M SQUARED WIRELESS

July 29, 2019

*Via Hand Delivery*

City of Huntington Beach
2000 Main Street
Huntington Beach, CA 92648

RE: AT&T Application for a Coastal Development Permit for Wireless Telecommunication Facility "Small Cell" at the following location:

Adjacent to 112 Goldenwest Street;
AT&T Site ID HBNPB_007, FA No. 14809765

Dear Planning Staff:

New Cingular Wireless PCS, LLC d/b/a AT&T Mobility ("AT&T") submits the enclosed application materials to obtain all necessary authorizations to construct small cell wireless facility at the above referenced location(s). If any additional applications or information are needed for any phase of this project, please let me know. Small cells are low-power, low-profile wireless communications facilities that improve signal quality and capacity within AT&T's existing wireless network. The proposed small cell facility will help AT&T provide and improve critical wireless services in this area.

**Application Contents**

Pursuant to HBMC 230.96 this application includes the following materials and information:

- One (1) Complete Planning Permit Application
- One (1) AT&T Letter of Authorization
- One (1) Statement of CLEC and CPUC Status
- One (1) Project Narrative and Justification
- One (1) Photo Survey with Key Map
- One (1) Photo Simulation
- Twelve (12) sets of plans
- One (1) Digital copy of plans (PDF)
- One (1) Public Notification – Maps, Notification List
- Two (2) sets of labels for Public Notification
- One (1) check for filing fees, total amount ~~$5,647.00~~ $6,334.00

**Application Review**

Under federal law, the City of Huntington Beach must determine whether the application is complete within 10 days and take final action on the application within [60/90] days from this submittal (the "shot clock"). See 47 C.F.R. § 1.6003. Within the same period of time, the city must also take action with respect to all necessary authorizations and approvals for construction and operation of the proposed small cell. The shot

clock begins today and runs unless or until it is tolled, either by mutual agreement or based on a timely and proper notice that the application is materially incomplete. To toll the shot clock for incompleteness, the city must, within ten days, identify in writing the missing information that is required by local codes or other published application guidelines. In the case of a timely and proper incomplete notice, the shot clock stops and restarts at day 0 once AT&T submits the additional information required. If Huntington Beach fails to act before the shot clock expires, the city will be in violation of state and federal laws.

- This Application was filed on July ~~29~~ 31, 2019.
- Notification of incompleteness is due by August ~~8~~ 10, 2019.
- Absent tolling, the city must take final action by October 28, 2019.

Huntington Beach must grant all necessary authorizations as the proposed facility is consistent with applicable law and there is no basis for denial under the local code.

**Applicable Law**

Approval is required under the federal Telecommunications Act of 1996, 47 U.S.C. §§ 253, 332 ("Act"). The Act, which was enacted to prioritize and streamline deployment of wireless technologies, limits the ability of state and local governments to regulate wireless service. The Act establishes substantive and procedural limitations on the review of wireless facility siting applications. A state or local government cannot take action that would unreasonably discriminate against AT&T in acting on the application. A state or local government cannot take any action that would prohibit or effectively prohibit the provision of wireless services. An effective prohibition occurs when the jurisdiction's denial of an application materially limits or inhibits AT&T's ability to provide or improve wireless services. A state or local government may not consider the effects of radio frequency emissions when considering this application.

The city must review this application within a reasonable period of time, as defined pursuant to the shot clock. Any decision to deny the application must be in writing contemporaneously with the decision and supported by substantial evidence contained in a written record. The written denial must provide the basis therefor with a recitation of findings of fact and conclusions of law supporting the denial.

Pursuant to the California Constitution and Section 7901 of the California Public Utilities Code, AT&T has a statewide franchise right to construct telecommunications facilities and place poles within the public rights-of-way so long as it does not incommode the public way. AT&T's right is subject only to the municipality's authority to impose reasonable and equivalent time, place and manner restrictions pursuant to Section 7901.1 of the California Public Utilities Code. AT&T's proposed small cell facility/ies do not incommode the public way.

Payment of application fees totaling $ 5,647.00 is enclosed with this letter.

The FCC set a standard for fees such that only objectively reasonable cost-based fees may be imposed on a nondiscriminatory basis. The FCC established a safe harbor for presumptively reasonable fees: $500 for non-recurring fees for an application including up to five small cells, plus $100 for each small cell beyond five, or $1,000 for non-recurring fees for a new pole to support small cells. In addition, California Government Code 50030 limits permit fees for telecommunications installations to the reasonable cost-based fees. The city requires a deposit for application fees, which is subject to a future invoice after the application is reviewed and processed. AT&T is concerned that the city's fees may be excessive and may violate the FCC's standard and the state-law standard for lawful fees. AT&T is submitting its application and its initial deposit for

application fees in order to avoid disruption to its business, but it does so under protest and explicitly reserves its rights to pursue any and all legal remedies for excessive fees.

Questions or notices related to this Application may be directed to:

Franklin Orozco
forozco@interlinkpg.com
1387 Calle Avanzado
San Clemente, CA 92673
(619) 632-2569

Copy: Michele Vernotico
michele@interlinkpg.com
(949) 922-1334

We look forward to working with you to complete this wireless communications project(s) in Huntington Beach.

Sincerely,

Franklin Orozco, on behalf of AT&T

**New Cingular Wireless PCS, LLC d/b/a AT&T Mobility**
**AT&T Site ID: HBNPB_007 and FA#14809765**
**In the Public Right-of-Way near 112 Goldenwest Street, Huntington Beach, CA**

Project Narrative

New Cingular Wireless PCS, LLC d/b/a AT&T Mobility ("AT&T") is proposing to install new small cell wireless telecommunications facility to serve residents and businesses in this portion of the community. Small cells are low-power, low-profile wireless communications facilities that improve signal quality and capacity within AT&T's existing wireless network. The proposed small cell facility will help AT&T provide and improve critical wireless services in this area.

AT&T estimates that since introduction of the iPhone in 2007, mobile data usage has increased 470,000% on its network. AT&T forecasts its customers' growing demand for mobile data services to continue. Customer needs require AT&T to design and maintain its network to provide and improve wireless signal quality and to increase data rates sufficient to stream video. Areas that do not meet this minimal standard, or where wireless service is otherwise compromised, represent service issues that must be addressed.

Specifically, this proposed small cell facility will help improve AT&T's wireless services by offloading network traffic carried by existing macro facilities in the area. In addition, faster data rates allow customers to get on and off the network quickly, which produces more efficient use of AT&T's limited spectrum. By placing the small cell facility in areas where AT&T's existing wireless telecommunications facilities are constrained and where AT&T experiences especially high network traffic, AT&T can address the existing and forecasted demand and support 5G speeds in the near future.

Improving signal quality and Increasing data speed is critical to providing the mobile experience customers demand and to manage the unprecedented increase in mobile data usage on AT&T's network. The Center for Disease Control and Prevention (CDC) tracks the rates at which American households are shifting from landlines to wireless telecommunications. According to the CDC's latest Wireless Substitution Report, more than 70 percent of Americans rely exclusively or primarily on wireless communications in their homes.[1] In addition, the FCC estimates that 70 percent of all 911 calls are made from wireless devices.[2] And with AT&T's selection by FirstNet as the wireless service provider to build and manage the nationwide first responder wireless network, each new or modified facility will help strengthen first responder communications.

AT&T selected the proposed facility as the best available means to address its service objectives in this portion of the city. The overall site location and design will comply with applicable code provisions, General Plan, and other published siting guidelines. The proposed small cell facility will be located in the public right-of-way, where AT&T has a right to place its equipment pursuant to Section 7901 of the California Public Utilities Code. The proposed node is a Pico cell site and will provide 4G services to the surrounding area. The project will involve the placement of a small antenna and associated small cell equipment on a replacement streetlight. For this small cell, AT&T proposes to install a 10-inch diameter omni-directional antenna and radios at the top of a replacement streetlight, fully concealed within a 12-inch diameter shroud. The facility will not obstruct pedestrian or vehicular traffic. It will not adversely affect the surrounding properties and will have a minimal physical and aesthetic footprint in this area. In addition, the proposed facility fully complies with applicable design criteria. Therefore, the City can easily make the necessary findings for approval for this small cell facility.

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[1] *See Wireless Substitution: Early Release of Estimates From the National Health Interview Survey, January-June 2018*, available at http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201812.pdf.

[2] *See 911 Wireless Services*, available at https://www.fcc.gov/consumers/guides/911-wireless-services.

The project scope will consist of the following:

- Removal and replacement of a streetlight.
- Installation of a single omni-directional antenna.
- Installation of four remote radio units and raycap disconnect switch within a shroud.
- Installation of below grade power and fiber handholds.

Conformance with FCC Regulations

The proposed low powered antenna installation attached to the utility pole is considered categorical excluded by the FCC based on the analysis included in the FCC Optional Checklist for Determination of the Local Official's Guide to RF (attached). Installation that are categorically excluded are considered to meet or exceed the FCC standards for RF Emissions.

Construction, Maintenance and Monitoring

Construction of the proposed project will take approximately 30-days. All construction will be done in a manner that minimizes impact to residents and/or businesses in the area. Existing underground or overhead power and fiber connections will be used with minimal trenching. Directional boring will be used when deemed appropriate for each specific location.

Maintenance of the subject facility is minimal. The telecom operator will be responsible for maintenance of the telecom facility including, but not limited to, any missing, discolored or damaged screening, all graffiti removed promptly, and the facility kept clean and free of litter. Monitoring is typically done from AT&T's switching offices. If needed, a site visit to change any radio equipment will be coordinated with the city through the appropriate process.

Required Findings of Approval

The subject project complies with the City of Huntington Beach Wireless Communication Facilities Ordinance, Section 230.96 in the following ways:

1. The wireless facility is a small cell installation to be placed on an approved stealth pole in the public right-of-way.
2. The project is allowed subject to the city's approval of a Wireless Permit and Coastal Development Permit.
3. The proposed small cell meets the city design criteria, including a fully screened installation that conceals the radios within a shroud and omni directional antenna which will be painted to match the replaced aggregate light pole.
4. The proposed installation minimizes visual impact due to its small scale, shape, materials and colors.
5. It adheres to the city's maximum height standards.
6. No additional above ground equipment is proposed to be installed within the public right-of-way, which makes this installation as the smallest possible technology in order to provide the residents and business of Huntington Beach with an improved and robust mobile internet service.