by CPUC General Order No. 159A to the City Clerk, Director and City Manager.

(6) **Build-Out Period.** This permit will automatically expire 12 months from the approval date or deemed granted or deemed approved date (the "**Build-Out Period**") unless the permittee obtains all other permits and approvals required to install, construct and/or operate the approved wireless facility, which includes without limitation any permits or approvals required by any federal, state or local public agencies with jurisdiction over the subject property, support

structure or the wireless facility and/or its use. The permittee may request in writing, and the Director may grant in writing, one 12-month extension to the Build-Out Period if the permittee submits, at least 30 days prior to the automatic expiration date in this condition, substantial and reliable written evidence demonstrating justifiable cause for the 12-month extension submitted. If the Build-Out Period (and any extension) finally expires, this permit shall be automatically void but the permittee may resubmit a complete application, which includes without limitation all application fees, for the same or a substantially similar project.

(7) **Pre-Installation Requirements**. In addition to obtaining all other permits and approvals required to install, construct and/or operate the approved wireless facility, which includes without limitation any permits or approvals required by any federal, state or local public agencies with jurisdiction over the subject property, the wireless facility or its use, the permittee shall, prior to commencement of any installation or construction, attend a pre-grading meeting with the Public Works Department regarding temporary Best Management Practices ("**BMPs**") pertaining to discharges from the construction site. Before the permittee can proceed with installation or construction of the approved wireless facility, the Public Works Department must inspect and approve the permittee's installation of such temporary BMPs.

(8) **Post-Installation Certification.** Within 60 calendar days after the permittee commences full, unattended operations at the wireless facility, the permittee shall provide the Director with documentation reasonably acceptable to the Director that the wireless facility has been installed and/or constructed in strict compliance with the Approved Plans. Such documentation shall include, without limitation, electronic as-built drawings prepared by a California licensed civil engineer, GIS data, site photographs, and an affirmation, signed by a California licensed RF engineer, that the installation as constructed and operated complies with the RF emissions report and any mitigation measures therein made part of the Approved Plans, as well as all applicable FCC rules and regulations for human exposure to RF emissions and will not cause members of the general public to be exposed to RF levels that exceed the maximum permission exposure levels deemed safe by the FCC. In a written notice to the permittee, the Director may (but shall not have the obligation to) certify that the wireless facility complies with the Approved Plans or order the permittee to correct any noncompliance.

(9) **Site Maintenance.** The permittee shall keep the site, which includes without limitation any and all improvements, equipment, structures, access routes, fences, hardscape and landscape features, in a neat, clean, safe and code compliant condition in accordance with the Approved Plans and all conditions in this permit. The permittee shall keep the site area free from all litter and debris at all times. The permittee shall regularly inspect the site to determine whether any maintenance is needed. The permittee shall perform any

maintenance requested by the City for compliance with this condition within a reasonable time specified by the Director in a written notice to the permittee. Routine maintenance within residential zones shall be restricted to the City's normal construction work hours specified in the Municipal Code. The permittee, at no cost to the City, shall remove and remediate any graffiti or other vandalism at the site within 24 hours after the permittee receives notice or otherwise becomes aware that such graffiti or other vandalism occurred.

(10) **Landscape Features.** The permittee shall replace any landscape features damaged or displaced by the construction, installation, operation, maintenance or other work performed by the permittee or at the permittee's direction on or about the site. If any trees are damaged or displaced, the permittee shall hire and pay for a licensed arborist to select plant and maintain replacement landscaping in an appropriate location for the species. Any replacement tree must be substantially the same size as the damaged tree or as otherwise approved by the City. The permittee shall, at all times, be responsible to maintain any replacement landscape features.

(11) **Future Collocations.** The permittee shall be willing to allow other carriers and site operators to collocate transmission equipment with the wireless facility, to the extent such facility or portions thereof are owned or controlled by the permittee, whenever technically feasible and aesthetically desirable in accordance with applicable provisions in this policy.

(12) **Compliance with Applicable Laws.** The permittee shall maintain compliance at all times with all federal, state and local statutes, regulations, orders or other rules that carry the force of law ("**Laws**") applicable to the permittee, the subject property, the wireless facility or any use or activities in connection with the use authorized in this permit, which includes without limitation any Laws applicable to human exposure to RF emissions and any standards, specifications or other requirements identified by the Director (such as, without limitation, those requirements affixed to an encroachment permit). If the Director finds good cause to believe that the wireless facility is not in compliance with any Laws applicable to human exposure to RF emissions, the Director may (A) require the permittee to submit a written report certified by a qualified radio frequency engineer familiar with the wireless facility that certifies that the wireless facility is in compliance with all such Laws; or (B) require that a field test to measure the RF exposure levels be conducted by an independent consultant. Any field measurement tests conducted by the City or its independent consultant shall be at random times without prior notice to the permittee or site operator. The Director shall require an onsite compliance test in situations where applicable Laws would authorize the City to require such testing at the permittee's expense. The Director may order the wireless facility to be immediately powered down if, based on objective evidence, the Director finds that the wireless facility is in fact not in compliance with any Laws applicable, including, without limitation, Laws applicable to human exposure to RF emissions until

such time that the permittee demonstrates actual compliance with such Laws. The permittee expressly acknowledges and agrees that this obligation is intended to be broadly construed and that no other specific requirements in these conditions are intended to reduce, relieve or otherwise lessen the permittee's obligations to maintain compliance with all Laws. No failure or omission by the City to timely notice, prompt or promptly enforce compliance with any applicable provision in this policy, the Municipal Code, any permit, any permit condition or any applicable Laws shall be deemed to relieve, waive or lessen the permittee's obligation to comply in all respects with all applicable provisions in this policy, the Municipal Code, any permit, any permit condition or any applicable Laws.

(13) **Adverse Impacts on Other Properties.** The permittee shall use all reasonable efforts to avoid any and all unreasonable, undue or unnecessary adverse impacts on nearby properties that may arise from the permittee's or its authorized personnel's construction, installation, operation, modification, maintenance, repair, removal and/or other activities on or about the site. The permittee shall not perform or cause others to perform any construction, installation, operation, modification, maintenance, repair, removal or other work that involves heavy equipment or machines except during the City's normal construction work hours authorized by the Municipal Code or as may be specified in other permits authorizing such work. The restricted work hours in this condition will not prohibit any work required to prevent an actual, immediate harm to property or persons, or any work during an emergency declared by the City or other state or federal government agency or official with authority to declare an emergency within the City. The Director may issue a stop work order for any activities that violates this condition in whole or in part. If the Director finds good cause to believe that ambient noise from a wireless facility or related equipment violates applicable provisions in this policy or the Municipal Code, the Director, in addition to any other actions or remedies authorized by the permit, this policy, the Municipal Code or other applicable Laws, may require the permittee to commission a noise study by a qualified professional to evaluate the wireless facility's compliance. The permittee shall, at its sole cost and expense, repair and restore any and all damages to public and private properties that result from any activities performed in connection with the installation or maintenance of a wireless facility. The permittee shall restore such areas, structures and systems to the condition in which they existed prior to the installation or maintenance that necessitated the repairs. If the permittee fails to complete such repair within the number of days stated on a written notice by the Director, the City may (but shall not have the obligation to) cause such repair to be completed at permittee's sole cost and expense.

(14) **Annual Affirmation of Radio Frequency Standards Compliance.** On or before January 30th in each calendar year, the permittee acknowledges and agrees that the permittee shall submit: (A) an affirmation, signed by a California licensed RF engineer familiar with the then-current equipment deployed and

operated at the wireless facility under penalty of perjury, that the installation is operated in compliance with 47 U.S.C. § 324; (B) an affirmation, signed by a California licensed RF engineer familiar with the then-current equipment deployed and operated at the wireless facility under penalty of perjury, that the installation complies with all applicable FCC rules and regulations for human exposure to RF emissions and will not cause members of the general public to be exposed to RF levels that exceed the maximum permission exposure levels deemed safe by the FCC; and (C) a copy of the fully completed FCC form "A Local Government Official's Guide to Transmitting Antenna RF Emission Safety: Rules, Procedures, and Practical Guidance: Appendix A" titled "Optional Checklist for Determination of Whether a Facility is Categorically Excluded" for each frequency band of RF emissions to be transmitted from the wireless facility. All radio frequency emissions on all frequency bands must be shown on the Appendix A form(s). All radio frequency emissions are to be entered on each Appendix A form only in wattage units of "effective radiated power."

(15) **Interference with City Communications Systems.** The permittee shall not permit the wireless facility authorized under this permit to interfere with any City communication systems. In the event that the wireless facility is causing interference with any City communication systems, the Director may order the wireless facility to be shut down and powered off until such time as the immediate interference has been mitigated at the permittee's sole cost and expense. If, after a good faith effort is made to notify the permittee without success, the City may shut down the facility. Any costs incurred by the City shall be at the permittee's sole cost and expense.

(16) **Inspections; Emergencies.** The City's officers, officials, staff, agents, contractors or other designees may enter onto the site and inspect the wireless facility and related equipment and/or improvements upon reasonable prior notice to the permittee. Notwithstanding the prior sentence, the City's officers, officials, staff, agents, contractors or other designees may, but will not be obligated to, enter onto the site area without prior notice to support, repair, disable or remove any improvements or equipment in emergencies or when such improvements or equipment threatens actual, imminent harm to property or persons. The permittee, if present, may observe the City's officers, officials, staff, agents, contractors or other designees while any such inspection or emergency access occurs.

(17) **Safety Hazard Protocol.** If the Fire Safety Authority finds good cause to believe that the wireless facility presents an immediate fire risk, electrical hazard or other threat to public health and safety in violation of any applicable Laws, the Fire Safety Authority may order the wireless facility to be shut down and powered off until such time as the immediate threat has been mitigated, after a good faith effort is made to notify the permittee, if feasible. Any mitigations required shall be at the permittee's sole cost and expense.

(18) **Abandonment.** The permittee shall notify the Director when the permittee intends to abandon or decommission the wireless facility authorized under this permit. In addition, the wireless facility authorized under this permit shall be deemed abandoned if the wireless facility has not operated for any continuous six-month period and the permittee fails to resume operations within 90 days from a written notice from the Director. Within 90 days after a wireless facility is abandoned or deemed abandoned, the permittee, property owner and/or structure owner shall completely remove the wireless facility and all related improvements and shall restore all affected areas to a condition compliant with all applicable Laws, which includes without limitation this policy and the Municipal Code. The permittee, property owner and/or structure owner may request an extension up to 180 days to complete restoration after the wireless facility is abandoned or deemed abandoned, which the Director may grant if the permittee, property owner or structure owner presents evidence of good cause for the extension. If neither the permittee, the property owner nor the structure owner complies with the removal and restoration obligations under this condition within the required period, the City shall have the right (but not the obligation) to perform such removal and restoration with or without notice, and the permittee, property owner and structure owner shall be jointly and severally liable for all costs and expenses incurred by the City in connection with such removal and/or restoration activities.

(19) **Permittee's Contact Information.** Prior to final inspection and at all times relevant to this permit, the permittee shall keep on file with the Director basic contact and site information. This information shall include, but is not limited to, the following:

(A) the name, physical address, notice address (if different from physical address), direct telephone number and email address for (i) the permittee and, if different from the permittee, the (ii) property owner, (iii) structure owner, (iv) site operator, (v) equipment owner, (vi) site manager and (vii) agent for service of process;

(B) the regulatory authorizations held by the permittee and, to the extent applicable, property owner, structure owner, site operator, equipment owner and site manager as may be necessary for the wireless facility's continued operation;

(C) the wireless facility's site identification number and/or name used by the permittee and, to the extent applicable, property owner, structure owner, site operator, equipment owner and site manager; and

(D) a toll-free telephone number to the wireless facility's network operations center where a live person with power-down control over the wireless facility is available 24 hours-per-day, seven days-per-week.

If the entity for the permittee, property owner, structure owner, site operator, equipment owner, site manager, or agent for service of process changes, the permittee shall furnish the City with updated information within ten business days.

Additionally, the permittee must update the signage at the wireless facility to accurately identify the equipment owner/operator, the owner/operator's site name or identification number and the 24 hours-per-day, seven day-per-week, toll-free telephone number to the owner/operator's network operations center whenever such information about the same changes.

(20) **Indemnification.** The permittee and, if applicable, the owners of the property and the structure upon which the wireless facility is installed (other than the City), shall defend, indemnify and hold harmless the City, its officers, officials, employees and volunteers (collectively, the "**City Indemnitees**") from any and all (A) damages, liabilities, injuries, losses, costs and expenses and from any and all claims, demands, law suits, writs and other actions or proceedings ("**Claims**") brought against the City or any City Indemnitees to challenge, attack, seek to modify, set aside, void or annul this permit, the City's approval of this permit or the grant of this permit by the operation of law, and (B) other Claims of any kind or form, whether for personal injury, death or property damage, that arise from or in connection with the permittee's or its agents', directors', officers', employees', contractors', subcontractors', licensees', or customers' acts or omissions in connection with this permit, the City's approval of this permit, the grant of this permit by the operation of law or the wireless facility. If the City becomes aware of any Claims, the City will use best efforts to promptly notify the permittee and the owners of the property and the structure (if applicable) and shall reasonably cooperate in the defense. The permittee, property owner and structure owner expressly acknowledge and agree that the City shall have the right to approve, which approval shall not be unreasonably withheld, the legal counsel providing the City's defense, and the permittee, property owner and/or structure owner shall promptly reimburse the City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. The permittee, property owner and structure owner expressly acknowledge and agree that the permittee's indemnification obligations under this condition are a material consideration that motivates the City to approve this permit, and that such indemnification obligations will survive the expiration, revocation or other termination of this permit.

(21) **Insurance.**

(A) **Policies and Limits.** The permittee shall obtain and maintain insurance policies as follows:

(i) **Commercial General Liability Insurance.** Insurance Services Office Form CG 00 01 covering Commercial General Liability ("CGL") on an

"occurrence" basis, with limits not less than $2,000,000 per occurrence or $4,000,000 in the aggregate. If a general aggregate limit applies, the general aggregate limit shall apply separately to this project/location. CGL insurance must include coverage for the following: Bodily Injury and Property Damage; Personal Injury/Advertising Injury; Premises/Operations Liability; Products/Completed Operations Liability; Aggregate Limits that Apply per Project; Explosion, Collapse and Underground ("UCX") exclusion deleted; Contractual Liability with respect to the permit; Broad Form Property Damage; and Independent Consultants Coverage. The policy shall contain no endorsements or provisions limiting coverage for (i) contractual liability; (ii) cross liability exclusion for claims or suits by one insured against another; (iii) products/completed operations liability; or (iv) contain any other exclusion contrary to the conditions in this permit.

(ii) **Automotive Insurance.** Insurance Services Office Form Number CA 00 01 covering, Code 1 (any auto), or if permittee has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than $1,000,000 per accident for bodily injury and property damage.

(iii) **Workers' Compensation Insurance.** The permittee shall certify that it is aware of the provisions of California Labor Code § 3700, which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and further certifies that the permittee will comply with such provisions before commencing work under this permit. To the extent the permittee has employees at any time during the term of this permit, at all times during the performance of the work under this permit the permittee shall maintain insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than $1,000,000 per accident for bodily injury or disease.

(iv) **Professional Liability Insurance.** The permittee shall maintain Professional Liability (Errors and Omissions) Insurance appropriate to the permittee's profession, with limit no less than $1,000,000 per occurrence or claim. This insurance shall be endorsed to include contractual liability applicable to this permit and shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the permittee. "Covered Professional Services" as designed in the policy must specifically include work performed under this permit.

(B) **Claims-Made Policies.** If the permittee maintains any required insurance under a claims-made form, the permittee shall maintain such coverage continuously throughout the permit term and, without lapse, for at least three

years after the permit term expires so that any claims that arise after the expiration in connection with events that occurred during the permit term are covered by such claims-made policies.

(C) **Umbrella or Excess Liability Policies.** If an umbrella or excess liability insurance policy is used to satisfy the minimum requirements for CGL or automotive insurance coverage listed above, the umbrella or excess liability policies shall provide coverage at least as broad as specified for the underlying coverages and covering those insured in the underlying policies. Coverage shall be "pay on behalf," with defense costs payable in addition to policy limits. Permittee shall provide a "follow form" endorsement or schedule of underlying coverage satisfactory to the City indicating that such coverage is subject to the same terms and conditions as the underlying liability policy.

(D) **Additional Insured; Separation of Insureds.** The relevant CGL and automotive insurance policies shall name the City, its elected/ appointed officials, commission members, officers, representatives, agents, volunteers and employees as additional insureds. The required insurance shall contain standard separation of insureds provisions and shall contain no special limitations on the scope of its protection to the City, its elected/appointed officials, commission members, officers, representatives, agents, volunteers and employees.

(E) **Primary Insurance; Waiver of Subrogation.** The required insurance shall be primary with respect to any insurance programs covering the City, its elected/appointed officials, commission members, officers, representatives, agents, volunteers and employees. All policies for the required CGL, automotive and workers' compensation insurance shall provide that the insurance company waives all right of recovery by way of subrogation against the City in connection with any damage or harm covered by such policies.

(F) **Term; Cancellation Notice.** The permittee shall maintain the required insurance throughout the permit term and shall replace any certificate, policy, or endorsement which will expire prior to that date. The permittee shall use its best efforts to provide 30 calendar days' prior written notice to the City of the cancellation or material modification of any applicable insurance policy; provided, however, that in no event shall the permittee fail to provide written notice to the City within 10 calendar days after the cancellation or material modification of any applicable insurance policy. The permittee shall promptly take action to prevent cancellation or suspension, reinstate cancelled coverage or obtain coverage from a different qualified insurer.

(G) **Certificates.** Before the City issues any permit, the permittee shall deliver to the Director insurance certificates and endorsements, in a form satisfactory to the Director, that evidence all the coverage required above. In addition, the permittee shall promptly deliver complete copies of all insurance policies and endorsements upon a written request by the Director.

(H) **Insurer Rating.** Unless approved in writing by the City, all required insurance shall be placed with insurers authorized to do business in the State of California and with a current A.M. Best rating of at least A-:VIII.

(22) **Removal Bond.** Before the building official or department issues any permits required to commence construction, installation or other work in connection with this permit, the permittee shall post a bond issued by a surety and in a form acceptable to the City Attorney and the Director in an amount reasonably necessary to cover the cost to remove the improvements and restore all affected areas based on a written estimate from a qualified contractor with experience in wireless facilities or other infrastructure removal. The written estimate must include the cost to remove all equipment and other improvements, which includes without limitation all antennas, radios, batteries, generators, utilities, cabinets, mounts, brackets, hardware, cables, wires, conduits, structures, shelters, towers, poles, footings and foundations, whether above ground or below ground, constructed or installed in connection with the wireless facility, plus the cost to completely restore any areas affected by the removal work to a standard compliant with applicable Laws. The bond shall be valid for at least 10 years or the term of this permit (whichever is greater). In establishing or adjusting the bond amount required under this condition, the Director shall take into consideration any information provided by the permittee regarding the cost to remove the wireless facility to a standard compliant with applicable Laws. The bond shall expressly survive the duration of the permit term to the extent required to effectuate a complete removal of the subject wireless facility in accordance with this condition. If at any time after construction the Director finds good cause to believe that the bond required in this condition no longer adequately covers the removal and restoration costs, the Director may require by written notice that the permittee provide an updated estimate and increase the bond amount to cover any increased costs.

(23) **Record Retention.** Throughout the permit term, the permittee must maintain a complete and accurate copy of the written administrative record, which includes without limitation the permit application, permit, the approved plans and photo simulations incorporated into this approval, all conditions associated with this approval, any ministerial permits or approvals issued in connection with this approval and any records, memoranda, documents, papers and other correspondence entered into the public record in connection with the permit (collectively, "**Records**"). If the permittee does not maintain such Records as required in this condition, any ambiguities or uncertainties that would be

resolved by inspecting the missing Records will be construed against the permittee. The permittee shall protect all Records from damage from fires, floods and other hazards that may cause deterioration. The permittee may keep Records in an electronic format; provided, however, that hard copies or electronic Records kept in the City's regular files will control over any conflicts between such City-controlled copies or Records and the permittee's electronic copies, and complete originals will control over all other copies in any form. The requirements in this condition shall not be construed to create any obligation for the City to create or prepare any Records not otherwise required to be created or prepared by other applicable Laws. Compliance with the requirements in this condition shall not excuse the permittee from any other similar record-retention obligations under applicable Laws.

(24) **Permit Revocation.** Any permit granted under this policy or deemed granted or deemed approved by the operation of law may be revoked in accordance with the provisions and procedures in this condition. In addition to other remedies the City may have, the Director may initiate revocation proceedings when the Director has information that the wireless facility may not be in compliance with all applicable Laws, which includes without limitation, any permit in connection with the wireless facility and any associated conditions with such permit(s). A permit granted under this policy or deemed granted or deemed approved by the operation of law may be revoked only by the City Council after a duly notice public hearing and opportunity to cure. Before any public hearing to revoke a permit granted under this policy or deemed granted or deemed approved by the operation of law, the Director must issue a written notice to the permittee that specifies (A) the wireless facility; (B) the violation(s) to be corrected; (C) the timeframe in which the permittee must correct such violation(s); and (D) that, in addition to all other rights and remedies the City may pursue, the City may initiate revocation proceedings for failure to correct such violation(s). The City Council may revoke a permit when it finds substantial evidence in the written record to show that the wireless facility is not in compliance with any applicable Laws, which includes without limitation, any permit in connection with the wireless facility and any associated conditions with such permit(s). Any decision by the City Council to revoke or not revoke a permit shall be final and not subject to any further appeals. Within five business days after the City Council adopts a resolution to revoke a permit, the Director shall provide the permittee with a written notice that specifies the revocation and the reasons for such revocation.

(25) **Cost Reimbursement.** The permittee acknowledges and agrees that (A) the permittee's request for authorization to construct, install and/or operate the wireless facility will cause the City to incur costs and expenses; (B) the permittee shall be responsible to reimburse the City for all actual and reasonable costs incurred in connection with the permit, which includes without limitation costs related to application review, permit issuance, site inspection and any other costs reasonably related to or caused by the request for

authorization to construct, install and/or operate the wireless facility; (C) any application fees required for the application may not cover all such reimbursable costs and that the permittee shall have the obligation to reimburse the City for all such costs within 10 business days after a written demand for reimbursement and reasonable documentation to support such costs; and (D) the City shall have the right to withhold any permits or other approvals in connection with the wireless facility until and unless any outstanding costs have been reimbursed to the City by the permittee.

(26) **Truthful and Accurate Statements.** The permittee acknowledges that the City's approval relies on the written and/or oral statements by permittee and/or persons authorized to act on permittee's behalf. In any matter before the City in connection with this permit or the wireless facility, neither the permittee nor any person authorized to act on permittee's behalf shall, in any written or oral statement, intentionally provide material factual information that is incorrect or misleading or intentionally omit any material information necessary to prevent any material factual statement from being incorrect or misleading.

(27) **Successors and Assigns.** The conditions, covenants, promises and terms contained in this permit will bind and inure to the benefit of the City and permittee and their respective successors and assigns.

(28) **Severable Conditions.** If any provision in these conditions or such provision's application to any person, entity or circumstances is or held by any court with competent jurisdiction to be invalid or unenforceable: (A) such provision or its application to such person, entity or circumstance will be deemed severed from this permit; (B) all other provisions in this permit or their application to any person, entity or circumstance will not be affected; and (C) all other provisions in this permit or their application to any person, entity or circumstance will be valid and enforceable to the fullest extent permitted by law.

(b) **Modified Conditions.** The approval authority (or appellate authority) may modify, add or remove conditions to any permit on a case-by-case basis as the approval authority (or appellate authority) deems necessary or appropriate to: (1) protect and/or promote the public health, safety and welfare; (2) tailor the standard conditions in subsection (a) to the particular facts and circumstances associated with the deployment; and/or (3) memorialize any changes to the proposed deployment needed for compliance with this policy, the Municipal Code, generally applicable health and safety requirements and/or any other applicable Laws.

Section 14. AMORTIZATION

Any nonconforming wireless facilities in existence at the time this policy becomes effective must be brought into conformance with this policy in accordance with the amortization schedule in this section. As used in this section, the "fair market value" will be the construction costs listed on the building permit or application for the subject

wireless facility and the "minimum years" allowed will be measured from the date on which this policy becomes effective.

Fair Market Value on Effective Date	Minimum Years Allowed
less than $50,000	5
$50,000 to $500,000	10
greater than $500,000	15

The Director may grant a written extension to a date certain when the wireless facility owner shows (i) a good faith effort to cure non-conformance; (ii) the application of this section would violate applicable laws; or (iii) extreme economic hardship would result from strict compliance with the amortization schedule. Any extension must be the minimum time period necessary to avoid such extreme economic hardship. The Director may not grant any permanent exemption from this section.

Nothing in this section is intended to limit any permit term to less than 10 years for any permit granted on or after January 1, 2016. In the event that the amortization required in this section would reduce the permit term to less than 10 years for any permit granted on or after January 1, 2016, then the minimum years allowed will be automatically extended by the difference between 10 years and the number of years since the City granted such permit. Nothing in this section is intended or may be applied to prohibit any collocation or modification covered under 47 U.S.C. § 1455(a) on the basis that the subject wireless facility is a legal nonconforming wireless facility.

Section 15. Special Exceptions for Federal or State Preemption

(a) **Preface.** The provisions in this Section 15 establish a procedure by which the City may grant an exception to the standards in this policy but only to the extent necessary to avoid conflict with applicable federal or state law. When the applicant requests an exception, the approval authority shall consider the findings in Section 15(b) in addition to the findings required under Section 10(b). Each exception is specific to the facts and circumstances in connection with each application. An exception granted in one instance shall not be deemed to create a presumption or expectation that an exception will be granted in any other instance.

(b) **Required Findings.** The approval authority shall not grant any limited exception pursuant to this Section 15 unless the approval authority finds all the following:

(1) the applicant has provided the approval authority with a reasonable and clearly defined technical service objective to be achieved by the proposed wireless facility;

(2) the applicant has provided the approval authority with a detailed written statement that explains why: (A) a denial based on the application's noncompliance with a specific provision or requirement would violate federal law, state law or both; or (B) a provision in this policy, as applied to the applicant, would violate any rights or privileges conferred on the applicant by federal or state law;

(3) the applicant has provided the approval authority with a written statement that contains a detailed and fact-specific explanation as to why the proposed wireless facility cannot be deployed in compliance with the applicable provisions in this policy, the Municipal Code, the general plan and/or any specific plan;

(4) the applicant has provided the approval authority with a meaningful comparative analysis with the factual reasons why all alternative locations and/or designs identified in the administrative record (whether suggested by the applicant, the City, public comments or any other source) are not technically feasible or potentially available to reasonably achieve the applicant's reasonable and clearly defined technical service objective to be achieved by the proposed wireless facility;

(5) the applicant has demonstrated that the proposed location and design is the least non-compliant configuration that will reasonably achieve the applicant's reasonable and clearly defined technical service objective to be achieved by the proposed wireless facility, which includes without limitation a meaningful comparative analysis into multiple smaller or less intrusive facilities dispersed throughout the intended service area;

(6) the exception requested by the applicant does not compromise or excuse compliance with any fire safety or other public safety standard; and

(7) the exception is narrowly tailored such that any deviation from this policy is only to extent necessary for compliance with federal or state law.

(c) **Evidentiary Standard.** The applicant shall have the burden to prove to the approval authority that an exception should be granted pursuant to this Section 15. The standard of evidence shall be the same as required by applicable federal or state law for the issue raised in the applicant's request for an exception.

(d) **Expert Review.** Independent expert and/or consultant review, including legal review, will generally be appropriate when considering an exception request, which shall be at the applicant's cost in the same manner as described in Section 8.

Section 16. VIOLATIONS

Any use or condition caused or permitted to exist in violation of any provision of this policy shall be and hereby is declared a public nuisance and may be subject to: (a) injunctive relief as set forth in Municipal Code Chapter 1.16 (Injunctive Relief); (b) administrative citations as set forth in Municipal Code Chapter 1.24 (Administrative Citations); (c) administrative remedies as set forth in Municipal Code Chapter 1.28 (Administrative Remedies); (d) abatement pursuant to Municipal Code Chapter 9.28 (Property Maintenance); and (e) any and all applicable processes and procedures pursuant to the Municipal Code, including but not limited to Chapter 18.140 (Penalties), California Code of Civil Procedure § 731, or any other remedy available to the City.