

# **Attachment F**

Planning Commission Staff Report from  
July 9, 2020



## **CITY OF NEWPORT BEACH PLANNING COMMISSION STAFF REPORT**

July 9, 2020  
Agenda Item No. 4

**SUBJECT:** AT&T Small Cell SLC0796 Appeal (PA2019-111)  
▪ Minor Use Permit No. UP2019-030  
▪ Coastal Development Permit No. CD2020-052

**SITE LOCATION:** Public right-of-way, City streetlight number SLC0796, at the northwestern corner of Balboa Boulevard and 30<sup>th</sup> Street

**APPLICANT:** New Cingular Wireless, LLC

**OWNER:** City of Newport Beach

**PLANNER:** Benjamin M. Zdeba, AICP, Senior Planner  
949-644-3253, bzdeba@newportbeachca.gov

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### **PROJECT SUMMARY**

An appeal of the Zoning Administrator's decision on April 16, 2020, to approve a minor use permit allowing the installation of a small cell wireless facility on a City-owned streetlight pole. Project implementation will be fully contained within the public right-of-way on Balboa Boulevard and includes the following: (1) Removal and replacement of an existing City streetlight; (2) Installation of a small cell wireless facility that consists of four remote radio units, a raycap disconnect, and an omni-directional antenna within a 12-inch diameter antenna screening shroud at the top of the pole. The overall height of the facility would be 34 feet, 9 inches above the ground. Support equipment will be in an adjacent below-grade vault. Also included in the request is a coastal development permit to allow the installation within the coastal zone boundaries.

### **RECOMMENDATION**

- 1) Conduct a public hearing;
- 2) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15302 and 15303 under Class 2 (Replacement or Reconstruction) and Class 3 (New Construction or Conversion of Small Structures), respectively, of the State CEQA (California Environmental Quality Act) Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment and the exceptions to the Class 3 exemption under Section 15300.2 do not apply; and
- 3) Adopt Resolution No. PC2020-018 approving Coastal Development Permit No. CD2020-052 and affirming the decision of the Zoning Administrator approving Minor Use Permit No. UP2019-030 with the attached Findings and Conditions (Attachment No. PC 1).

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### VICINITY MAP



### GENERAL PLAN



### ZONING



LOCATION	GENERAL PLAN	ZONING	CURRENT USE
ON-SITE	N/A (Public Right-of-Way)	N/A (Public Right-of-Way)	City Streetlight No. SLC0796
NORTH	Two-Unit Residential (RT)	Two-Unit Residential (R-2)	Single- and two-family residences
SOUTH	RT	R-2	Single- and two-family residences
EAST	Visitor Serving Commercial (CV) RT	Commercial Visitor-Serving (CV) R-2	Beach Coin Laundry w/ single- and two-family residences beyond
WEST	RT	R-2	Single- and two-family residences



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## **INTRODUCTION**

### **Background**

Over the last several decades, with the invention of new technologies like smartphones, tablets, and smartwatches, connectivity for wireless devices drove telecommunications companies to deploy new equipment to allow for the transmission of more data. Wireless data demand continues to grow, outpacing the capacity of the existing telecommunications infrastructure.

Small cell technology, like that proposed, is now being deployed across the country as a new solution to resolve increased data demand and to make coverage more reliable. In contrast to traditional macro wireless sites (i.e., cell towers), small cells advance a signal over a smaller radius by the means of minimal equipment on existing infrastructure. The result is more limited visual intrusion and enhanced wireless network capacity, which helps to meet the demands of residents, businesses, and visitors.

The City of Newport Beach's (City) regulatory review of wireless telecom siting is limited by three federal laws: (1) The Communications Act of 1934; (2) the Telecommunications Act of 1996 (Telecommunications Act); and (3) a provision of the Middle-Class Tax Relief and Job Creation Act of 2012 (Spectrum Act). Together, these laws aim to facilitate wireless infrastructure development and restrict certain aspects of local authority in review and permitting of wireless telecommunications facilities. On January 14, 2019, Federal Communications Commission (FCC) Declaratory Ruling and Order FCC 18-133 (Order) became effective. This directive removed barriers to wireless infrastructure deployment and established accelerated timelines for processing wireless applications at the local level. It also limited the City's rights as a property owner, restricting the type and amount of fees that can be collected for private use of public property.

On February 12, 2019, the City Council authorized execution of a Master License Agreement (MLA) (Contract No. C-8584-1) with New Cingular Wireless PCS, LLC (AT&T). The MLA authorized non-exclusive use of City-owned streetlights to install telecommunications equipment for small cell facilities. The MLA approved conceptual designs, as well as fee and rent assessment. AT&T is responsible for all resultant construction, installation, maintenance, and repair of the small cell facilities, including all related costs and expenses. Further, AT&T is responsible for complying with all laws, statutes, ordinances, rules, and regulations that may be required for their projects.

As the local regulatory agency, the City assesses wireless service facilities under local permitting protocol and ensures sites adhere to responsible regulatory practices, including safety, accessibility, environmental impact, land use, and aesthetics. However, Section 332(c)(7)(B)(iv) of U.S. Code Title 47 (Telecommunications) reads, "no state or local government may regulate wireless telecommunication facilities on the basis of the perceived health effects of radio frequency (RF) emissions to the extent that the proposed facilities comply with FCC regulations concerning emissions." Submitted RF materials

from the Applicant demonstrate the proposal would conform with FCC Rules and Regulations. Condition of Approval No. 25 requires the Applicant to comply with all applicable provisions of U.S. Code Title 47 (Telecommunications) rules and regulations, including those related to radio frequency emissions.

Under the new FCC Order, wireless providers are not required to demonstrate a significant coverage gap, a qualification previously required by local jurisdictions in order to support an application. Pursuant to the Order, the City cannot "materially [inhibit] the introduction of new services or the improvement of existing services." Moreover, pursuant to Section 332(c)(7)(B)(i)(II) of U.S. Code Title 47 (Telecommunications), the City may "not regulate the placement, construction or modification of wireless service facilities in a manner that prohibits the provision of personal wireless services." Although not required, the Applicant produced a coverage map for the project (Attachment No. PC 9). This map indicates the proposed facility would boost the capacity and coverage in the vicinity.

### Project Setting

The proposed project is located on Streetlight No. SLC0796, which is owned by the City of Newport Beach. City Streetlight No. SLC0796 is located within the public right-of-way on the northern side of Balboa Boulevard at the northwestern corner of the 30<sup>th</sup> Street intersection. It is immediately adjacent to an unusually large landscaped parkway that is approximately 20 feet wide. Beyond the parkway to the northeast is a block of two-unit residential development. All surrounding land uses are residential and vary in density from two- to single-unit residential. The only exception is a Commercial Visitor Serving (CV) zoned parcel across 30<sup>th</sup> Street from the site, which is presently developed with a laundromat (Beach Coin Laundry). As the streetlight is located within the public right-of-way, the site is not designated by the General Plan Land Use Element and, therefore, is not located within a zoning district.

### Project Description

The Applicant seeks a minor use permit to allow the installation of telecommunications equipment for a small cell wireless facility on the City-owned streetlight pole. Project implementation will be fully contained within the public right-of-way on Balboa Boulevard and includes the following: (1) Removal and replacement of an existing City streetlight; (2) Installation of a small cell wireless facility that consists of four remote radio units, a raycap disconnect, and an omni-directional antenna within a 12-inch diameter equipment shroud. This equipment would be fixed to the top of the replaced streetlight pole for a maximum height of 34 feet, 9 inches; and (3) Establishment of new below-grade support equipment adjacent to the streetlight. The proposed facility is classified as a stealth facility under Newport Beach Municipal Code (NBMC) Section 20.49.030(N) and the project is designed to be as visually inconspicuous as possible with all equipment and antennas screened. The proposed location was selected by the Applicant as it has the necessary utility connections readily available, is feasible from a signal propagation perspective, is free of obstructions, and has a good line of sight to meet coverage objectives.





Figure 1, Existing photograph (top) with proposed rendering (bottom) showing the replaced streetlight pole, antenna, equipment shroud, and below-grade equipment handholes. The banner is only shown for reference and is not part of this proposal.

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. Directional boring will be used if deemed appropriate to minimize open trenching for power and fiber connections. Maintenance of the unmanned facility is not expected to create any congestion, and maintenance activity is expected to be minimal. The telecom operator will be responsible for maintenance of the telecom facility including, but not limited to, any missing, discolored or damaged screening, promptly removing all graffiti, and keeping the facility clean and free of litter. Monitoring is typically done remotely and, if necessary, a site visit to change any radio equipment will be coordinated with the City, appropriately.

#### Decision and Appeal

On April 16, 2020, the Zoning Administrator conducted a public hearing and approved the Applicant's request. During the meeting, three members of the public spoke in opposition to the Minor Use Permit expressing concerns regarding health and general incompatibility with the neighborhood.

One member of the public, Mark Pollock, also spoke in opposition expressing concerns about the validity of the application and insurance requirements being satisfied as part of the MLA. As presented in the minutes for the meeting (Attachment No. PC 5), a staff member from the City Attorney's Office addressed Mr. Pollock's concerns as outlined in his March 25, 2020, letter at this hearing and noted that staff informed the City Attorney's Office that the insurance requirements were satisfied.

On April 28, 2020, Mr. Pollock filed an appeal of the decision of the Zoning Administrator for the purpose of bringing the item before the Planning Commission for review. The appeal again expresses concerns regarding proof of adequate insurance, as well as the ability for the Applicant to file an application under the MLA. The complete appeal application and its expanded brief have been attached as Attachment No. PC 3. It is notable that the appeal does not focus on the specific location of the proposed project, but rather it focuses on the compliance with the MLA.

The project was scheduled for a de novo public hearing by the Planning Commission for June 4, 2020 but was continued from that agenda to allow staff additional time to review the project. Of concern was whether the project also required a coastal development permit.

Upon finding that a coastal development permit should be required, staff prepared a revised public hearing notice including the Coastal Development Permit in accordance with NBMC Chapters 20.62 and 21.62.

Based on NBMC Subsections 20.64.030(C)(3) and 21.64.030(C)(3) (Conduct of Hearing), a public hearing on an appealed matter is conducted "de novo," meaning that it is a new hearing. The prior decision of the Zoning Administrator to approve Minor Use

Permit No. UP2019-030 has no force or effect. The Planning Commission is not bound by the Zoning Administrator's decision.

The Coastal Development Permit was not reviewed by the Zoning Administrator, as it was not identified as a requirement until after the Zoning Administrator had completed his review and action on the Minor Use Permit. Pursuant to NBMC Section 21.50.020 (Authority for Decisions), the Zoning Administrator may refer the review and action of a coastal development permit to the Planning Commission. In this case, the Zoning Administrator determined it is most appropriate for the Planning Commission to consider both the appeal of the Minor Use Permit and the Coastal Development Permit as a single project (Attachment No. PC 6).

### Analysis

Pursuant to NBMC Chapters 20.49 and 21.49 (Wireless Telecommunications Facilities), the facility is defined as a Class 3 (Public Right-of-Way) Installation given that it will be located within the public right-of-way. Class 3 facilities require the approval of a minor use permit. NBMC Section 20.52.020 (Conditional Use Permits and Minor Use Permits) requires the review authority, in this case the Planning Commission due to the appeal, to make the following findings in order to approve a Use Permit:

- 1. The use is consistent with the General Plan and any applicable specific plan;*
- 2. The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code;*
- 3. The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity;*
- 4. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities; and*
- 5. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Additional findings specific to review of a use permit application for a wireless telecommunications facility are required in NBMC Section 20.49.060 (Permit Review Procedures). Those additional findings are as follows:



- a. The proposed telecom facility is visually compatible with the surrounding neighborhood.*
- b. The proposed telecom facility complies with height, location and design standards, as provided for in this chapter.*
- c. An alternative site(s) located further from a residential district, public park or public facility cannot feasibly fulfill the coverage needs fulfilled by the installation at the proposed site.*
- d. An alternative plan that would result in a higher preference facility class category for the proposed facility is not available or reasonably feasible and desirable under the circumstances.*

### *General Plan*

Within the General Plan, there are multiple goals and policies that are applicable to the siting and development of a telecom facility.

General Plan Natural Resources Goal NR 21 recommends the “minimized visual impacts of signs and utilities.” The proposed design is consistent with NR 21 by introducing no new vertical obstructions in the Public Right-Of-Way (ROW), employing stealth elements like antenna screening, colorization (painting to match the streetlight pole), and installing the associated equipment below grade. Conditions of Approval No. 20 and 21 prohibit advertising signage or identifying logos on any telecom facility except for small identification, address, warning, and similar information plates. The City retains the right to install community banners as depicted in the visual simulation (Figure 1), but the Applicant would not. Facility identification signs required by State or Federal regulations would be allowed in its smallest permissible size to meet regulations.

General Plan Land Use Policy LU 6.1.3 promotes “architecture and planning that complements adjoining uses.” The proposed design is adjacent to residential uses and aligns with LU 6.1.3 by copying the size, shape, style, and design of the existing streetlight pole to decrease potential disruption of the visual environment. Adverse impact to circulation, aesthetics, sounds, or odor are not anticipated from project implementation due to the fully screened design.

General Plan Land Use Policy LU 4 calls for the “management of growth and change to protect and enhance the livability of neighborhoods and achieve distinct and economically vital business and employment districts, which are correlated with supporting infrastructure and public services and sustain Newport Beach’s natural setting.” The proposed small cell facility upholds the intent of LU 4 by providing infrastructure to add AT&T system coverage and capacity to enhance service for residents, visitors, and businesses of the area especially in regular and high demand periods. The location experiences high traffic in the summer months, given the proximity to convenient beach

access and nearby commercial uses. The facility is designed to adapt and accept future technologies, such as 5G, and will help meet future demands in the area.

General Plan Natural Resources Policy NR 20.3 (Public Views) encourages the protecting and enhancement of public view corridors. The facility will be visible from surrounding public and private property, but the location is not a protected public view corridor as identified by the General Plan or Local Coastal Program, and therefore, the project would not have any impact to public views.

### *Zoning Code*

The project site is within the Public Right-of-Way, which is property held in trust by the City, and allows for the construction and maintenance of public roads, crosswalks, pedestrian walkways, electric transmission lines, oil or gas pipeline, water line, sanitary or storm sewer, or other similar uses. City Council Policy L-23 (Siting of Wireless Telecommunications Equipment on City-Owned Property) governs procedures and locations for siting wireless telecommunications equipment in the ROW. Streetlights are eligible for telecom use, subject to entitlements (such as this minor use permit request), yearly rent, and a license agreement.

NBMC Sections 20.49.050 and 21.49.050 (General Development and Design Standards) require projects to be visually compatible with surrounding structures. All telecommunications equipment on top of the streetlight pole would be concealed within a painted-to-match 12-inch diameter shroud. The proposed small cell facility would rely on likeness with the streetlight pole through style, color, and material to help disguise its presence. Electrical and wiring components of the telecommunications equipment are designed to be fully contained within the new streetlight pole. Equipment not contained within the shroud on the streetlight pole would be out of sight, located below the ground in the adjacent ROW. Condition of Approval No. 32 requires approved design drawings from Southern California Edison (SCE) of the power supply to the facility before construction is to commence.

NBMC Chapters 20.49 and 21.49 (Wireless Telecommunication Facilities) outline State- and federally-compliant telecommunication facility development standards and details permit procedures based on facility "Class." Class of a wireless facility is characterized by its installation type and location. NBMC Subsections 20.49.040(A) and 21.49.040(A) (Preferred Locations) prioritize telecom facilities from most preferred (1) to least preferred (4) as follows: (1) collocation of a new facility at an existing facility; (2) Class 1 (Stealth/Screened); (3) Class 2 (Visible Antennas) and Class 3 (Public Right-of-Way); and (4) Class 4 (Freestanding Structure). Small cell facilities located on City-owned streetlights in the ROW is a Class 3 specification (Public Right-of-Way Installations). Although lower on the listing of priority facilities, the proposed facility consists of one small cell facility that is designed to not visually dominate the surrounding area and instead to blend into the existing block. The abutting residential zones do not allow wireless telecommunications facilities and the Applicant indicates they were not left with any other

viable options to meet their business objectives to provide enhanced coverage and capacity in this challenging area.

The maximum height allowed for telecom facilities per NBMC Subsection 20.49.050(C)(3) is 35 feet above finished grade. The total height of the replacement pole with the proposed equipment is 34 feet, 9 inches to the highest point above finished grade. The project conforms to the maximum height limitation.

Existing residential properties contiguous to the site are in the R-2 (Two-Unit Residential) Zoning District. R-2-zoned sites allow for structures up to 24 feet for flat roof elements and 29 feet to the ridge of a sloped roof. The height of existing Streetlight No. SLC0796 sits just above the maximum allowable height for residential structures. The streetlight is separated from the residences by a large 20-foot parkway that is landscaped with taller palm trees. The trees provide a visual buffer between the streetlight and the residences. They also provide a visual and vertical backdrop to help soften and screen the facility. Furthermore, keeping the luminaire the same height and design helps maintain the continuity of the streetlight system. Photographic visual simulations of the facility, depicting the existing and proposed conditions, have been prepared by the Applicant and are included as Attachment No. PC 9. In accordance with NBMC Section 20.30.100 (Public View Protection), the location is not located within a protected public view corridor and, therefore, would not have any impact to public views.

#### *Local Coastal Program*

The project site is located within the coastal zone boundaries and does not have any land use designations, as it is located within the public right-of-way.

Pursuant to Subsection 21.49.020(B) (Permit and Agreement Required) of the NBMC, the applicant shall obtain a coastal development permit prior to the installation of any wireless telecommunications facility unless said facility is exempted by Subsection 21.49.020(C) (Exempt Facilities). In this case, the Project does not meet any of the prescribed exemptions; therefore, a coastal development permit is required.

Section 21.52.015 (Coastal Development Permits, Findings and Decision) of the NBMC requires the review authority, in this case the Planning Commission due to the appeal and the Zoning Administrator's determination, to make the following findings in order to approve a Use Permit:

- a. *[The project c]onforms to all applicable sections of the certified Local Coastal Program; and*
- b. *Conforms with the public access and public recreation policies of Chapter 3 of the Coastal Act if the project is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone.*



The proposed facility is considered a Class 3 (Public Right-of-Way) installation. Section 21.49.040 (Telecom Facility Preferences and Prohibited Locations) of the NBMC lists Class 3 Installations as third on the installation preference list. It is not proposed at a location that is prohibited by NBMC Subsection 21.49.040(B) (Prohibited Locations).

AT&T's analysis concluded that a more preferred location as defined by Subsection 21.49.040(A) (Preferred Locations) of the NBMC, such as a collocation or a Class 1 or 2 facility, would not be technically feasible from an RF or construction perspective. The analysis explained that small cell facilities are low powered and must be located at the precise location selected to serve the network traffic demands of the specific limited area. Further, this type of service cannot be accomplished with a traditional macro collocation or building-mounted site in the area. The abutting properties are zoned for residential use and, as such, a building mounted "stealth" facility would not be possible.

The project complies with Section 21.30.100 (Scenic and Visual Quality Protection) of the NBMC. It is not on a coastal bluff or canyon, not adjacent to or within the viewshed of a public view point, coastal view road, public park or beach, or public accessway, as identified on the Coastal Land Use Plan Map 4-3 (Coastal Views), and does not contain significant natural landforms or vegetation. The project scope involves the removal and replacement of an existing City streetlight in the same location with the same luminaire height. The shielded antennas will extend above the pole by approximately 5 feet, 6 inches while the antenna shroud will be visible from the immediate vicinity. The project has been designed to blend in within the existing streetscape. The replacement streetlight is consistent with the size, shape, style, and design of the existing pole. No above-ground mounted equipment is proposed and the support equipment is proposed to be placed in underground handholes. All transmission equipment, including remote radio units and the raycap disconnect switch, are fully concealed within a screening shroud. There will be no negative impacts on coastal views or coastal resources with the project's implementation.

SLC0796 is not located between the nearest public road and the sea or shoreline; therefore, the project will not affect the public's ability to gain access to, use, and/or view the coast and nearby recreational facilities. Vertical access to the beach is provided by way of street-ends in the area, including 30<sup>th</sup> Street. Lateral access along the beach provided on the beach itself and along the Oceanfront Boardwalk. The equipment will be below grade and will not impact any public way.

In summary, the project will allow the installation of a small cell facility that complies with all applicable Local Coastal Program (LCP) development standards and maintains development attributes consistent with the existing and anticipated future surrounding neighborhood pattern of development. Therefore, the project does not have the potential to degrade public views within the Coastal Zone.

### *Alternative Sites Considered*

Three nearby utility poles and two streetlights were identified and investigated by the Applicant as possible alternate locations for this small cell facility (see Figure 2 below).



Figure 2, On this aerial map, AT&T's proposed small cell location is designated by a red open-circle marker and the alternative sites are identified by yellow markers.

The Zoning Administrator considered five alternative streetlight locations that the Applicant found to be not viable (see Attachment No. PC 8). Ultimately AT&T's analysis concluded that a more preferred location as defined by NBMC Subsection 20.49.040(A) (Preferred Locations), such as a collocation or a Class 1 or 2 facility, would not be technically feasible from an RF or construction perspective. The analysis explained that small cell facilities are low powered and must be located at the precise location selected to serve the network traffic demands of a specific limited area. Further, this type of service cannot be accomplished with a traditional macro collocation or building mounted site in the area due to land use (zoning) constraints.



Alternative Site No. 1 is a wooden utility pole located approximately 100 feet north of the proposed streetlight (pictured right). This pole is located immediately in front of a two-unit residential structure that is oriented towards Balboa Boulevard within a narrower parkway area. Installation of small cell infrastructure at this location would require placement of a crossarm with exposed equipment on either side of the wooden pole and would not be as aesthetically compatible as the proposed location. Most importantly, the wooden utility pole is located within an approved underground assessment and utility district, which will aim to eventually eliminate such above-ground utilities in the area.



Alternative Site No. 2 at City Streetlight No. SLC0767 located approximately 160 feet northwest of the proposed streetlight on the opposite side of Balboa Boulevard (pictured left). This alternative location is in very close proximity to overhead powerlines, which would make additional height above the existing streetlight pole infeasible from a separation standpoint. Furthermore, the existing streetlight is located such that accessibility is limited and a thicker pole could not be accommodated without further constraining the sidewalk.

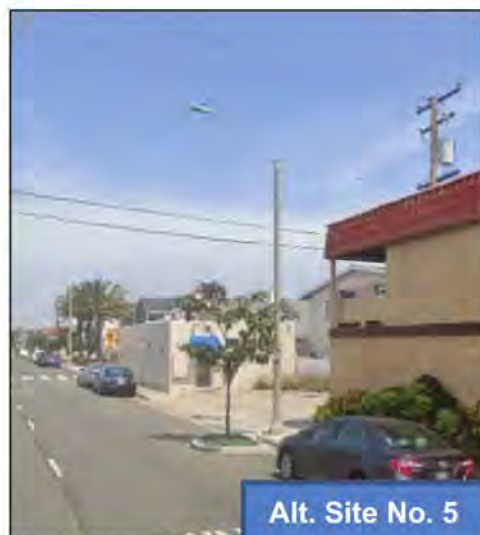


Alternative Site No. 3 is a wooden utility pole located approximately 78 feet west of the proposed streetlight (pictured right). This pole is located immediately adjacent to the front patio of an existing, single-story residence. Like Alternative Site No. 1, installation of small cell infrastructure at this location would require placement of a crossarm with exposed equipment on either side of the wooden pole and would not be as aesthetically compatible as the proposed location. Most importantly, the wooden utility pole is located within an approved underground assessment and utility district, which will aim to eventually eliminate such above-ground utilities in the area.



Alternative Site No. 4 at City Streetlight No. SLC0768 is located at the southwest corner of Balboa Boulevard and 30<sup>th</sup> Street approximately 100 feet from the proposed streetlight (pictured left). It is approximately 5 feet from the fence of the adjacent residence. Like Alternative Site No. 2, this alternative location is in very close proximity to overhead powerlines, which would make additional height above the existing streetlight pole infeasible. Accessibility is also limited here and a thicker pole cannot be accommodated without further constraining the sidewalk.

Alternative Site No. 5 at City Streetlight No. SLC0766 is located at the alleyway between 30<sup>th</sup> Street and 29<sup>th</sup> Street, approximately 175 feet southeast of the proposed streetlight (pictured right). It is approximately 4 feet from an existing residential structure. Like Alternative Site No. 2 and Alternative Site No. 4, accessibility is limited at this location and a thicker pole cannot be accommodated without further constraining the sidewalk.



### Summary

The appeal filed by Mr. Pollock focuses on potential underlying issues with the City Council-authorized MLA, the authorized representatives who may pursue the sites, and insurance requirements. Nothing in the appeal discusses specific issues with this proposed location of this project and its appropriateness.

The streetlight serves as a part of the City's existing streetlight inventory. The replacement streetlight pole design is consistent with the size, shape, style, and design of that existing, including the attached light arm and luminaire. Maintaining the same luminaire height as the existing streetlight pole will help to ensure visual continuity on the streetscape corridor with respect to light standard design. The larger landscaped parkway with several palm trees serves to soften the facility's appearance and provides a mechanism of blending consistent with NBMC Chapters 20.49 and 21.49. The proposed location was ultimately found to best meet the Applicant's objectives and appears to be the best location among the alternative sites examined in staff's opinion. Staff believes sufficient facts exist in support of each finding required to grant the minor use permit and is recommending approval.

### Alternatives

If the Planning Commission finds the facts do not support the findings required to grant approval of the Minor Use Permit application, the Planning Commission should adopt a resolution to deny the project, reversing the April 16, 2020, decision of the Zoning Administrator to approve the Minor Use Permit. The attached Resolution for Denial (Attachment No. PC 2) is provided to facilitate this action and would require additional information, facts, or findings that the Planning Commission may deem necessary or warranted.

Should the Commission believe an alternative site is more suitable for the proposed facility, then the Commission must deny the application without prejudice to allow the Applicant to pursue an identified alternative location. An alternative location cannot be approved at this meeting and a new application will need to be submitted in accordance with NBMC Section 20.54.080.

### Environmental Review

This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15302 and 15303 under Class 2 (Replacement or Reconstruction) and Class 3 (New Construction or Conversion of Small Structures), respectively, of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment. Class 2 consists of replacement or reconstruction of existing structures and facilities, where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced. Class 3 consists of construction and



location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another, where only minor modifications are made in the exterior of the structure.

In this case, the proposal includes the removal and replacement of an existing City streetlight pole to install a small telecommunications wireless facility, including below-grade accessory equipment.

The exceptions to the Class 3 categorical exemption under Section 15300.2 do not apply. This project does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.


#### Public Notice

Notice of this hearing was published in the Daily Pilot, mailed to all owners of property and residential occupants within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways), including the applicant and appellant, and posted on the subject property at least 10 days before the scheduled meeting, consistent with the provisions of the Municipal Code. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

Prepared by:

Submitted by:

  
Benjamin M. Zdeba, AICP  
Senior Planner

  
Jim Campbell  
Deputy Community Development Director

#### ATTACHMENTS

- PC 1 Draft Resolution for Approval
- PC 2 Draft Resolution for Denial
- PC 3 Appeal Form
- PC 4 Adopted Zoning Administrator Resolution No. ZA2020-030
- PC 5 Minutes of Zoning Administrator Meeting of April 16, 2020
- PC 6 Zoning Administrator Referral Memo
- PC 7 Applicant's Project Description and Justification
- PC 8 Alternative Locations Studied and Rejected
- PC 9 Photographic Simulations, Project Plans, and Coverage Maps

01/12/18



## **Attachment No. PC 1**

Draft Resolution for Approval

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## RESOLUTION NO. PC2020-018

### **A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2020-052 AND UPHOLDING THE DECISION OF THE ZONING ADMINISTRATOR APPROVING MINOR USE PERMIT NO. UP2019-030 FOR A SMALL CELL FACILITY LOCATED WITHIN THE PUBLIC RIGHT-OF-WAY ON CITY STREETLIGHT NUMBER SLC0796, AT THE NORTHWESTERN CORNER OF BALBOA BOULEVARD AND 30<sup>TH</sup> STREET (PA2019-111)**

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by New Cingular Wireless, LLC ("Applicant"), with respect to City of Newport Beach Streetlight Number SLC0796 ("SLC0796"), located within the public right-of-way, at the northwestern corner of Balboa Boulevard and 30<sup>th</sup> Street, requesting approval of a minor use permit.
2. The Applicant proposes the installation of a small cell wireless facility on a City-owned streetlight pole. Project implementation will be fully contained within the public right-of-way on Balboa Boulevard and includes the following: (1) removal and replacement of an existing City streetlight; (2) installation of a small cell wireless facility that consists of four remote radio units, a raycap disconnect, and an omni-directional antenna within a 12-inch diameter equipment shroud, with the equipment being fixed to the top of the replaced streetlight pole for a maximum height of 34 feet, 9 inches, and (3) establishment of new below-grade support equipment adjacent to the streetlight. Also included is the review of a coastal development permit. (the "Project").
3. Since the SLC0796 streetlight is located within the public right-of-way. The proposal is regulated by Council Policy L-23 (Siting of Wireless Telecommunications Equipment on City-Owned Property), as well as Chapter 20.49 (Wireless Telecommunication Facilities) of the Newport Beach Municipal Code ("NBMC").
4. A public hearing was held on April 16, 2020, in the Community Room located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the hearing was given in accordance with California Government Code Section 54950 *et seq.* ("Ralph M. Brown Act"), Chapter 20.62 and Chapter 21.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this public hearing.
5. The Zoning Administrator adopted Resolution No. ZA2020-030 approving Minor Use Permit No. UP2019-030.



6. On April 28, 2020, attorney Mark Pollock filed an appeal of the Zoning Administrator's decision primarily citing concerns with the City's Master License Agreement and the Applicant's authority to file for this application.
7. The Project was scheduled for a de novo public hearing by the Planning Commission for June 4, 2020 but was continued from that agenda to allow staff additional time to review the Project. Of concern was whether the Project also required a coastal development permit.
8. The Project is located within the Coastal Zone. Subsection 21.49.020(B) (Permit and Agreement Required) of the NBMC requires a coastal development permit for a wireless telecommunication facility unless said facility is exempted by Subsection 21.49.020(C) (Exempt Facilities). In this case, the Project does not meet any of the prescribed exemptions; therefore, a coastal development permit is required.
9. Upon finding that a coastal development permit is required, the Zoning Administrator deferred action on Coastal Development Permit CD2020-052 and is referring it to the Planning Commission pursuant to Section 21.50.020 footnote (3) (Authority for Decisions) for consideration and final action along with Minor Use Permit No. UP2019-030. The Project was noticed for the Planning Commission's review. A de novo telephonic public hearing was held by the Planning Commission on July 9, 2020, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California, due to the Declaration of a State Emergency and Proclamation of Local Emergency related to COVID-19. A notice of time, place and purpose of this public meeting was given in accordance with the Ralph M. Brown Act, Chapter 20.62 and Chapter 21.62 of the NBMC. The Planning Commission considered evidence both written and oral at this hearing.

## SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This Project is exempt from the California Environmental Quality Act ("CEQA") pursuant to Sections 15302 and 15303 under Class 2 (Replacement or Reconstruction) and Class 3 (New Construction or Conversion of Small Structures), respectively, of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment. Class 2 consists of replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced. Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure.
2. In this case, the Project includes the removal and replacement of an existing City streetlight pole to install a small telecommunications wireless facility, including below-grade accessory equipment.

3. The exceptions to the Class 3 categorical exemption under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

### SECTION 3. REQUIRED FINDINGS.

#### ***Minor Use Permit***

In accordance with Subsection 20.52.020(F) (Conditional Use Permits and Minor Use Permits) of the NBMC, the following findings and facts in support of such findings are set forth:

#### Finding:

- A. *The use is consistent with the General Plan and any applicable specific plan.*

#### Facts in Support of Finding:

1. SLC0796 is designated as Public Right-of-Way ("ROW"), which is property held in trust by the City, and allows for the construction and maintenance of public roads, crosswalks, pedestrian walkways, electric transmission lines, oil or gas pipeline, water line, sanitary or storm sewer, or other similar uses. City Council Policy L-23 (Siting of Wireless Telecommunications Equipment on City-Owned Property) governs procedures and locations for siting wireless telecommunications equipment in the ROW. Streetlights are eligible for telecom use, subject to entitlements (such as this minor use permit request), yearly rent, and a license agreement.
2. The City of Newport Beach General Plan ("General Plan") Natural Resources Goal NR 21 recommends the "minimized visual impacts of signs and utilities." The proposed design is consistent with NR 21 by introducing no new vertical obstructions in the ROW, employing stealth elements like colorization (painting to match the streetlight pole), and installing the associated equipment below grade. Conditions of Approval No. 20 and 21 prohibit advertising signage or identifying logos on the small cell facility except for small identification, address, warning, and similar information plates. Signage required by State or Federal regulations shall be allowed in its smallest permissible size.
3. General Plan Land Use Policy LU 6.1.3 promotes "architecture and planning that complements adjoining uses." The proposed design adjoins residential uses and aligns with LU 6.1.3 by copying the size, shape, style, and design of the existing streetlight pole to decrease potential disruption of the visual environment. Adverse impact to circulation, aesthetics, sounds, or odor are not anticipated from project implementation.
4. General Plan Land Use Policy LU 4 calls for the "management of growth and change to protect and enhance the livability of neighborhoods and achieve distinct and economically vital business and employment districts, which are correlated with

supporting infrastructure and public services and sustain Newport Beach's natural setting." The Project upholds the intent of LU 4 by providing infrastructure to add system capacity for service gaps that may occur for residents and businesses of the area in regular and high demand periods. It also benefits the community by improving the existing coverage and capacity to increase the voice and data system already in use by its customers. The small cell facility is designed to adapt and accept future technologies, such as 5G, and will help meet local demand and sustain the livability of the area.

5. SLC0796 is not located within a specific plan area

Finding:

- B. The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code.*

Facts in Support of Finding:

1. See Fact in Support of Finding A.1.
2. Wireless telecommunication facilities are regulated by Chapter 20.49 (Wireless Telecommunication Facilities) of the NBMC. To site small cell equipment in the ROW assigns the project a Class 3 specification (Public Right-of-Way Installations) and requires the Applicant to obtain a minor use permit from the Zoning Administrator pursuant to Section 20.49.060 (Permit Review Procedures) of the NBMC. In this case, the Zoning Administrator's approval was appealed; therefore, the Planning Commission is the review authority.
3. Section 20.49.040(A) (Preferred Locations) of the NBMC, prioritizes telecom facilities from most preferred (1) to least preferred (4) as follows: (1) collocation of a new facility at an existing facility; (2) Class 1 (Stealth/Screened); (3) Class 2 (Visible Antennas) and Class 3 (Public Right-of-Way); and (4) Class 4 (Freestanding Structure). Although lower on the listing of priority facilities, the proposed facility consists of one (1) small cell facility that is designed to not visually dominate the surrounding area and instead to blend into the existing block.
4. Section 20.49.050 (General Development and Design Standards) of the NBMC, requires projects to be visually compatible with surrounding structures. In reviewing this application, the review authority shall consider the proposed facility's use of color blending, equipment screening, and the limited size of the equipment designed consistently with the aforementioned criteria. All telecommunications equipment on top of the streetlight pole would be concealed within a painted-to-match 12-inch diameter shroud. The Project would rely on likeness with the streetlight pole through style, color, and material to help disguise its presence. Engineering of the replacement streetlight pole accommodates and withstands the weight of the small cell equipment and has ability to display a future City banner, if needed. Electrical and wiring components of the telecommunications equipment are designed to be fully contained within the new streetlight pole. The overall height of 34 feet, 9 inches from finished grade to the top of



the proposed facility complies with the maximum allowed. Equipment not contained within the shroud on the streetlight pole would be out of sight, located below the ground in the adjacent ROW. Condition of Approval No. 32 requires approved design drawings from Southern California Edison ("SCE") of the power supply to the small cell facility before construction of the facility is to commence.

5. Existing residential properties contiguous to the Project are in the R-2 (Two-Unit Residential) Zoning District. R-2-zoned sites allow for structures up to 24 feet for flat roof elements and 29 feet to the ridge of a sloped roof. The height of the existing streetlight SLC0796 sits just above the maximum allowable height for residential structures. The streetlight is separated from the residences by a large 20-foot vegetated parkway that is landscaped with taller palm trees. Given this buffer between the streetlight and the residences, SLC0796 is softened and screened by the landscaping from the residential neighborhood beyond. Furthermore, keeping the luminaire the same height as the existing streetlight lessens visual obtrusion from the proposed small cell facility with the line of the existing development.
6. Submitted materials from the Applicant demonstrate the proposal would conform with Federal Communications Commission ("FCC") Rules and Regulations regarding safety and radio frequency emissions.
7. The Project will comply with applicable requirements of the NBMC with construction as shown on the plans and implementation of the conditions of approval.

Finding:

- C. The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity.*

Facts in Support of Finding:

1. City of Newport Beach Streetlight No. SLC0796 is located within the public right-of-way on the northern side of Balboa Boulevard at the northwestern corner of the 30<sup>th</sup> Street intersection. It is immediately adjacent to an unusually large vegetated parkway that is approximately 20 feet wide. Beyond the parkway to the northeast is a block of two-unit residential development. All surrounding land uses are residential and vary in density from two-unit residential to single-unit residential. The only exception is a CV (Commercial Visitor Serving) zoned parcel across 30<sup>th</sup> Street from the site, which is presently developed with a laundromat (Beach Coin Laundry).
2. Under the new FCC Order, wireless providers are not required to demonstrate a significant coverage gap, a qualification previously required by local jurisdictions in order to support an application. Pursuant to the Order, the City cannot "materially [inhibit] the introduction of new services or the improvement of existing services." Moreover, pursuant to Section 332(c)(7)(B)(i)(II) of U.S. Code Title 47 (Telecommunications), the City may "not regulate the placement, construction or modification of wireless service facilities in a manner that prohibits the provision of personal wireless services." Although

not required, the Applicant produced a coverage map for the Project. This map indicates the proposed facility would boost the supply of capacity and coverage in the vicinity.

3. SLC0796 serves as a part of the City's existing streetlight inventory. AT&T proposes to: (1) remove and replace SLC0796 with a new streetlight in the same location; (2) maintain the existing luminaire height of 29 feet, 9 inches; (3) install telecommunications equipment for a small cell wireless facility on top of the new streetlight pole resulting in an overall height of 34 feet, 9 inches; and (4) establish new below-grade support equipment adjacent to the streetlight, within the public right-of-way.
4. The replacement streetlight pole design is consistent with the size, shape, style, and design of that existing, including the attached light arm and luminaire. For safety and circulation of the area during construction, Condition of Approval No. 40 requires traffic control plans illustrating compliance with the 2016 WATCHbook to be reviewed and approved by the Public Works Department prior to the issuance of any building permit.
5. The Project is anticipated to enhance coverage and capacity for residents, visitors and businesses in the neighborhood by providing wireless access to voice and data transmission services. The proposed telecom facility is not expected to result in any material changes to the character of the local community.
6. See Facts in Support of Finding B.4, B.5, and B.6.
7. The Project will be unmanned, will have no impact on the circulation system, and, as conditioned, will not generate noise, odor, smoke, or any other adverse impacts to adjacent land uses.

Finding:

- D. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities.*

Facts in Support of Finding:

1. Adequate public and emergency vehicle access, public services, and utilities are provided to and around the subject site and the proposed use will not change this.
2. The Project will be unmanned and will have no permanent impact on the circulation system and adjacent land uses due to its location in the parkway, outside of existing vehicle or pedestrian circulation areas.
3. The Public Works Department and Utilities Department have reviewed the project proposal and do not have any concerns regarding access, public services, or utilities provided to the existing neighborhood and surrounding area.

Finding:

*E. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Facts in Support of Finding:

1. The Project will only require periodic maintenance and will not generate any type of significant adverse impacts to the environment, such as noise, odor, smoke, etc.
2. The Project must and will comply with the applicable Federal and State rules, regulations and standards thus, ensuring public health and safety.
3. See Facts in Support of Finding B.4, B.5, B.6, and B.7.
4. The Project will be effectively blended based upon the design and location with the incorporation of the conditions of approval to the greatest extent feasible. As a result, the proposed facility at this location is not expected to result in conditions that are materially detrimental to nearby property owners, residents, and businesses, nor to public health or safety.

***Wireless Telecommunications Facility***

In accordance with Subsection 20.49.060(H)(1) (General Findings for Telecom Facilities) of the NBMC, the following additional findings and facts in support of such findings are set forth:

Finding:

*F. The proposed telecom facility is visually compatible with the surrounding neighborhood.*

Facts in Support of Finding:

1. See Facts in Support of Finding B.4, B.5, and B.6.
2. The closest residentially zoned property is located approximately 20 feet northeast of SLC0796 and is buffered by a large 20-foot-wide parkway area with vegetation of varying heights. SLC0796 is located along the inland side of a well-traveled street and will blend in with the surrounding streetscape. There are no public parks near the Project. The Project and below-grade accessory equipment meets the City's design parameters approved by the City's Master License Agreement, which emphasizes stealth techniques and best practices to not be materially detrimental to the surrounding area.



Finding:

*G. The proposed telecom facility complies with height, location and design standards, as provided for in this chapter.*

Facts in Support of Finding:

1. The 34-foot, 9-inch tall small cell facility would comply with the maximum height limit of 35 feet for telecom facilities installed on streetlights within the public right-of-way.
2. See Facts in Support of Finding B in its entirety.
3. The application includes documentation indicating the need to provide and improve coverage to the residential areas within the City. Moreover, the additional system capacity provided by the Project will address service gaps that occur during high demand periods, as well as service gaps that exist at all demand periods to the surrounding area. SLC0796 will help AT&T to meet its coverage objectives and improve coverage to nearby areas that are currently marginal.

Finding:

*H. An alternative site(s) located further from a residential district, public park or public facility cannot feasibly fulfill the coverage needs fulfilled by the installation at the proposed site.*

Facts in Support of Finding:

1. See Fact in Support of Finding C.2.
2. Five nearby streetlights were identified and investigated by the Applicant as possible alternate locations for this small cell facility; however, all sites were found by the applicant to be not viable.
3. Alternative Site #1 is a wooden utility pole located approximately 100 feet north of the proposed streetlight. This pole is located immediately in front of a two-unit residential structure that is oriented towards Balboa Boulevard within a narrower parkway area. Installation of small cell infrastructure at this location would require placement of a crossarm with exposed equipment on either side of the wooden pole and would not be as aesthetically compatible as the proposed location. Most importantly, the wooden utility pole is located within an approved underground assessment and utility district, which will aim to eventually eliminate such above-ground utilities in the area.
4. Alternative Site #2 at City Streetlight No. SLC0767 located approximately 160 feet northwest of the proposed streetlight on the opposite side of Balboa Boulevard. This alternative location is in very close proximity to overhead powerlines, which would make additional height above the existing streetlight pole infeasible. Furthermore, the existing streetlight is located such that accessibility is limited and a girthier pole could not be accommodated without further constraining the sidewalk.

5. Alternative Site #3 is a wooden utility pole located approximately 78 feet west of the proposed streetlight. This pole is located immediately adjacent to the front patio of an existing, single-story residence. Like Alternative Site #1, installation of small cell infrastructure at this location would require placement of a crossarm with exposed equipment on either side of the wooden pole and would not be as aesthetically compatible as the proposed location. Most importantly, the wooden utility pole is located within an approved underground assessment and utility district, which will aim to eventually eliminate such above-ground utilities in the area.
6. Alternative Site #4 at City Streetlight No. SLC0768 is located at the southwest corner of Balboa Boulevard and 30th Street approximately 100 feet from the proposed streetlight. Like Alternative Site #2, this alternative location is in very close proximity to overhead powerlines, which would make additional height above the existing streetlight pole infeasible. Accessibility is also limited here and a girthier pole cannot be accommodated without further constraining the sidewalk.
7. Alternative Site #5 at City Streetlight No. SLC0766 is located at the alleyway between 30th Street and 29th Street, approximately 175 feet southeast of the proposed streetlight. Like Alternative Site #2 and Alternative Site #4, accessibility is limited at this location and a girthier pole cannot be accommodated without further constraining the sidewalk.

Finding:

- I. *An alternative plan that would result in a higher preference facility class category for the proposed facility is not available or reasonably feasible and desirable under the circumstances.*

Facts in Support of Finding:

1. See Fact in Support of Finding C.2.
2. AT&T's analysis concluded that a more preferred location as defined by Subsection 20.49.040(A) (Preferred Locations) of the NBMC, such as a collocation or a Class 1 or 2 facility, would not be technically feasible from an RF or construction perspective. The analysis explained that small cell facilities are low powered and must be located at the precise location selected to serve the network traffic demands of the specific limited area. Further, this type of service cannot be accomplished with a traditional macro collocation or building mounted site in the area. The abutting properties are zoned for residential use and, as such, a building mounted "stealth" facility would not be possible.

***Coastal Development Permit***

In accordance with Subsection 21.52.015(F) (Coastal Development Permits, Findings and Decision) of the NBMC, the following findings and facts in support of such findings are set forth:

Finding:

*J. Conforms to all applicable sections of the certified Local Coastal Program.*

Facts in Support of Finding:

1. The Project is considered a Class 3 (Public Right-of-Way) installation. Section 21.49.040 (Telecom Facility Preferences and Prohibited Locations) of the NBMC lists Class 3 Installations as third on the installation preference list. It is not proposed at a location that is prohibited by NBMC Subsection 21.49.040(B) (Prohibited Locations).
2. See Fact in Support of Finding I.2.
3. The Project complies with Section 21.30.100 (Scenic and Visual Quality Protection) of the NBMC. It is not on a coastal bluff or canyon, not adjacent to or within the viewshed of a public view point, coastal view road, public park or beach, or public accessway, as identified on the Coastal Land Use Plan Map 4-3 (Coastal Views), and does not contain significant natural landforms or vegetation. The Project scope involves the removal and replacement of an existing City streetlight in the same location with the same luminaire height. The shielded antennas will extend above the pole by approximately 5 feet, 6 inches while the antenna shroud will be visible from the immediate vicinity. The Project has been designed to blend in within the existing streetscape. The replacement streetlight is consistent with the size, shape, style, and design of the existing pole. No above-ground mounted equipment is proposed and the support equipment is proposed to be placed in underground handholes. All transmission equipment, including remote radio units and the raycap disconnect switch, are fully concealed within a screening shroud. There will be no negative impacts on coastal views or coastal resources with the Project's implementation.
4. The proposed replacement streetlight and antenna structure will comply with the maximum allowable height limit of 35 feet from existing finished grade.

Finding:

*K. Conforms with the public access and public recreation policies of Chapter 3 of the Coastal Act if the project is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone.*

Facts in Support of Finding:

1. SLC0796 is not located between the nearest public road and the sea or shoreline; therefore, the Project will not affect the public's ability to gain access to, use, and/or view the coast and nearby recreational facilities. Vertical access to the beach is provided by way of street-ends in the area, including 30<sup>th</sup> Street. Lateral access along the beach provided on the beach itself and along the Oceanfront Boardwalk. The equipment will be below grade and will not impact any public way.



2. The Project will allow the installation of a small cell facility that complies with all applicable Local Coastal Program (LCP) development standards and maintains development attributes consistent with the existing and anticipated future surrounding neighborhood pattern of development. Therefore, the Project does not have the potential to degrade public views within the Coastal Zone.

#### SECTION 4. DECISION.

#### NOW, THEREFORE, BE IT RESOLVED:

1. This Project is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15302 and 15303 under Class 2 (Replacement or Reconstruction) and Class 3 (New Construction or Conversion of Small Structures), respectively, of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment. The exceptions to the Class 3 exemption do not apply.
2. The Planning Commission of the City of Newport Beach hereby approves Coastal Development Permit No. CD2020-052 and upholds the Zoning Administrator's decision approving Minor Use Permit No. UP2019-030, subject to the conditions set forth in "Exhibit A," which is attached hereto and incorporated by reference.
3. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Office of the City Clerk in accordance with Title 21 (Local Coastal Program Implementation Plan) of the NBMC. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 (Appeals to the Coastal Commission) of the NBMC, California Code of Regulations Title 14, Division 5.5, Chapter 5, Subchapter 2, Sections 13111 through 13120, and Section 30603 of the California Public Resources Code.

PASSED, APPROVED, AND ADOPTED THIS 9<sup>TH</sup> DAY OF JULY, 2020.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: \_\_\_\_\_  
Chairman

BY: \_\_\_\_\_  
Secretary

**EXHIBIT "A"****CONDITIONS OF APPROVAL**Planning Division

1. The development shall be in substantial conformance with the plans, including elevation exhibits and visual simulations, stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. The Project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. The Applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this approval.
4. The Project approved by this permit shall comply with all applicable Federal and State rules, regulations, and standards.
5. The replacement pole shall be reconstructed in the exact location of the existing streetlight pole.
6. The reconstructed streetlight pole design shall be consistent with the size (including diameter), shape, style, and design of the existing streetlight pole to the greatest extent feasible, including the attached light arm and luminaire. All mounted equipment shall be painted to match the color and style of the replacement streetlight pole.
7. All accessory support equipment of this Project shall be installed underground.
8. All electrical and antenna wiring shall be fully encased within the reconstructed streetlight pole.
9. The Project approved by the use permit shall comply with any easements, covenants, conditions, or restrictions on the underlying City-trust property upon which the Project is located.
10. Anything not specifically approved by this permit is not permitted and must be addressed in a separate and subsequent review.
11. Prior to building permit final, a Height Certification Inspection shall be required. The small cell facility and base streetlight pole approved by this permit shall not exceed a total of 34 feet, 9 inches in height from existing grade (maximum elevation height of 43.57 feet above mean sea level using the North American Vertical Datum of 1988 [NAVD88]).

12. Prior to building permit issuance, all contractors and subcontractors shall have a valid City of Newport Beach business license.
13. The Applicant shall continually maintain the Project so that it retains its original appearance at the time the building permit is finalized by the City of Newport Beach.
14. On an annual basis, the Applicant shall conduct maintenance inspections of the wireless telecom facility, including the small cell facility and below-grade equipment areas, and make all necessary repairs. The Community Development Director may require additional inspections and/or maintenance activities at his/her discretion.
15. The Applicant shall not prevent the City of Newport Beach from having adequate spectrum capacity on the City's 800 MHz radio frequencies at any time.
16. The Project shall transmit at the approved frequency ranges established by the FCC. The Applicant shall inform the City in writing of any proposed changes to the frequency range in order to prevent interference with the City's Public Safety radio equipment.
17. The Project shall at no time interfere with the frequencies used by the City of Newport Beach for public safety. "Comprehensive advanced planning and frequency coordination" engineering measures shall prevent interference, especially in the choice of frequencies and radio ancillary hardware. This is encouraged in the "Best Practices Guide" published by the Association of Public-Safety Communications Officials-International, Inc. ("APCO"), and as endorsed by the FCC.
18. Should interference with the City's Public Safety radio equipment occur, use of the Project authorized by this permit may be suspended until the radio frequency interference is corrected and verification of the compliance is reported.
19. The Applicant shall provide a "single point of contact" for carriers in its Engineering and Maintenance Departments that is monitored 24 hours per day to ensure continuity on all interference issues, and to which interference problems may be reported. The name, telephone number, fax number, and email address of that person shall be provided to the Community Development Department and Newport Beach Police Department's Support Services Commander prior to activation of the facility. If the point of contact changes, the City shall be immediately alerted and updated.
20. No advertising signage or identifying logos shall be displayed on the Project except for small identification, address, warning, and similar information plates. A detail of the information plates depicting the language on the plate shall be included in the plans submitted for issuance of building permits.
21. Appropriate information warning signs or plates shall be posted on the base streetlight pole of the transmitting antenna. In addition, contact information (e.g., a telephone number) shall be provided on the warning signs or plates. The location of the information warning signs or plates shall be depicted on the plans submitted for construction permits.



Signage required by State or federal regulations shall be allowed in its smallest permissible size.

22. Prior to the final of building permits, the Applicant shall schedule an evening inspection by the Code Enforcement Division to confirm compliance with lighting. The telecom facility shall be lighted to the extent deemed necessary by the Newport Beach Police and Utilities Departments for security lighting and consistency with other streetlights in the area.
23. The Applicant shall maintain the Project in good repair, such that it is always consistent with this approval.
24. The Applicant shall ensure that its Project complies with the most current regulatory, operations standards, and radio frequency emissions standards adopted by the FCC. The Applicant shall be responsible for obtaining and maintaining the most current information from the FCC regarding allowable radio frequency emissions and all other applicable regulations and standards. This information shall be made available by the Applicant upon request of the Community Development Director.
25. The Project shall comply with all applicable provisions of U.S. Code Title 47 (Telecommunications) rules and regulations, including those related to FCC Radio Frequency safety.
26. Prior to final of building permits, the Applicant shall schedule an inspection by the Planning Division to ensure materials and colors match existing architecture as illustrated in the approved photographic simulations and in conformance with NBMC Section 20.49.050.
27. Any operator who intends to abandon or discontinue use of a telecom facility must notify the Planning Division by certified mail no less than thirty (30) days prior to such action. The operator shall have ninety (90) days from the date of abandonment or discontinuance to reactivate use of the facility or remove the telecom facility and restore the site.
28. The City reserves the right and jurisdiction to review and modify any permit approved pursuant to NBMC Chapters 20.49 and 21.49, including the conditions of approval, based on changed circumstances. The operator shall notify the Planning Division of any proposal to change the height or size of the facility; increase the size, shape, or number of antennas; change the facility's color or materials or location on the site; or increase the signal output above the maximum permissible exposure ("MPE") limits imposed by the radio frequency emissions guidelines of the FCC. Any changed circumstance shall require the operator to apply for a review of the modification, and possible amendment to the use permit, prior to implementing any change.
29. Coastal Development Permit No. CD2020-052 and Minor Use Permit No. UP2019-030 shall expire unless exercised within 24 months from the date of approval as specified in

Sections 20.54.060 and 21.54.060 (Time Limits and Extensions) of the NBMC, unless an extension is otherwise granted.

30. Construction activities shall comply with Section 10.28.040 of the NBMC, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7 a.m. and 6:30 p.m., Monday through Friday. Noise-generating construction activities are not allowed on Saturdays, Sundays or holidays.
31. This approval may be modified or revoked by the Planning Commission if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
32. A copy of the Resolution, including conditions of approval Exhibit "A," and approved drawings from Southern California Edison (SCE) for the power supply and design, shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
33. The Applicant shall promptly notify the City if the landscaped parkway of the subject streetlight pole is negatively affected or otherwise damaged by project implementation.
34. To the fullest extent permitted by law, Applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of AT&T Small Cell on SLC0796, including, but not limited to, Minor Use Permit No. UP2019-030 and Coastal Development Permit No. CD2020-052 (PA2019-111). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by Applicant, City, and/or the parties initiating or bringing such proceeding. The Applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The Applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

#### Public Works Department

35. Prior to the issuance of a building permit, an encroachment permit shall be required.
36. Prior to the issuance of a building permit, traffic control plans illustrating compliance with the 2016 WATCHbook requirements shall be reviewed and approved by the Public Works Department before their implementation. Large construction vehicles shall not be permitted to travel narrow streets as determined by the Public Works Department.

Disruption caused by construction work along roadways and by movement of construction vehicles shall be minimized by proper use of traffic control equipment and flagman.

**Additional Conditions of Approval**

37. The Applicant is responsible for compliance with the Migratory Bird Treaty Act (MBTA). In compliance with the MBTA, grading, brush removal, building demolition, tree trimming, and similar construction activities shall occur between August 16 and January 31, outside of the peak nesting period. If such activities must occur inside the peak nesting season from February 1 to August 15, compliance with the following is required to prevent the taking of native birds pursuant to MBTA:
  - A. The Project area shall be inspected for active nests. If birds are observed flying from a nest or sitting on a nest, it can be assumed that the nest is active. Construction activity within 300 feet of an active nest shall be delayed until the nest is no longer active. Continue to observe the nest until the chicks have left the nest and activity is no longer observed. When the nest is no longer active, construction activity can continue in the nest area.
  - B. It is a violation of state and federal law to kill or harm a native bird. To ensure compliance, consider hiring a biologist to assist with the survey for nesting birds, and to determine when it is safe to commence construction activities. If an active nest is found, one or two short follow-up surveys will be necessary to check on the nest and determine when the nest is no longer active.



## **Attachment No. PC 2**

Draft Resolution for Denial

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## RESOLUTION NO. PC2020-018

### **A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA, DENYING COASTAL DEVELOPMENT PERMIT NO. CD2020-052 AND REVERSING THE DECISION OF THE ZONING ADMINISTRATOR DENYING MINOR USE PERMIT NO. UP2019-030 FOR A SMALL CELL FACILITY LOCATED WITHIN THE PUBLIC RIGHT-OF-WAY ON CITY STREETLIGHT NUMBER SLC0796, AT THE NORTHWESTERN CORNER OF BALBOA BOULEVARD AND 30<sup>TH</sup> STREET (PA2019-111)**

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by New Cingular Wireless, LLC ("Applicant"), with respect to City of Newport Beach Streetlight Number SLC0796 ("SLC0796"), located within the public right-of-way, at the northwestern corner of Balboa Boulevard and 30<sup>th</sup> Street, requesting approval of a minor use permit.
2. The Applicant proposes the installation of a small cell wireless facility on a City-owned streetlight pole. Project implementation will be fully contained within the public right-of-way on Balboa Boulevard and includes the following: (1) removal and replacement of an existing City streetlight; (2) installation of a small cell wireless facility that consists of four remote radio units, a raycap disconnect, and an omni-directional antenna within a 12-inch diameter equipment shroud, with the equipment being fixed to the top of the replaced streetlight pole for a maximum height of 34 feet, 9 inches, and (3) establishment of new below-grade support equipment adjacent to the streetlight. Also included is the review of a coastal development permit. (the "Project").
3. Since the SLC0796 streetlight is located within the public right-of-way. The proposal is regulated by Council Policy L-23 (Siting of Wireless Telecommunications Equipment on City-Owned Property), as well as Chapter 20.49 (Wireless Telecommunication Facilities) of the Newport Beach Municipal Code ("NBMC").
4. A public hearing was held on April 16, 2020, in the Community Room located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the hearing was given in accordance with California Government Code Section 54950 *et seq.* ("Ralph M. Brown Act"), Chapter 20.62 and Chapter 21.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this public hearing.
5. The Zoning Administrator adopted Resolution No. ZA2020-030 approving Minor Use Permit No. UP2019-030.



6. On April 28, 2020, attorney Mark Pollock filed an appeal of the Zoning Administrator's decision primarily citing concerns with the City's Master License Agreement and the Applicant's authority to file for this application.
7. The Project was scheduled for a de novo public hearing by the Planning Commission for June 4, 2020 but was continued from that agenda to allow staff additional time to review the Project. Of concern was whether the Project also required a coastal development permit.
8. The Project is located within the Coastal Zone. Subsection 21.49.020(B) (Permit and Agreement Required) of the NBMC requires a coastal development permit for a wireless telecommunication facility unless said facility is exempted by Subsection 21.49.020(C) (Exempt Facilities). In this case, the Project does not meet any of the prescribed exemptions; therefore, a coastal development permit is required.
9. Upon finding that a coastal development permit is required, the Zoning Administrator deferred action on Coastal Development Permit CD2020-052 and is referring it to the Planning Commission pursuant to Section 21.50.020 footnote (3) (Authority for Decisions) for consideration and final action along with Minor Use Permit No. UP2019-030. The Project was noticed for the Planning Commission's review. A de novo telephonic public hearing was held by the Planning Commission on July 9, 2020, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California, due to the Declaration of a State Emergency and Proclamation of Local Emergency related to COVID-19. A notice of time, place and purpose of this public meeting was given in accordance with the Ralph M. Brown Act, Chapter 20.62 and Chapter 21.62 of the NBMC. The Planning Commission considered evidence both written and oral at this hearing.

## SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

Pursuant to Section 15270 of the California Environmental Quality Act ("CEQA") Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, projects which a public agency rejects or disapproves are not subject to CEQA review.

## SECTION 3. REQUIRED FINDINGS.

The Planning Commission may approve a use permit only after making each of the required findings set forth in Section 20.52.020 (Conditional Use Permit and Minor Use Permits), as well as those in Subsection 20.49.060(H)(1) of the NBMC and Subsection 21.52.015(F) (Coastal Development Permits, Findings and Decision) of the NBMC. In this case, the Planning Commission was unable to make the required findings based upon the following:

\\  
 \\  
 \\  
 \\  
 \\

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. Pursuant to Section 15270 of the California Environmental Quality Act ("CEQA") Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, projects which a public agency rejects or disapproves are not subject to CEQA review.
2. The Planning Commission of the City of Newport Beach hereby denies Coastal Development Permit No. CD2020-052 and reverses the Zoning Administrator's decision and denies Minor Use Permit No. UP2019-030.
3. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the City Clerk in accordance with the provisions of NBMC Title 20 Planning and Zoning and Title 21 Local Coastal Program Implementation Plan.

PASSED, APPROVED, AND ADOPTED THIS 9<sup>TH</sup> DAY OF JULY, 2020.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: \_\_\_\_\_  
Chairman

BY: \_\_\_\_\_  
Secretary

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## **Attachment No. PC 3**

Appeal Form

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# Appeal Application

City Clerk's Office  
100 Civic Center Drive / P.O. Box 1768  
Newport Beach, CA 92658-8915  
949-644-3005

Clerk's Date & Time Stamp

RECEIVED

2020 APR 28 AM 7:06

Appeals are time sensitive and must be received by the City Clerk specified time period from a decision or final action by a decision-maker. It is advisable to consult with the Department managing the issue if there is question with regards to appealing an action. This is an appeal of the:

- ☐ (CDD222)Community Development Director Action to the Planning Commission - \$1,692
- ☒ (CDD222)Zoning Administrator Action to the Planning Commission - \$1,692
- ☐ (CDD222)Planning Commission Action to the City Council - \$1,692
- ☐ (CDD222)Hearing Officer Action to the City Council - \$1,692
- ☐ (CDD223)Building Official/Fire Marshal Action to the Building/Fire Board of Appeals - \$1,692
- ☐ (CDD224)Chief of Police Action on an Operator License to the City Manager - \$757
- ☐ (RSS073)City Manager Action on a Special Events Permit to the City Council - \$1,747
- ☐ (HBR001)Harbormaster Action on a Lease/Permit to the Harbor Commission - \$100
- ☐ (HBR001)Harbormaster Action to the Harbor Commission - Hourly Cost
- ☐ (HBR001)Harbor Commission Action to the City Council - Hourly Cost
- ☐ (PBW018)Public Works Director Action Harbor Development Permits to Harbor Commission - Hourly Cost
- ☐ (PBW018)Public Works Director Action on a Lease/Permit to the Harbor Commission - \$100
- ☐ Other - Specify decision-maker, appellate body, Municipal Code authority and fee: \_\_\_\_\_

## Appellant Information:

Name(s): MARK S. Pollock  
Address: 1827 Clay St. #300  
City/State/Zip: NAPA, CA 94559  
Phone: 707 257-3089 Email: mPollock@PollockandJames.com

## Appealing Application Regarding:

Name of Applicant(s): New Cingular Wireless, LLC Date of Final Decision: 04/16/2020  
Project No.: Item 3, small cell SL C0796 Activity No.: MUP 2019-030 (PA 2019-111)  
Application Site Address: NORTH Eastern corner of Balboa Blvd & 30th St., Street light # SL C0796  
Description of application: Application for a minor use Permit to install Telecommunications equipment on a light pole in the public right of way under a master license agreement.  
Reason(s) for Appeal (attach a separate sheet if necessary): Licensee under Master license Agreement is in breach for failure to provide proof of insurance. AT&T is not a licensee and may not be permitted in violation of Municipal Code section 20.49.080. / Licensee is in breach for failure to have General liability coverage which does not exclude EMF caused illnesses.

Signature of Appellant: \_\_\_\_\_ Date: 4/24/2020

## FOR OFFICE USE ONLY:

Date Appeal filed and Administrative Fee received: APRIL 28, 2020

Michael Brown  
City Clerk



cc: Department Director, Deputy Director, Staff, File



**POLLOCK & JAMES, LLP**

ATTORNEYS AT LAW  
ENVIRONMENTAL LAW

May 26, 2020

**Appellate Brief**

Planning Commission  
City of Newport Beach  
100 Civic Center Drive  
Newport Beach, CA 92660

Re: Appeal of Minor Use Permit #UP2019-030 Zoning Administrator Decision

Our law firm represents a citizen of Newport Beach on who's behalf we are filing this Appeal.

This is an appeal from the decision of the Zoning Administrator for the City of Newport Beach, on or about April 16, 2020, approving minor use permit # UP2019-030 for a small cell facility located within the public right of way, on City streetlight number SLC0796, at the northwestern corner of Balboa Blvd. and 30<sup>th</sup> Street (PA2019-111).

Newport Beach Municipal Code section 20.49.080 requires a Telecom Company to enter into a Master License Agreement with the City prior to placement of technology hardware onto City property. Only a licensee under such agreement may be permitted, by the Zoning Administrator, to deploy the small cell technology.

Title 20.49.080 states:

Agreement for Use of City-Owned or City-Held Trust Property.

In applying for a permit pursuant to this chapter, all telecom facilities located on City-owned or City-held trust property shall require a license agreement approved as to form by the City Attorney, and as to substance (including, but not limited to, compensation, term, insurance requirements, bonding requirements, and hold harmless provisions) by the City Manager, consistent with provisions of the Municipal Code and any applicable provisions of the City Council Policy Manual.

Prior to City approval of a license agreement, the applicant shall obtain a MUP, CUP, LTP or ZC. Upon the issuance of a MUP, CUP, LTP or ZC, as required, and with an approved license agreement, the applicant shall obtain any and all necessary ministerial permits, including encroachment permits for work to be completed in the public right-of-way and building permits, etc. All costs of said permits shall be at the sole and complete responsibility of the applicant. All work shall be performed in accordance with the applicable City standards and requirements. (Ord. 2014-1 § 10 (part), 2014)

On or about February 12, 2019, New Cingular Wireless PCS, LLC a Delaware Limited Liability Company, entered into a Master License Agreement with the City of Newport Beach, pursuant to the above municipal code section. (Attached as Exhibit A is page 1 of that Agreement.)

The Master Lease Agreement requires indemnity by the licensee of the City, and a General Liability policy of Insurance naming the City as an additional insured. Attached as Exhibit B is a copy of the Statement of Information filed by New Cingular Wireless PCS, LLC, with the California Secretary of State. Exhibit B at Item 5, shows "AT&T Mobility Corporation" as the manager of New Cingular Wireless PCS, LLC.

AT&T Mobility Corporation is not the licensee under the Master License Agreement. AT&T Mobility Corporation is also not registered to do business in California.

Exhibit C which is the Statement of Information from the California Secretary of State for an entity registered as AT&T Mobility Wireless Operations Holdings, Inc. AT&T Mobility Wireless Operations Holdings Inc. **may** be registered to do business in California, but it is not the licensee under the Master License Agreement, nor is it the manager of New Cingular Wireless PCS, LLC, which is the licensee.

The Certificate of Insurance List, attached hereto as Exhibit D, provided for New Cingular Wireless PCS, LLC shows the insured as "AT&T". However, AT&T is not a registered entity in California nor is it the Licensee. **New Cingular Wireless PCS, LLC is in material breach of the Master License Agreement for failure to show proof that it is insured.**

Furthermore, the Certificate of Insurance List which was provided does not show which AT&T entity even has insurance.

The Zoning Administrator, at the April 16, 2020 hearing, issued a permit to New Cingular Wireless, LLC d.b.a. AT&T Mobility (Applicant). See Exhibit E. This permit was issued even though AT&T is not a "dba". Further it was issued even though New Cingular Wireless PCS, LLC is in breach of the Master License Agreement by not having proof that it is insured, on file with the City. The City has no legal authority to issue a permit to AT&T Mobility, since it is not a licensee, nor is it a legal entity doing business in California as AT&T Mobility.

The permit issued by the Zoning Administrator at the April 16, 2020 hearing was issued to a non-existent entity, without a Master License Agreement, and without liability insurance.

#### **THE POLICY OF INSURANCE DOES NOT AFFORD FULL COVERAGE**

The permit issued by the Zoning Administrator is to deploy and place an antenna and supporting

equipment which will emanate electromagnetic radiation. This carries with it the risk of negligent or unintentional exceedence of Federally mandated maximum levels. This risk **must** be insured against.

By reference to the Certificate of Insurance List, Exhibit D on page 2 under Additional Coverages section V, Pollution Liability is marked "N/A". This means the insurance policy does not carry any pollution insurance. Electro Magnetic Fields (EMF) are listed as a pollutant under the insurance company pollution exclusion of coverage. That means this policy will not cover EMF/RF generated illnesses. Below is exclusion language from General Liability Policies of Zurich, Sun, Hartford and CFC Underwriting for Lloyds.

**Updated Zurich Community Care Liability Insurance**

"We will not pay anything under this policy, including claim expenses, in respect of: Electromagnetic fields any liability of whatsoever nature directly or indirectly caused by, in connection with or contributed to by or arising from electromagnetic fields (EMF) or electromagnetic interference (EMI)"

**SUN General Insurance**

"This policy does not cover any liability, loss, cost or expense directly or indirectly arising out of, resulting from, caused or contributed to by exposure to magnetic electric or electromagnetic fields or radiation however caused or generated."

**The Hartford, "EXCLUSION – ELECTROMAGNETIC HAZARD"**

"The following exclusion is added: This insurance does not apply to: Electromagnetic Hazard..."

**CFC Underwriting LTD in London, the UK agent for Lloyds**

"The Electromagnetic Fields Exclusion (Exclusion 32) is a General Insurance Exclusion and is applied across the market as standard. The purpose of the exclusion is to exclude illnesses caused by continuous exposure to non-ionizing radiation exposure..."

The Certificate of Insurance List, Exhibit D, for AT&T shows "N/A" for Pollution Liability under paragraph V. In fact, EMFs are classified as "pollutants" alongside smoke, chemicals, and asbestos. If a company wants insurance for EMF exposure it must purchase additional Pollution Liability Coverage. Proof of such coverage has not been provided to the City by New Cingular Wireless PCS, LLC, the Licensee.

There is, in the public record, no proof of financial responsibility or accounting to establish adequate liquidity of the licensee for the indemnification provisions of paragraph 28 of the Master License Agreement.



Planning Commission  
City of Newport Beach  
May 26, 2020  
Page 4

## REMEDIES

The Commission should grant the appeal and revoke the permit issued by the Zoning Administrator until:

- a) Licensee provides Proof of Insurance with the Licensee as a named Insured;
- b) Licensee provides proof of Pollution Liability Coverage for EMF related exposures and illnesses; and
- c) Licensee provides audited financials for purposes of indemnification.

Once the above compliance is established, and all three criterion have been provided, then the permit may re-issue, but only in the name of the licensee or in the name of some other entity registered to do business in California which also has signed a Master License Agreement required by Title 3 section 2.49.080 of the Newport Beach Municipal Code.

Respectfully submitted,

POLLOCK & JAMES, LLP



Mark S. Pollock

attachments

C-8584-1

**MASTER LICENSE AGREEMENT BETWEEN THE  
CITY OF NEWPORT BEACH AND NEW CINGULAR WIRELESS PCS, LLC  
FOR THE USE OF CITY-OWNED STREETLIGHTS FOR  
TELECOMMUNICATION FACILITIES**

This MASTER LICENSE AGREEMENT ("Master License") is entered into between the City of Newport Beach, a California municipal corporation and charter city ("City"), and New Cingular Wireless PCS, LLC, a Delaware limited liability company ("Licensee") on this 12<sup>th</sup> day of February, 2019 ("Effective Date"). City and Licensee are each a "Party" and together the "Parties" to this Master License.

**RECITALS**

- A. City is a municipal corporation duly organized and validly existing under the laws of the State of California with the power to carry on its business as it is now being conducted under the statutes of the State of California and the City Charter;
- B. City is the fee title owner of certain Streetlight(s) located within the Public Right-of-Way in the City of Newport Beach, California;
- C. Licensee desires to license from City, on a non-exclusive basis, the right to attach, install, operate, maintain, and remove certain Telecommunication Facilities on certain City-owned Streetlights located within certain areas of the Public Right-of-Way (collectively, the "License Area");
- D. The Parties anticipate amending this Master License from time-to-time by attaching and incorporating herein the specific License Area(s) to this Master License to include additional City-owned Streetlights to allow for the attachment, installation, operation, maintenance, and removal of additional Telecommunication Facilities as permits are obtained from the City;
- E. Pursuant to the Newport Beach Municipal Code ("NBMC") and City Council Policy L-23, City sought the assistance of an appraiser to determine the maximum or fair market value rent for the License Area; and
- F. City is willing to make the License Area available to Licensee, subject to the covenants and conditions set forth in this Master License on a non-exclusive basis, to facilitate the efficient and orderly deployment of communications facilities in the City of Newport Beach.

**NOW THEREFORE, THE PARTIES AGREE AS FOLLOWS:**

**1. DEFINITIONS**

1.1 "Amendment" means that document prepared by City in substantially the form attached hereto as Exhibit "A" itemizing the City-owned Streetlight(s) and describing and depicting the License Area(s) on which Licensee is authorized to install a Telecommunication Facility.

New Cingular Wireless PCS, LLC,

**EXHIBIT "A"**

Page 1



Secretary of State  
Statement of Information  
(Limited Liability Company)

LLC-12

19-D29697

FILED

In the office of the Secretary of State  
of the State of California

AUG 29, 2019

This Space For Office Use Only

**IMPORTANT** — Read instructions before completing this form.

**Filing Fee — \$20.00**

**Copy Fees** — First page \$1.00; each attachment page \$0.50;  
Certification Fee — \$5.00 plus copy fees

**1. Limited Liability Company Name** (Enter the exact name of the LLC. If you registered in California using an alternate name, see instructions.)

NEW CINGULAR WIRELESS PCS, LLC

**2. 12-Digit Secretary of State File Number**

199930110028

**3. State, Foreign Country or Place of Organization** (only if formed outside of California)

DELAWARE

**4. Business Addresses**

a. Street Address of Principal Office — Do not list a P.O. Box

1025 Lenox Park Blvd NE

City (no abbreviations)

Atlanta

State  
GA

Zip Code  
30319

b. Mailing Address of LLC, if different than item 4a

675 W. Peachtree St., N.W., Suite 2756

City (no abbreviations)

Atlanta

State  
GA

Zip Code  
30308

c. Street Address of California Office, if item 4a is not in California — Do not list a P.O. Box

City (no abbreviations)

State  
CA

Zip Code

**5. Manager(s) or Member(s)**

If no managers have been appointed or elected, provide the name and address of each member. At least one name and address must be listed. If the manager/member is an individual, complete items 5a and 5c (leave item 5b blank). If the manager/member is an entity, complete items 5b and 5c (leave item 5a blank). Note: The LLC cannot serve as its own manager or member. If the LLC has additional managers/members, enter the name(s) and addresses on Form LLC-12A (see instructions).

a. First Name, if an individual — Do not complete item 5b

Middle Name

Last Name

Suffix

b. Entity Name — Do not complete item 5a

AT&T Mobility Corporation

c. Address

1025 Lenox Park Blvd NE

City (no abbreviations)

Atlanta

State  
GA

Zip Code  
30319

**6. Service of Process** (Must provide either Individual OR Corporation.)

**INDIVIDUAL** — Complete items 6a and 6b only. Must include agent's full name and California street address.

a. California Agent's First Name (if agent is not a corporation)

Middle Name

Last Name

Suffix

b. Street Address (if agent is not a corporation) — Do not enter a P.O. Box

City (no abbreviations)

State  
CA

Zip Code

**CORPORATION** — Complete item 6c only. Only include the name of the registered agent Corporation.

c. California Registered Corporate Agent's Name (if agent is a corporation) — Do not complete item 6a or 6b

C T CORPORATION SYSTEM (C0168406)

**7. Type of Business**

a. Describe the type of business or services of the Limited Liability Company  
Provide wireless services and products.

**8. Chief Executive Officer, if elected or appointed**

a. First Name

Middle Name

Last Name

Suffix

b. Address

City (no abbreviations)

State

Zip Code

**9. The information contained herein, including any attachments, is true and correct.**

08/29/2019

Kelly Lettmann

Power of Attorney

Date

Type or Print Name of Person Completing the Form

Title

Signature

**Return Address (Optional)** (For communication from the Secretary of State related to this document, or if purchasing a copy of the filed document enter the name of a person or company and the mailing address. This information will become public when filed. SEE INSTRUCTIONS BEFORE COMPLETING.)

Name:

Company:

Address:

City/State/Zip:

EXHIBIT "B"





**State of California  
Secretary of State**

**Statement of Information  
(Foreign Corporation)**

**FEES (Filing and Disclosure): \$25.00.**

**If this is an amendment, see instructions.**

**IMPORTANT – READ INSTRUCTIONS BEFORE COMPLETING THIS FORM**

**F**

**G773979**

**FILED**

In the office of the Secretary of State  
of the State of California

**JUL-05 2019**

**1. CORPORATE NAME**

AT&T MOBILITY WIRELESS OPERATIONS HOLDINGS INC.

**2. CALIFORNIA CORPORATE NUMBER**

C3304414

This Space for Filing Use Only

**No Change Statement** (Not applicable if agent address of record is a P.O. Box address. See instructions.)

**3. If there have been any changes to the information contained in the last Statement of Information filed with the California Secretary of State, or no statement of information has been previously filed, this form must be completed in its entirety.**

☐ If there has been no change in any of the information contained in the last Statement of Information filed with the California Secretary of State, check the box and proceed to Item 13.

**Complete Addresses for the Following** (Do not abbreviate the name of the city. Items 4 and 5 cannot be P.O. Boxes.)

**4. STREET ADDRESS OF PRINCIPAL EXECUTIVE OFFICE** CITY STATE ZIP CODE  
1025 LENOX PARK BLVD NE, ATLANTA, GA 30319

**5. STREET ADDRESS OF PRINCIPAL BUSINESS OFFICE IN CALIFORNIA, IF ANY** CITY STATE ZIP CODE

**6. MAILING ADDRESS OF THE CORPORATION, IF DIFFERENT THAN ITEM 4** CITY STATE ZIP CODE  
675 W. PEACHTREE ST., N.W. SUITE 2756, ATLANTA, GA 30319

**Names and Complete Addresses of the Following Officers** (The corporation must list these three officers. A comparable title for the specific officer may be added; however, the preprinted titles on this form must not be altered.)

**7. CHIEF EXECUTIVE OFFICER/** ADDRESS CITY STATE ZIP CODE  
JAMES LACY 1025 LENOX PARK BLVD NE, ATLANTA, GA 30319

**8. SECRETARY** ADDRESS CITY STATE ZIP CODE  
JACKIE A. BEGUE 1025 LENOX PARK BLVD NE, ATLANTA, GA 30319

**9. CHIEF FINANCIAL OFFICER/** ADDRESS CITY STATE ZIP CODE  
CHAD WALKER 1025 LENOX PARK BLVD NE, ATLANTA, GA 30319

**Agent for Service of Process** If the agent is an individual, the agent must reside in California and Item 11 must be completed with a California street address, a P.O. Box address is not acceptable. If the agent is another corporation, the agent must have on file with the California Secretary of State a certificate pursuant to California Corporations Code section 1505 and Item 11 must be left blank.

**10. NAME OF AGENT FOR SERVICE OF PROCESS**

C T CORPORATION SYSTEM

**11. STREET ADDRESS OF AGENT FOR SERVICE OF PROCESS IN CALIFORNIA, IF AN INDIVIDUAL** CITY STATE ZIP CODE

**Type of Business**

**12. DESCRIBE THE TYPE OF BUSINESS OF THE CORPORATION**  
TELECOMMUNICATIONS

**13. THE INFORMATION CONTAINED HEREIN IS TRUE AND CORRECT.**

07/05/2019

KELLY LETTMANN

POWER OF ATTORNEY

DATE

TYPE/PRINT NAME OF PERSON COMPLETING FORM

TITLE

SIGNATURE

SI-350 (REV 01/2013)

APPROVED BY SECRETARY OF STATE

**EXHIBIT** "C"

# CERTIFICATE OF INSURANCE CHECKLIST

## City of Newport Beach

This checklist is comprised of requirements as outlined by the City of Newport Beach. \*

Date Received: 2/15/19 Dept./Contact Received From: Sunny  
 Date Completed: 3/11/19 Sent to: Sunny By: Jan  
 Company/Person required to have certificate: AT&T  
 Type of contract: Other

### I. GENERAL LIABILITY

EFFECTIVE/EXPIRATION DATE: 6/1/18 - 6/1/19

A. INSURANCE COMPANY: Old Republic Insurance Company

B. AM BEST RATING (A- : VII or greater): A+ / XII

C. ADMITTED Company (Must be California Admitted):  
 Is Company admitted in California? ☒ Yes ☐ No

D. LIMITS (Must be \$1M or greater): What is limit provided? \$1M/\$10M

E. ADDITIONAL INSURED ENDORSEMENT - please attach ☒ Yes ☐ No

F. PRODUCTS AND COMPLETED OPERATIONS (Must include): Is it included? (completed Operations status does not apply to Waste Haulers or Recreation) ☒ Yes ☐ No

G. ADDITIONAL INSURED FOR PRODUCTS AND COMPLETED OPERATIONS ENDORSEMENT (completed Operations status does not apply to Waste Haulers) ☒ Yes ☐ No

H. ADDITIONAL INSURED WORDING TO INCLUDE (The City its officers, officials, employees and volunteers): Is it included? ☒ Yes ☐ No

I. PRIMARY & NON-CONTRIBUTORY WORDING (Must be included): Is it included? ☒ Yes ☐ No

J. CAUTION! (Confirm that loss or liability of the named insured is not limited solely by their negligence) Does endorsement include "solely by negligence" wording? ☐ Yes ☒ No

K. ELECTED SCMAF COVERAGE (RECREATION ONLY): ☒ N/A ☐ Yes ☐ No

L. NOTICE OF CANCELLATION: ☐ N/A ☒ Yes ☐ No

### II. AUTOMOBILE LIABILITY

EFFECTIVE/EXPIRATION DATE: 6/1/18 - 6/1/19

A. INSURANCE COMPANY: Old Republic Insurance Company

B. AM BEST RATING (A- : VII or greater) A+ / XII

C. ADMITTED COMPANY (Must be California Admitted):  
 Is Company admitted in California? ☒ Yes ☐ No

D. LIMITS - If Employees (Must be \$1M min. BI & PD and \$500,000 UM, \$2M min for Waste Haulers): What is limits provided? \$1,000,000

E. LIMITS Waiver of Auto Insurance / Proof of coverage (if individual) (What is limits provided?) N/A

F. ADDITIONAL INSURED WORDING: ☐ N/A ☒ Yes ☐ No

G. PRIMARY & NON-CONTRIBUTORY WORDING: ☐ N/A ☒ Yes ☐ No

H. HIRED AND NON-OWNED AUTO ONLY: ☐ N/A ☐ Yes ☐ No

I. NOTICE OF CANCELLATION: ☐ N/A ☒ Yes ☐ No

EXHIBIT "D"

III. WORKERS' COMPENSATION

EFFECTIVE/EXPIRATION DATE: 6/1/18 - 6/1/19

- A. INSURANCE COMPANY: Old Republic Insurance Company
- B. AM BEST RATING (A- : VII or greater): A+ / XII
- C. ADMITTED Company (Must be California Admitted): ☒ Yes ☐ No
- D. WORKERS' COMPENSATION LIMIT: Statutory ☒ Yes ☐ No
- E. EMPLOYERS' LIABILITY LIMIT (Must be \$1M or greater) \$1,000,000
- F. WAIVER OF SUBROGATION (To include): Is it included? ☒ Yes ☐ No
- G. SIGNED WORKERS' COMPENSATION EXEMPTION FORM: ☒ N/A ☐ Yes ☐ No
- H. NOTICE OF CANCELLATION: ☐ N/A ☒ Yes ☐ No

ADDITIONAL COVERAGE'S THAT MAYBE REQUIRED

IV. PROFESSIONAL LIABILITY

V. POLLUTION LIABILITY

☒ N/A ☐ Yes ☐ No

VI. BUILDERS RISK OR INSTALLATION FLOATER -- 2/22/18-3/1/20

☒ N/A ☐ Yes ☐ No  
SELF INSURED

☐ N/A ☒ Yes ☐ No

HAVE ALL ABOVE REQUIREMENTS BEEN MET?  
IF NO, WHICH ITEMS NEED TO BE COMPLETED?

☒ Yes ☐ No

Approved:

3/11/19

Agent of Alliant Insurance Services  
Broker of record for the City of Newport Beach

Date

**RISK MANAGEMENT APPROVAL REQUIRED** (Non-admitted carrier rated less than \_\_\_\_\_;  
Self Insured Retention or Deductible greater than \$ \_\_\_\_\_)

☐ N/A ☐ Yes ☐ No

Reason for Risk Management approval/exception/waiver:

Risk Management approval required for Self Insurance by vendor for Construction in Process exposure.

3/7/19 RM approved self insurance on Builders Risk/Construction in Process exposure.

Approved:

Risk Management

Date

\* Subject to the terms of the contract.



**RESOLUTION NO. ZA2020-030**

**A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING MINOR USE PERMIT NO. UP2019-030 FOR A SMALL CELL FACILITY LOCATED WITHIN THE PUBLIC RIGHT-OF-WAY ON CITY STREETLIGHT NUMBER SLC0796, AT THE NORTHWESTERN CORNER OF BALBOA BOULEVARD AND 30<sup>TH</sup> STREET (PA2019-111)**

THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

**SECTION 1. STATEMENT OF FACTS.**

1. An application was filed by New Cingular Wireless, LLC d.b.a. AT&T Mobility (Applicant), with respect to City of Newport Beach Streetlight Number SLC0796, located within the public right-of-way, at the northwestern corner of Balboa Boulevard and 30<sup>th</sup> Street, requesting approval of a minor use permit.
2. The Applicant proposes the installation of a small cell wireless facility on a City-owned streetlight pole. Project implementation will be fully contained within the public right-of-way on Balboa Boulevard and includes the following: (1) Removal and replacement of an existing City streetlight; (2) Installation of a small cell wireless facility that consists of four remote radio units, a raycap disconnect, and an omni-directional antenna within a 12-inch diameter equipment shroud. This equipment would be fixed to the top of the replaced streetlight pole for a maximum height of 34 feet, 9 inches, and (3) Establishment of new below-grade support equipment adjacent to the streetlight.
3. The streetlight is located within the public right-of-way. The proposal is regulated by Council Policy L-23 (Siting of Wireless Telecommunications Equipment on City-Owned Property), as well as Newport Beach Municipal Code (NBMC) Chapter 20.49 (Wireless Telecommunication Facilities).
4. The project site is located within the coastal zone. It is not located between the first public roadway paralleling the sea and the sea. The removal and installation of an existing streetlight pole is exempt from the requirements of a coastal development permit pursuant to Section 21.50.035(C)(4) (Repair and Maintenance) of the NBMC. In consultation with Coastal Commission staff, the modification of a streetlight for a small cell facility remains exempt, provided there is no visual resource impact. The project was reviewed for consistency with the Public View Protection regulations of Section 21.49.050(B) (Public View Protection) of the NBMC. It is not on a coastal bluff or canyon, not adjacent to or within the viewshed of a public view point, coastal view road, public park or beach, or public accessway, as identified on the Coastal Land Use Plan Map 4-3 (Coastal Views), and does not contain significant natural landforms or vegetation. The project scope involves the removal and replacement of an existing City streetlight in the same location with the same luminaire height. The project has been designed to blend in within the existing streetscape. The replacement streetlight is consistent with the size,

**EXHIBIT "E"**



shape, style, and design of the existing pole. No above ground mounted equipment is proposed and the support equipment is proposed to be placed in underground handholes. All transmission equipment, including remote radio units and the raycap disconnect switch, are fully concealed within a screening shroud. The installation of a small cell wireless facility will not have a negative impact on coastal views or coastal resources; therefore, a coastal development permit is not required.

5. A public hearing was held on April 16, 2020, in the Community Room at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the hearing was given in accordance with the NBMC. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

## SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15302 and 15303 under Class 2 (Replacement or Reconstruction) and Class 3 (New Construction or Conversion of Small Structures), respectively, of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment. Class 2 consists of replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced. Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure.
2. In this case, the proposal includes the removal and replacement of an existing City streetlight pole to install a small telecommunications wireless facility, including below-grade accessory equipment.
3. The exceptions to the Class 3 categorical exemption under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

## SECTION 3. REQUIRED FINDINGS.

### ***Minor Use Permit***

In accordance with NBMC Subsection 20.52.020(F) (Conditional Use Permits and Minor Use Permits), the following findings and facts in support of such findings are set forth:

Finding:

A. *The use is consistent with the General Plan and any applicable specific plan.*

Facts in Support of Finding:

1. The project site is designated as Public Right-of-Way (ROW), which is property held in trust by the City, and allows for the construction and maintenance of public roads, crosswalks, pedestrian walkways, electric transmission lines, oil or gas pipeline, water line, sanitary or storm sewer, or other similar uses. City Council Policy L-23 (Siting of Wireless Telecommunications Equipment on City-Owned Property) governs procedures and locations for siting wireless telecommunications equipment in the ROW. Streetlights are eligible for telecom use, subject to entitlements (such as this minor use permit request), yearly rent, and a license agreement.
2. General Plan Natural Resources Goal NR 21 recommends the "minimized visual impacts of signs and utilities." The proposed design is consistent with NR 21 by introducing no new vertical obstructions in the ROW, employing stealth elements like colorization (painting to match the streetlight pole), and installing the associated equipment below grade. Conditions of Approval No. 20 and 21 prohibit advertising signage or identifying logos on any telecom facility except for small identification, address, warning, and similar information plates. Signage required by State or Federal regulations shall be allowed in its smallest permissible size.
3. General Plan Land Use Policy LU 6.1.3 promotes "architecture and planning that complements adjoining uses." The proposed design adjoins residential uses and aligns with LU 6.1.3 by copying the size, shape, style, and design of the existing streetlight pole to decrease potential disruption of the visual environment. Adverse impact to circulation, aesthetics, sounds, or odor are not anticipated from project implementation.
4. General Plan Land Use Policy LU 4 calls for the "management of growth and change to protect and enhance the livability of neighborhoods and achieve distinct and economically vital business and employment districts, which are correlated with supporting infrastructure and public services and sustain Newport Beach's natural setting." The proposed small cell facility upholds the intent of LU 4 by providing infrastructure to add system capacity for service gaps that may occur for residents and businesses of the area in regular and high demand periods. It also benefits the community by improving the existing coverage and capacity to increase the voice and data system already in use by its customers. The facility is designed to adapt and accept future technologies, such as 5G, and will help meet local demand and sustain the livability of the area.
5. The project site is not located within a specific plan area

Finding:

- B. The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code.*

Facts in Support of Finding:

1. See Fact in Support of Finding A.1.
2. Wireless telecommunication facilities are regulated by NBMC Chapter 20.49 (Wireless Telecommunication Facilities). To site small cell equipment in the ROW assigns the project a Class 3 specification (Public Right-of-Way Installations) and requires the Applicant to obtain a minor use permit from the Zoning Administrator (NBMC Section 20.49.060 [Permit Review Procedures]).
3. NBMC Subsection 20.49.040(A) (Preferred Locations) prioritizes telecom facilities from most preferred (1) to least preferred (4) as follows: (1) collocation of a new facility at an existing facility; (2) Class 1 Stealth/Screened; (3) Class 2 (Visible Antennas), Class 3 (Public Right-of-Way); and (4) Class 4 (Freestanding Structure). Although lower on the listing of priority facilities, the proposed facility consists of one (1) small cell facility that is designed to not visually dominate the surrounding area and instead to blend into the existing block.
4. NBMC Section 20.49.050 (General Development and Design Standards) requires projects to be visually compatible with surrounding structures. In reviewing this application, the Zoning Administrator shall consider the proposed facility's use of color blending, equipment screening, and the limited size of the equipment designed consistently with the aforementioned criteria. All telecommunications equipment on top of the streetlight pole would be concealed within a painted-to-match 12-inch diameter shroud. The proposed small cell facility would rely on likeness with the streetlight pole through style, color, and material to help disguise its presence. Engineering of the replacement streetlight pole accommodates and withstands the weight of the small cell equipment and has ability to display a future City banner, if needed. Electrical and wiring components of the telecommunications equipment are designed to be fully contained within the new streetlight pole. The overall height of 34 feet, 9 inches from finished grade to the top of the proposed facility complies with the maximum allowed. Equipment not contained within the shroud on the streetlight pole would be out of sight, located below the ground in the adjacent ROW. Condition of Approval No. 32 requires approved design drawings from Southern California Edison (SCE) of the power supply to the small cell facility before construction of the facility is to commence.
5. Existing residential properties contiguous to the site are in the R-2 (Two-Unit Residential) Zoning District. R-2-zoned sites allow for structures up to 24 feet for flat roof elements and 29 feet to the ridge of a sloped roof. The height of the existing streetlight SLC0796 sits just above the maximum allowable height for residential structures. The streetlight is separated from the residences by a large 20-foot vegetated parkway that is landscaped with taller palm trees. Given this buffer between the streetlight and the

residences, the streetlight is softened and screened by the landscaping from the residential neighborhood beyond. Furthermore, keeping the luminaire the same height as the existing streetlight lessens visual obstruction from the proposed small cell facility with the line of the existing development.

6. Submitted materials from the Applicant demonstrate the proposal would conform with Federal Communications Commission (FCC) Rules and Regulations regarding safety and radio frequency emissions.
7. The proposed telecom facility will comply with applicable requirements of the NBMC with construction as shown on the plans and implementation of the conditions of approval.

Finding:

- C. The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity.*

Facts in Support of Finding:

1. City of Newport Beach Streetlight No. SLC0796 is located within the public right-of-way on the northern side of Balboa Boulevard at the northwestern corner of the 30<sup>th</sup> Street intersection. It is immediately adjacent to an unusually large vegetated parkway that is approximately 20 feet wide. Beyond the parkway to the northeast is a block of two-unit residential development (Attachment No. ZA 2). All surrounding land uses are residential and vary in density from two-unit residential to single-unit residential. The only exception is a Commercial Visitor Serving (CV) zoned parcel across 30<sup>th</sup> Street from the site, which is presently developed with a laundromat (Beach Coin Laundry).
2. Under the new FCC Order, wireless providers are not required to demonstrate a significant coverage gap, a qualification previously required by local jurisdictions in order to support an application. Pursuant to the Order, the City cannot "materially [inhibit] the introduction of new services or the improvement of existing services." Moreover, pursuant to Section 332(c)(7)(B)(i)(II) of U.S. Code Title 47 (Telecommunications), the City may "not regulate the placement, construction or modification of wireless service facilities in a manner that prohibits the provision of personal wireless services." Although not required, the Applicant produced a coverage map for the project. This map indicates the proposed facility would boost the supply of capacity and coverage in the vicinity.
3. SLC0796 serves as a part of the City's existing streetlight inventory. AT&T proposes to: (1) remove and replace SLC0796 with a new streetlight in the same location; (2) maintain the existing luminaire height of 29 feet, 9 inches; (3) install telecommunications equipment for a small cell wireless facility on top of the new streetlight pole resulting in an overall height of 34 feet, 9 inches; and (4) establish new below-grade support equipment adjacent to the streetlight, within the public right-of-way.



4. The replacement streetlight pole design is consistent with the size, shape, style, and design of that existing, including the attached light arm and luminaire. For safety and circulation of the area during construction, Condition of Approval No. 40 requires traffic control plans illustrating compliance with the 2016 watchbook to be reviewed and approved by the Public Works Department prior to the issuance of any building permit.
5. The proposed telecom facility is anticipated to enhance coverage and capacity for residents, visitors and businesses in the neighborhood by providing wireless access to voice and data transmission services. The proposed telecom facility is not expected to result in any material changes to the character of the local community.
6. See Facts in Support of Finding B.4, B.5, and B.6.
7. The proposed facility will be unmanned, will have no impact on the circulation system, and, as conditioned, will not generate noise, odor, smoke, or any other adverse impacts to adjacent land uses.

Finding:

*D. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities.*

Facts in Support of Finding:

1. Adequate public and emergency vehicle access, public services, and utilities are provided to and around the subject site and the proposed use will not change this.
2. The proposed facility will be unmanned and will have no permanent impact on the circulation system and adjacent land uses due to its location in the parkway, outside of existing vehicle or pedestrian circulation areas.
3. The Public Works Department and Utilities Department have reviewed the project proposal and do not have any concerns regarding access, public services, or utilities provided to the existing neighborhood and surrounding area.

Finding:

*E. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Facts in Support of Finding:

1. The proposed facility will only require periodic maintenance and will not generate any type of significant adverse impacts to the environment, such as noise, odor, smoke, etc.

2. The proposed facility must and will comply with the applicable Federal and State rules, regulations and standards thus, ensuring public health and safety.
3. See Facts in Support of Finding B.4, B.5, B.6, B.7, and B.8.
4. The proposed telecom facility will be effectively blended based upon the design and location with the incorporation of the conditions of approval to the greatest extent feasible. As a result, the proposed facility at this location is not expected to result in conditions that are materially detrimental to nearby property owners, residents, and businesses, nor to public health or safety.

#### ***Wireless Telecommunications Facility***

In accordance with NBMC Subsection 20.49.060(H)(1) (General Findings for Telecom Facilities), the following additional findings and facts in support of such findings are set forth:

##### Finding:

*F. The proposed telecom facility is visually compatible with the surrounding neighborhood.*

##### Facts in Support of Finding:

1. See Facts in Support of Finding B.4, B.5, and B.6.
2. The closest residentially zoned property is located approximately 20 feet northeast of the project site and is buffered by a large 20-foot-wide parkway area with vegetation of varying heights. The proposed streetlight is located along the inland side of a well-traveled street and will blend in with the surrounding streetscape. There are no public parks near the proposed project. The proposed facility and below-grade accessory equipment meets the City's design parameters approved by the City's Master License Agreement, which emphasizes stealth techniques and best practices to not be materially detrimental to the surrounding area.

##### Finding:

*G. The proposed telecom facility complies with height, location and design standards, as provided for in this chapter.*

##### Facts in Support of Finding:

1. The 34-foot, 9-inch tall small cell facility would comply with the maximum height limit of 35 feet for telecom facilities installed on streetlights within the public right-of-way.
2. See Facts in Support of Finding B in its entirety.
3. The application includes documentation indicating the need to provide and improve coverage to the residential areas within the City of Newport Beach. Moreover, the

additional system capacity provided by the proposed facility will address service gaps that occur during high demand periods, as well as service gaps that exist at all demand periods to the surrounding area. The proposed small cell site will help AT&T to meet its coverage objectives and improve coverage to nearby areas that are currently marginal.

Finding:

- H. An alternative site(s) located further from a residential district, public park or public facility cannot feasibly fulfill the coverage needs fulfilled by the installation at the proposed site.*

Facts in Support of Finding:

1. See Fact in Support of Finding C.2.
2. Five nearby streetlights were identified and investigated by the Applicant as possible alternate locations for this small cell facility; however, all sites were found by the applicant to be not viable (see Attachment No. ZA 3).
3. Alternative Site #1 is a wooden utility pole located approximately 100 feet north of the proposed streetlight. This pole is located immediately in front of a two-unit residential structure that is oriented towards Balboa Boulevard within a narrower parkway area. Installation of small cell infrastructure at this location would require placement of a crossarm with exposed equipment on either side of the wooden pole and would not be as aesthetically compatible as the proposed location. Most importantly, the wooden utility pole is located within an approved underground assessment and utility district, which will aim to eventually eliminate such above-ground utilities in the area.
4. Alternative Site #2 at City Streetlight No. SLC0767 located approximately 160 feet northwest of the proposed streetlight on the opposite side of Balboa Boulevard. This alternative location is in very close proximity to overhead powerlines, which would make additional height above the existing streetlight pole infeasible. Furthermore, the existing streetlight is located such that accessibility is limited and a girther pole could not be accommodated without further constraining the sidewalk.
5. Alternative Site #3 is a wooden utility pole located approximately 78 feet west of the proposed streetlight. This pole is located immediately adjacent to the front patio of an existing, single-story residence. Like Alternative Site #1, installation of small cell infrastructure at this location would require placement of a crossarm with exposed equipment on either side of the wooden pole and would not be as aesthetically compatible as the proposed location. Most importantly, the wooden utility pole is located within an approved underground assessment and utility district, which will aim to eventually eliminate such above-ground utilities in the area.
6. Alternative Site #4 at City Streetlight No. SLC0768 is located at the southwest corner of Balboa Boulevard and 30th Street approximately 100 feet from the proposed streetlight. Like Alternative Site #2, this alternative location is in very close proximity to overhead powerlines, which would make additional height above the existing streetlight pole

infeasible. Accessibility is also limited here and a girther pole cannot be accommodated without further constraining the sidewalk.

7. Alternative Site #5 at City Streetlight No. SLC0766 is located at the alleyway between 30th Street and 29th Street, approximately 175 feet southeast of the proposed streetlight. Like Alternative Site #2 and Alternative Site #4, accessibility is limited at this location and a girther pole cannot be accommodated without further constraining the sidewalk.

Finding:

1. *An alternative plan that would result in a higher preference facility class category for the proposed facility is not available or reasonably feasible and desirable under the circumstances.*

Facts in Support of Finding:

1. See Fact in Support of Finding C.2.
2. AT&T's analysis concluded that a more preferred location as defined by NBMC Subsection 20.49.040(A) (Preferred Locations), such as a collocation or a Class 1 or 2 facility, would not be technically feasible from an RF or construction perspective. The analysis explained that small cell facilities are low powered and must be located at the precise location selected to serve the network traffic demands of the specific limited area. Further, this type of service cannot be accomplished with a traditional macro collocation or building mounted site in the area.

**SECTION 4. DECISION.**

**NOW, THEREFORE, BE IT RESOLVED:**

1. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15302 and 15303 under Class 2 (Replacement or Reconstruction) and Class 3 (New Construction or Conversion of Small Structures), respectively, of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment. The exceptions to the Class 3 exemption do not apply.
2. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2019-030, subject to the conditions set forth in "Exhibit A," which is attached hereto and incorporated by reference.
3. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of NBMC Title 20 Planning and Zoning.



**PASSED, APPROVED, AND ADOPTED THIS 16<sup>TH</sup> DAY OF APRIL, 2020.**



Jaime Murillo  
Zoning Administrator

**EXHIBIT "A"****CONDITIONS OF APPROVAL****Planning Division**

1. The development shall be in substantial conformance with the plans, including elevation exhibits and visual simulations, stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. The Applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
4. The telecom facility approved by this permit shall comply with all applicable Federal and State rules, regulations, and standards.
5. The replacement pole shall be reconstructed in the exact location of the existing streetlight pole.
6. The reconstructed streetlight pole design shall be consistent with the size (including diameter), shape, style, and design of the existing streetlight pole to the greatest extent feasible, including the attached light arm and luminaire. All mounted equipment shall be painted to match the color and style of the replacement streetlight pole.
7. All accessory support equipment of this facility shall be installed underground.
8. All electrical and antenna wiring shall be fully encased within the reconstructed streetlight pole.
9. The telecom facility approved by the use permit shall comply with any easements, covenants, conditions, or restrictions on the underlying City-trust property upon which the facility is located.
10. Anything not specifically approved by this permit is not permitted and must be addressed in a separate and subsequent review.
11. Prior to building permit final, a Height Certification Inspection shall be required prior to final of building permits. The small cell facility and base streetlight pole approved by this permit shall not exceed a total of 34 feet, 9 inches in height from existing grade (maximum elevation height of 43.57 feet above mean sea level using the North American Vertical Datum of 1988 [NAVD88]).

12. Prior to building permit issuance, all contractors and subcontractors shall have a valid City of Newport Beach business license.
13. The Applicant shall continually maintain the wireless telecom facility so that it retains its original appearance at the time the building permit is finalized by the City of Newport Beach.
14. On an annual basis, the Applicant shall conduct maintenance inspections of the wireless telecom facility, including the small cell facility and below-grade equipment areas, and make all necessary repairs. The Community Development Director may require additional inspections and/or maintenance activities at his/her discretion.
15. The Applicant shall not prevent the City of Newport Beach from having adequate spectrum capacity on the City's 800 MHz radio frequencies at any time.
16. The facility shall transmit at the approved frequency ranges established by the FCC. The Applicant shall inform the City in writing of any proposed changes to the frequency range in order to prevent interference with the City's Public Safety radio equipment.
17. The telecommunications facility shall at no time interfere with the frequencies used by the City of Newport Beach for public safety. "Comprehensive advanced planning and frequency coordination" engineering measures shall prevent interference, especially in the choice of frequencies and radio ancillary hardware. This is encouraged in the "Best Practices Guide" published by the Association of Public-Safety Communications Officials-International, Inc. ("APCO"), and as endorsed by the FCC.
18. Should interference with the City's Public Safety radio equipment occur, use of the telecom facility authorized by this permit may be suspended until the radio frequency interference is corrected and verification of the compliance is reported.
19. The Applicant shall provide a "single point of contact" for carriers in its Engineering and Maintenance Departments that is monitored 24 hours per day to ensure continuity on all interference issues, and to which interference problems may be reported. The name, telephone number, fax number, and email address of that person shall be provided to the Community Development Department and Newport Beach Police Department's Support Services Commander prior to activation of the facility. If the point of contact changes, the City shall be immediately alerted and updated.
20. No advertising signage or identifying logos shall be displayed on the telecom facility except for small identification, address, warning, and similar information plates. A detail of the information plates depicting the language on the plate shall be included in the plans submitted for issuance of building permits.
21. Appropriate information warning signs or plates shall be posted on the base streetlight pole of the transmitting antenna. In addition, contact information (e.g., a telephone number) shall be provided on the warning signs or plates. The location of the information warning signs or plates shall be depicted on the plans submitted for construction permits.

Signage required by State or federal regulations shall be allowed in its smallest permissible size.

22. Prior to the final of building permits, the Applicant shall schedule an evening inspection by the Code Enforcement Division to confirm compliance with lighting. The telecom facility shall be lighted to the extent deemed necessary by the Newport Beach Police and Utilities Departments for security lighting and consistency with other streetlights in the area.
23. The Applicant shall maintain the telecom facility in a manner consistent with this approval.
24. The Applicant shall ensure that its telecom facility complies with the most current regulatory, operations standards, and radio frequency emissions standards adopted by the FCC. The Applicant shall be responsible for obtaining and maintaining the most current information from the FCC regarding allowable radio frequency emissions and all other applicable regulations and standards. This information shall be made available by the Applicant upon request of the Community Development Director.
25. The facility shall comply with all applicable provisions of U.S. Code Title 47 (Telecommunications) rules and regulations, including those related to FCC Radio Frequency safety.
26. Prior to final of building permits, the Applicant shall schedule an inspection by the Planning Division to ensure materials and colors match existing architecture as illustrated in the approved photographic simulations and in conformance with NBMC Section 20.49.050.
27. Any operator who intends to abandon or discontinue use of a telecom facility must notify the Planning Division by certified mail no less than thirty (30) days prior to such action. The operator shall have ninety (90) days from the date of abandonment or discontinuance to reactivate use of the facility, or remove the telecom facility and restore the site.
28. The City reserves the right and jurisdiction to review and modify any permit approved pursuant to NBMC Chapter 20.49, including the conditions of approval, based on changed circumstances. The operator shall notify the Planning Division of any proposal to change the height or size of the facility; increase the size, shape, or number of antennas; change the facility's color or materials or location on the site; or increase the signal output above the maximum permissible exposure ("MPE") limits imposed by the radio frequency emissions guidelines of the FCC. Any changed circumstance shall require the operator to apply for a review of the modification, and possible amendment to the use permit, prior to implementing any change.
29. Use Permit No. UP2019-030 shall expire unless exercised within 24 months from the date of approval as specified in NBMC Section 20.54.060 (Time Limits and Extensions), unless an extension is otherwise granted.



30. Construction activities shall comply with NBMC Section 10.28.040, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7 a.m. and 6:30 p.m., Monday through Friday and 8 a.m. and 6 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays or holidays.
31. This Use Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
32. A copy of the Resolution, including conditions of approval Exhibit "A," and approved drawings from Southern California Edison (SCE) for the power supply and design, shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
33. The Applicant shall promptly notify the City if the landscaped parkway of the subject streetlight pole is negatively affected or otherwise damaged by project implementation.
34. To the fullest extent permitted by law, Applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of AT&T Small Cell on SLC0796, including, but not limited to, Minor Use Permit No. UP2019-030 (PA2019-111). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by Applicant, City, and/or the parties initiating or bringing such proceeding. The Applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The Applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

#### **Public Works Department**

35. Prior to the issuance of a building permit, an encroachment permit shall be required.
36. Prior to the issuance of a building permit, traffic control plans illustrating compliance with the 2016 watchbook requirements shall be reviewed and approved by the Public Works Department before their implementation. Large construction vehicles shall not be permitted to travel narrow streets as determined by the Public Works Department. Disruption caused by construction work along roadways and by movement of

construction vehicles shall be minimized by proper use of traffic control equipment and flagman.

**Additional Conditions of Approval**

37. The Applicant is responsible for compliance with the Migratory Bird Treaty Act (MBTA). In compliance with the MBTA, grading, brush removal, building demolition, tree trimming, and similar construction activities shall occur between August 16 and January 31, outside of the peak nesting period. If such activities must occur inside the peak nesting season from February 1 to August 15, compliance with the following is required to prevent the taking of native birds pursuant to MBTA:
- A. The construction area shall be inspected for active nests. If birds are observed flying from a nest or sitting on a nest, it can be assumed that the nest is active. Construction activity within 300 feet of an active nest shall be delayed until the nest is no longer active. Continue to observe the nest until the chicks have left the nest and activity is no longer observed. When the nest is no longer active, construction activity can continue in the nest area.
  - B. It is a violation of state and federal law to kill or harm a native bird. To ensure compliance, consider hiring a biologist to assist with the survey for nesting birds, and to determine when it is safe to commence construction activities. If an active nest is found, one or two short follow-up surveys will be necessary to check on the nest and determine when the nest is no longer active.

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## **Attachment No. PC 4**

Adopted Zoning Administrator Resolution  
No. ZA2020-030



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## RESOLUTION NO. ZA2020-030

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING MINOR USE PERMIT NO. UP2019-030 FOR A SMALL CELL FACILITY LOCATED WITHIN THE PUBLIC RIGHT-OF-WAY ON CITY STREETLIGHT NUMBER SLC0796, AT THE NORTHWESTERN CORNER OF BALBOA BOULEVARD AND 30<sup>TH</sup> STREET (PA2019-111)**

THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by New Cingular Wireless, LLC d.b.a. AT&T Mobility (Applicant), with respect to City of Newport Beach Streetlight Number SLC0796, located within the public right-of-way, at the northwestern corner of Balboa Boulevard and 30<sup>th</sup> Street, requesting approval of a minor use permit.
2. The Applicant proposes the installation of a small cell wireless facility on a City-owned streetlight pole. Project implementation will be fully contained within the public right-of-way on Balboa Boulevard and includes the following: (1) Removal and replacement of an existing City streetlight; (2) Installation of a small cell wireless facility that consists of four remote radio units, a raycap disconnect, and an omni-directional antenna within a 12-inch diameter equipment shroud. This equipment would be fixed to the top of the replaced streetlight pole for a maximum height of 34 feet, 9 inches, and (3) Establishment of new below-grade support equipment adjacent to the streetlight.
3. The streetlight is located within the public right-of-way. The proposal is regulated by Council Policy L-23 (Siting of Wireless Telecommunications Equipment on City-Owned Property), as well as Newport Beach Municipal Code (NBMC) Chapter 20.49 (Wireless Telecommunication Facilities).
4. The project site is located within the coastal zone. It is not located between the first public roadway paralleling the sea and the sea. The removal and installation of an existing streetlight pole is exempt from the requirements of a coastal development permit pursuant to Section 21.50.035(C)(4) (Repair and Maintenance) of the NBMC. In consultation with Coastal Commission staff, the modification of a streetlight for a small cell facility remains exempt, provided there is no visual resource impact. The project was reviewed for consistency with the Public View Protection regulations of Section 21.49.050(B) (Public View Protection) of the NBMC. It is not on a coastal bluff or canyon, not adjacent to or within the viewshed of a public view point, coastal view road, public park or beach, or public accessway, as identified on the Coastal Land Use Plan Map 4-3 (Coastal Views), and does not contain significant natural landforms or vegetation. The project scope involves the removal and replacement of an existing City streetlight in the same location with the same luminaire height. The project has been designed to blend in within the existing streetscape. The replacement streetlight is consistent with the size,

shape, style, and design of the existing pole. No above ground mounted equipment is proposed and the support equipment is proposed to be placed in underground handholes. All transmission equipment, including remote radio units and the raycap disconnect switch, are fully concealed within a screening shroud. The installation of a small cell wireless facility will not have a negative impact on coastal views or coastal resources; therefore, a coastal development permit is not required.

5. A public hearing was held on April 16, 2020, in the Community Room at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the hearing was given in accordance with the NBMC. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

## SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15302 and 15303 under Class 2 (Replacement or Reconstruction) and Class 3 (New Construction or Conversion of Small Structures), respectively, of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment. Class 2 consists of replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced. Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure.
2. In this case, the proposal includes the removal and replacement of an existing City streetlight pole to install a small telecommunications wireless facility, including below-grade accessory equipment.
3. The exceptions to the Class 3 categorical exemption under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

## SECTION 3. REQUIRED FINDINGS.

### ***Minor Use Permit***

In accordance with NBMC Subsection 20.52.020(F) (Conditional Use Permits and Minor Use Permits), the following findings and facts in support of such findings are set forth:

Finding:

A. *The use is consistent with the General Plan and any applicable specific plan.*

Facts in Support of Finding:

1. The project site is designated as Public Right-of-Way (ROW), which is property held in trust by the City, and allows for the construction and maintenance of public roads, crosswalks, pedestrian walkways, electric transmission lines, oil or gas pipeline, water line, sanitary or storm sewer, or other similar uses. City Council Policy L-23 (Siting of Wireless Telecommunications Equipment on City-Owned Property) governs procedures and locations for siting wireless telecommunications equipment in the ROW. Streetlights are eligible for telecom use, subject to entitlements (such as this minor use permit request), yearly rent, and a license agreement.
2. General Plan Natural Resources Goal NR 21 recommends the “minimized visual impacts of signs and utilities.” The proposed design is consistent with NR 21 by introducing no new vertical obstructions in the ROW, employing stealth elements like colorization (painting to match the streetlight pole), and installing the associated equipment below grade. Conditions of Approval No. 20 and 21 prohibit advertising signage or identifying logos on any telecom facility except for small identification, address, warning, and similar information plates. Signage required by State or Federal regulations shall be allowed in its smallest permissible size.
3. General Plan Land Use Policy LU 6.1.3 promotes “architecture and planning that complements adjoining uses.” The proposed design adjoins residential uses and aligns with LU 6.1.3 by copying the size, shape, style, and design of the existing streetlight pole to decrease potential disruption of the visual environment. Adverse impact to circulation, aesthetics, sounds, or odor are not anticipated from project implementation.
4. General Plan Land Use Policy LU 4 calls for the “management of growth and change to protect and enhance the livability of neighborhoods and achieve distinct and economically vital business and employment districts, which are correlated with supporting infrastructure and public services and sustain Newport Beach’s natural setting.” The proposed small cell facility upholds the intent of LU 4 by providing infrastructure to add system capacity for service gaps that may occur for residents and businesses of the area in regular and high demand periods. It also benefits the community by improving the existing coverage and capacity to increase the voice and data system already in use by its customers. The facility is designed to adapt and accept future technologies, such as 5G, and will help meet local demand and sustain the livability of the area.
5. The project site is not located within a specific plan area



Finding:

*B. The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code.*

Facts in Support of Finding:

1. See Fact in Support of Finding A.1.
2. Wireless telecommunication facilities are regulated by NBMC Chapter 20.49 (Wireless Telecommunication Facilities). To site small cell equipment in the ROW assigns the project a Class 3 specification (Public Right-of-Way Installations) and requires the Applicant to obtain a minor use permit from the Zoning Administrator (NBMC Section 20.49.060 [Permit Review Procedures]).
3. NBMC Subsection 20.49.040(A) (Preferred Locations) prioritizes telecom facilities from most preferred (1) to least preferred (4) as follows: (1) collocation of a new facility at an existing facility; (2) Class 1 Stealth/Screened; (3) Class 2 (Visible Antennas), Class 3 (Public Right-of-Way); and (4) Class 4 (Freestanding Structure). Although lower on the listing of priority facilities, the proposed facility consists of one (1) small cell facility that is designed to not visually dominate the surrounding area and instead to blend into the existing block.
4. NBMC Section 20.49.050 (General Development and Design Standards) requires projects to be visually compatible with surrounding structures. In reviewing this application, the Zoning Administrator shall consider the proposed facility's use of color blending, equipment screening, and the limited size of the equipment designed consistently with the aforementioned criteria. All telecommunications equipment on top of the streetlight pole would be concealed within a painted-to-match 12-inch diameter shroud. The proposed small cell facility would rely on likeness with the streetlight pole through style, color, and material to help disguise its presence. Engineering of the replacement streetlight pole accommodates and withstands the weight of the small cell equipment and has ability to display a future City banner, if needed. Electrical and wiring components of the telecommunications equipment are designed to be fully contained within the new streetlight pole. The overall height of 34 feet, 9 inches from finished grade to the top of the proposed facility complies with the maximum allowed. Equipment not contained within the shroud on the streetlight pole would be out of sight, located below the ground in the adjacent ROW. Condition of Approval No. 32 requires approved design drawings from Southern California Edison (SCE) of the power supply to the small cell facility before construction of the facility is to commence.
5. Existing residential properties contiguous to the site are in the R-2 (Two-Unit Residential) Zoning District. R-2-zoned sites allow for structures up to 24 feet for flat roof elements and 29 feet to the ridge of a sloped roof. The height of the existing streetlight SLC0796 sits just above the maximum allowable height for residential structures. The streetlight is separated from the residences by a large 20-foot vegetated parkway that is landscaped with taller palm trees. Given this buffer between the streetlight and the

residences, the streetlight is softened and screened by the landscaping from the residential neighborhood beyond. Furthermore, keeping the luminaire the same height as the existing streetlight lessens visual obstruction from the proposed small cell facility with the line of the existing development.

6. Submitted materials from the Applicant demonstrate the proposal would conform with Federal Communications Commission (FCC) Rules and Regulations regarding safety and radio frequency emissions.
7. The proposed telecom facility will comply with applicable requirements of the NBMC with construction as shown on the plans and implementation of the conditions of approval.

Finding:

- C. The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity.*

Facts in Support of Finding:

1. City of Newport Beach Streetlight No. SLC0796 is located within the public right-of-way on the northern side of Balboa Boulevard at the northwestern corner of the 30<sup>th</sup> Street intersection. It is immediately adjacent to an unusually large vegetated parkway that is approximately 20 feet wide. Beyond the parkway to the northeast is a block of two-unit residential development (Attachment No. ZA 2). All surrounding land uses are residential and vary in density from two-unit residential to single-unit residential. The only exception is a Commercial Visitor Serving (CV) zoned parcel across 30<sup>th</sup> Street from the site, which is presently developed with a laundromat (Beach Coin Laundry).
2. Under the new FCC Order, wireless providers are not required to demonstrate a significant coverage gap, a qualification previously required by local jurisdictions in order to support an application. Pursuant to the Order, the City cannot "materially [inhibit] the introduction of new services or the improvement of existing services." Moreover, pursuant to Section 332(c)(7)(B)(i)(II) of U.S. Code Title 47 (Telecommunications), the City may "not regulate the placement, construction or modification of wireless service facilities in a manner that prohibits the provision of personal wireless services." Although not required, the Applicant produced a coverage map for the project. This map indicates the proposed facility would boost the supply of capacity and coverage in the vicinity.
3. SLC0796 serves as a part of the City's existing streetlight inventory. AT&T proposes to: (1) remove and replace SLC0796 with a new streetlight in the same location; (2) maintain the existing luminaire height of 29 feet, 9 inches; (3) install telecommunications equipment for a small cell wireless facility on top of the new streetlight pole resulting in an overall height of 34 feet, 9 inches; and (4) establish new below-grade support equipment adjacent to the streetlight, within the public right-of-way.

4. The replacement streetlight pole design is consistent with the size, shape, style, and design of that existing, including the attached light arm and luminaire. For safety and circulation of the area during construction, Condition of Approval No. 40 requires traffic control plans illustrating compliance with the 2016 watchbook to be reviewed and approved by the Public Works Department prior to the issuance of any building permit.
5. The proposed telecom facility is anticipated to enhance coverage and capacity for residents, visitors and businesses in the neighborhood by providing wireless access to voice and data transmission services. The proposed telecom facility is not expected to result in any material changes to the character of the local community.
6. See Facts in Support of Finding B.4, B.5, and B.6.
7. The proposed facility will be unmanned, will have no impact on the circulation system, and, as conditioned, will not generate noise, odor, smoke, or any other adverse impacts to adjacent land uses.

Finding:

*D. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities.*

Facts in Support of Finding:

1. Adequate public and emergency vehicle access, public services, and utilities are provided to and around the subject site and the proposed use will not change this.
2. The proposed facility will be unmanned and will have no permanent impact on the circulation system and adjacent land uses due to its location in the parkway, outside of existing vehicle or pedestrian circulation areas.
3. The Public Works Department and Utilities Department have reviewed the project proposal and do not have any concerns regarding access, public services, or utilities provided to the existing neighborhood and surrounding area.

Finding:

*E. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Facts in Support of Finding:

1. The proposed facility will only require periodic maintenance and will not generate any type of significant adverse impacts to the environment, such as noise, odor, smoke, etc.

2. The proposed facility must and will comply with the applicable Federal and State rules, regulations and standards thus, ensuring public health and safety.
3. See Facts in Support of Finding B.4, B.5, B.6, B.7, and B.8.
4. The proposed telecom facility will be effectively blended based upon the design and location with the incorporation of the conditions of approval to the greatest extent feasible. As a result, the proposed facility at this location is not expected to result in conditions that are materially detrimental to nearby property owners, residents, and businesses, nor to public health or safety.

### ***Wireless Telecommunications Facility***

In accordance with NBMC Subsection 20.49.060(H)(1) (General Findings for Telecom Facilities), the following additional findings and facts in support of such findings are set forth:

#### Finding:

*F. The proposed telecom facility is visually compatible with the surrounding neighborhood.*

#### Facts in Support of Finding:

1. See Facts in Support of Finding B.4, B.5, and B.6.
2. The closest residentially zoned property is located approximately 20 feet northeast of the project site and is buffered by a large 20-foot-wide parkway area with vegetation of varying heights. The proposed streetlight is located along the inland side of a well-traveled street and will blend in with the surrounding streetscape. There are no public parks near the proposed project. The proposed facility and below-grade accessory equipment meets the City's design parameters approved by the City's Master License Agreement, which emphasizes stealth techniques and best practices to not be materially detrimental to the surrounding area.

#### Finding:

*G. The proposed telecom facility complies with height, location and design standards, as provided for in this chapter.*

#### Facts in Support of Finding:

1. The 34-foot, 9-inch tall small cell facility would comply with the maximum height limit of 35 feet for telecom facilities installed on streetlights within the public right-of-way.
2. See Facts in Support of Finding B in its entirety.
3. The application includes documentation indicating the need to provide and improve coverage to the residential areas within the City of Newport Beach. Moreover, the



additional system capacity provided by the proposed facility will address service gaps that occur during high demand periods, as well as service gaps that exist at all demand periods to the surrounding area. The proposed small cell site will help AT&T to meet its coverage objectives and improve coverage to nearby areas that are currently marginal.

Finding:

*H. An alternative site(s) located further from a residential district, public park or public facility cannot feasibly fulfill the coverage needs fulfilled by the installation at the proposed site.*

Facts in Support of Finding:

1. See Fact in Support of Finding C.2.
2. Five nearby streetlights were identified and investigated by the Applicant as possible alternate locations for this small cell facility; however, all sites were found by the applicant to be not viable (see Attachment No. ZA 3).
3. Alternative Site #1 is a wooden utility pole located approximately 100 feet north of the proposed streetlight. This pole is located immediately in front of a two-unit residential structure that is oriented towards Balboa Boulevard within a narrower parkway area. Installation of small cell infrastructure at this location would require placement of a crossarm with exposed equipment on either side of the wooden pole and would not be as aesthetically compatible as the proposed location. Most importantly, the wooden utility pole is located within an approved underground assessment and utility district, which will aim to eventually eliminate such above-ground utilities in the area.
4. Alternative Site #2 at City Streetlight No. SLC0767 located approximately 160 feet northwest of the proposed streetlight on the opposite side of Balboa Boulevard. This alternative location is in very close proximity to overhead powerlines, which would make additional height above the existing streetlight pole infeasible. Furthermore, the existing streetlight is located such that accessibility is limited and a girthier pole could not be accommodated without further constraining the sidewalk.
5. Alternative Site #3 is a wooden utility pole located approximately 78 feet west of the proposed streetlight. This pole is located immediately adjacent to the front patio of an existing, single-story residence. Like Alternative Site #1, installation of small cell infrastructure at this location would require placement of a crossarm with exposed equipment on either side of the wooden pole and would not be as aesthetically compatible as the proposed location. Most importantly, the wooden utility pole is located within an approved underground assessment and utility district, which will aim to eventually eliminate such above-ground utilities in the area.
6. Alternative Site #4 at City Streetlight No. SLC0768 is located at the southwest corner of Balboa Boulevard and 30th Street approximately 100 feet from the proposed streetlight. Like Alternative Site #2, this alternative location is in very close proximity to overhead powerlines, which would make additional height above the existing streetlight pole

infeasible. Accessibility is also limited here and a girther pole cannot be accommodated without further constraining the sidewalk.

7. Alternative Site #5 at City Streetlight No. SLC0766 is located at the alleyway between 30th Street and 29th Street, approximately 175 feet southeast of the proposed streetlight. Like Alternative Site #2 and Alternative Site #4, accessibility is limited at this location and a girther pole cannot be accommodated without further constraining the sidewalk.

Finding:

- 1. An alternative plan that would result in a higher preference facility class category for the proposed facility is not available or reasonably feasible and desirable under the circumstances.*

Facts in Support of Finding:

1. See Fact in Support of Finding C.2.
2. AT&T's analysis concluded that a more preferred location as defined by NBMC Subsection 20.49.040(A) (Preferred Locations), such as a collocation or a Class 1 or 2 facility, would not be technically feasible from an RF or construction perspective. The analysis explained that small cell facilities are low powered and must be located at the precise location selected to serve the network traffic demands of the specific limited area. Further, this type of service cannot be accomplished with a traditional macro collocation or building mounted site in the area.

SECTION 4. DECISION.

**NOW, THEREFORE, BE IT RESOLVED:**

1. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15302 and 15303 under Class 2 (Replacement or Reconstruction) and Class 3 (New Construction or Conversion of Small Structures), respectively, of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment. The exceptions to the Class 3 exemption do not apply.
2. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2019-030, subject to the conditions set forth in "Exhibit A," which is attached hereto and incorporated by reference.
3. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of NBMC Title 20 Planning and Zoning.

**PASSED, APPROVED, AND ADOPTED THIS 16<sup>TH</sup> DAY OF APRIL, 2020.**



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Jaime Murillo  
Zoning Administrator

**EXHIBIT "A"****CONDITIONS OF APPROVAL****Planning Division**

1. The development shall be in substantial conformance with the plans, including elevation exhibits and visual simulations, stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. The Applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
4. The telecom facility approved by this permit shall comply with all applicable Federal and State rules, regulations, and standards.
5. The replacement pole shall be reconstructed in the exact location of the existing streetlight pole.
6. The reconstructed streetlight pole design shall be consistent with the size (including diameter), shape, style, and design of the existing streetlight pole to the greatest extent feasible, including the attached light arm and luminaire. All mounted equipment shall be painted to match the color and style of the replacement streetlight pole.
7. All accessory support equipment of this facility shall be installed underground.
8. All electrical and antenna wiring shall be fully encased within the reconstructed streetlight pole.
9. The telecom facility approved by the use permit shall comply with any easements, covenants, conditions, or restrictions on the underlying City-trust property upon which the facility is located.
10. Anything not specifically approved by this permit is not permitted and must be addressed in a separate and subsequent review.
11. Prior to building permit final, a Height Certification Inspection shall be required prior to final of building permits. The small cell facility and base streetlight pole approved by this permit shall not exceed a total of 34 feet, 9 inches in height from existing grade (maximum elevation height of 43.57 feet above mean sea level using the North American Vertical Datum of 1988 [NAVD88]).



12. Prior to building permit issuance, all contractors and subcontractors shall have a valid City of Newport Beach business license.
13. The Applicant shall continually maintain the wireless telecom facility so that it retains its original appearance at the time the building permit is finalized by the City of Newport Beach.
14. On an annual basis, the Applicant shall conduct maintenance inspections of the wireless telecom facility, including the small cell facility and below-grade equipment areas, and make all necessary repairs. The Community Development Director may require additional inspections and/or maintenance activities at his/her discretion.
15. The Applicant shall not prevent the City of Newport Beach from having adequate spectrum capacity on the City's 800 MHz radio frequencies at any time.
16. The facility shall transmit at the approved frequency ranges established by the FCC. The Applicant shall inform the City in writing of any proposed changes to the frequency range in order to prevent interference with the City's Public Safety radio equipment.
17. The telecommunications facility shall at no time interfere with the frequencies used by the City of Newport Beach for public safety. "Comprehensive advanced planning and frequency coordination" engineering measures shall prevent interference, especially in the choice of frequencies and radio ancillary hardware. This is encouraged in the "Best Practices Guide" published by the Association of Public-Safety Communications Officials-International, Inc. ("APCO"), and as endorsed by the FCC.
18. Should interference with the City's Public Safety radio equipment occur, use of the telecom facility authorized by this permit may be suspended until the radio frequency interference is corrected and verification of the compliance is reported.
19. The Applicant shall provide a "single point of contact" for carriers in its Engineering and Maintenance Departments that is monitored 24 hours per day to ensure continuity on all interference issues, and to which interference problems may be reported. The name, telephone number, fax number, and email address of that person shall be provided to the Community Development Department and Newport Beach Police Department's Support Services Commander prior to activation of the facility. If the point of contact changes, the City shall be immediately alerted and updated.
20. No advertising signage or identifying logos shall be displayed on the telecom facility except for small identification, address, warning, and similar information plates. A detail of the information plates depicting the language on the plate shall be included in the plans submitted for issuance of building permits.
21. Appropriate information warning signs or plates shall be posted on the base streetlight pole of the transmitting antenna. In addition, contact information (e.g., a telephone number) shall be provided on the warning signs or plates. The location of the information warning signs or plates shall be depicted on the plans submitted for construction permits.

Signage required by State or federal regulations shall be allowed in its smallest permissible size.

22. Prior to the final of building permits, the Applicant shall schedule an evening inspection by the Code Enforcement Division to confirm compliance with lighting. The telecom facility shall be lighted to the extent deemed necessary by the Newport Beach Police and Utilities Departments for security lighting and consistency with other streetlights in the area.
23. The Applicant shall maintain the telecom facility in a manner consistent with this approval.
24. The Applicant shall ensure that its telecom facility complies with the most current regulatory, operations standards, and radio frequency emissions standards adopted by the FCC. The Applicant shall be responsible for obtaining and maintaining the most current information from the FCC regarding allowable radio frequency emissions and all other applicable regulations and standards. This information shall be made available by the Applicant upon request of the Community Development Director.
25. The facility shall comply with all applicable provisions of U.S. Code Title 47 (Telecommunications) rules and regulations, including those related to FCC Radio Frequency safety.
26. Prior to final of building permits, the Applicant shall schedule an inspection by the Planning Division to ensure materials and colors match existing architecture as illustrated in the approved photographic simulations and in conformance with NBMC Section 20.49.050.
27. Any operator who intends to abandon or discontinue use of a telecom facility must notify the Planning Division by certified mail no less than thirty (30) days prior to such action. The operator shall have ninety (90) days from the date of abandonment or discontinuance to reactivate use of the facility, or remove the telecom facility and restore the site.
28. The City reserves the right and jurisdiction to review and modify any permit approved pursuant to NBMC Chapter 20.49, including the conditions of approval, based on changed circumstances. The operator shall notify the Planning Division of any proposal to change the height or size of the facility; increase the size, shape, or number of antennas; change the facility's color or materials or location on the site; or increase the signal output above the maximum permissible exposure ("MPE") limits imposed by the radio frequency emissions guidelines of the FCC. Any changed circumstance shall require the operator to apply for a review of the modification, and possible amendment to the use permit, prior to implementing any change.
29. Use Permit No. UP2019-030 shall expire unless exercised within 24 months from the date of approval as specified in NBMC Section 20.54.060 (Time Limits and Extensions), unless an extension is otherwise granted.

30. Construction activities shall comply with NBMC Section 10.28.040, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7 a.m. and 6:30 p.m., Monday through Friday and 8 a.m. and 6 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays or holidays.
31. This Use Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
32. A copy of the Resolution, including conditions of approval Exhibit "A," and approved drawings from Southern California Edison (SCE) for the power supply and design, shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
33. The Applicant shall promptly notify the City if the landscaped parkway of the subject streetlight pole is negatively affected or otherwise damaged by project implementation.
34. To the fullest extent permitted by law, Applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of AT&T Small Cell on SLC0796, including, but not limited to, Minor Use Permit No. UP2019-030 (PA2019-111). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by Applicant, City, and/or the parties initiating or bringing such proceeding. The Applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The Applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

### **Public Works Department**

35. Prior to the issuance of a building permit, an encroachment permit shall be required.
36. Prior to the issuance of a building permit, traffic control plans illustrating compliance with the 2016 watchbook requirements shall be reviewed and approved by the Public Works Department before their implementation. Large construction vehicles shall not be permitted to travel narrow streets as determined by the Public Works Department. Disruption caused by construction work along roadways and by movement of

construction vehicles shall be minimized by proper use of traffic control equipment and flagman.

### **Additional Conditions of Approval**

37. The Applicant is responsible for compliance with the Migratory Bird Treaty Act (MBTA). In compliance with the MBTA, grading, brush removal, building demolition, tree trimming, and similar construction activities shall occur between August 16 and January 31, outside of the peak nesting period. If such activities must occur inside the peak nesting season from February 1 to August 15, compliance with the following is required to prevent the taking of native birds pursuant to MBTA:
- A. The construction area shall be inspected for active nests. If birds are observed flying from a nest or sitting on a nest, it can be assumed that the nest is active. Construction activity within 300 feet of an active nest shall be delayed until the nest is no longer active. Continue to observe the nest until the chicks have left the nest and activity is no longer observed. When the nest is no longer active, construction activity can continue in the nest area.
  - B. It is a violation of state and federal law to kill or harm a native bird. To ensure compliance, consider hiring a biologist to assist with the survey for nesting birds, and to determine when it is safe to commence construction activities. If an active nest is found, one or two short follow-up surveys will be necessary to check on the nest and determine when the nest is no longer active.



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## **Attachment No. PC 5**

Minutes of Zoning Administrator Meeting  
of April 16, 2020

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**NEWPORT BEACH ZONING ADMINISTRATOR MINUTES  
100 CIVIC CENTER DRIVE, NEWPORT BEACH  
COMMUNITY ROOM**

**THURSDAY, APRIL 16, 2020  
REGULAR MEETING – 3:00 P.M.**

**I. CALL TO ORDER** – The meeting was called to order at 3:00 p.m.

Staff Present: Jaime Murillo, Zoning Administrator  
Armeen Komeili, Deputy City Attorney  
Benjamin Zdeba, Senior Planner  
Chelsea Crager, Associate Planner  
Patrick Achis, Assistant Planner  
Joselyn Perez, Assistant Planner  
Melinda Whelan, Assistant Planner  
Liane Schuller, Planning Consultant

**II. REQUEST FOR CONTINUANCES**

Staff requested Item Number 9 be continued to April 30, 2020. The item will be re-noticed.

**III. APPROVAL OF MINUTES**

**ITEM NO. 1 MINUTES OF MARCH 12, 2020**

**Action:** Approved as Amended

**IV. PUBLIC HEARING ITEMS**

**ITEM NO. 2 716 Heliotrope, LLC Condominiums Tentative Parcel Map No. NP2019-017 (PA2019-262)**  
**Site Location: 716 Heliotrope Avenue Council District 6**

The Zoning Administrator introduced the item with no need for a staff presentation due to the simplicity of the request. He explained the map will allow the duplex to sell each unit as a condominium and the map has been conditioned to assess a park fee and remove the non-permitted improvements in the right-of-way along Heliotrope Avenue.

Melinda Whelan, Assistant Planner confirmed presence on the conference call and confirmed that she had received correspondence confirming that the applicant had reviewed and accepted all of the conditions.

The Zoning Administrator explained that written correspondence was received from resident, Jim Mosher regarding combining repetitive conditions, and confirmed that this correction would be made to the resolution.

The Zoning Administrator opened the public hearing in the room and on the phone. Seeing that no one from the public wished to comment, the public hearing was closed.

**Action:** Approved as Amended

**ITEM NO. 3 AT&T Small Cell SLC0796 Minor Use Permit No. UP2019-030 (PA2019-111)**  
**Site Location: Public right-of-way, City streetlight number SLC0796, at the northwestern corner of Balboa Boulevard and 30th Street Council District 1**

Page 1 of 8



Benjamin Zdeba, Senior Planner, started by providing context and background on small cell wireless facilities. He noted they are being widely deployed throughout the country as a leading solution to solving coverage gaps and increased data demands. They are also intended to work in conjunction with the larger, macro facilities on a carrier's network and service a smaller area. He stressed that the City's review of these, and all wireless facilities, is largely limited by federal law and is narrowed to focus primarily on land use compatibility, aesthetics, and environmental impacts. The Federal Communications Commission (FCC) exclusively sets standards for radio frequency or "RF" emissions. As such, the City is not able to base any recommendation on potential health and safety impacts. He added that on February 12, 2019, the Newport Beach City Council authorized the execution of a Master License Agreement with AT&T, authorizing non-exclusive use of City-owned streetlights to install wireless telecommunications facilities and included approved designs, fee and rent assessments.

Senior Planner Zdeba then continued to provide a brief project description noting that AT&T is requesting to remove and replace City Streetlight No. SLC0796, which is located within the public right-of-way adjacent to the northwestern corner of the Balboa Boulevard and 30<sup>th</sup> Street intersection. All surrounding land uses are residential and vary in density. This location is unique in that there is an approximately 20-foot wide landscaped parkway area buffering it from the nearest residence. This project requires the approval of a minor use permit.

Senior Planner Zdeba continued that staff analyzed the project for consistency with the Coastal Act and determined it does not negatively impact any designated public view corridors nor does it negatively impact coastal access and resources. In consultation with Coastal Commission staff, it was determined the proposed replacement streetlight pole and small cell installation does not require the issuance of a coastal development permit. Furthermore, the streetlight pole is not located between the first public road paralleling the sea and the sea and the project is consistent with Section 21.49.050(B) of Title 21 (Local Coastal Program Implementation Plan), which aims to protect and enhance scenic resources.

Mr. Zdeba stated that the replacement streetlight pole will be purposed with maintaining the intent of the City's streetlight inventory. It will maintain the same exact luminaire height as the current streetlight pole. However, the new equipment will extend up to an overall height of 34 feet, 9 inches from grade. All equipment and supporting equipment will either be contained within the pole itself, behind a shroud/screen, or underground in a vaulted area.

From a Municipal Code perspective, Mr. Zdeba stated that this type of facility is considered a Class 3 (Public Right-of-Way) installation and falls lower on the preferential list of installation types. The first two classes are stealth facilities, which are often housed on top of existing commercial and multi-family residential structures, and visible facilities, which are exposed antennas on existing commercial and multi-family residential structures. Given the lack of taller commercial buildings in the area, these more-preferred classes were determined to be unviable.

Senior Planner Zdeba explained that although it does fall lower on the priority list, this facility is designed to blend into the streetscape without visually dominating the area. Maintaining the same luminaire height as the current pole will help to maintain consistency with the surrounding streetlights in the area. Furthermore, the Code discusses development standards including blending and screening. The proposed facility is located adjacent to a wide parkway area that is one of the largest in the area. It is planted with taller landscaping, including palm trees, which will serve as a softening buffer between the residential structures beyond. With respect to heights in the area, the maximum allowable height for the abutting residential zoning districts is 29 feet to the ridge of a sloping roof. The current streetlight pole sits just above the allowed height at 29 feet, 9 inches. The proposed streetlight pole with the proposed equipment on top would extend to an overall height of 34 feet, 9 inches and would not appear out of scale with the structures in the area. It is also notable that in many other areas, there are taller wooden utility poles.

Mr. Zdeba added that another component of staff's review is alternative sites in the area that may be better-suited for the proposed facility. The applicant provided analysis for five other sites in the vicinity. Attachment No. ZA 3 to the staff report goes into each alternative site in more detail and provides photographs as well. Each of the five alternative sites were determined to be unviable due to limited accessibility around a slightly

wider pole, proximity to overhead powerlines, and location within an approved underground assessment district.

Lastly, Senior Planner Zdeba stated that one piece of written correspondence was received prior to the staff report being published citing concerns related to health and safety impacts. Three additional pieces of written correspondence were received, two from an attorney, Mark Pollock, representing a resident and one from Jim Mosher.

Mr. Zdeba concluded that staff believed all required findings can be made and recommended approval of this project.

Zoning Administrator Murillo requested clarification as to why all the alternative sites were in such close proximity to one another. In response, Mr. Zdeba stated that the small cell wireless facilities are considered "micro" sites and have a smaller radius of transmission. They are intended to work in conjunction with larger macro sites. He also added that, although not required, the applicant provided coverage maps to identify the present gap in coverage that exists without the proposed site.

Zoning Administrator Murillo stated that there are taller, mature palm trees adjacent to the site and that there should be a condition of approval added about compliance with the Migratory Bird Treaty Act. Mr. Zdeba indicated that condition would be added, if approved.

In response to the correspondence received from Mr. Mosher, Zoning Administrator Murillo also requested additional information as to why the project was exempted from a coastal development permit. Mr. Zdeba stated that NBMC Section 21.52.035(c)(4) (Repair and Maintenance) is the operative section that was identified as being appropriate for the replacement of a streetlight with a small cell facility installation in consultation with Coastal Commission staff.

Applicant Franklin Orozco, on behalf of the AT&T Mobility, stated that he had reviewed the draft resolution and agrees with all the required conditions. He also clarified that the site is a "pico" small-cell site, which does not have as wide of a range as macro sites. The range of a pico cell site is approximately 750 to 1,000 feet, which is why they typically only look at alternative locations within 250 feet of the targeted site. He also explained why a macro site was not feasible in this particular area and indicated that there will be several applications for similar projects coming forward.

The Zoning Administrator opened the public hearing in the room and on the phone.

Matthew Tanner, a resident at 209 30<sup>th</sup> Street, stated that everyone in his area was opposed to the project and expressed concerns about the potential health and safety impacts of the proposal. He submitted his written comments for the record.

Denise Fenton, owner of the Beach Coin Laundry, also expressed concerns about the potential health and safety impacts of the proposal. She further added that the proposal is not aesthetically pleasing.

Mark Pollock, attorney, referenced his submitted written correspondence and stated his disagreement that the Zoning Administrator has the authority to act on this application and that for the subsequent Item No. 4, under NBMC Section 20.49.080. He further expressed concerns with the applicant entity and its validity under the executed Master License Agreement with the City. He also expressed concern with the insurance requirements.

Brenda Martin, a resident at 206 ½ 30<sup>th</sup> Street, cited health concerns and expressed opposition to the project. She submitted her written comments into the record.

The Zoning Administrator closed the public hearing.

Zoning Administrator Murillo acknowledged the stated health and safety concerns brought forward during the public comments section, but reiterated that the City does not have authority to restrict emissions or operation of the facility. Furthermore, he indicated that a decision cannot be rendered on account of the same concerns.

Lastly, he noted that the City's review is limited to aesthetics and land use compatibility, and that a more recent Federal Communications Commission ruling requires the City to accommodate such facilities within the public rights-of-way.

In response to Mr. Pollock's comments from his March 25, 2020, letter, Deputy City Attorney Armeen Komeili, stated that staff reviewed the two license agreements referenced in Mr. Pollock's letter and the insurance requirements and has confirmed said insurance requirements have been met and certified by the correct entity. With respect to pollution liability, neither agreement has a pollution liability clause; therefore, it is not required. With respect to Mr. Pollock's contention that the City has the ability to restrict or regulate the operation of these facilities, Deputy City Attorney Komeili stated that the Ninth Circuit has not yet opined on this matter, but the Second Circuit has stated that local governments are limited to regulating location, placement and modification, and cannot regulate the operation. As such, the City Attorney's Office recommends against using the Minor Use Permit as a mechanism to restrict the operation of the facility.

Zoning Administrator Murillo recapped the project and noted the change to the streetscape is very nominal and that the applicant's design had accomplished blending and screening through maintaining similar attributes to the current streetlight pole. He further stated his agreement that this is the best location when considering all five alternative locations. Finally, he provided additional language under statement number four of "Section 1 Statement of Facts" with respect to the Coastal Development Permit exemption.

The Zoning Administrator approved the project and found it exempt from the requirements of the California Environmental Quality Act under the Class 2 and 3 exemptions.

**Action:** Approved as Amended

**ITEM NO. 4**      **AT&T Small Cell SLC4653 Minor Use Permit No. UP2019-034 (PA2019-115)**  
**Site Location: Public right-of-way, City streetlight number SLC4653, on the north side**  
**of Bayside Drive, approximately 900 feet northwest of El Paseo Drive**  
**Council District 5**

Joselyn Perez, Assistant Planner, provided a brief project description stating that the applicant is requesting a minor use permit to allow the replacement of a City streetlight and the subsequent installation of telecom equipment for a small cell wireless facility. The streetlight proposed for the project, City Streetlight Number SLC4653, is located on the northeast side of Bayside Drive, approximately 900 feet northwest of El Paseo Drive. This streetlight is within the coastal zone and therefore initially evaluated in accordance with Newport Beach Municipal Code Section 21.30.100 Scenic and Visual Quality Protection. The project was found to not have one or more of the characteristics listed in subsection (B) of the aforementioned code section as the site is not located between the first public road and the sea, is not on a coastal bluff or canyon, and it is not adjacent to or within the viewshed of a public view point, a coastal view road, a public park or beach, or a public accessway, as identified on the Coastal Land Use Plan Map 4-3 Coastal Views, and does not contain significant natural landforms or vegetation.

Assistant Planner Perez stated that the surrounding land uses are residential and vary in density from R-1 (Single-Unit Residential), immediately adjacent to the project site, to RM (Multiple Residential) across the street. The streetlight is separated from the R-1 residences by a steep landscaped downslope. Given the grade differential, the lower setting of the streetlight lessens any visual obstruction from the proposed small cell facility and prevents the equipment from being within the line of sight for the existing R-1 development. The steep, landscaped hillside provides visual masking of the small cell facility as the streetlight is not isolated or the only visible feature within the general area. There are many streetlights along this stretch of Bayside Drive and the proposed project will blend in with the surrounding streetscape and existing streetlights. The overall height of the replacement pole and equipment is 27 feet, 5 inches and is approximately 7 feet taller than the existing streetlight pole. The existing pole is approximately 19 feet high; however, its luminaire height is 20 feet 6 inches. The proposed streetlight with small cell equipment is under maximum allowed height of 35 feet for telecom facilities and is consistent with the Zoning Code.

## **Attachment No. PC 6**

Zoning Administrator Referral Memo



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**CITY OF NEWPORT BEACH  
COMMUNITY DEVELOPMENT DEPARTMENT**

100 Civic Center Drive  
Newport Beach, California 92660

949 644-3200  
newportbeachca.gov/communitydevelopment

## Memorandum

**To:** Chairman Peter Koetting and Planning Commissioners  
**From:** Jaime Murillo, Zoning Administrator  
**Date:** June 29, 2020  
**Re:** Referral of Coastal Development Permit No. CD2020-052 for a new small cell wireless telecommunications facility proposed on City Streetlight No. SLC0796 (PA2019-111)

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At the April 16, 2020, Zoning Administrator meeting, the captioned project came before me for review and decision on Minor Use Permit No. UP2019-030. At the time, it was determined there was no requirement for a coastal development permit and approval was granted for UP2019-030, as submitted.

On April 28, 2020, an appeal of UP2019-030 was filed by Mark Pollock citing concerns with the Master License Agreement to allow installation of these types of facilities within the public right-of-way on City-owned structures.

It is my understanding that, since the appeal was filed, the project has been evaluated more closely against the City's certified Local Coastal Program and it was determined a coastal development permit is in fact required.

Given the appeal of UP2019-030 is being reviewed by the Planning Commission, it is my decision to refer the required coastal development permit to the Planning Commission for concurrent review as a single project pursuant to Municipal Code Section 21.50.020 (Authority for Decisions).

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## **Attachment No. PC 7**

Applicant's Project Description and  
Justification



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New Cingular Wireless PCS, LLC d/b/a AT&T Mobility

AT&T Site ID: CSTAM\_003 and FA#14823072

Project location: City Streetlight No. SCL0796 at the northwestern corner of West Balboa Boulevard and 30<sup>th</sup> Street, Newport Beach.

#### 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 the introduction of the iPhone in 2007, mobile data usage has increased 470,000% on its network. AT&T customers' growing demand for mobile data services will continue to increase. 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 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.<sup>1</sup> In addition, the FCC estimates that 70 percent of all 911 calls are made from wireless devices.<sup>2</sup> 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.

#### Description of Service and Site Type

AT&T selected the proposed facility as the best available means to address its service objectives in this portion of the city. 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 enclosed within a replacement streetlight. For this small cell, AT&T proposes to install a 10-inch diameter omni-directional antenna and radios at the

<sup>1</sup> 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>.

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

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.

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). Installations 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 will be 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.

#### Site Preferred Location and Alternative Analysis

The City of Newport Beach Code Section 20.49.040 lists the preferred locations for telecommunication facilities to limit adverse visual effects and the proliferation of new or individual telecom facilities in the City. Class 3 is defined as public right-of-way installations where the facility can be installed on a structure located in the public right-of-way. The proposed AT&T small cell facility falls under this category and is the third on the list of preferred locations. The proposed installation is consistent with the approved city designs under the master agreement between AT&T and the City. Due to the slim design, camouflaged antenna, use of existing city structures within the right-of-way, AT&T believes that the changes to the existing streetlights are non-material or aesthetic changes that would not impact the surrounding development of this area. The other preferred locations as listed by code relate to the use of existing non-residential buildings or other structures, which are stealth and fully screened and not visible to the general public. These types of locations or structures are not feasible designs for small cells located within the public right-of-way.

AT&T is committed to providing wireless telecommunications services and faster data rates throughout the City of Newport Beach and is doing so by installing the least intrusive technology, with the least intrusive design at the least intrusive locations. Rather than construct traditional tower facilities in or near residential

neighborhoods, AT&T is choosing to deploy very small facilities, called "small cells," that can be installed on utility infrastructure in the public right-of-way.

A small cell is a low-powered cell site, which, when grouped with other small cells, can provide coverage in areas where traditional macro wireless facilities are not feasible. Although the signal from each small cell antenna covers a shorter range than a conventional tower site, small cells can be effective tools to help close significant gaps in service coverage or offload capacity with a minimal visual impact. Node CSTAM\_003 will help AT&T close a significant gap in this area of the City by the least intrusive means, see attached coverage maps.

AT&T evaluated several other locations for this project in the immediate vicinity of the proposed node. Attached is the alternative site analysis with detailed description of each alternative location evaluated.

#### Statement of Code Compliance

The overall site location and design complies with applicable code provisions, the General Plan, and other published siting guidelines. For further analysis regarding the applicable code, please see the attached Statement of Code Compliance.



**Statement of Code Compliance with Newport Beach Municipal Code ("NBMC") Chapter 20.49 and Chapter 13.20**

Below, we identify the applicable code criteria and demonstrate our compliance or acknowledgement of each provision.

**20.49.040 Telecom Facility Preferences and Prohibited Locations.**

A. Preferred Locations. To limit the adverse visual effects of and proliferation of new or individual telecom facilities in the City, the following list establishes the order of preference of facilities, from the most preferred (1) to least preferred (4).

1. Collocation of a new facility at an existing facility.
2. Class 1.
3. Class 2 and Class 3.
4. Class 4.

B. Prohibited Locations. Telecom facilities are prohibited in the following locations:

*Applicant Response: AT&T is proposing a Class 3 facility that replaces an existing concrete designed streetlight with a new similar concrete designed replacement pole. The design is consistent with the design of the existing pole and the type of infrastructure currently in the right of way. The design is consistent with the designs depicted and allowed pursuant to the Master License Agreement Between the City of Newport Beach and New Cingular Wireless PCS, LLC for the Use of City-Owned Streetlights for Telecommunication Facilities ("MLA"). As explained in the previous Alternative Analysis, a collocation or Class 1 or 2 facility would not be technically feasible in this location from an RF or construction perspective. Small cells are low power and must be located at the precise location selected to serve the network traffic demands of that specific and limited area. This type of service enhancement cannot be accomplished with a traditional macro collocation or building mounted site in this area. The site is not located in any of the locations prohibited by NBMC §20.49.040.B.1-4.*

**20.49.050 General Development and Design Standards.**

A. General Criteria. All telecom facilities shall employ design techniques to minimize visual impacts and provide appropriate screening to result in the least visually intrusive means of providing the service. Such techniques shall be employed to make the installation, appearance and operations of the facility as visually inconspicuous as practicable. To the greatest extent feasible, facilities shall be designed to minimize the visual impact of the facility by means of location, placement, height, screening, landscaping, and shall be compatible with existing architectural elements, building materials, other building characteristics, and the surrounding area.

*Applicant Response: The Applicant has selected a design that minimizes visual impacts and is appropriately screened to result in the least visually intrusive means of providing service. The site will be placed in the right-of-way and will be virtually unnoticeable as this is the type of infrastructure one would expect to see in the*

*right-of-way. The facility is compatible with the architectural design of existing right-of-way infrastructure with respect to color, materials, scale and compatibility with the surrounding area. It matches the existing pole in scale and design and will not result in any net add of right-of-way infrastructure. Utilities are placed below grade and are not visible.*

In addition to the other design standards of this section, the following criteria shall be considered by the review authority in connection with its processing of any MUP, CUP, LTP, or ZC for a telecom facility:

1. Blending. The extent to which the proposed telecom facility blends into the surrounding environment or is architecturally compatible and integrated into the structure.

*Applicant Response: The facility blends into the surrounding environment and is compatible and integrated into the replacement structure. It matches the existing pole in terms of scale, color and materials and is consistent with expected infrastructure that exists in the right-of-way.*

2. Screening. The extent to which the proposed telecom facility is concealed or screened by existing or proposed new topography, vegetation, buildings or other structures.

*Applicant Response: The site is screened to the extent that it matches and is concealed within a streetlight replacement pole.*

3. Size. The total size of the proposed telecom facility, particularly in relation to surrounding and supporting structures.

*Applicant Response: The scale and total size of the proposed facility is consistent with existing right-of-way infrastructure. The new luminaire is consistent with the size, location and functioning of the luminaire being replaced. The 10" diameter of the new pole is consistent with and substantially similar to the diameter of the existing pole which is 9" at the location being measured. The pole height is almost identical except for the antenna enclosure at the top, which is also consistent with the design in terms of scale and width. The presence of communication equipment at this site will be virtually unnoticeable to the casual passerby.*

4. Location. Proposed telecom facilities shall be located so as to utilize existing natural or manmade features in the vicinity of the facility, including topography, vegetation, buildings, or other structures to provide the greatest amount of visual screening and blending with the predominant visual backdrop.

*Applicant Response: The location in the right-of-way is appropriate as it is consistent with infrastructure expected to be located in the right-of-way. One of the purposes of the right-of-way is to accommodate infrastructure that will serve the needs of the community, so it is the appropriate place for this type of facility.*

5. Collocation. In evaluating whether the collocation of a telecom facility is feasible, the criteria listed in subsections (A)(1) through (4) of this section shall be used to evaluate the visual effect of the combined number of facilities at the proposed location.

*Applicant Response: Collocation on this facility is not technically feasible from an RF and construction standpoint. Requiring a collocation on this facility would increase the visual impact and scale of this site.*



B. Public View Protection. All new or modified telecom facilities, whether approved by administrative or discretionary review, shall comply with Section 20.30.100 (Public View Protection). Additionally, potential impacts from a new or modified telecom facility to public views that are not identified by General Plan Policy NR 20.3 shall be evaluated to determine if inclusion in Policy NR 20.3 would be appropriate. If deemed appropriate for inclusion, the potential impacts to such public views shall be considered.

*Applicant Response: This section is not applicable to this facility as it is not in an area that is subject to Public View Protection.*

C. Height.

1. The Planning Commission or City Council may approve or conditionally approve a CUP for a telecom facility that exceeds the maximum height limit for the zoning district in which the facility is located; provided, it does not exceed the maximum height limit by fifteen (15) feet, only after making all of the required findings in Section 20.49.060(H) (Required Findings for Telecom Facilities).

*Applicant Response: The height limitation for facilities located in the public right-of-way is 35 feet. NBMC §20.49.050.C.3. The facility complies with this standard as it does not exceed 35 feet.*

2. All telecom facilities shall comply with height restrictions or conditions, if any, required by the Federal Aviation Administration, and shall comply with Section 20.30.060(E) (Airport Environs Land Use Plan for John Wayne Airport and Airport Land Use Commission Review Requirements) as may be in force at the time the telecom facility is permitted or modified.

*Applicant Response: This provision is not applicable to this facility.*

3. Telecom facilities installed on streetlights, utility poles, utility towers or other similar structures within the public right-of-way shall not exceed thirty-five (35) feet in height above the finished grade.

*Applicant Response: The facility complies with this standard as it does not exceed 35 feet.*

4. Telecom facilities may be installed on existing utility poles or utility towers that exceed thirty-five (35) feet above the finished grade where the purposes of the existing utility pole or utility tower is to carry electricity or provide other wireless data transmission; provided, that the top of the proposed antennas do not extend above the top of the utility pole or utility tower.

*Applicant Response: This provision is not applicable to this facility.*

5. Telecom facilities disguised as flagpoles may be installed provided they meet applicable height limits for flagpoles provided in Section 20.30.060.

*Applicant Response: This provision is not applicable to this facility.*

D. Setbacks. Proposed telecom facilities shall comply with the required setback established by the development standards for the zoning district in which the facility is proposed to be located. Setbacks shall be measured from the part of the facility closest to the applicable lot line or structure.

*Applicant Response: This provision is not applicable as the facility is located in the right-of-way and replaces an existing structure. Also, the code specifically provides for a setback exception for light standards. NBMC § 20.30.110.D.11.*

E. Design Techniques. Design techniques shall result in the installation of a telecom facility that is in harmony and scale with the surrounding area, screens the installation from view, and prevents the facility from visually dominating the surrounding area. Design techniques may include the following:

*Applicant Response: The facility is in harmony and scale with the surrounding area. The new concrete designed pole is substantially similar in size and scale to the existing pole and the materials, design and color match. The facility is compatible with infrastructure that exists in the right-of-way and will be installed in the same location as the pole that is being replaced. The facility will not visually dominate the surrounding area.*

1. Screening elements to disguise, or otherwise hide the telecom facility from view from surrounding uses.

*Applicant Response: The facility is a combination light pole and wireless facility and the antennas and other equipment components will be concealed within the pole.*

2. Painting and/or coloring the telecom facility to blend into the predominant visual backdrop.

*Applicant Response: The facility will be concealed within a light pole and will be the same color and finish as the pole being replaced.*

3. Siting the telecom facility to utilize existing features (such as buildings, topography, vegetation, etc.) to screen or hide the facility.

*Applicant Response: The facility is being sited in the right-of-way and will be installed in the same location as the pole being replaced and will have the same color and finish.*

4. Utilizing simulated natural features (trees, rocks, etc.) to screen or hide the telecom facility.

*Applicant Response: The facility is a light pole replacement, a structure that is expected to be located in the right-of-way, will be installed in the same location as the pole being replaced, and will have the same color and finish.*

5. Providing telecom facilities of a size that, as determined by the City, is not visually obtrusive such that any effort to screen the facility would create greater visual impacts than the facility itself.

*Applicant Response: The facility is not visually obtrusive and is consistent with the size, scale, color and appearance of existing right-of-way infrastructure.*



6. To the greatest extent practicable, new Class 4 facilities shall be designed and sited to facilitate the collocation of one additional telecom operator.

*Applicant Response: This criterion is not applicable as this facility is not a Class 4.*

F. Screening Standards. For collocation installations, the screening method shall be materially similar to those used on the existing telecom facility, and shall not diminish the screening of the facility. If determined necessary by the review authority, use of other improved and appropriate screening methods may be required to screen the antennas and support equipment from public view. The following is a non-exclusive list of potential design and screening techniques that must be considered for all facility installations:

*Applicant Response: This criterion is not applicable as this facility is not a collocation.*

3. For Class 3 (Public Right-of-Way) Installations.

a. Whenever feasible, new antennas proposed to be installed in the public right-of-way shall be placed on existing utility structures, streetlights, or other existing vertical structures. Antenna installations on existing or replacement streetlight poles or utility poles shall be screened by means of canisters, radomes, shrouds or other screening measures whenever feasible, and treated with exterior coatings of a color and texture to match the existing pole.

*Applicant Response: The facility design meets this criterion. The antenna is screened behind a cannister that is on top of the pole. It will be the same color and texture as the existing pole.*

b. New or replacement vertical structures may be allowed when authorized by the Municipal Code and approved by the Public Works Department. Replacement poles or streetlights shall be consistent with the size, shape, style, and design of the existing pole, including any attached light arms. New poles or streetlights may be installed, provided they match existing or planned poles within the area.

*Applicant Response: The facility design meets this criterion and is allowed pursuant to the NBMC and the MLA. This replacement pole is substantially the same size, shape, style and design of the existing pole. It also has a luminaire that is the same height and brightness as the existing pole.*

c. If antennas are proposed to be installed without screening, they shall be flush-mounted to the pole and shall be treated with exterior coatings of a color and texture to match the pole.

*Applicant Response: This provision is not applicable as the antennas will be screened.*

6. Support Equipment. All support equipment associated with the operation of any telecom facility shall be placed or mounted in the least visually obtrusive location practicable, and shall be screened from view.

*Applicant Response: Support equipment is either concealed or installed below grade and has no visual impact.*

b. Installations in a Public Right-of-Way. The following is a non-exclusive list of potential screening techniques for telecom facilities located in a public right-of-way:

i. Where existing utilities services (e.g., telephone, power, cable TV) are located underground, the support equipment shall be placed underground if required by other provisions of the Municipal Code. Flush-to-grade underground vault enclosures, including flush-to-grade vents, or vents that extend no more than twenty-four (24) inches above the finished grade and are screened from public view may be incorporated. Electrical meters required for the purpose of providing power for the proposed telecom facility may be installed above ground on a pedestal in a public right-of-way provided they meet applicable standards of Title 13 unless otherwise precluded by the Municipal Code.

*Applicant Response: The utilities serving this facility are either installed below grade or are concealed within the replacement pole. No above ground pedestals are proposed.*

ii. Support equipment approved to be located above ground in a public right-of-way shall be painted or otherwise coated to be visually compatible with the existing or replacement pole, lighting and/or traffic signal equipment without substantially increasing the width of the structure.

*Applicant Response: This provision is not applicable as no above ground support equipment is proposed.*

iii. All transmission or amplification equipment such as remote radio units, tower mounted amplifiers, and surge suppressors shall be mounted inside the utility or streetlight pole without materially increasing the pole diameter or shall be installed in the vault enclosure supporting the facility.

*Applicant Response: The transmission equipment is concealed within the pole.*

G. Night Lighting. Telecom facilities shall not be lighted except for security lighting at the lowest intensity necessary for that purpose or as may be recommended by the United States Flag Code (4 U.S.C. Section 1 et seq.). Such lighting shall be shielded so that direct illumination does not directly shine on nearby properties. The review authority shall consult with the Police Department regarding proposed security lighting for facilities on a case-by-case basis.

*Applicant Response: No lighting is proposed other than the replacement luminaire which is being installed at substantially the same height and is the same brightness as the existing pole.*

H. Signs and Advertising. No advertising signage or identifying logos shall be displayed on any telecom facility except for small identification, address, warning, and similar information plates. Such information plates shall be identified in the telecom application and shall be subject to approval by the review authority. Signage required by State or Federal regulations shall be allowed in its smallest permissible size.

*Applicant Response: The facility complies with this criterion. The only signage proposed is the required notice signage, facility owner information and signage and banners required to be installed by the City.*

I. Nonconformities. A proposed or modified telecom facility shall not create any new or increased nonconformity as defined in the Zoning Code, such as, but not limited to, a reduction in and/or elimination of, required parking, landscaping, or loading zones unless relief is sought pursuant to applicable zoning code procedures.



*Applicant Response: The facility complies with the code and will not create a zoning code nonconformity.*

J. Maintenance. The telecom operator shall be responsible for maintenance of the telecom facility in a manner consistent with the original approval of the facility, including but not limited to the following:

1. Any missing, discolored, or damaged screening shall be restored to its original permitted condition.

*Applicant Response: The Applicant acknowledges that it is responsible for maintaining the site consistent with its original permitted condition.*

2. All graffiti on any components of the telecom facility shall be removed promptly in accordance with the Municipal Code.

*Applicant Response: The Applicant acknowledges this requirement.*

3. All landscaping required for the telecom facility shall be maintained in a healthy condition at all times, and shall be promptly replaced if dead, dying, or damaged.

*Applicant Response: No landscaping is proposed for this installation.*

4. All telecom facilities shall be kept clean and free of litter.

*Applicant Response: The Applicant acknowledges this requirement.*

5. All equipment cabinets shall display a legible contact number for reporting maintenance problems to the telecom operator.

*Applicant Response: The Applicant is not proposing equipment cabinets.*

6. If a flagpole is used for a telecom facility, flags shall be flown and shall be properly maintained at all times. The use of the United States flag shall comply with the provisions of the U.S. Flag Code (4 U.S.C. Section 1 et seq.). (Ord. 2014-1 § 10 (part), 2014)

*Applicant Response: The Applicant is not proposing a flagpole.*

#### 20.49.060 Permit Review Procedures.

H. Required Findings for Telecom Facilities. The following findings shall apply to all facilities requiring discretionary review:

1. General. The review authority may approve or conditionally approve an application for a telecom facility only after first finding each of the required findings for a MUP or CUP pursuant to Section 20.52.020 (Conditional Use Permits and Minor Use Permits), or an LTP pursuant to Section 20.52.040 (Limited Term Permits), and each of the following findings:

- a. The proposed telecom facility is visually compatible with the surrounding neighborhood.

*Applicant Response: The facility is visually compatible with the surrounding area. The facility design is allowed pursuant to the MLA and applicable code and is substantially similar in design, shape, size, color and texture as the existing pole. All related equipment is either installed below grade or is concealed within the interior of the replacement light pole.*

b. The proposed telecom facility complies with height, location and design standards, as provided for in this chapter.

*Applicant Response: The 35-foot-tall facility complies with the height, location and design standards. It is a Class 3 facility located in the right-of-way and meets the City approved design standards per the code and the MLA.*

c. An alternative site(s) located further from a residential district, public park or public facility cannot feasibly fulfill the coverage needs fulfilled by the installation at the proposed site.

*Applicant Response: The Applicant has provided an alternative analysis that addresses this criterion. No alternative site locations would fulfill the network needs that are fulfilled by this installation at this proposed specific location.*

d. An alternative plan that would result in a higher preference facility class category for the proposed facility is not available or reasonably feasible and desirable under the circumstances.

*Applicant Response: As explained previously, small cells are designed to enhance network capacity and must be precisely located in a specific area to properly function due to their low power and limited range. A higher preference class facility would not be technically feasible and would not fulfill this specific network need.*



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## **Attachment No. PC 8**

Alternative Locations Studied and  
Rejected

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# AT&T Small Cell Node

## Site ID: CRAN\_RLOS\_CSTAM\_003

### Alternative Sites Analysis

City streetlight No. SCL0796 located at the northwest corner of West Balboa Boulevard and 30<sup>th</sup> Street, Newport Beach.

March 12, 2020



## Map of Small Cell Node CRAN\_RLOS\_CSTAM\_003 and Alternative Sites



On this aerial map, AT&T's proposed Small Cell Node CSTAM\_003 is designated by a red marker and the alternative sites are identified by yellow markers.



## Proposed Small Cell Node CRAN\_RLOS\_CSTAM\_003

- AT&T is committed to providing and improving wireless telecommunications services and faster data rates throughout the City of Newport Beach.
- Rather than construct traditional macro facilities, AT&T is choosing to deploy very small facilities, called “small cells,” that can be installed on utility infrastructure in the public right-of-way.
- A small cell is a low-powered cell site, which, when grouped with other small cells, can provide coverage in areas where traditional macro wireless facilities are discouraged.
- Small cells are effective tools to provide and improve critical wireless services with a minimal impact. By placing small cells in areas where AT&T’s existing facilities are constrained and where AT&T experiences high network traffic, AT&T can address existing and forecasted demands.
- Small Cell Node CRAN\_RLOS\_CSTAM\_003 will improve signal quality and capacity within AT&T’s wireless network in this portion of Newport Beach.

## Small Cell Node CRAN\_RLOS\_CSTAM\_003 - Proposed Location

City streetlight No. SCL0697 located at the northwestern corner of West Balboa Boulevards and 30<sup>th</sup> Street.



- Photo Simulation of Proposed Small Cell

- AT&T proposes to place a Small Cell Node on a replacement streetlight pole in the public right-of-way. (Lat/Long 33.613872, -117.931656). The proposed node is located on the East side of West Balboa Boulevard and north of 30<sup>th</sup> Street.
- AT&T proposed node is a stealth facility under City Code §20.49.030(N) and is designed to be as visually inconspicuous as possible.
- A large planter area with mature palm trees is located between the proposed node and the adjacent residential development. This planter will provide a visual screening from nearby residences.
- AT&T determined that this location is viable in that necessary utilities are available and this location is feasible from a radio frequency perspective. The location is free of obstructions and has good line of site to meet coverage objectives. AT&T will need to replace the existing streetlight to accommodate a Small Cell.



## Small Cell Node CRAN\_RLOS\_CSTAM\_003 – Alternative Site #1

Wood utility pole located at alley east of West Balboa Boulevard, approximately 130 feet north side of 30<sup>th</sup> Street.



- Alternative Site #1, is a wood utility pole with primary power and communication lines. It is approximately 92 northwest of the proposed node within an alley and adjacent to a three-story residential home.
- The pole is located adjacent to a short fence of the residential home.
- Design of this facility would require placement of a cross arm with exposed radios and antenna on opposite sides of the pole. This design could not be screened as required by City Code §20.49.050(F)(3).
- The subject utility pole is also located within an approved underground assessment and utility district.
- A small cell at this alternative site would be more visually conspicuous and more intrusive than the proposed node.



## Small Cell Node CRAN\_RLOS\_CSTAM\_003 – Alternative Site #2

City streetlight No. SCL0767 located on the west side of West Balboa Boulevard, approximately 80 feet south of 31<sup>st</sup> Street.



- Alternative Site #2 is a city streetlight in the public right- of-way. The site is located approximately 147 feet northwest of the proposed node. The light has primary electrical lines directly above and secondary lines below.
- Proximity of electrical lines at this location makes it infeasible to use this location due to GO95 space and separation requirements.
- This streetlight is also within 5 feet from the adjacent residential building and has limited sidewalk width to meet ADA requirements.
- A small cell at this alternative location is infeasible.

## Small Cell Node CRAN\_RLOS\_CSTAM\_003 – Alternative Site #3

Wood utility pole located at the northwest corner of Balboa Boulevard and 30<sup>th</sup> Street.



- Alternative Site #3, is a wood utility pole with primary and secondary power and communication lines. It is approximately 78 feet west of the proposed node adjacent to a single-story residential home.
- The utility pole is located within 4 feet from a short fence of the residential home.
- Design of this facility would require placement of a cross arm with exposed radios and antenna on opposite sides of the pole. This design could not be screened as required by City Code §20.49.050(F)(3).
- The subject utility pole is also located within an approved underground assessment and utility district.
- A small cell at this alternative site would be more visually conspicuous and more intrusive than the proposed node.



## Small Cell Node CRAN\_RLOS\_CSTAM\_003 – Alternative Site #4

City streetlight No. SCL0768 located at the southwest corner of West Balboa Boulevard and 30<sup>th</sup> Street.



- Alternative Site #4 is a city streetlight in the public right- of-way. The site is located approximately 104 feet south of the proposed node. The light has primary electrical lines directly above and secondary lines below.
- Proximity of electrical lines at this location makes it infeasible to use this location due to GO95 space and separation requirements.
- This streetlight is also within 5 feet from the adjacent residential building and has limited sidewalk space to meet ADA requirements.
- A small cell at this alternative location is infeasible.

## Small Cell Node CRAN\_RLOS\_CSTAM\_003 – Alternative Site #5

City streetlight No. SCL0766 located on the east side of West Balboa Boulevard, approximately 135 feet south of 30<sup>th</sup> Street.



- Alternative Site #5 is a city streetlight in the public right-of-way. The site is located approximately 175 feet southeast of the proposed node.
- This streetlight is located within a narrow sidewalk, approximately 6 feet from the adjacent residential property and has limited sidewalk space to meet ADA requirements.
- The narrow sidewalk space limits replacement of the streetlight to meet ADA requirements.
- A small cell at this alternative location is infeasible.



## Proposed Small Cell Node CRAN\_RLOS\_CSTAM\_003

### Conclusion

- The proposed small cell node CRAN\_RLOS\_CSTAM\_003 is an integral part of an overall small cell solution to help close AT&T's significant service coverage gap in this portion of Newport Beach.
- The proposed small cell will provide wireless telecommunications service and faster data rates to the area businesses, residents & visitors.
- The proposed small cell is the best available and least intrusive means to help AT&T provide and improve critical wireless services in the surrounding areas, adding low-power, low-profile equipment to utility infrastructure in the public right-of-way.
- The use of a replacement streetlight allows a stealth design for the proposed equipment and antenna.
- The proposed installation will enhance wireless communication with the least visual impact to the community.



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## **Attachment No. PC 9**

Photographic Simulations, Project Plans,  
and Coverage Maps



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SITE NAME: CSTAM\_003A  
 SITE NUMBER: CRAN\_RLOS\_CSTAM\_003  
 PROJECT: CRAN/ SMALL CELL/ PICO  
 USID: 213735 / FA: 14823072  
 PACE: MRLOS051977



POLE TYPE: (N) CONCRETE LIGHT POLE  
 POLE ID #: SLC0796  
 LATITUDE/LONGITUDE: 33.613872/ -117.931656  
 SITE ADDRESS: CITY STREETLIGHT NO. SCL0796 AT  
 THE NW CORNER OF W. BALBOA BLVD. AND 30TH  
 STREET, NEWPORT BEACH, CA 92663

ALL WORK AND MATERIALS SHALL BE PERFORMED AND INSTALLED IN ACCORDANCE WITH THE CURRENT EDITIONS OF THE FOLLOWING CODES AS ADOPTED BY THE LOCAL GOVERNING AUTHORITIES. NOTHING IN THESE PLANS IS TO BE CONSTRUCTED TO PERMIT WORK NOT CONFORMING TO THESE CODES.

1. 2016 CALIFORNIA ADMINISTRATIVE CODE
2. 2016 CALIFORNIA BUILDING CODE
3. 2016 CALIFORNIA ELECTRIC CODE
4. 2016 CALIFORNIA MECHANICAL CODE
5. 2016 CALIFORNIA PLUMBING CODE
6. 2016 CALIFORNIA FIRE CODE
7. ANY LOCAL BUILDING CODE AMENDMENTS TO THE ABOVE
8. CITY/COUNTY ORDINANCES
9. NEC, NATIONAL ELECTRIC CODE
10. CALIFORNIA TRAFFIC CONTROL LANE CLOSURES MUTCD

HANDICAP REQUIREMENTS:  
 FACILITY IS UNMANNED AND NOT FOR HUMAN HABITATION. HANDICAPPED ACCESS NOT REQUIRED IN ACCORDANCE WITH CALIFORNIA ADMINISTRATIVE CODE PART 2, TITLE 24, CHAPTER 11B, SECTION 1103B.

#### CODE COMPLIANCE

THE FACILITY IS UNMANNED AND NOT FOR HUMAN HABITATION. A TECHNICIAN WILL VISIT THE SITE AS REQUIRED FOR ROUTINE MAINTENANCE. THE PROJECT WILL NOT RESULT IN ANY SIGNIFICANT DISTURBANCE OR EFFECT ON DRAINAGE, NO SANITARY SEWER SERVICE, POTABLE WATER, OR TRASH DISPOSAL, IS REQUIRED AND NO COMMERCIAL SIGNAGE IS NEW.

#### GENERAL NOTES



#### Dig Alert

Know what's below.  
 Call before you dig.

CALIFORNIA 811  
 Call Toll-Free 800-422-4133

#### DIG ALERT

PUBLIC/PRIVATE ADDRESS: PUBLIC RIGHT-OF-WAY  
 CITY STREETLIGHT NO. SCL0796 AT THE NW CORNER OF W. BALBOA BLVD. AND 30TH STREET, NEWPORT BEACH, CA 92663  
 APPLICANT: AT&T  
 ADDRESS: 1452 EDINGER AVE, TUSTIN, CA 92780  
 LATITUDE (NAD 83): 33.613872  
 LONGITUDE (NAD 83): -117.931656  
 LAT/LONG TYPE: NAD-83  
 GROUND ELEVATION (NAVD 83): 18.87  
 JURISDICTION: CITY OF NEWPORT BEACH  
 CURRENT ZONING: PUBLIC RIGHT OF WAY  
 PROPOSED USE: UNMANNED TELECOMMUNICATIONS  
 POWER COMPANY: SCE  
 ADDRESS: 1 INNOVATION WAY, POMONA, CA 91768

#### PROJECT SITE INFORMATION

PROJECT MANAGER: M SQUARED WIRELESS  
 1387 CALLE AVANZADO, SAN CLEMENTE, CA 92673  
 SAGGONING/PERMITTING: M SQUARED WIRELESS  
 1387 CALLE AVANZADO, SAN CLEMENTE, CA 92673  
 BY ENGINEER: AT&T  
 1452 EDINGER AVE, TUSTIN, CA 92780  
 CONTACT: CARLO DAVINAGRACIA, EMAIL: K23275@ATT.COM  
 ENGINEER: M SQUARED WIRELESS  
 1387 CALLE AVANZADO, SAN CLEMENTE, CA 92673  
 SENIOR TECHNICAL PROJECT MANAGER: AT&T  
 1452 EDINGER AVE, TUSTIN, CA 92780  
 CONTACT: TED SUKAWA, EMAIL: 15494@ATT.COM

#### PROJECT TEAM

#### AREA MAPS



VICINITY MAP



LOCATION MAP

#### DIRECTIONS FROM AT&T OFFICE

- DIRECTION ARE TAKEN FROM 1452 EDINGER AVE, TUSTIN, CA 92780
1. TURN LEFT ONTO EDINGER AVE
  2. TURN LEFT ONTO STATE ROUTE 58 S
  3. MERGE ONTO STATE ROUTE 58 S
  4. CONTINUE ONTO NEWPORT BLVD
  5. TURN RIGHT ONTO 30TH ST
  6. TURN LEFT ONTO W BALBOA BLVD

#### DIRECTION WILL BE ON THE LEFT

CITY STREETLIGHT NO. SCL0796 AT THE NW CORNER OF W. BALBOA BLVD. AND 30TH STREET NEWPORT BEACH, CA 92663

#### DRIVING DIRECTIONS

#### CITY NOTE

1. TRAFFIC CONTROL PLANS ARE NOT TO BE USED FOR CONSTRUCTION AND NEW TCP WILL BE SUBMITTED AND APPROVED AS PART OF THE ENCROACHMENT PERMIT APPLICATION.

#### SPECIAL INSPECTION

CONCRETE FOUNDATION (CONTINUOUS INSPECTION)

IF USING 11x17 PLOT, DRAWING WILL BE HALF SCALE

#### CONSTRUCTION DRAWING

THE FOLLOWING PARTIES HEREBY APPROVE AND ACCEPT THESE DOCUMENTS & AUTHORIZE THE SUBCONTRACTOR TO PROCEED WITH THE CONSTRUCTION DESCRIBED HEREIN. ALL DOCUMENTS ARE SUBJECT TO REVIEW BY THE LOCAL BUILDING DEPARTMENT & MAY IMPOSE CHANGES OR MODIFICATIONS.

APPROVED BY:	INITIALS	DATE:
AT&T RF ENGINEER:		
AT&T OPERATIONS:		
SITE ACQUISITION MANAGER:		
PROJECT MANAGER:		
ZONING VENDOR:		
LEASING VENDOR:		
CONSTRUCTION MANAGER:		
AVE MANAGER:		
PROPERTY OWNER:		
UTILITY MANAGER:		

#### APPROVALS

AT&T PROPOSES TO INSTALL A NEW WIRELESS INSTALLATION LOCATED IN THE PUBLIC RIGHT OF WAY TO (N) CONCRETE LIGHT POLE.

40 SCOPE WILL CONSIST OF THE FOLLOWING:

- AT&T TO REMOVE: (1) EXISTING CONCRETE STREETLIGHT
- AT&T TO INSTALL: (1) 29' 3" CONCRETE STREETLIGHT
- AT&T TO INSTALL: (4) NEW AT&T REMOTE RADIO UNITS
- AT&T TO INSTALL: (1) NEW AT&T OMNI-DIRECTIONAL ANTENNA
- AT&T TO INSTALL: (1) NEW AT&T EQUIPMENT SHROUD
- AT&T TO INSTALL: (1) NEW RATCHET DISCONNECT
- AT&T TO INSTALL: (1) NEW HANDHOLE

#### PROJECT DESCRIPTION

SHEET NO.	SHEET TITLE	SHEET NO.	SHEET TITLE
T-1	TITLE SHEET	SCE-1	SCE FINAL DESIGN
T-2	T-2 ACCURACY CERTIFICATION	SCE-2	SCE FINAL DESIGN
GN-1	GENERAL NOTES	SCE-3	SCE FINAL DESIGN
D-1	TOPOGRAPHIC SURVEY	D-1	ELECTRICAL & GROUNDING DETAILS
A-1	SITE PLAN	YC-1	TRAFFIC CONTROL PLAN
A-2	ELEVATIONS		
A-3	ELEVATIONS		
A-4	SITE IMAGE		
G-1	DETAILS		
D-2	NEWPORT BEACH DETAILS		
D-3	NEWPORT BEACH DETAILS		
D-4	LUMINAIRE SPECS		
S-1	POLE DETAILS		
S-2	ADAPTER PLATE DETAILS		

#### DRAWING INDEX

SUBCONTRACTOR SHALL VERIFY ALL PLANS & EXISTING DIMENSIONS & CONDITIONS ON THE JOB SITE & SHALL IMMEDIATELY NOTIFY THE ENGINEER IN WRITING OF ANY DISCREPANCIES BEFORE PROCEEDING WITH THE WORK OR BE RESPONSIBLE FOR SAME.

#### DO NOT SCALE DRAWINGS



DRAWN BY: EIS  
 CHECKED BY: MB

REV	DATE	DESCRIPTION
A	03/09/2020	100% CDS REVISED
E	12/06/2019	SCE FINAL POWER
D	10/17/2019	100% CONSTRUCTION
C	09/16/2019	100% CDS REVISED
B	08/21/2018	100% CONSTRUCTION
A	08/17/2018	90% CONSTRUCTION



IT IS A VIOLATION OF LAW FOR ANY PERSON, UNLESS THEY ARE ACTING UNDER THE DIRECTION OF A LICENSED PROFESSIONAL ENGINEER, TO ALTER THIS DOCUMENT.

SITE ID: CSTAM\_003A  
 CITY STREETLIGHT NO. SCL0796  
 AT THE NW CORNER OF W. BALBOA BLVD. AND 30TH STREET  
 NEWPORT BEACH, CA, 92663

SHEET TITLE  
 TITLE SHEET

SHEET NUMBER

T-1

## NATIONWIDE SURVEYING INC.

NOVEMBER 18, 2019

1-A ACCURACY CERTIFICATION  
AT&T CRAN\_RLOS\_CSTAM\_003

DATE OF SURVEY: NOVEMBER 15, 2019  
 SITE NAME: CRAN\_RLOS\_CSTAM\_003  
 TYPE: STREET LIGHT  
 SITE ADDRESS: CITY STREETLIGHT No.SCL0796  
 AT THE NORTHWESTERN CORNER  
 OF WEST BALBOA BOULEVARD  
 AND 30TH STREET

I hereby certify that the latitude and longitude of the following areas are as follows:

GEOGRAPHIC COORDINATES:  
(NORTH AMERICAN DATUM 1983)

	LATITUDE	LONGITUDE	
EXISTING STREET LIGHT POLE:	33° 36' 49.94" N	117° 55' 53.96" W	(NAD 83)
	33.613872	-117.931656	(NAD 83)

I further certify that the elevations shown hereon are Above Mean Sea Level, North American Vertical Datum 1988 (NAVD 88)

## ELEVATIONS (NAVD 88)

GROUND ELEVATION @ EXISTING STREET LIGHT POLE LOCATION = 8.82 FEET A.M.S.L.  
 TOP ELEVATION OF EXISTING STREET LIGHT POLE = 36.10 FEET A.M.S.L.  
 TOP ELEVATION OF EXISTING STREET LIGHT SENSOR (HIGHEST POINT) = 38.98 FEET A.M.S.L.

## MEASURE HEIGHTS

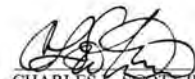
HEIGHT OF EXISTING STREET LIGHT POLE = 27'-3" A.G.L.  
 HEIGHT OF EXISTING STREET LIGHT SENSOR (HIGHEST POINT) = 30'-2" A.G.L.

The horizontal accuracy for the Latitude and Longitude is  $\pm 5$  feet.The vertical accuracy for the Elevation is  $\pm 1$  foot.The measured height of the features located is  $\pm 1$  foot.

The Geographic Coordinates are based upon the State Plane Coordinate System of 1983 (NAD 83), California Zone 6 and were established by static GPS Post Processing method, utilizing NGS GPS Monuments.

The Smartnet North America C.O.R.S. "CALK"

Elevation = 366.53 Feet (NAVD 88).

  
 CHARLES L. SCOTT III, PLS  
 LS 8742 EXP. 12/31/2020



NATIONWIDE SURVEYING INC. 18520 WARREN ROAD RIVERSIDE CALIFORNIA 92508 909.841.4235



DRAWN BY: ERI  
 CHECKED BY: BMO

REV	DATE	DESCRIPTION
1	03/09/2020	100% CDS REVISED
2	12/08/2019	SGE FINAL POWER
3	10/17/2019	100% CONSTRUCTION
4	09/16/2019	100% CDS REVISED
5	08/21/2018	100% CONSTRUCTION
6	08/17/2018	80% CONSTRUCTION



SITE ID: CSTAM\_003A  
 CITY STREETLIGHT NO. SCL0796  
 AT THE NW CORNER OF W.  
 BALBOA BLVD. AND 30TH STREET  
 NEWPORT BEACH, CA, 92663

SHEET TITLE  
 1-A ACCURACY  
 CERTIFICATION

SHEET NUMBER  
 T-2



1. THE FACILITY IS AN UNCOMPLEX DIGITAL TELECOMMUNICATION FACILITY.
2. PLANS ARE NOT TO BE SCALED AND ARE INTENDED TO BE A DIAGRAMMATIC OUTLINE ONLY, UNLESS NOTED OTHERWISE. THE WORK SHALL INCLUDE FURNISHING MATERIALS, EQUIPMENT, APPURTENANCES AND WORK NECESSARY TO COMPLETE THE PROJECT AS INDICATED ON THE DRAWINGS.
3. PRIOR TO THE SUBMISSION OF BIDS, THE CONTRACTORS SHALL VISIT THE JOB SITE AND BE RESPONSIBLE FOR ALL CONTRACT DOCUMENTS, FIELD CONDITIONS AND DIMENSIONS, AND CONFIRMING THAT THE WORK MAY BE ACCOMPLISHED AS SHOWN ON THE DRAWINGS. ANY DISCREPANCIES OR DISCREPANCIES IN THE WORK ARE TO BE BROUGHT TO THE ATTENTION OF THE IMPLEMENTATION ENGINEER AND ENGINEER PRIOR TO PROCEEDING WITH THE WORK.
4. THE CONTRACTOR SHALL OBTAIN, IN WRITING, AUTHORIZATION TO PROCEED BEFORE STARTING WORK ON ANY ITEM NOT CLEARLY IDENTIFIED OR IDENTIFIED IN THE CONTRACT DOCUMENTS.
5. THE CONTRACTOR SHALL INSTALL ALL EQUIPMENT AND MATERIALS IN ACCORDANCE WITH MANUFACTURER'S RECOMMENDATIONS, UNLESS SPECIFICALLY NOTED OTHERWISE ON THE DRAWINGS OR IN THE SPECIFICATIONS.
6. ALL WORK PERFORMED AND MATERIALS INSTALLED SHALL BE IN STRICT ACCORDANCE WITH ALL APPLICABLE CODES, REGULATIONS AND ORDINANCES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS, ORDINANCES, RULES, REGULATIONS AND LAWFUL ORDERS OF ANY PUBLIC AGENCY, CITY, COUNTY, STATE OR FEDERAL AGENCY, OR MECHANICAL, ELECTRICAL, SYSTEMS SHALL BE INSTALLED IN ACCORDANCE WITH ALL APPLICABLE MECHANICAL AND ELECTRICAL CODES, REGULATIONS, ORDINANCES, RULES, AND LAWFUL ORDERS OF ANY PUBLIC AGENCY, CITY, COUNTY, STATE OR FEDERAL AGENCY, OR MECHANICAL, ELECTRICAL, SYSTEMS SHALL BE INSTALLED IN ACCORDANCE WITH ALL APPLICABLE MECHANICAL AND ELECTRICAL CODES, REGULATIONS, ORDINANCES, RULES, AND LAWFUL ORDERS OF ANY PUBLIC AGENCY, CITY, COUNTY, STATE OR FEDERAL AGENCY.
7. THE GENERAL CONTRACTOR SHALL SUPERVISE AND DIRECT THE WORK, USING THE BEST SKILLS AND ATTENTION. THE CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING UTILITIES AND STRUCTURES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS, ORDINANCES, RULES, REGULATIONS AND LAWFUL ORDERS OF ANY PUBLIC AGENCY, CITY, COUNTY, STATE OR FEDERAL AGENCY, OR MECHANICAL, ELECTRICAL, SYSTEMS SHALL BE INSTALLED IN ACCORDANCE WITH ALL APPLICABLE MECHANICAL AND ELECTRICAL CODES, REGULATIONS, ORDINANCES, RULES, AND LAWFUL ORDERS OF ANY PUBLIC AGENCY, CITY, COUNTY, STATE OR FEDERAL AGENCY.
8. SEAL PENETRATIONS THROUGH FIRE RATED AREAS WITH ILL. LISTED AND FIRE CODE APPROVED MATERIALS.
9. PROVIDE A PORTABLE FIRE EXTINGUISHER WITH A RATING OF NOT LESS THAN 2-A:10-ABC WITHIN 75 FEET TRAVEL DISTANCE TO ALL PORTIONS OF THE WORK DURING THE SURVEY.
10. DETAILS ARE INTENDED TO SHOW END RESULT OF DESIGN. MISC. MODIFICATIONS MAY BE REQUIRED TO SUIT JOB DIMENSIONS OR CONDITIONS, AND SUCH MODIFICATIONS SHALL BE INCLUDED AS PART OF THE WORK.
11. REPRESENTATION OF TRUE NORTH, OTHER THAN THOSE FOUND ON THE PLOT OF SURVEY OR DRAWING (EITHER BY THE SURVEYOR OR THE ENGINEER) SHALL BE OBTAINED OR ESTABLISH THE BEARING OF TRUE NORTH AT THE SITE. THE CONTRACTOR SHALL RELY SOLELY ON THE PLOT OF SURVEY DRAWING AND ANY SURVEYOR'S MARKINGS AT THE SITE FOR THE ESTABLISHMENT OF TRUE NORTH, AND SHALL NOTIFY THE ENGINEER PRIOR TO PROCEEDING WITH THE WORK IF ANY DISCREPANCY IS FOUND. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING THE TRUE NORTH ORIENTATION AS DEPICTED ON THE CIVIL SURVEY. THE CONTRACTOR SHALL ASSUME SOLE LIABILITY FOR ANY FAILURE TO OBTAIN TRUE NORTH.

1

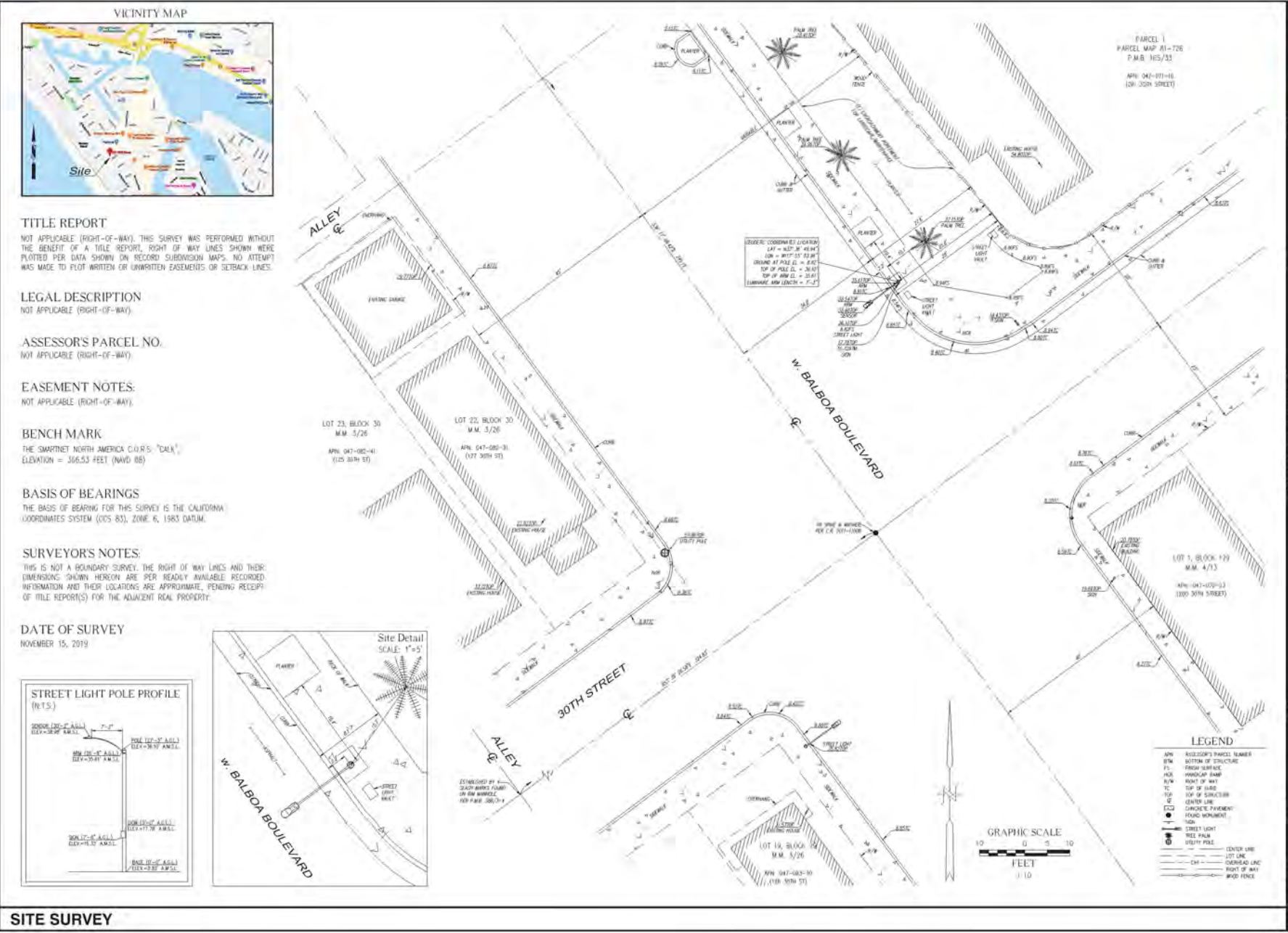
15. KEEP GENERAL AREA CLEAN, HAZARD FREE, AND EXEMPT OF ALL DIRT, DEBRIS, RUBBER, AND REMOVE EQUIPMENT NOT SPECIFIED AS REMAINING ON SITE. CONTRACTOR SHALL LEAVE PROJECT IN CLEAN CONDITION AND FREE FROM PAINT SPOTS, OIL, OR SMUDGES OF ANY NATURE.
16. PENETRATIONS OF ROOF MEMBRANES SHALL BE PATCHED/FLASHED AND MADE WATERPROOF USING LIFE MATERIALS IN ACCORDANCE WITH ANCHOR ROOFING STANDARDS AND DETAILS. CONTRACTOR SHALL OBTAIN JETTING/BLASTING CLASSIFICATION FOR SITE-SPECIFIC CONDITIONS FROM ENGINEER. IF NECESSARY, BEFORE PROCEEDING.
17. BEFORE ORDERING AND/OR BEFORE FABRICATING/CONSTRUCTING/INSTALLING ANY ITEMS, VERIFY THE TYPES AND QUANTITIES.
18. CONTRACTOR SHALL PROVIDE SITE FOREMAN WITH A CELLULAR PHONE AND PAGER, AND KEEP SAME ON SITE WHEREVER PERSONNEL ARE ON SITE.
19. THE CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND CONDITIONS ON THE SITE AND NOTIFY THE PROJECT MANAGER OF ANY DISCREPANCIES BEFORE STARTING ANY WORK.
20. CONTRACTOR TO PROVIDE COMPLETE SET OF AS BUILT DRAWINGS WITHIN 15 WORKING DAYS OF PROJECT COMPLETION.
21. CONTRACTOR IS TO EXCAVATE 6" BELOW EXISTING GRADE AND SPRAY WITH REED COAT. REPLACE WITH CLASS B AGGREGATE BASE AND CRUSHED WASHED ROCK SPECIFIED ON SITE PLAN.
22. CONTRACTOR SHALL PROVIDE TOILET FACILITY DURING ALL PHASES OF CONSTRUCTION.
23. PRIOR TO THE COMMENCEMENT OF CONSTRUCTION OR THE FABRICATION OF MATERIALS TO BE INSTALLED AT THE SITE, THE CONTRACTOR SHALL FIELD VERIFY ALL DIMENSIONS INCLUDING AS-BUILT DIMENSIONS OF EXISTING STRUCTURES OF ALL EXISTING BUILDINGS. ANY DISCREPANCY ON THE SCOPE OF THE WORK TO BE PERFORMED IF ANY DISCREPANCY IS FOUND BETWEEN THE VARIOUS ELEMENTS OF THE WORKING DRAWINGS AND THE DIMENSIONS OR CONDITIONS FOUND TO BE EXISTING ON THE FIELD, THE CONTRACTOR SHALL NOTIFY THE ENGINEER AND OBTAIN DESIGN RESOLUTION PRIOR TO PROCEEDING WITH THE (CONTINUED) OF THE WORK. IF THE CONTRACTOR DOES NOT ASSUME THE LIABILITY OF ANY FAILURE TO SO NOTIFY, THE ENGINEER AND OBTAIN RESOLUTION BEFORE PROCEEDING.
24. DIRTY OR DAMAGED STREETS SHALL BE REPLACED BY THE CONTRACTOR.

### GENERAL NOTES

SHEET NUMBER

**GN-1**





330 COMMERCE, STE. 200  
IRVINE, CA 92602

1387 CALLE AVANZADO  
SAN CLEMENTE CA 95073 (949) 391-0824

REV	DATE	DESCRIPTION	BY

CHARLES L. SCOTT III, PLS 8742  
(EXP. 12/31/2020) Registration No. 12, State of California

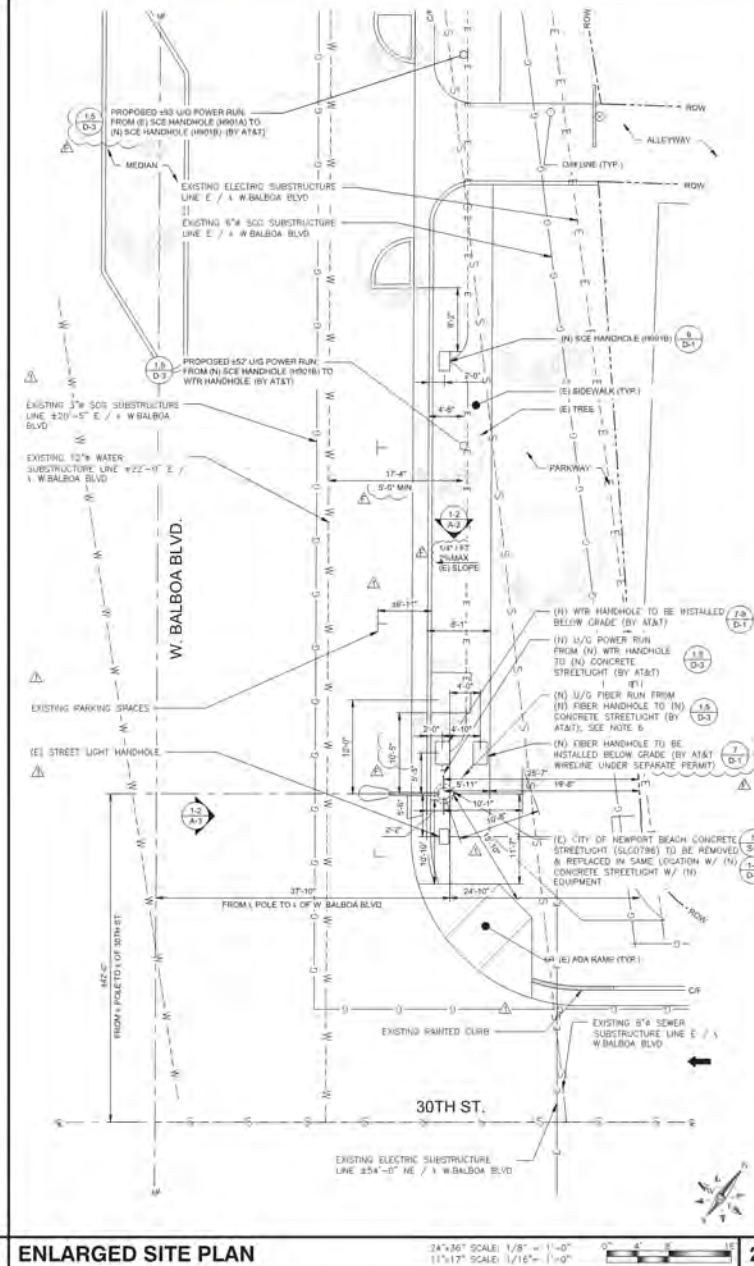
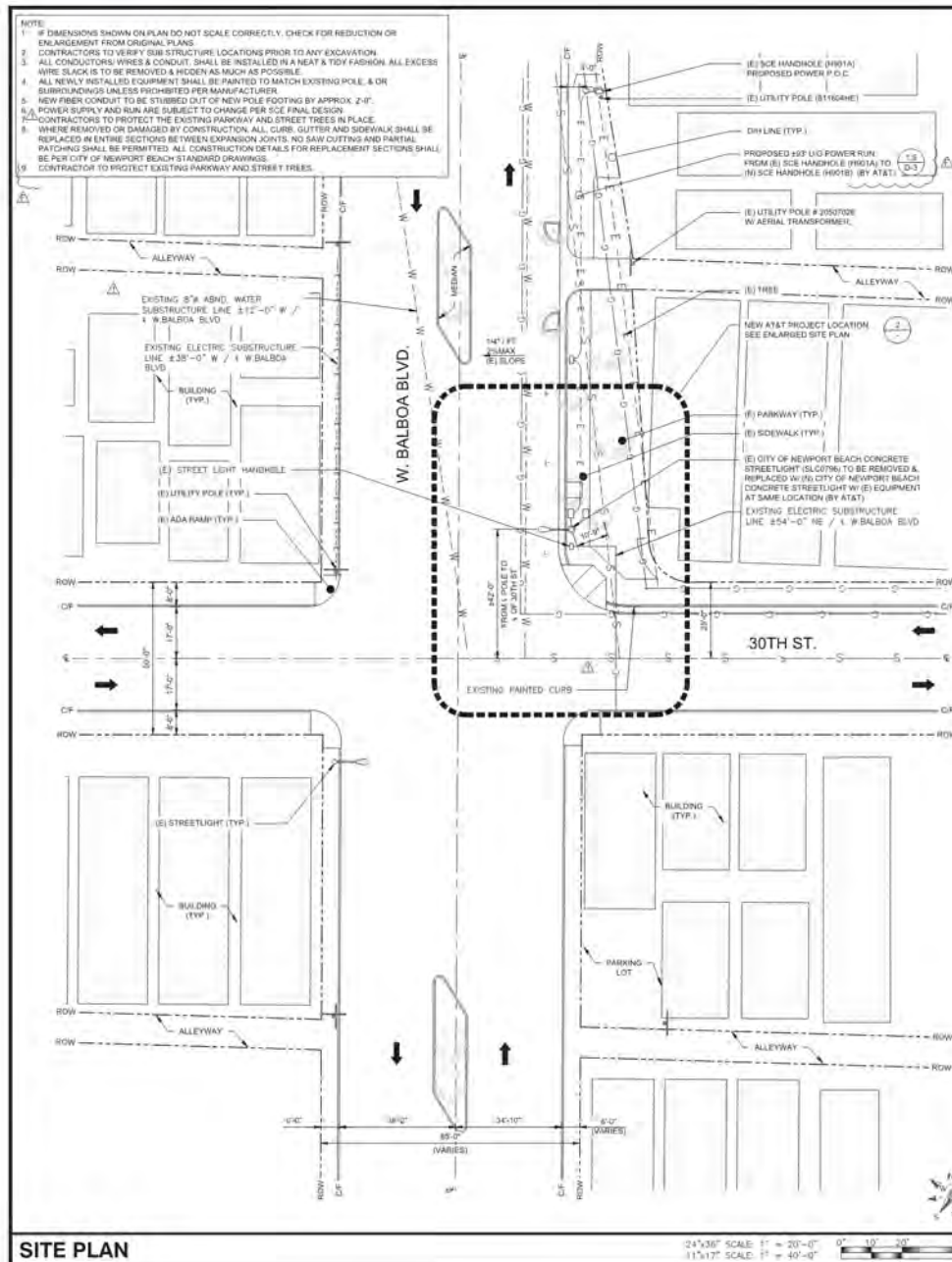
**CRAN\_RLOS\_**  
**CSTAM\_003**

CITY STREETLIGHT No.SCL0796  
AT THE NORTHWESTERN  
CORNER OF WEST BALBOA  
BOULEVARD AND 30TH STREET

SHEET TITLE  
**TOPOGRAPHIC  
SURVEY**

SHEET NUMBER  
**C-1**

SITE SURVEY



330 COMMERCE, STE. 200  
IRVINE, CA 92602



DRAWN BY:	EG
CHECKED BY:	BM

E	03/04/2020	100% CO'S REVISED
E	12/06/2019	SCE FINAL POWER
D	10/17/2019	100% CONSTRUCTION
C	06/16/2019	100% CO'S REVISED
B	06/21/2018	100% CONSTRUCTION
A	06/17/2018	90% CONSTRUCTION
REV	DATE	DESCRIPTION



DATE SIGNED: 03/08/2020  
EXPIRATION DATE: 06/30/2021

IT IS A VIOLATION OF LAW FOR ANY PERSON, UNLESS THEY ARE ACTING UNDER THE DIRECTION OF A LICENSED PROFESSIONAL ENGINEER, TO ALTER THIS INSTRUMENT.

SITE ID: CSTAM\_003A  
CITY STREETLIGHT NO. SCL0796  
AT THE NW CORNER OF W.  
BALBOA BLVD. AND 30TH STREET  
NEWPORT BEACH, CA, 92663

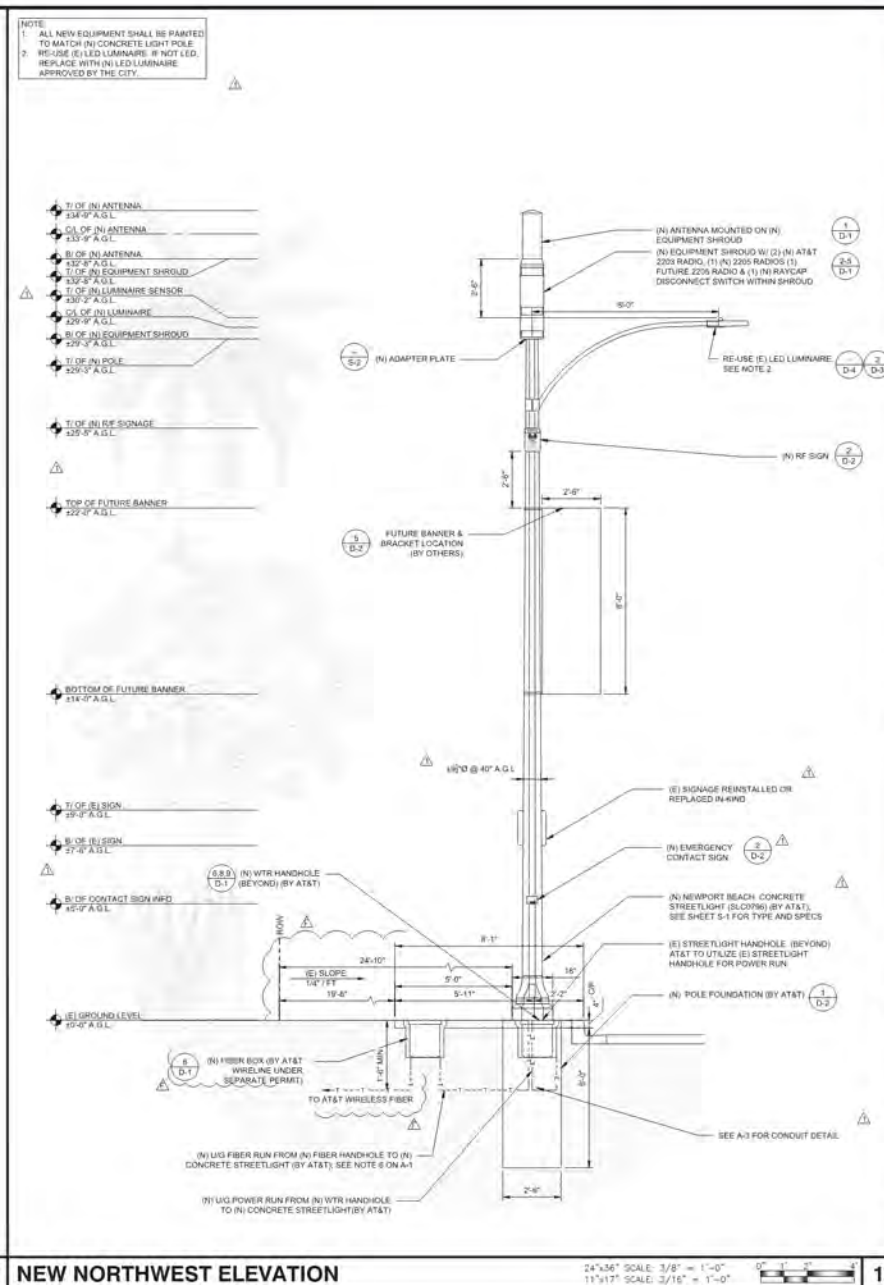
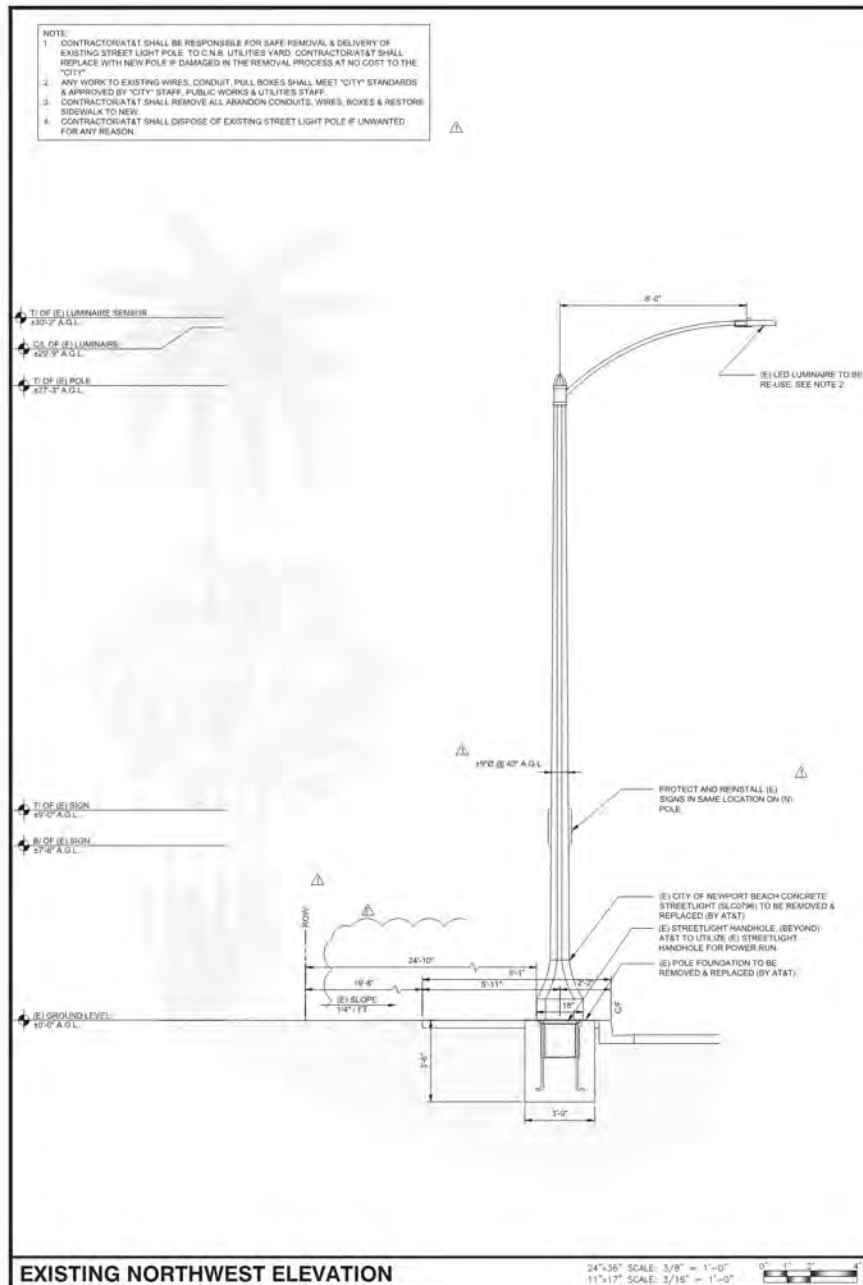
SHEET TITLE

## SITE PLAN

SHEET NUMBER

A-1





	<h1 style="margin: 0;">at&amp;t</h1> <p style="margin: 0;">1452 EDINGER AVE. TUSTIN, CA 92780</p>								
 <p style="margin: 0;"><b>ERICSSON</b></p> <p style="margin: 0;">330 COMMERCE, STE. 200 IRVINE, CA 92602</p>									
 <p style="margin: 0;"><b>M SQUARE</b> WIRELESS</p> <p style="margin: 0;">1387 CALLE AVANZADO SAN CLEMENTE, CA 95075 (949) 391-8824</p>									
<p style="margin: 0;">DRAWN BY: <span style="float: right;">BIS</span></p> <p style="margin: 0;">CHECKED BY: <span style="float: right;">MM</span></p>									
A	03/09/2020	100% CDS REVISED							
E	12/06/2019	SCE FINAL POWER							
D	10/17/2019	100% CONSTRUCTION							
C	09/16/2019	100% CDS REVISED							
B	09/21/2018	100% CONSTRUCTION							
A	09/17/2018	90% CONSTRUCTION							
REV	DATE	DESCRIPTION							
 <p style="margin: 0;">DATE SIGNED: 03/09/2020 EXPIRATION DATE: 06/30/2021</p> <p style="margin: 0; font-size: small;">IT IS A VIOLATION OF LAW FOR ANY PERSON, UNLESS THEY ARE ACTING UNDER THE DIRECTION OF A LICENSED PROFESSIONAL ENGINEER, TO ALTER THIS DOCUMENT.</p>									
<p style="margin: 0;"><b>SITE ID: CSTAM_003A</b></p> <p style="margin: 0;"><b>CITY STREETLIGHT NO. SCL0795</b></p> <p style="margin: 0;"><b>AT THE NW CORNER OF W.</b></p> <p style="margin: 0;"><b>BALBOA BLVD. AND 30TH STREET</b></p> <p style="margin: 0;"><b>NEWPORT BEACH, CA, 92663</b></p>									
<p style="margin: 0;">SHEET TITLE</p> <p style="margin: 0;"><b>ELEVATIONS</b></p>									
<p style="margin: 0;">SHEET NUMBER</p> <p style="margin: 0;"><b>A-2</b></p>									







PROPOSED SITE LOCATION LOOKING NORTHWEST



DRAWN BY: EG  
CHECKED BY: MM

REV	DATE	DESCRIPTION
A	03/09/2020	100% CD'S REVISED
E	12/06/2019	SCE FINAL POWER
D	10/17/2019	100% CONSTRUCTION
C	09/16/2019	100% CD'S REVISED
B	09/21/2018	100% CONSTRUCTION
A	09/17/2018	90% CONSTRUCTION

IT IS A VIOLATION OF LAW FOR ANY PERSON UNLESS THEY ARE ACTING UNDER THE DIRECTION OF A LICENSED PROFESSIONAL ENGINEER, TO ALTER THIS DOCUMENT.


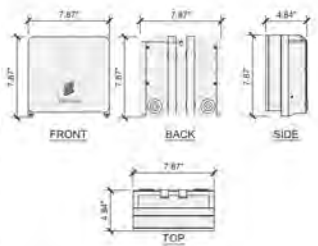
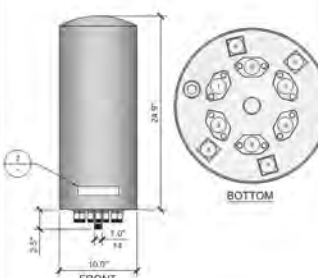
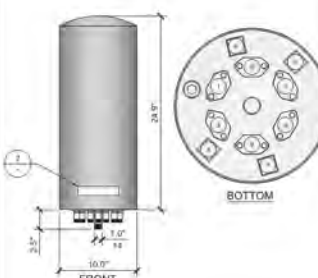

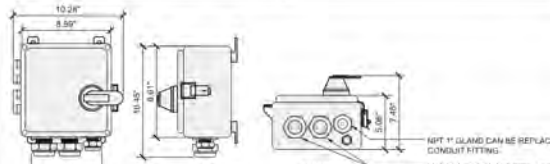
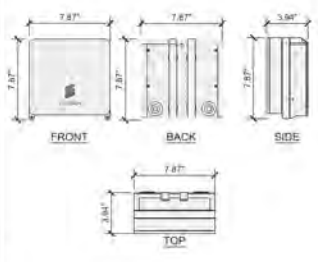

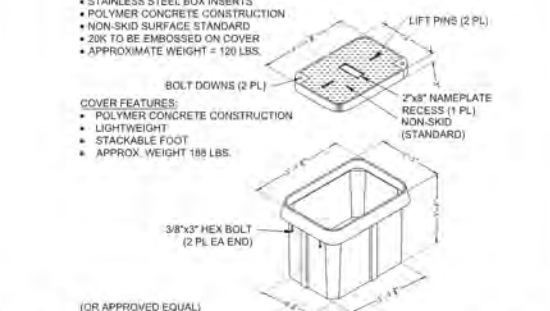
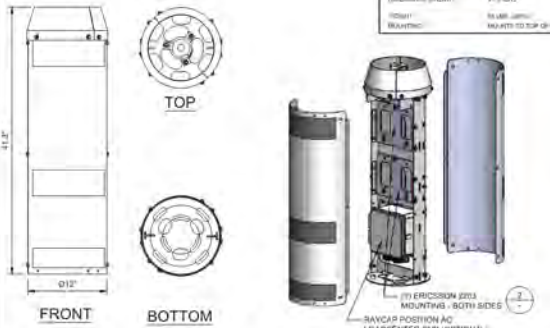
SITE ID: CSTAM\_003A  
CITY STREETLIGHT NO. SCL0796  
AT THE NW CORNER OF W.  
BALBOA BLVD. AND 30TH STREET  
NEWPORT BEACH, CA, 92663

SHEET TITLE  
SITE IMAGE

SHEET NUMBER  
A-4

24"x36" SCALE: NTS  
11"x17" SCALE: NTS

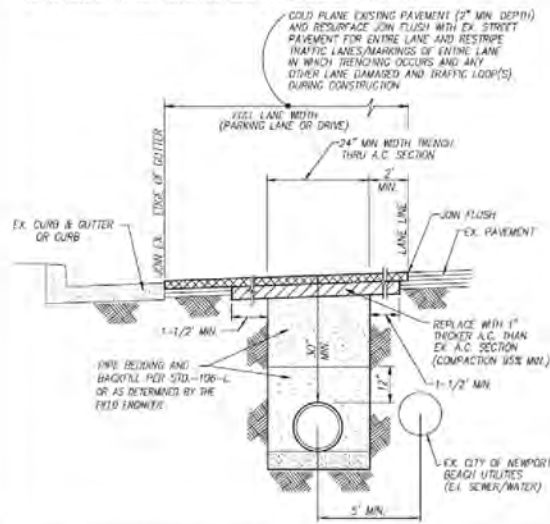
1

<p>AVAILABLE FROM EXCEL SIGN AND DECAL:  <a href="http://www.weneedsigns.com/home.php?cal+1135">http://www.weneedsigns.com/home.php?cal+1135</a> AND CLICK ON AT&amp;T          PH: 510-551-0445          NO1-DC-16 1"x6" NOTICE DECAL          "For 1 Foot Distance" VINYL DECAL WITH ADHESIVE BACKING</p>  <p><b>NOTICE</b>          RF energy emitted by this device may exceed the FCC's general public exposure limits. Stay at least 1 foot away from the device. Call 800-638-2822 for help if you need access within 1 foot.</p> <p>Place 3 NOTICE sticker at the bottom of the front of the radome of each antenna.</p>	<p><b>OMNI ANTENNA DISCLAIMER LABEL</b> 24"x36" SCALE: NTS 7</p>  <p><b>ERICSSON - RADIO 2205</b> 24"x36" SCALE: NTS 4</p> 	<p><b>GALTRONICS OMNI ANTENNA</b> 24"x36" SCALE: NTS 1</p> 	<p><b>at&amp;t</b>          1452 EDINGER AVE          TUSTIN, CA 92780</p> <p><b>ERICSSON</b>          330 COMMERCE, STE. 200          IRVINE, CA 92602</p> <p><b>M SQUARE WIRELESS</b>          1987 CALLE AVANZADO          SAN CLEMENTE CA 95050 (951) 949-0004</p>																					
<p><b>SCE UN-METERED FUSED PANEL</b> 24"x36" SCALE: NTS 8</p> 	<p><b>RAYCAP DISCONNECT</b> 24"x36" SCALE: NTS 5</p> 	<p><b>ERICSSON - RADIO 2203</b> 24"x36" SCALE: NTS 2</p> 	<p>DRAWN BY: ESH          CHECKED BY: MM</p> <table border="1"> <thead> <tr> <th>REV</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> </thead> <tbody> <tr> <td>A</td> <td>03/09/2020</td> <td>100% COTS REVISED</td> </tr> <tr> <td>E</td> <td>12/06/2019</td> <td>SCE FINAL POWER</td> </tr> <tr> <td>D</td> <td>10/17/2019</td> <td>100% CONSTRUCTION</td> </tr> <tr> <td>C</td> <td>09/16/2019</td> <td>100% COTS REVISED</td> </tr> <tr> <td>B</td> <td>09/11/2018</td> <td>100% CONSTRUCTION</td> </tr> <tr> <td>A</td> <td>09/17/2018</td> <td>80% CONSTRUCTION</td> </tr> </tbody> </table>	REV	DATE	DESCRIPTION	A	03/09/2020	100% COTS REVISED	E	12/06/2019	SCE FINAL POWER	D	10/17/2019	100% CONSTRUCTION	C	09/16/2019	100% COTS REVISED	B	09/11/2018	100% CONSTRUCTION	A	09/17/2018	80% CONSTRUCTION
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A	03/09/2020	100% COTS REVISED																						
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B	09/11/2018	100% CONSTRUCTION																						
A	09/17/2018	80% CONSTRUCTION																						
<p><b>AT&amp;T MOBILITY FUSED DISCONNECT</b> 24"x36" SCALE: NTS 9</p> 	<p><b>HANDHOLE</b> 24"x36" SCALE: NTS 6</p> 	<p><b>EQUIPMENT SHROUD</b> 24"x36" SCALE: NTS 3</p> 	<p><b>REGISTERED PROFESSIONAL ENGINEER</b>          LOYAL A. WHARTON          CIVIL          STATE OF CALIFORNIA          C50547          DATE SIGNED: 03/09/2020          EXPIRATION DATE: 03/03/2021</p> <p>THIS IS A NOTATION OF LAW FOR AN ADDENDUM, UNLESS THERE ARE ACTS UNDER THE REGISTRATION OF A LICENSED PROFESSIONAL ENGINEER, TO ALTER THIS DOCUMENT.</p> <p><b>SITE ID: CSTAM_003A</b>  <b>CITY STREETLIGHT NO. SCL0796</b>  <b>AT THE NW CORNER OF W. BALBOA BLVD. AND 30TH STREET</b>  <b>NEWPORT BEACH, CA, 92663</b></p> <p>SHEET TITLE  <b>DETAILS</b></p> <p>SHEET NUMBER  <b>D-1</b></p>																					



**NOTE:**

NEW CONDUITS AND UNDERGROUND FACILITIES IN THE ROADWAY SHALL BE INSTALLED ADJACENT OR CLOSEST AS POSSIBLE TO THE EXISTING EDGE OF GUTTER OR CURB. IF THE PROPOSED CONDUIT TRENCH IS IN A TRAFFIC LANE ADJACENT TO THE EXISTING EDGE OF GUTTER OR CURB, COLD PLANING AND PAVEMENT RESURFACING WILL BE REQUIRED FROM THE NEAREST LANE LINE OF THE PROPOSED TRENCH TO THE EXISTING EDGE OF GUTTER OR CURB. IF THE TRENCH WORK IS IN A TRAFFIC LANE BETWEEN TRAFFIC LANES, THE CONTRACTOR WILL BE REQUIRED TO COLD PLAN AND RESURFACE THE ENTIRE TRAFFIC LANE. THE TRENCH OPENING SHALL BE A MINIMUM OF 2' FROM THE EXISTING TRAFFIC LANE. IN ADDITION, IF THE TRENCH WORK EXTENDS INTO ANY PORTION OF AN ADJACENT TRAFFIC LANE OR IS DAMAGED AS A RESULT OF THE CONTRACTOR'S WORK OR IS LESS THAN 5' FROM AN EXISTING UTILITY TRENCH, THE CONTRACTOR WILL BE REQUIRED TO COLD PLAN AND RESURFACE THE ENTIRE TRAFFIC LANE.



NOTE: STREETS/ALLEYS RECENTLY (LAST 5 YEARS) SKIMMED/RESURFACED/PAVED SHALL REQUIRE EXTENSIVE PAVEMENT RESTORATION TO BE DETERMINED BY THE FIELD ENGINEER

REVISED 6/2002

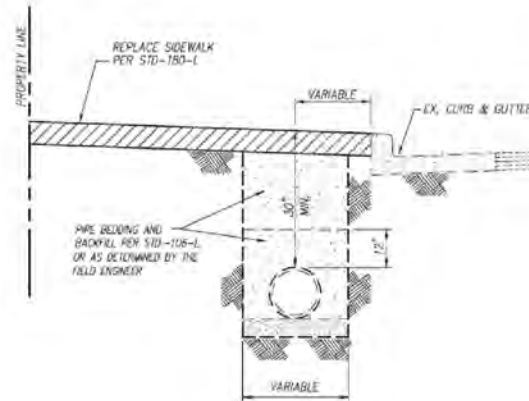
CITY OF NEWPORT BEACH DRAWING STD-105-1-1

**ROADWAY TRENCH DETAIL**24"x36" SCALE: HTS  
11"x17" SCALE: HTS

4

**NOTES:**

1. ANY SIDEWALK REMOVALS MUST BE REPLACED IN FULL PANELS. IN ADDITION, ANY EXISTING CITY IMPROVEMENTS/FACILITIES DAMAGED DURING THE CONSTRUCTION SHALL BE REPLACED/REPAIRED AT THE APPLICANT'S EXPENSE.
2. SIDEWALK SHALL BE RESTORED WITHIN ONE WEEK OF INSTALLATION OF FACILITIES.



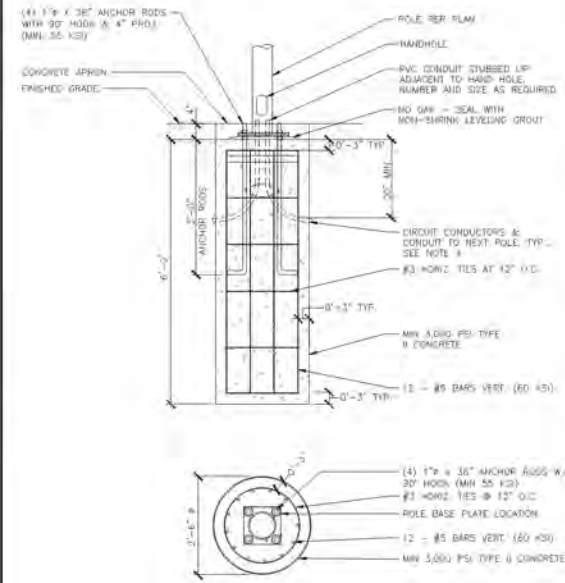
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**PARKWAY TRENCH DETAIL**24"x36" SCALE: HTS  
11"x17" SCALE: HTS

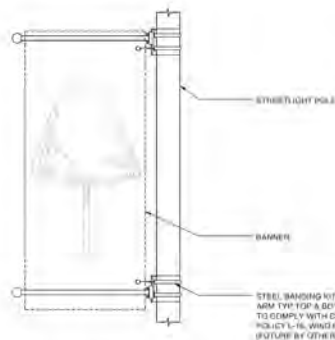
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**NEW FOUNDATION**24"x36" SCALE: HTS  
11"x17" SCALE: HTS

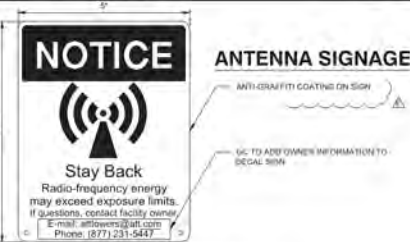
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**CONCRETE NOTES:**

1. ALL CONCRETE MATERIALS AND WORKMANSHIP SHALL CONFORM TO CHAPTER 19 OF THE CBC AND TO ALL REQUIREMENTS OF THE CURRENT EDITION OF ACI 318, BUILDING CODE REQUIREMENTS FOR STRUCTURAL CONCRETE.
2. MIX DESIGN REQUIREMENTS:
  - 2.A. CEMENT SHALL BE TYPE II
  - 2.B. COMPRESSIVE STRENGTH = 3,000 PSI
  - 2.C. MAXIMUM WATER/CEMENT RATIO (W/CM) SHALL BE 0.50
3. ALL REINFORCING STEEL SHALL BE SECURED IN POSITION AND INSPECTED BY THE BUILDING OFFICIAL PRIOR TO PLACING CONCRETE.
4. FOR FIBER CONDUIT, STUB OUT FROM FOUNDATION AWAY FROM STREET SIDE FOR FUTURE FIBER HANDHOLE INSTALLATION.

**WINDBREAKER BRACKET SYSTEM**24"x36" SCALE: HTS  
11"x17" SCALE: HTS

5



**ANTENNA SIGNAGE:**  
ON WOOD POLES - SIGN ON ALUMINUM WITH SS SCREW TO THE POLE.  
ON METAL POLES - ADHESIVE VINYL OR PLACARD STRAPPED WITH SS TIES.  
ON CONCRETE / COMPOSITE - PLACARD STRAPPED WITH SS TIES.  
**SIGN PLACEMENT:**  
AFFIX TO THE STRUCTURE 3'-4' BELOW THE COMMERCIAL RF ANTENNA(S).  
SIZE APPROX. 8" x 5"

**POLE MOUNTED SIGNS**

**OWNER / OPERATOR NOTE:**  
SITE ID LABEL TO BE AFFIXED AT OR NEAR THE POINT OF POWER CONNECTION WITH 12x524 LABELING TAPE OR EQUIVALENT BLACK ON WHITE LABELING TAPE OF AT LEAST 18mm WIDTH WITH EXTRA-STRENGTH ADHESIVE. USE ANY COMPATIBLE 9-TOUCH LABEL MAKER. TEXT SHOULD BE PRINTED IN ALL CAPS WITH A MINIMUM HEIGHT OF 1/2"

**EMERGENCY CONTACT SIGN**24"x36" SCALE: HTS  
11"x17" SCALE: HTS

2



DRAWN BY: KH  
CHECKED BY: MM

REV	DATE	DESCRIPTION
1	03/09/2002	100% CDR REVISED
2	12/06/2009	SIZE FINAL POWER
3	10/17/2009	100% CONSTRUCTION
4	09/16/2009	100% CDR REVISED
5	09/15/2018	100% CONSTRUCTION
6	09/17/2018	90% CONSTRUCTION



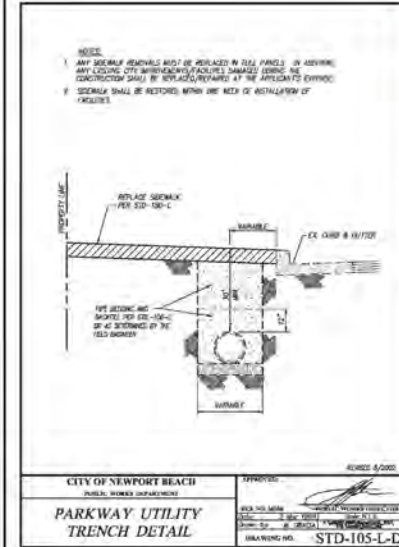
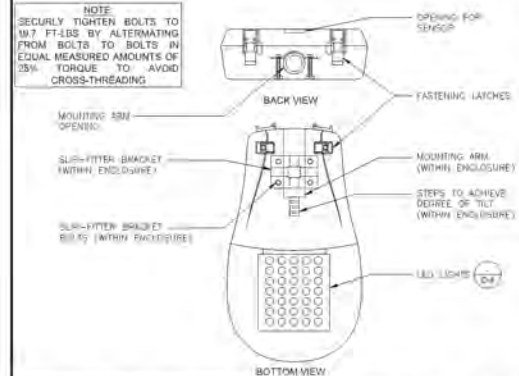
SITE ID: CSTAM\_003A  
CITY STREETLIGHT NO. SCL0796  
AT THE NW CORNER OF W. BALBOA BLVD. AND 30TH STREET  
NEWPORT BEACH, CA, 92663

SHEET TITLE

DETAILS

SHEET NUMBER

D-2

[illegible]

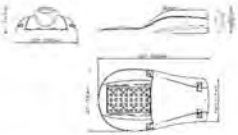


FOR REFERENCE ONLY



### GreenCobra™ Midsize LED Street Light GCM H-Series Specification Data Sheet

Luminaire Data  
Height: 10' to 15' (4.3 m)  
SPL: 4-4.5



#### Ordering Information

Sample Code: 4000-10-15-100-100-100-100-100-100-100-100

Product	LED Code	Height	Color Temperature	Beam Spread	Footcandle	Power	Drive Current Code	Options
4000	4000	10' to 15'	4000K	100°	100	100W	100	4000-10-15-100-100-100-100-100-100-100-100
4000	4000	10' to 15'	4000K	100°	100	100W	100	4000-10-15-100-100-100-100-100-100-100-100

Notes:

1. GreenCobra™ is a registered trademark of Luminance.
2. GreenCobra™ is a registered trademark of Luminance.
3. GreenCobra™ is a registered trademark of Luminance.
4. GreenCobra™ is a registered trademark of Luminance.
5. GreenCobra™ is a registered trademark of Luminance.
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8. GreenCobra™ is a registered trademark of Luminance.
9. GreenCobra™ is a registered trademark of Luminance.
10. GreenCobra™ is a registered trademark of Luminance.

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### GreenCobra™ Midsize LED Street Light GCM H-Series Specification Data Sheet

#### Performance Data: 4000K (4000)

4000K is a registered trademark of Luminance Technologies, Inc.

Product	LED Code	Drive Current Code	System Voltage (V)	Delivered Lumens (lm)	Efficiency (lm/W)	Field Adjustable Output Range
4000	4000	100	100	100	100	100
		100	100	100	100	100
		100	100	100	100	100
		100	100	100	100	100

Notes:

1. GreenCobra™ is a registered trademark of Luminance Technologies, Inc.

#### Performance Data: 4000K (4000) and 4000K (4000)

4000K is a registered trademark of Luminance Technologies, Inc.

Product	LED Code	Drive Current Code	System Voltage (V)	Delivered Lumens (lm)	Efficiency (lm/W)	Field Adjustable Output Range
4000	4000	100	100	100	100	100
		100	100	100	100	100
		100	100	100	100	100
		100	100	100	100	100

Notes:

1. GreenCobra™ is a registered trademark of Luminance Technologies, Inc.

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### GreenCobra™ Midsize LED Street Light GCM H-Series Specification Data Sheet

#### Luminaire Specifications

##### Housing

Die cast aluminum housing with internal

insulation. Die cast aluminum housing with

insulation. Die cast aluminum housing with

insulation. Die cast aluminum housing with

insulation. Die cast aluminum housing with

insulation. Die cast aluminum housing with

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DRAWN BY: EIS  
CHECKED BY: MM

REV	DATE	DESCRIPTION
1	03/09/2020	100% CO'S REVISED
2	12/06/2019	SCF FINAL POWER
3	10/17/2019	100% CONSTRUCTION
4	09/16/2019	100% CO'S REVISED
5	08/21/2018	100% CONSTRUCTION
6	08/17/2018	90% CONSTRUCTION

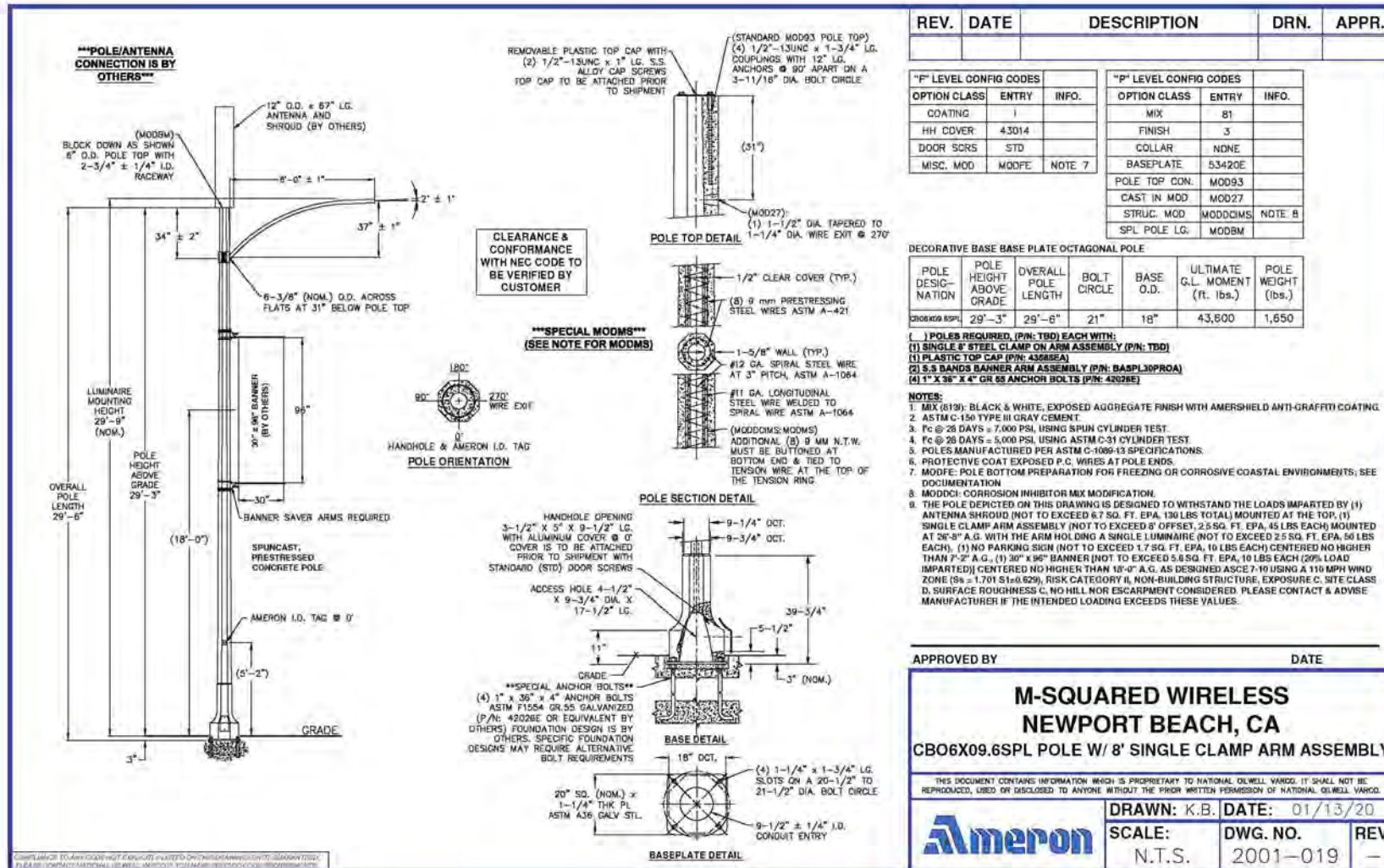
IT IS A VIOLATION OF LAW FOR ANY PERSON, UNLESS THEY ARE ACTING UNDER THE DIRECTION OF A LICENSED PROFESSIONAL ENGINEER, TO ALTER THIS DOCUMENT.

SITE ID: CSTAM\_003A  
CITY STREETLIGHT NO. SCL0796  
AT THE NW CORNER OF W.  
BALBOA BLVD. AND 30TH STREET  
NEWPORT BEACH, CA, 92663

SHEET TITLE  
LUMINAIRE SPECS

SHEET NUMBER  
D-4

## FOR REFERENCE ONLY



330 COMMERCE, STE. 200  
IRVINE, CA 92602



DRAWN BY: ERI  
CHECKED BY: MBO

REV	DATE	DESCRIPTION
1	01/13/2019	100% CDR REVISION
2	12/06/2019	SCF FINAL POWER
3	10/12/2019	100% CONSTRUCTION
4	09/16/2019	100% CDR REVISION
5	08/15/2018	100% CONSTRUCTION
6	08/17/2018	80% CONSTRUCTION
REV	DATE	DESCRIPTION

(THIS IS A PRELIMINARY DRAWING AND NOT FOR CONSTRUCTION. IT IS SUBJECT TO CHANGE WITHOUT NOTICE. IT IS THE RESPONSIBILITY OF THE USER TO VERIFY ALL DIMENSIONS AND SPECIFICATIONS.)

SITE ID: CSTM\_003A  
CITY STREET LIGHT NO. SCL0795  
AT THE NW CORNER OF W.  
BALBOA BLVD. AND 30TH STREET  
NEWPORT BEACH, CA, 92663

SHEET TITLE  
POLE DETAILS

SHEET NUMBER

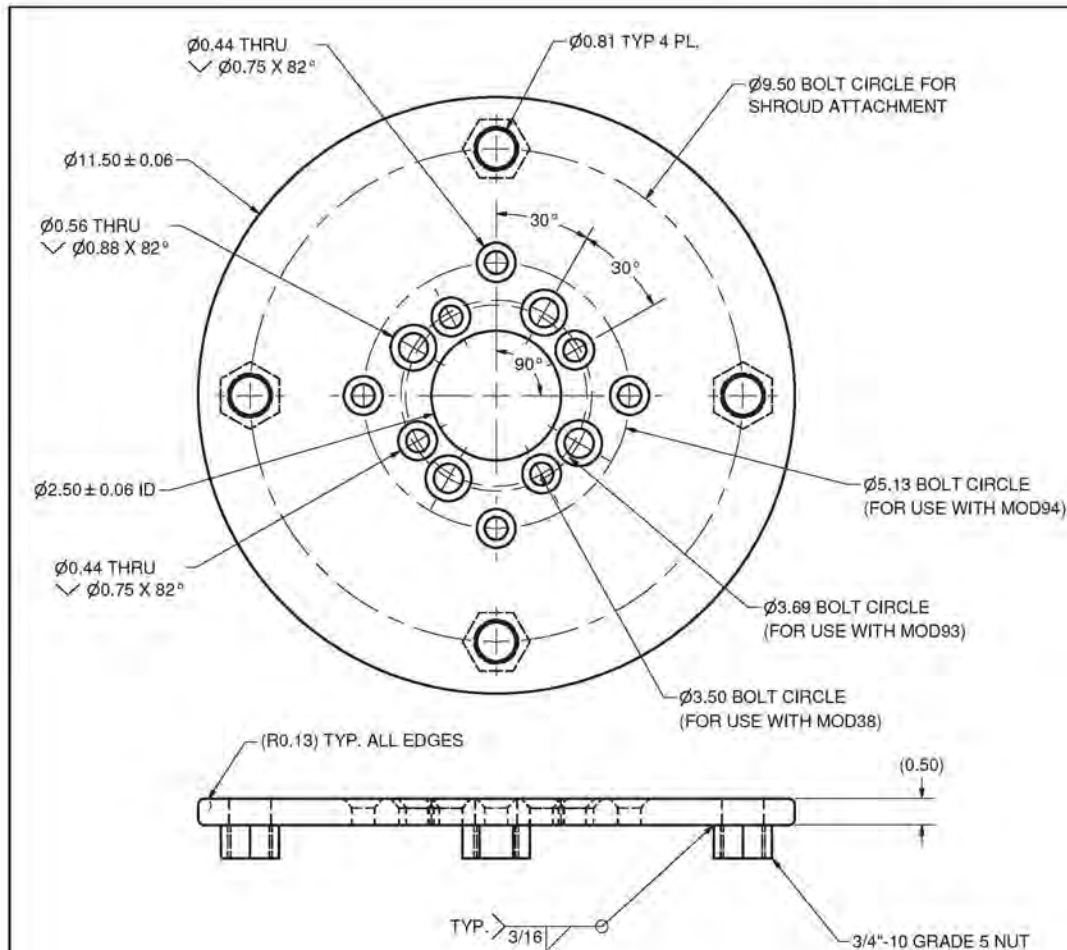
S-1

POLE DETAIL

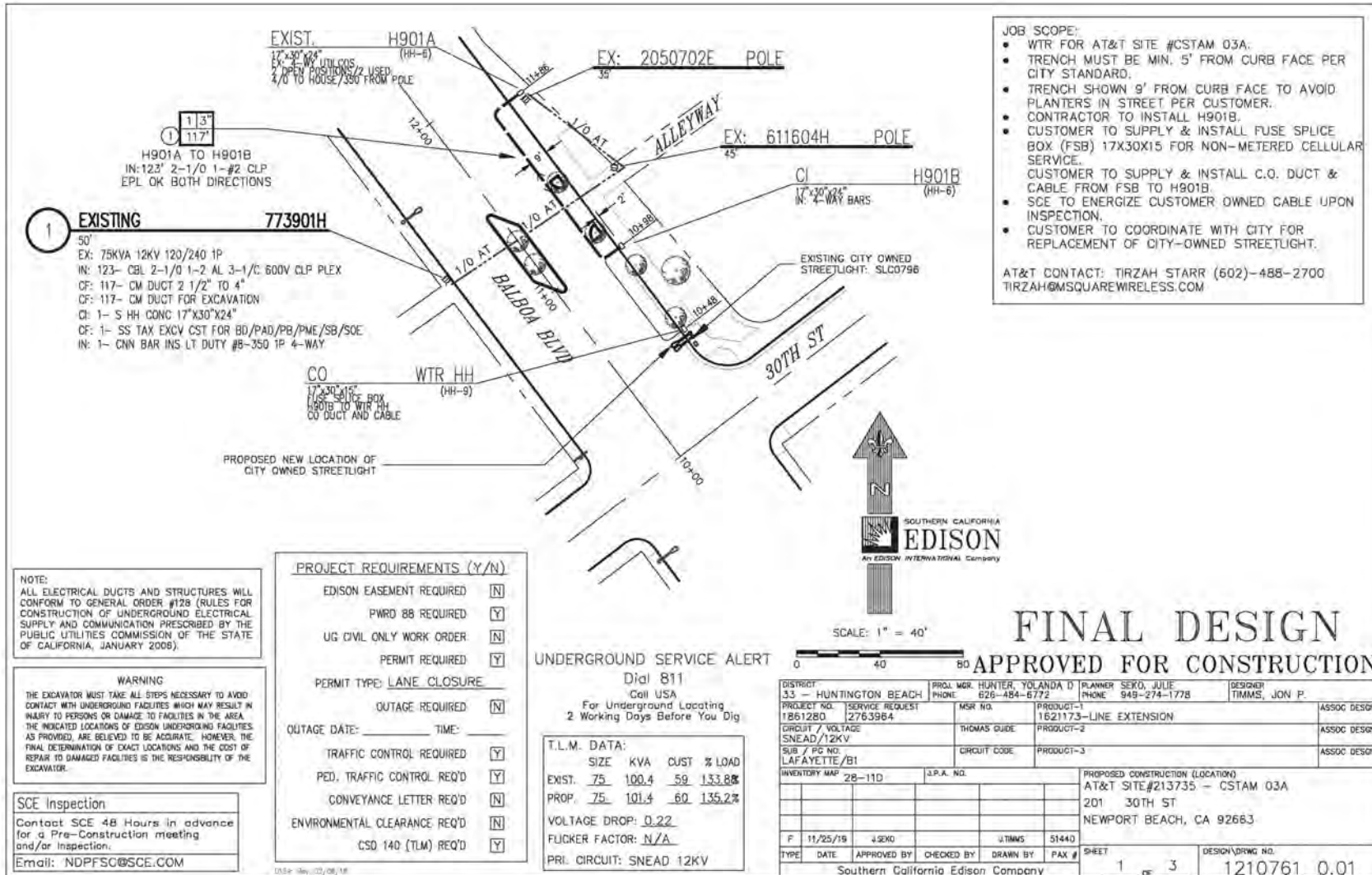
1/4"=1' SCALE: HVB  
1/16"=1' SCALE: HVS



## FOR REFERENCE ONLY



FOR REFERENCE ONLY



DRAWN BY: ESI  
 CHECKED BY: SMO

REV	DATE	DESCRIPTION
A	10/09/2019	100% CDS REVISED
B	12/06/2019	SCE FINAL POWER
C	10/17/2019	100% CONSTRUCTION
D	09/16/2019	100% CDS REVISED
E	09/15/2018	100% CONSTRUCTION
F	09/17/2018	100% CONSTRUCTION
G	09/17/2018	100% CONSTRUCTION



SHEET TITLE  
**SCE FINAL DESIGN**

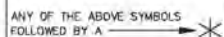
SHEET NUMBER  
**SCE-1**

FINAL POWER

1/4"=10' SCALE: HTS  
1/8"=10' SCALE: HTS



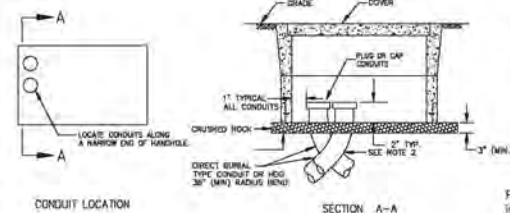
LEGEND OF CONDUIT SYMBOLS  
(CONVENTIONAL U, G.)



FULL ENCASEMENT IS REQUIRED FOR MORE THAN FOUR CONDUITS

U118: Rev. 5/08/2008

TYPICAL ASSEMBLY  
(WITHOUT COVER)



NOTES:

1. SEE UGS MP 200 FOR DIMENSIONS OF VARIOUS SIZE HANDHOLES AVAILABLE.
2. RADIUS ANGLE MAY BE REDUCED TO LESS THAN 90° PROVIDING THE PROJECTED CENTER LINE OF THE CONDUIT CLEARS HANDHOLE OPENING.
3. TWO HOLD DOWN DEVICES TO BE SUPPLIED WITH EACH HANDHOLE.

DDP: 11/13/18

Precast concrete item complete with neck. Cover and inserts may be obtained from any of the following listed and approved manufacturers:

10650 Hemlock Ave., Fontana, Calif. 92337  
Phone: (909) 428-3700  
(800) 626-3860

FOR HANDHOLE AND PULLBOX MANUFACTURERS,  
SEE UGS HP 200.

DISTRICT 33 -- HUNTINGTON BEACH		PROJ. MGR HUNTER, YOLANDA 626-454-8772		PLANNER SEKO, JULIE 949-274-1778		DESIGNER TIMMS, JON P.	
PROJECT NO. 1861280		SERVICE REQUEST 2763984		MSR NO. 1621173		PROJECT-1 1621173--LINE EXTENSION	
CIRCUIT / VOLTAGE SNEAD/12KV		THOMAS GUIDE		PROJECT-2		ASSOC DES	
SUB / PG. NO. LAFAYETTE/B1		CIRCUIT CODE		PROJECT-3		ASSOC DES	
INVENTORY MAP 2B--11D		J.P.A. NO.		PROPOSED CONSTRUCTION (LOCATION) AT&T SITE#1213735 -- CSTAM Q3A 201 30TH ST NEWPORT BEACH, CA 92653			
F 11/25/19		J.S.EKO		J.TIMMS		51440	
TYPE		DATE		APPROVED BY		CHECKED BY	
DRAWN BY		PAX #		SHEET		DESIGN/DWG. NO.	
Southern California Edison Company				2 OF 3		1210761 0.01	

DIRECT BURIAL  
SIMILAR CONSTRUCTION FOR FEWER CONDUIT  
2 CONDUITS MAX.

TIE-IN MADE INTO A SECONDARY HANDHOLE

If PVC conduit is used, riser bend installation may be made by the customer with prior SCE approval. Customer not to remove handhole cover. If metallic conduit is used or handhole cover needs to be removed, a SCE Qualified Person must be present.



## FOR REFERENCE ONLY

## CONSTRUCTION NOTES:

Unless otherwise specified on the working drawings which forms a part of the specification, the Contractor/Developer shall furnish the following items at no cost to the Edison Company:  
 Southern California Edison Company has attempted to correctly show all existing utilities and substructures in this plan. However, the Contractor/Developer shall be responsible for verifying the location and depth of all utilities and substructures. Failure of SCE to show all substructures in their correct location will not be a basis for a claim for extra work, and the contractor shall be responsible for all damages to substructures whether shown or not.

## 1. FOR GENERAL SPECIFICATIONS SEE USQ G 001.

## 2. CONDUIT:

- Minimum cover in street or pathway is 30" below gutter grade, unless noted otherwise.
- Minimum cover on private property is 30" below finished grade, unless noted otherwise.
- Conduits shall be installed in accordance with the Edison Company's specifications per USQ CD 100.1, 110 AND 130.
- For the type of conduit for this job, see USQ CD 100.1.
- Install all wires per USQ CD 160, 161, 162 and 170.
- Conduit shall be installed in accordance with the Edison Company's specifications per USQ CD 100.1, 110 AND 130.
- Conduit shall be installed in accordance with the Edison Company's specifications per USQ CD 100.1, 110 AND 130.
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- Conduit shall be installed in accordance with the Edison Company's specifications per USQ CD 100.1, 110 AND 130.

## 3. CONDUIT RADIUS REQUIREMENTS:

- The minimum radius of conduit shall be:  
 a. 30" for conduits 3" in diameter or smaller.  
 b. 45" for conduits 4" and 5" in diameter.  
 c. 60" for conduits 6" and 8" in diameter.
- The minimum radius for all depths of all income conduits is 12'-6" (unless noted otherwise).

## 4. EXCAVATION AND BACKFILL:

- Excavations shall be backfilled and rough graded to within four inches of final grade prior to installation of Edison conduit or structures.
- Excavations shall be in accordance with the California State Construction Safety Orders (when applicable), Edison specifications, and all governing local ordinances.
- Excavations shall be backfilled with approved backfill material in accordance with Edison specifications.
- Backfill shall be provided by the Contractor for all excavations and shall include crushed rock, concrete, and/or imported backfill, when required.
- Backfill shall be compacted in 6" lifts with a minimum of one pass per lift using a vibratory plate compactor or equivalent.
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## 5. PAVING:

Paving, where required, shall be placed in such a manner that interference with traffic, including pedestrian traffic, will be kept to a minimum. The Contractor shall initiate a program of repairing acceptable to the Municipality, County, or other authority having jurisdiction and which is acceptable to Edison.

## 6. STRUCTURES:

- All substructures shall be constructed or installed to Edison specifications.
- All structures shall be constructed or installed to Edison specifications.
- All structures shall be constructed or installed to Edison specifications.
- All structures shall be constructed or installed to Edison specifications.

## 7. RETAINING WALLS:

When required, retaining walls shall be provided by the Developer. Walls are required wherever grade rises more than 18 inches above the structure or 24" above the post surface at a distance of 5 feet from the wall, or in areas subject to erosion. Design and installation must comply with local building ordinances. Refer to Edison Inspector for typical specifications.

## 8. PERMITS:

All permits necessary for excavation shall be provided by the Contractor/Developer.

## 9. ACCESS:

Heavy truck access shall be maintained to equipment locations. Structures must be clear of all equipment and shall not obstruct the loading or unloading of equipment.

## 10. SERVICES:

Measure and service shall comply with Edison Electrical Service Requirements.

## 11. LOCATION:

- The location of structures and structures to Edison shall be as shown on the working drawings. No structure shall be located in a location not shown on the working drawings.
- The location of structures shall be as shown on the working drawings.
- The location of structures shall be as shown on the working drawings.

## 12. CONVEYANCE:

Conveyance shall be in accordance with the Edison Company's specifications.

## 13. SURVEY:

Surveying of street improvements, property corners, lot lines, finished grade, etc., necessary for the installation of underground facilities must be completed and markers or stakes placed prior to the start of the installation. Edison Company will maintain the markers during the installation and inspection by Edison.

## 14. COORDINATION AND SUPERVISION:

The Contractor shall coordinate with Edison Company and Edison Company shall coordinate with the Edison Company. The Contractor shall coordinate with Edison Company and Edison Company shall coordinate with the Edison Company.

## 15. TELEPHONE AND OTHER UTILITY REQUIREMENTS:

The drawings prepared for this job may show the facilities to be installed for the telephone company and/or other utility. Any questions concerning details of their installation should be referred to the company concerned.

## 16. DIMENSIONS:

Developer is to send to the Edison Company all structures shown herein except those shown as customer owned.

## 17. WARRANTY:

Applicants expressly represent and warrant that all work performed and all materials used in meeting Applicant's requirements shall be in accordance with the Edison Company's specifications and standards. The Edison Company shall not be responsible for any damage to Edison Company's facilities or equipment caused by the Contractor/Developer's failure to comply with the Edison Company's specifications and standards. The Edison Company shall not be responsible for any damage to Edison Company's facilities or equipment caused by the Contractor/Developer's failure to comply with the Edison Company's specifications and standards.

## 18. INSPECTION:

Inspection is required during the construction period. A 48-hour advance notice of intent to start construction is required from the contractor to the Southern California Edison Company. Standards of Edison construction requirements are available upon request.

Duct and Structure Inspector: NBPFC@SCE.COM

Cabling Construction Coordinator:

Phone: (916) 441-1111

DISTRICT 33 - HUNTINGTON BEACH	PROJ. MGR. HUNTER, YOLANDA D	PLANNER SEXO, JULIE	DESIGNER TIMMS, JON P.
PROJECT NO. 1861280	SERVICE REQUEST MSR NO. 2763964	PRODUCT-1 1521173-LINE EXTENSION	ASSOC DESIGN
CIRCUIT / VOLTAGE SNEAD/12KV	THOMAS GUIDE	PRODUCT-2	ASSOC DESIGN
SUB / PG NO. LAFAYETTE/B1	CIRCUIT CODE	PRODUCT-3	ASSOC DESIGN
INVENTORY MAP 28-11D	J.P.A. NO.	PROPOSED CONSTRUCTION (LOCATION) AT&T SITE#213735 - CSTAM 03A 201 30TH ST NEWPORT BEACH, CA 92663	
F 11/25/19	JSEXO	JTIMMS	51440
TYPE	DATE	APPROVED BY	CHECKED BY
Southern California Edison Company			
SHEET 3 OF 3		DESIGN/DWG. NO. 1210761_0.01	



1452 EDINGER AVE  
TUSTIN, CA 92780



330 COMMERCE, STE. 200  
IRVINE, CA 92602



1887 CALLE AVANZADO  
SAN CLEMENTE, CA 95051 (951) 997-4824

DRAWN BY: JH  
CHECKED BY: JH

REV	DATE	DESCRIPTION
A	03/09/2019	100% CDS/REVISED
E	12/06/2019	SCE FINAL POWER
D	10/17/2019	100% CONSTRUCTION
C	09/16/2019	100% CDS/REVISED
B	08/15/2018	100% CONSTRUCTION
A	08/17/2018	90% CONSTRUCTION
REV	DATE	DESCRIPTION

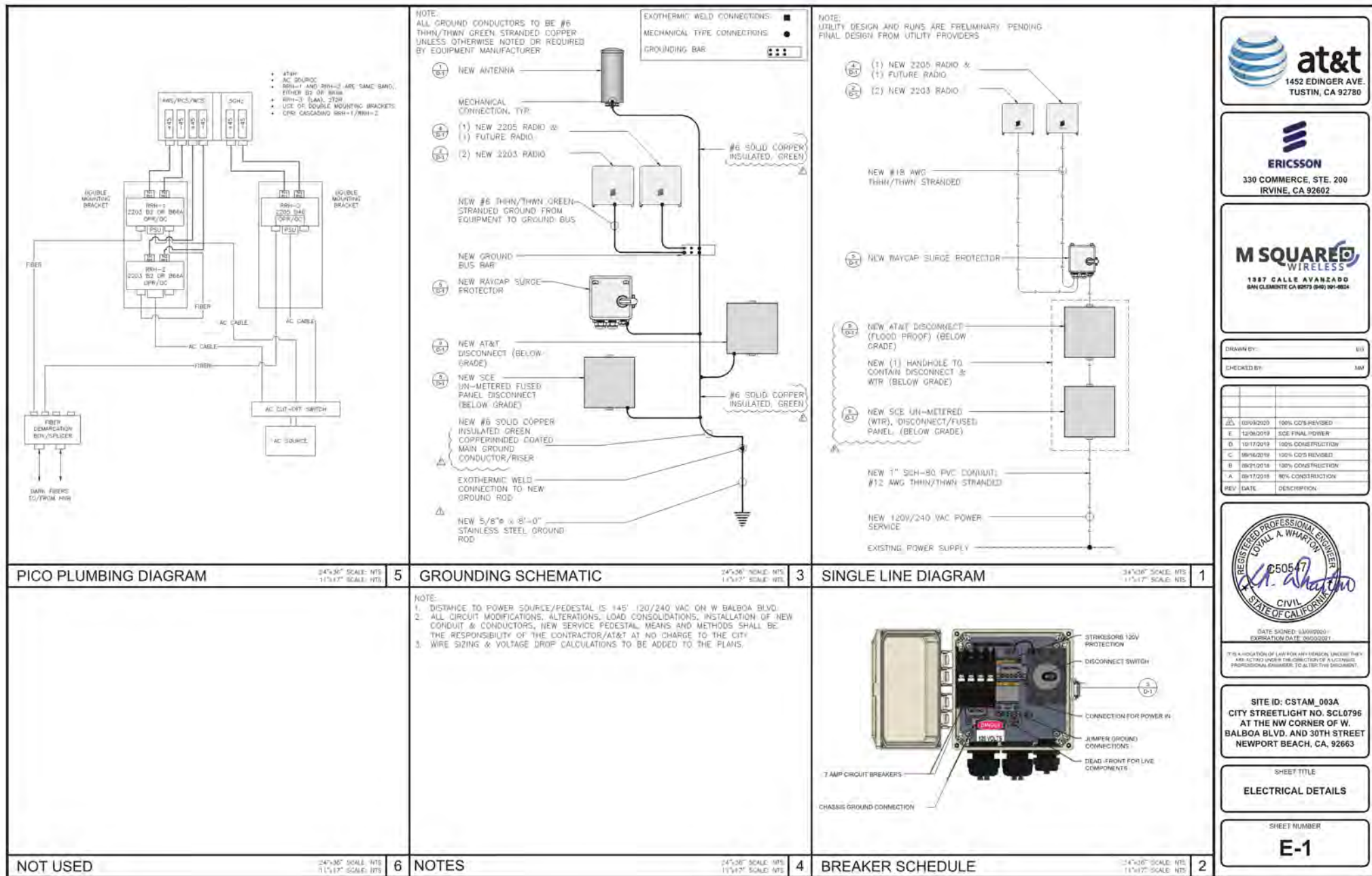
THIS A PROJECT OF THE CITY OF NEWPORT BEACH, CALIFORNIA. THE CITY OF NEWPORT BEACH, CALIFORNIA, IS THE OWNER OF THE PROJECT. THE CITY OF NEWPORT BEACH, CALIFORNIA, IS THE OWNER OF THE PROJECT.

SITE ID: CSTAM\_003A  
CITY STREETLIGHT NO. SCL0796  
AT THE NW CORNER OF W.  
BALBOA BLVD. AND 30TH STREET  
NEWPORT BEACH, CA, 92663

SHEET TITLE  
SCE FINAL DESIGN

SHEET NUMBER  
SCE-3



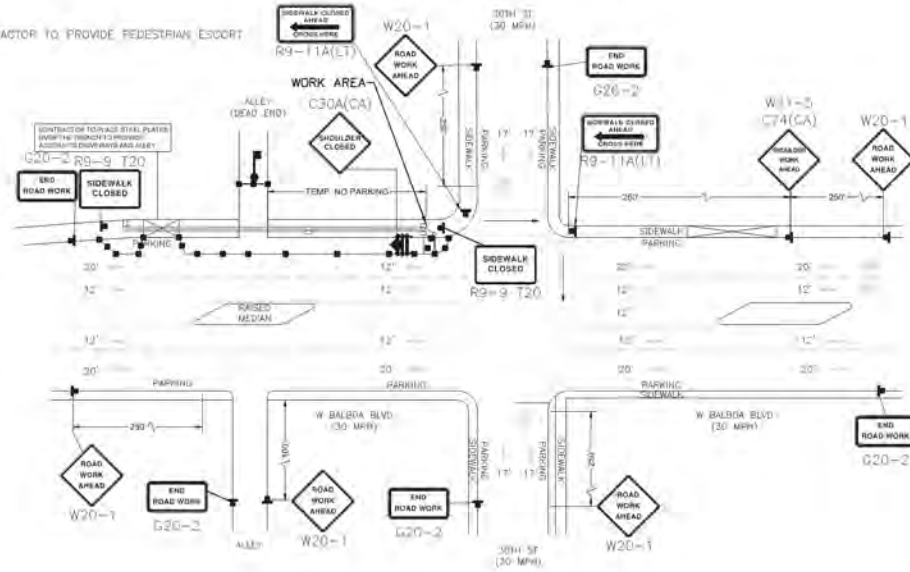


## NOTES:

- ALL TRAFFIC CONTROL DEVICES SHALL CONFORM TO THE LATEST EDITION OF THE CALIFORNIA MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (2014 CALIFORNIA MUTCD) AND THE STANDARD SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION.
- THE CITY TRAFFIC ENGINEER OR HIS REPRESENTATIVE HAS THE AUTHORITY TO INITIATE FIELD CHANGES TO ASSURE PUBLIC SAFETY.
- ALL TRAFFIC CONTROL DEVICES SHALL BE REMOVED FROM VIEW WHEN NOT IN USE.
- WORK HOURS SHALL BE RESTRICTED TO THE PERIOD BETWEEN 7:00 A.M. AND 5:00 P.M., MONDAY THROUGH FRIDAY, UNLESS APPROVED OTHERWISE. WHEN NIGHT WORK IS REQUIRED, WORK HOURS SHALL BE 9:00 P.M. TO 5:00 A.M. SUNDAY THROUGH FRIDAY.
- TRENCHES MUST BE BACK FILLED OR PLATED DURING NON-WORKING HOURS.
- PEDESTRIAN CONTROLS SHALL BE PROVIDED AS SHOWN ON THE PLANS.
- TEMPORARY "NO PARKING SIGNS" SHALL BE POSTED 72 HOURS PRIOR TO COMMENCING WORK IN ALL PARKING ZONES.
- ACCESS TO DRIVEWAYS WILL BE MAINTAINED AT ALL TIMES UNLESS OTHER ARRANGEMENTS ARE MADE.
- THE CONTRACTOR SHALL REPLACE WITHIN 72 HOURS ALL TRAFFIC SIGNAL LOOP DETECTORS DAMAGED DURING CONSTRUCTION.
- THE CONTRACTOR SHALL REPLACE WITHIN 24 HOURS, ALL STRIPING, REMOVED OR DAMAGED BY CONSTRUCTION WORK. (STRIPING MAY BE REPLACED TEMPORARILY WITH TAPE.)
- ALL WORKERS SHALL BE EQUIPPED WITH AN ORANGE VEST (OR A REFLECTIVE VEST AT NIGHT); ALL FLAGGERS SHALL BE EQUIPPED WITH A HARD HAT, C28 "STOP/SLOW" PADDLE AND SHALL BE TRAINED IN THE PROPER FUNDAMENTALS OF FLAGGING TRAFFIC.
- ANY WORK THAT DISTURBS NORMAL TRAFFIC SIGNAL OPERATIONS SHALL BE COORDINATED WITH THE CITY 48 HOURS PRIOR TO BEGINNING CONSTRUCTION.
- THE CONTRACTOR SHALL MAINTAIN ALL TRAFFIC DEVICES 24 HOURS PER DAY AND 7 DAYS PER WEEK.
- A MINIMUM OF 10' TRAVEL LANES MUST BE MAINTAINED UNLESS OTHERWISE APPROVED THE CITY.
- ALL NIGHT WORK WILL REQUIRE WRITTEN APPROVAL FROM THE CITY; LANE CLOSURES, ROAD DETOURS, AND TRAFFIC SIGNAL MODIFICATIONS ASSOCIATED WITH OVERNIGHT CONSTRUCTION ACTIVITIES WILL REQUIRE WARNING SIGNS BE PLACED AT LEAST ONE WEEK IN ADVANCE OR STARTING CONSTRUCTION.
- A SOLAR POWERED FLASHING ARROW BOARD SHALL BE REQUIRED ON ALL ARTERIAL STREET LANE CLOSURES.
- THE CONTRACTOR SHALL NOTIFY TRANSIT AUTHORITY IN ADVANCE AND PROVIDE TEMPORARY RELOCATED BUS STOPS.
- TRAFFIC CONTROL PLAN COMPLIES WITH 2016 WATCHBOOK REQUIREMENTS.

NOTE:  
FLAGGER TO ASSIST VEHICULAR TRAFFIC. USE STEEL PLATES AS NEEDED.

NOTE:  
CONTRACTOR TO PROVIDE PEDESTRIAN ESCORT.



## CITY NOTE:

TRAFFIC CONTROL PLANS ARE NOT TO BE USED FOR CONSTRUCTION AND NEW TOP WILL BE SUBMITTED AND APPROVED AS PART OF THE ENCROACHMENT PERMITS APPLICATION.



DRAWN BY: ERI  
CHECKED BY: SMO

REV	DATE	DESCRIPTION
A	10/19/2019	100% CDS REVISION
E	12/06/2019	50% FINAL POWER
D	10/17/2019	100% CONSTRUCTION
C	09/16/2019	100% CDS REVISION
B	09/16/2019	100% CONSTRUCTION
A	09/17/2018	90% CONSTRUCTION
REV	DATE	DESCRIPTION



THIS IS A NOTIFICATION OF LANE FOR AN ENCROACHMENT, UNLESS OTHERWISE NOTED, UNDER THE SUPERVISION OF A LICENSED PROFESSIONAL ENGINEER, TO ALTER THE DOCUMENT.

SITE ID: CSTAM\_003A  
CITY STREETLIGHT NO. SCL0796  
AT THE NW CORNER OF W. BALBOA BLVD. AND 30TH STREET  
NEWPORT BEACH, CA, 92663

SHEET TITLE  
TRAFFIC CONTROL  
PLAN

SHEET NUMBER  
TC-1

MINIMUM RECOMMENDED DELINEATOR/CONE & SIGN PLACEMENT					
TABLE 6H-4 FORMULAS BASED ON 12' WIDE LANES: 40 MPH OR LESS: L=WS/60 45 MPH OR MORE: L=WS					
POSTED SPEED LIMIT	TAPER LENGTH "L" EACH LANE	DELINEATOR SPACING	SIGN SPACING "S" ADVANCE OF TAPERS & BETWEEN SIGNS	BUFFER SPACE	
25 MPH	125 FT	25 FT	50 FT	125 FT	158 FT
30 MPH	150 FT	30 FT	60 FT	150 FT	205 FT
35 MPH	245 FT	35 FT	70 FT	245 FT	257 FT
40 MPH	320 FT	40 FT	80 FT	320 FT	315 FT
45 MPH	540 FT	50 FT	100 FT	540 FT	378 FT
50 MPH	600 FT	50 FT	100 FT	600 FT	446 FT
55 MPH	660 FT	50 FT	100 FT	660 FT	520 FT
60 MPH	720 FT	50 FT	100 FT	720 FT	588 FT
65 MPH	780 FT	50 FT	100 FT	780 FT	652 FT
L FOR MERGE TAPER 125 FOR SHIFT TAPER 125 FOR SHOULDER TAPER				TANGENT SPACE	100 FT MIN

LEGEND	
	FLASHING ARROW SIGN
	CHANNELIZING DEVICE
	HIGH LEVEL WARNING DEVICE
	PROPOSED SIGN AND POST
	TYPE I BARRICADE
	TYPE I BARRICADE W/ PROPOSED SIGNS
	TYPE II BARRICADE
	TYPE II BARRICADE W/ PROPOSED SIGNS
	SIGNALIZED INTERSECTION
	CONSTRUCTION AREA
	FLAGGER

TRAFFIC CONTROL PLAN

3/4"=1' SCALE: 1" = 50'-0"  
1 1/4"=1' SCALE: 1" = 60'-0"





## AT&T Coverage Maps\*

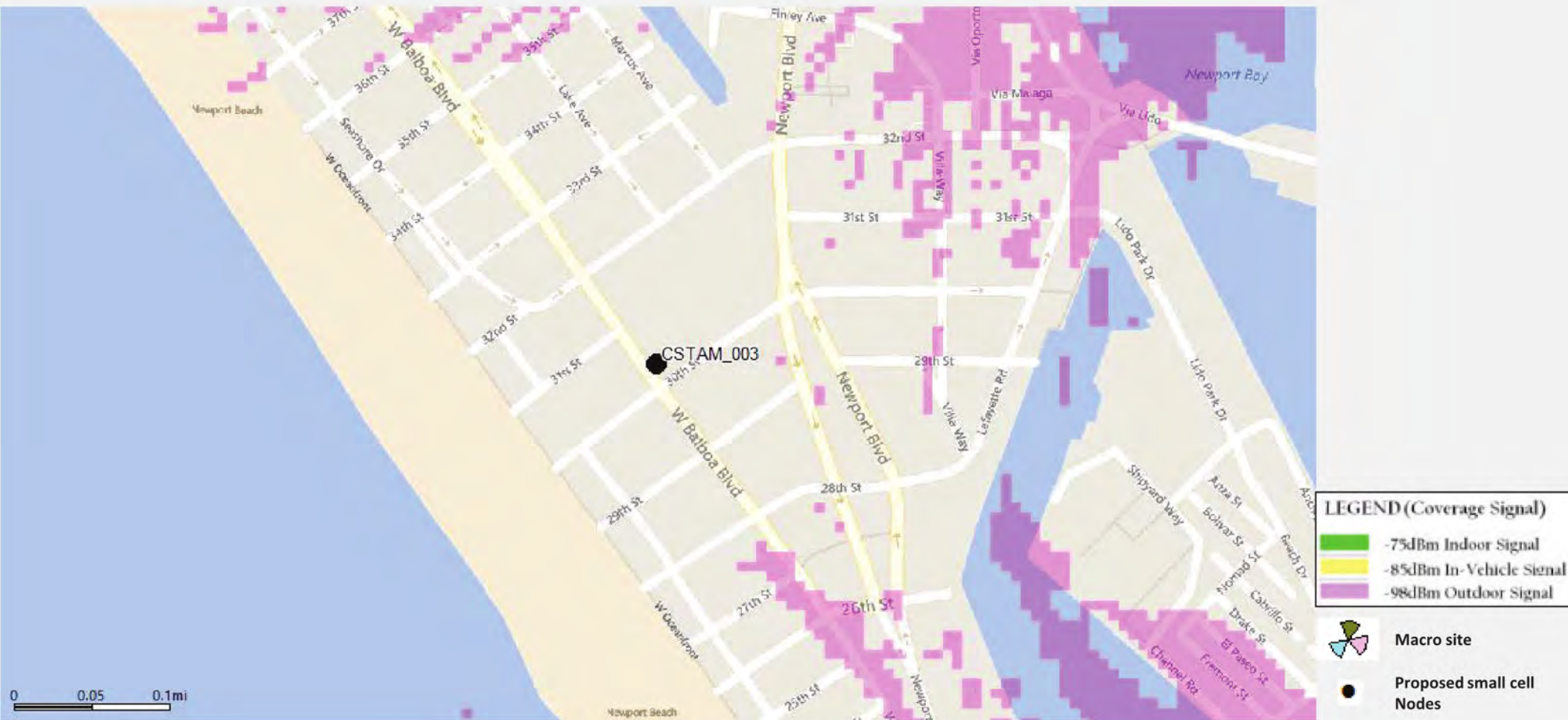
### Small Cell node CRAN\_RLOS\_CSTAM\_NODE\_003

\*

In its recent small cell deployment order, the FCC rejected the need for wireless providers to demonstrate a significant gap to support a wireless siting application. The FCC explained that a local government could effectively prohibit wireless service “not only by rendering a service provider unable to provide existing service in a new geographic area or by restricting the entry of a new provider in providing service in a particular area, but also by materially inhibiting the introduction of new services or the improvement of existing services. Thus, an effective prohibition includes materially inhibiting additional services or improving existing services.” So, such maps cannot be required. Nonetheless, to comply with the city’s application requirements, AT&T is submitting signal strength coverage maps that depict its wireless service coverage for LTE service at 1900 MHz as it exists now and as predicted after the small cell is installed and on air. Note, however, that the city’s requirement for these maps is inappropriate under applicable law and not relevant in any event because AT&T’s proposed facility provides capacity relief within the existing wireless network.

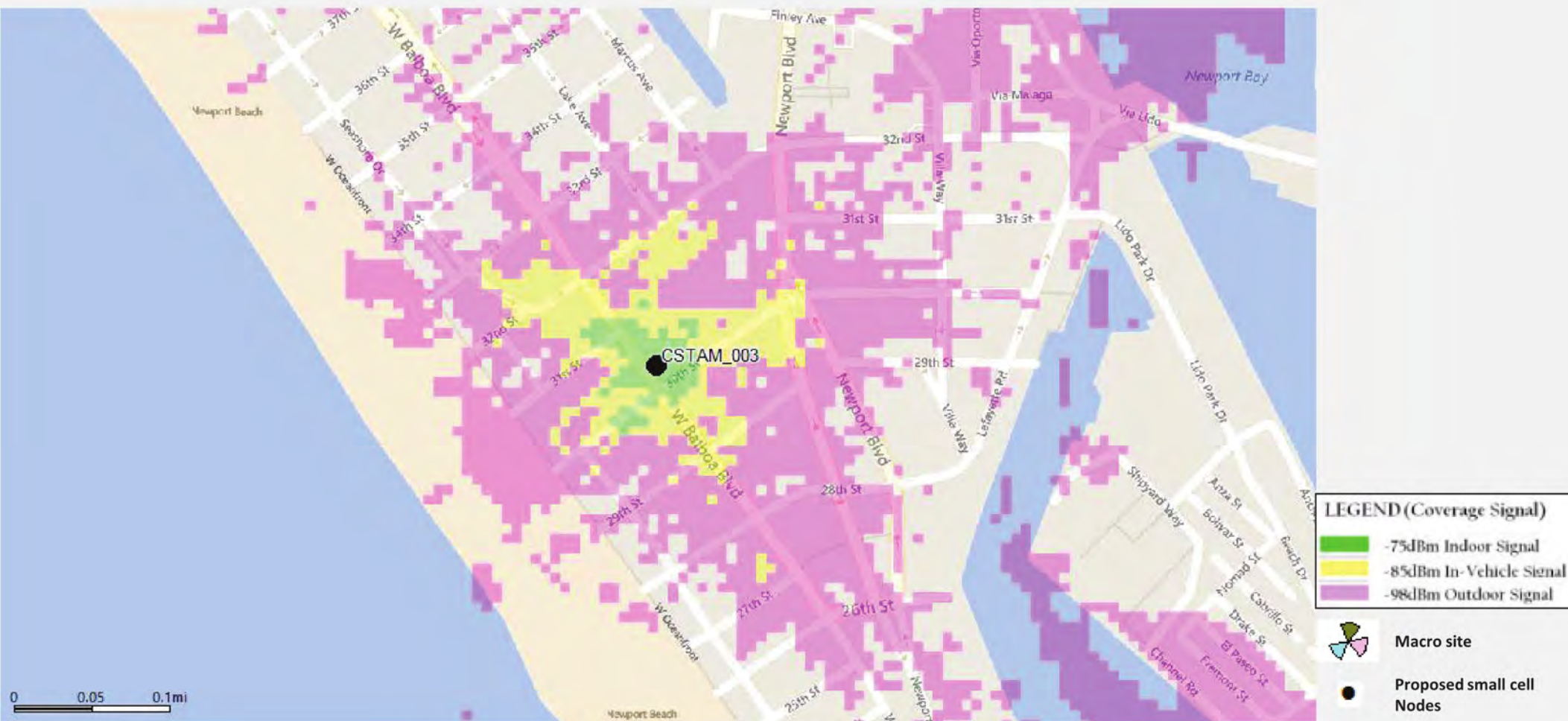


# LTE 1900\_Coverage without Small cell





# LTE 1900\_Coverage with Small cell







## CRAN\_RLOS\_CSTAM\_003

CSTAM 03A



City streetlight No. SCL0796 at the northwestern corner of W. Balboa Blvd. and 30th St., Newport Beach, CA 92663



LOCATION

@2016 Google Maps



EXISTING



PROPOSED

VIEW 1 | LOOKING SOUTHEAST





## CRAN\_RLOS\_CSTAM\_003

CSTAM 03A



City streetlight No. SCL0796 at the northwestern corner of W. Balboa Blvd. and 30th St., Newport Beach, CA 92663



VIEW 2 | LOOKING NORTHEAST





## CRAN\_RLOS\_CSTAM\_003

CSTAM 03A



City streetlight No. SCL0796 at the northwestern corner of W. Balboa Blvd. and 30th St., Newport Beach, CA 92663



LOCATION

@2016 Google Maps



EXISTING



PROPOSED

VIEW 3 | LOOKING NORTH



## July 9, 2020, Planning Commission Item 4 Comments

These comments on a Newport Beach Planning Commission [agenda](#) item are submitted by:

Jim Mosher ( [jimmosher@yahoo.com](mailto:jimmosher@yahoo.com) ), 2210 Private Road, Newport Beach 92660 (949-548-6229).

### **Item No. 4. AT&T SMALL CELL SLC0796 APPEAL (PA2019-111)**

It is gratifying to see staff acknowledge (pages 8, 9 and 97) that when they are the Coastal Zone, construction of these small cell installations on (replacement) streetlight poles requires a Coastal Development Permit – something not formerly approved for any of them by the Zoning Administrator.

This raises a question about the status of the several similar applications for which the ZA approved Minor Use Permits, only – including the one on Bayside Drive for which a call for review was scheduled as [Item No. 3](#) at the PC's June 4, 2020, meeting, but not heard due to the call for review having been filed one day late (the present appeal was Item 2 at the same meeting, but continued). Will those projects now also need CDP's from the ZA?

Particularly problematic without a CDP was the May 28, 2020 (ZA [Item 3](#)), approval of an installation on a streetlight in the approach to the Newport Island bridge, since the proposed construction will occur within less than 20 feet of coastal waters, which even under the Coastal Commission's Repair and Maintenance criteria in [14 CCR Section 13252](#) would likely disqualify it for a CDP exemption.

Regarding the present resolution:

1. In Section 2.1 (page 22): The Class 3 (New Construction or Conversion of Small Structures) CEQA exemption seems much more relevant than Class 2 (Replacement or Reconstruction). In fact, Class 2 does not seem applicable, since the new structure will *not* "have substantially the same purpose and capacity as the structure replaced." Although a portion of the existing facility is being replaced, it is fundamentally a conversion to accommodate and additional use. I would suggest the reference to Class 2 be deleted.
2. In Condition 11 (page 32), the reference to "43.57 feet above mean sea level using the North American Vertical Datum of 1988" needs to be clarified. "Above mean sea level" is not the same as NAVD88. The condition is either "43.57 feet above mean sea level" or "43.57 feet in the NAVD88 reference system." It cannot be both. Since it only creates confusion, I would suggest deleting the final parenthetical portion of the condition.<sup>1</sup>

As to the appeal, although federal law may prohibit the City from denying the application based on residents' concerns about electromagnetic radiation, the request that the applicant be insured against possible future claims related to that seems reasonable – if, for no other reason, to ensure the applicant can fulfill its responsibility under Condition 34 (page 35) to indemnify the City.

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<sup>1</sup> Page 132 indicates the ground level at the pole site is 8.82' AMSL, as does page 130. Although the latter confusingly certifies "the elevations shown hereon are Above Mean Sea Level, North American Vertical Datum 1988 (NAVD 88)," they appear to be AMSL. In creating Condition 11, someone has evidently added the promised 34' 9" (34.75') to the 8.82' AMSL to obtain 43.57' AMSL (an approximate elevation of 46.2' NAVD 88 per NOAA's [online VDATUM?](#)).





# AT&T Small Cell SLC0796

Public right-of-way at the northwestern corner of  
Balboa Boulevard and 30<sup>th</sup> Street



**Planning  
Commission**

**Public Hearing**

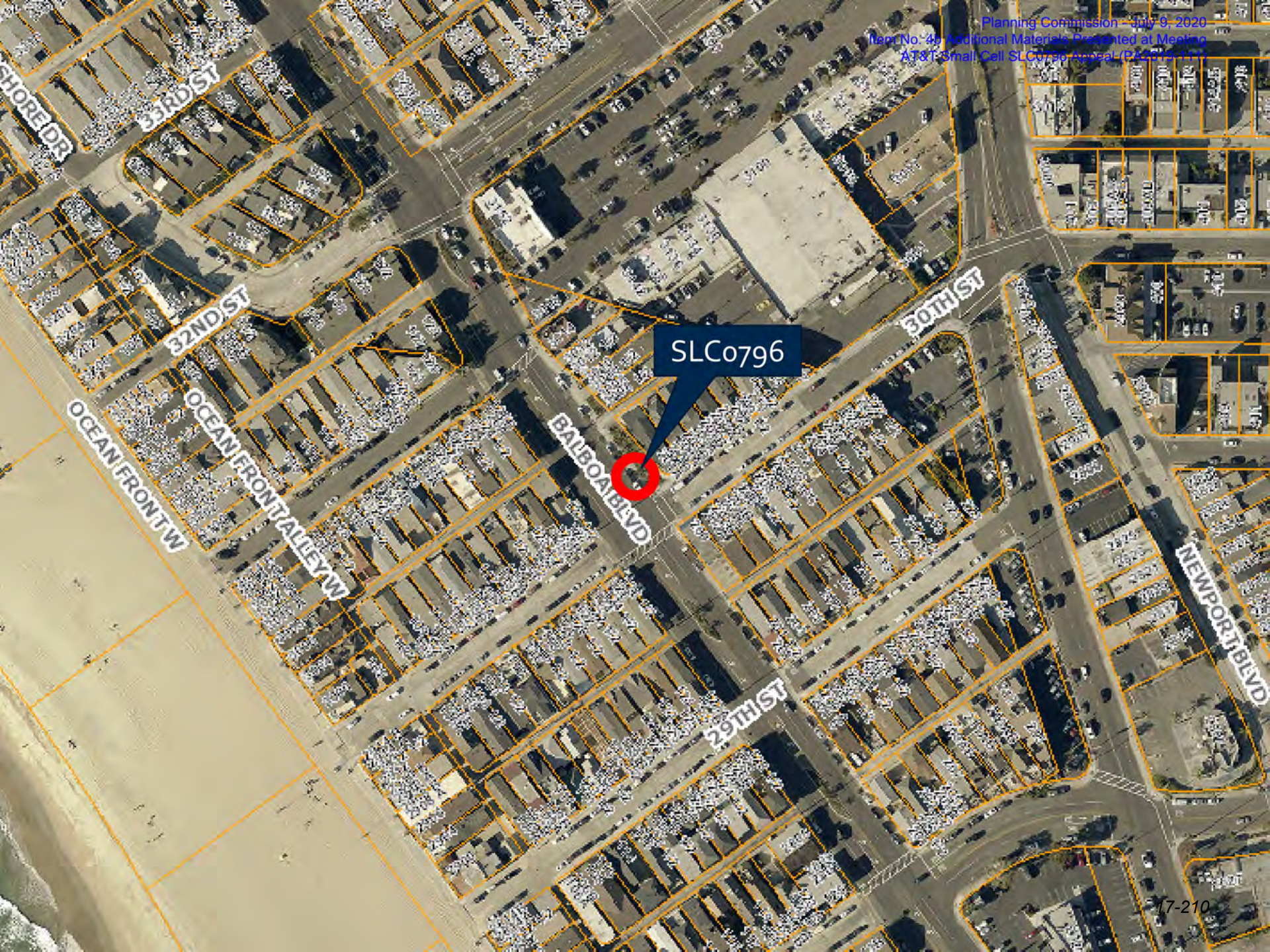
**July 9, 2020**



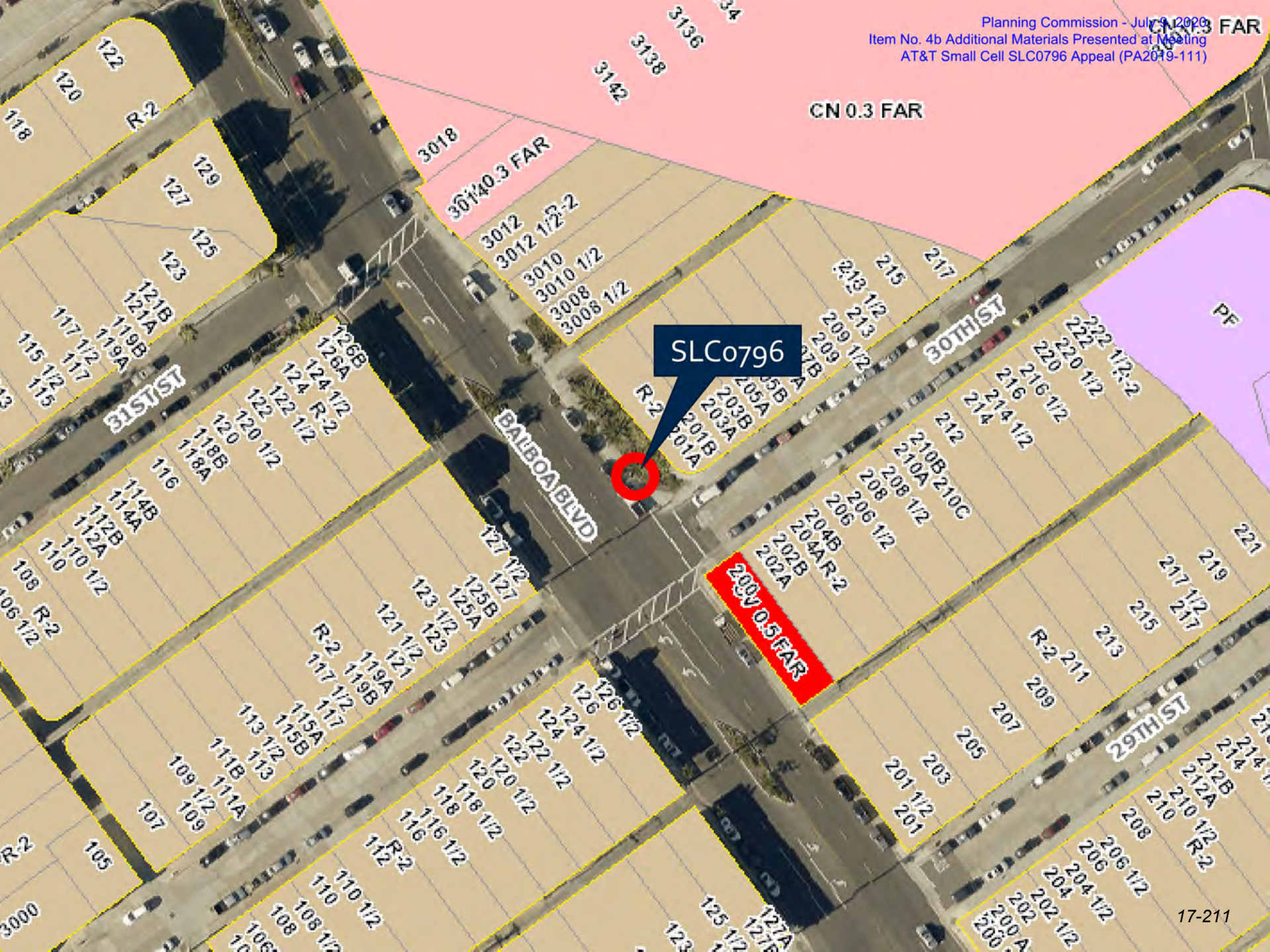
## Background

- **City's review limited by federal law**
  - Aesthetics
  - Land use
  - Environmental impacts
- **February 12, 2019, CC authorized MLA with New Cingular Wireless, LLC for use of City-owned streetlights**
- **April 16, 2020, Zoning Administrator approves MUP for installation on SLC0796**
- **April 28, 2020, appeal filed by Mark Pollock citing underlying issues with MLA**
- **June 4, 2020, pulled from PC agenda for additional analysis**













## Request

- Remove SLC0796
- Replace in same location
- Same luminaire height (light source)
- Height increase from 30'-2" to 34'-9"
- Antennas enclosed in screen
- Support equipment vaulted below grade
- Requires MUP for Class 3 Installation
- Also requires CDP







# Rendering

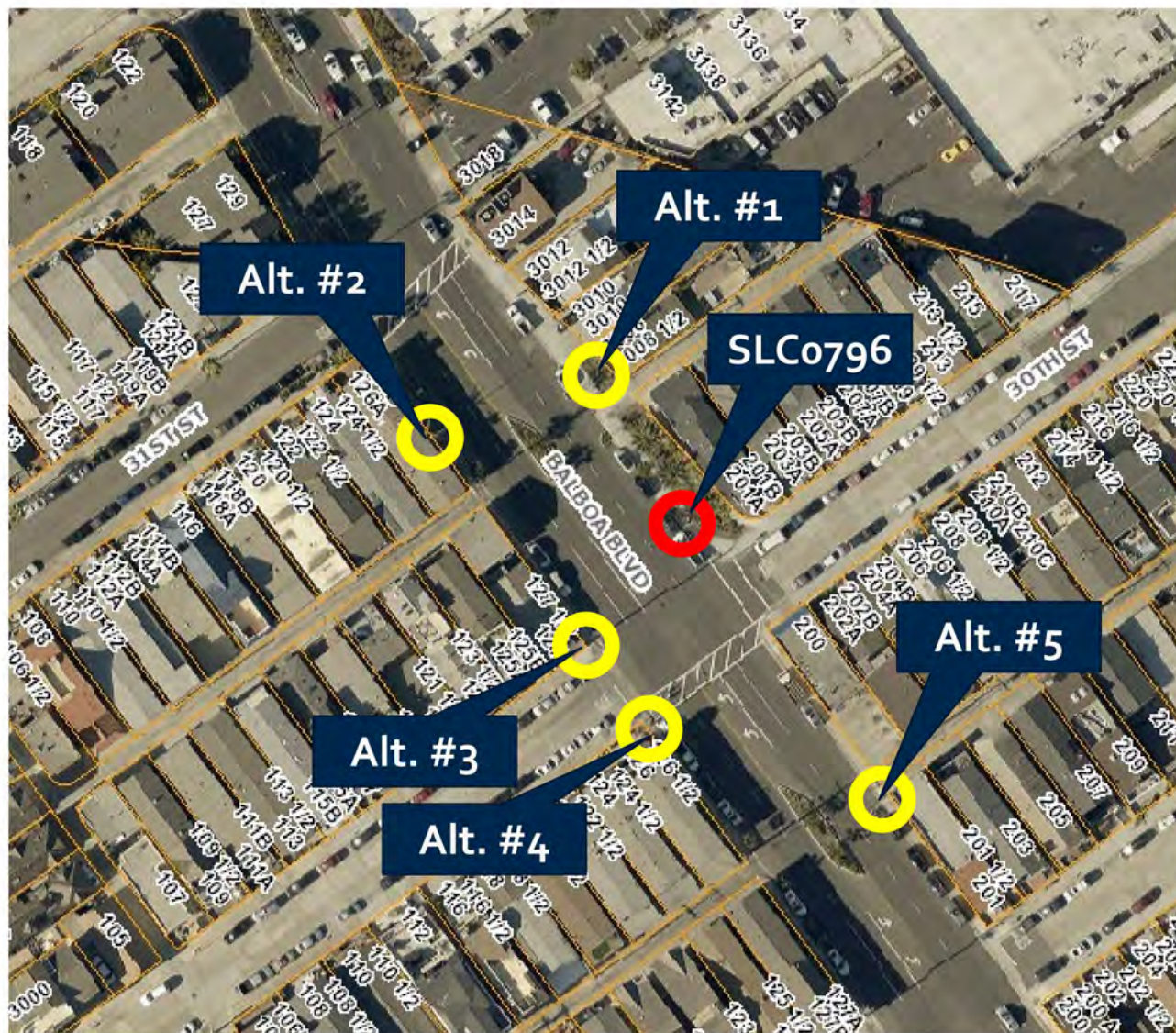


## PROPOSED





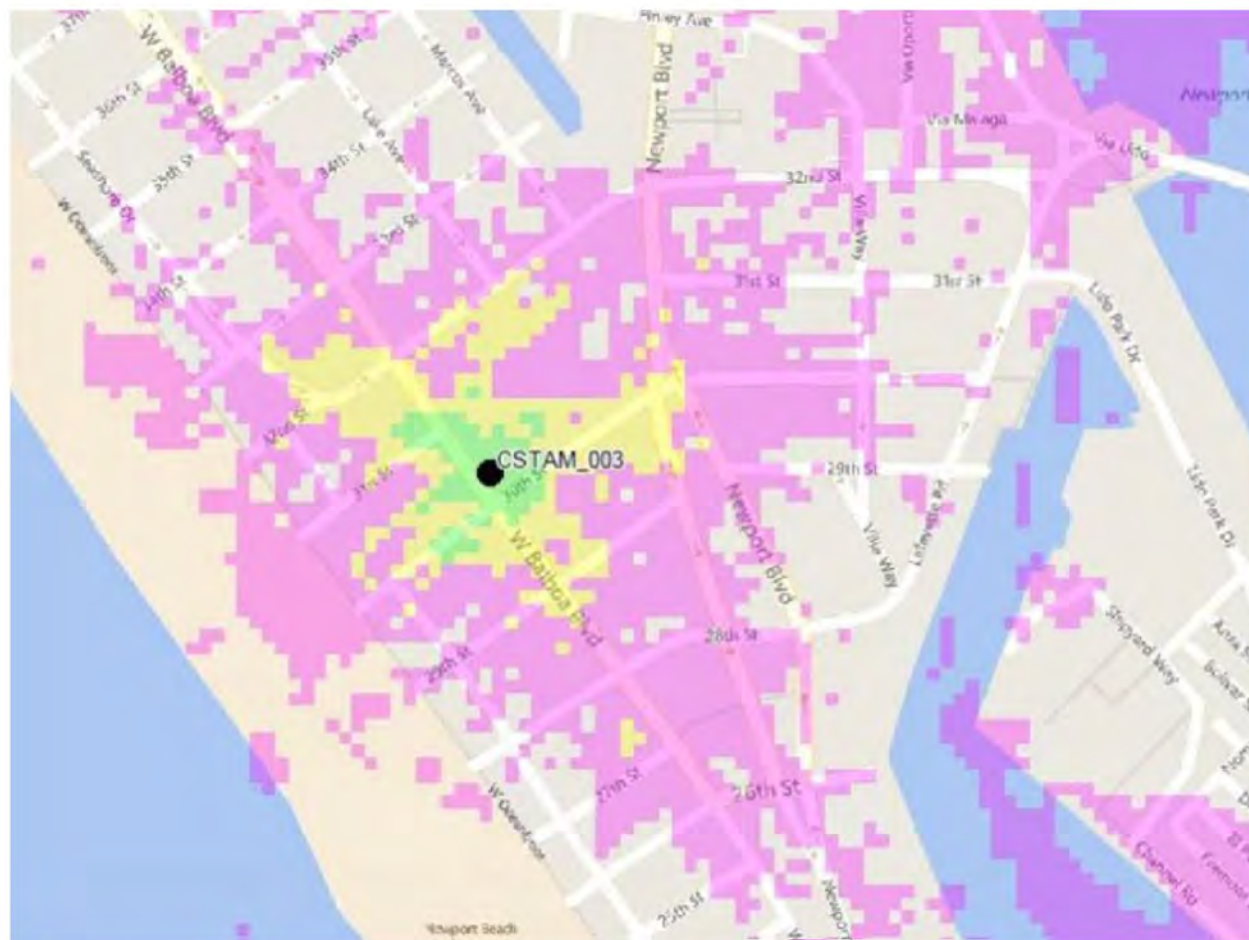
## Alternative Sites







# Coverage



## PROPOSED



## Findings

- ✓ **Consistent with LCP**
  - ✓ City-owned streetlight replacement
  - ✓ Not impeding access
  - ✓ Not impacting public view
  - ✓ Not impacting coastal resources
- ✓ **Consistent with ZC and GP**
  - ✓ Class 3 Installation
  - ✓ Minimized visual intrusion
- ✓ **Visual compatibility**
  - ✓ Blends with streetscape
  - ✓ Large parkway area
- ✓ **Complies with NBMC 20.49/21.49 standards**
  - ✓ <35 feet tall
  - ✓ Concealed within pole and underground
  - ✓ Alternative sites considered



## Conditions

- **COA#1 – Substantial conformance**
- **COA#3 – Comply with local, state and federal laws**
- **COA#5 – Replacement pole location**
- **COA#6 – Replacement pole design**
- **COA#7 – All equipment concealed**
- **COA#8 – All wiring concealed**
- **COA#11 – Height certification required**
- **COA#13 – Maintenance required**
- **COA#26 – Planning inspection required**
- **COA#36 – Traffic control plans**



- **Conduct de novo public hearing**
- **Find project exempt from CEQA**
- **Adopt the Resolution to approve the CDP and to uphold ZA's decision and approve the MUP**



## Contact

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[www.newportbeachca.gov](http://www.newportbeachca.gov)



# Questions?



# AT&T and Small Cells

Enhancing our network to meet consumer demand today while preparing for the technologies and innovations of tomorrow.

Judy Woolen / AT&T External Affairs

Cory Autrey / Wireless Policy Group (AT&T Consultant)

Franklin Orozco / Ericsson (AT&T Consultant)



# Small cells are critical to provide reliable wireless service

- 95% of Americans own a cellphone and 77% own a smartphone.<sup>1</sup>
- More than 62% of American households rely on wireless as their primary means of communication.<sup>2</sup>
- **Public Safety:** 80% of all 911 calls originate from cell phones.<sup>3</sup>
- **Economic Development:** 98% of small businesses rely on wireless technology.<sup>4</sup>
- Residents use smartphones, tablets, laptops at home—all drive the need for reliable and expanded connectivity

1. <http://www.pewinternet.org/fact-sheet/mobile/>

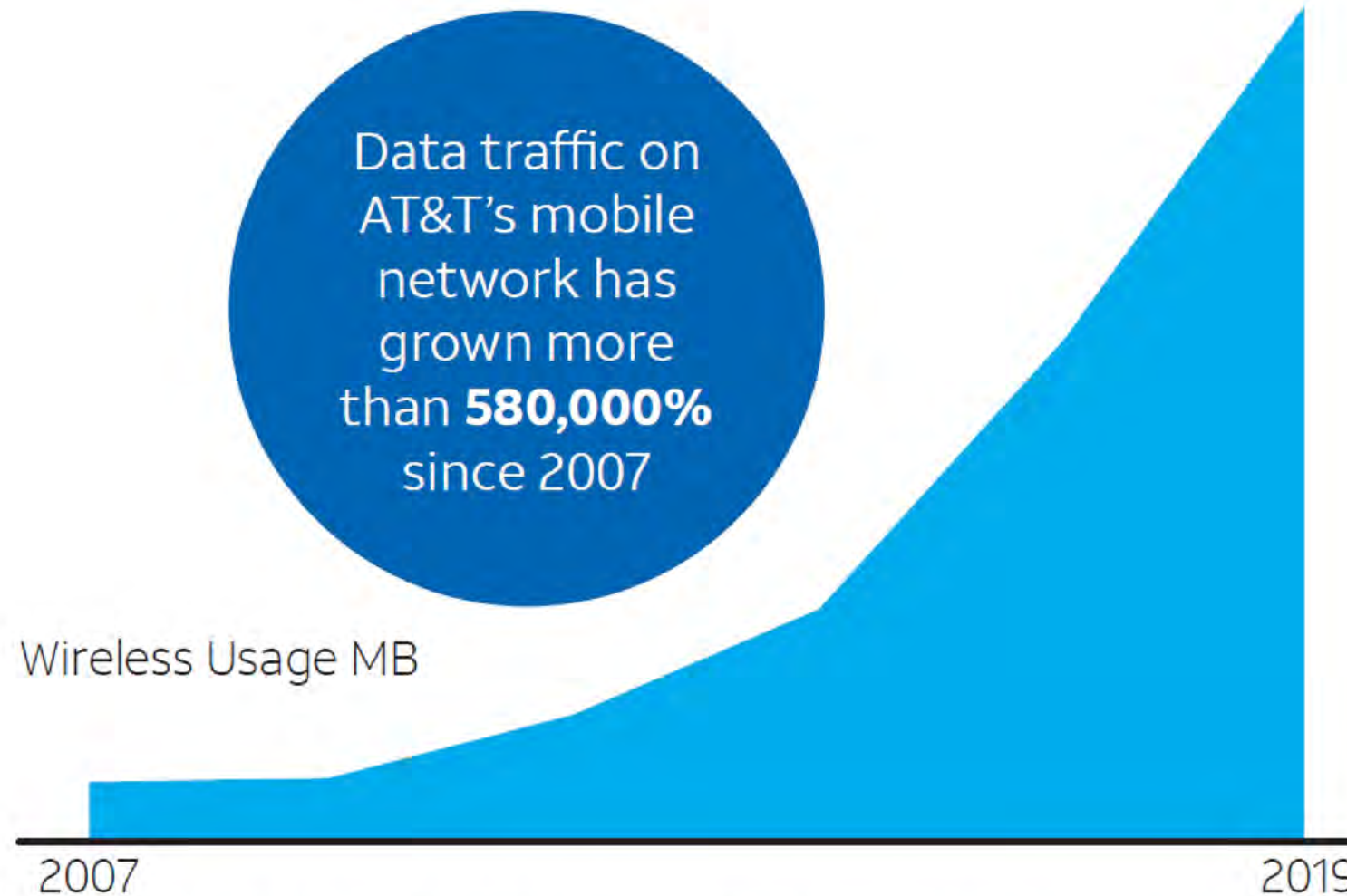
2. <https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201605.pdf>

3. <https://www.nena.org/page/911Statistics>

4. [https://about.att.com/innovationblog/2019/01/restaurant\\_industry\\_5g\\_updates.html](https://about.att.com/innovationblog/2019/01/restaurant_industry_5g_updates.html)

5. <https://smallbiztrends.com/2013/05/small-business-use-wireless.html>

## What the demand looks like on AT&T's network:



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# Small cells and public safety: Helping save lives



- **Better Calls:** Small cells provide better service by bolstering coverage and capacity.
- **Enhanced Network:** Relieves congestion that often occurs during an emergency.
- **Faster Data:** Allows for more information to be shared and accessed.
- New life saving capabilities:
  - Quickly download building floorplans or blueprints.
  - Enable video-intensive applications such as bomb squad robotic video.
  - Provide real-time traffic information to determine the fastest route to an emergency scene.



Network density must be upgraded to keep pace with surging demands for data.

# Ways to Increase Wireless Network Density

- ① *Deploy more spectrum*
- Spectrum is **not readily available**



- ② *Improve spectrum efficiency*
- Repurposing existing spectrum
  - e.g., reassigns 3G spectrum to 4G LTE



- ③ *Add more macro (cell sites) cells*
- Optimal for low density areas



- ④ *Add more small cells*
- Offloads surrounding macro sites to reduce the need for new cell towers



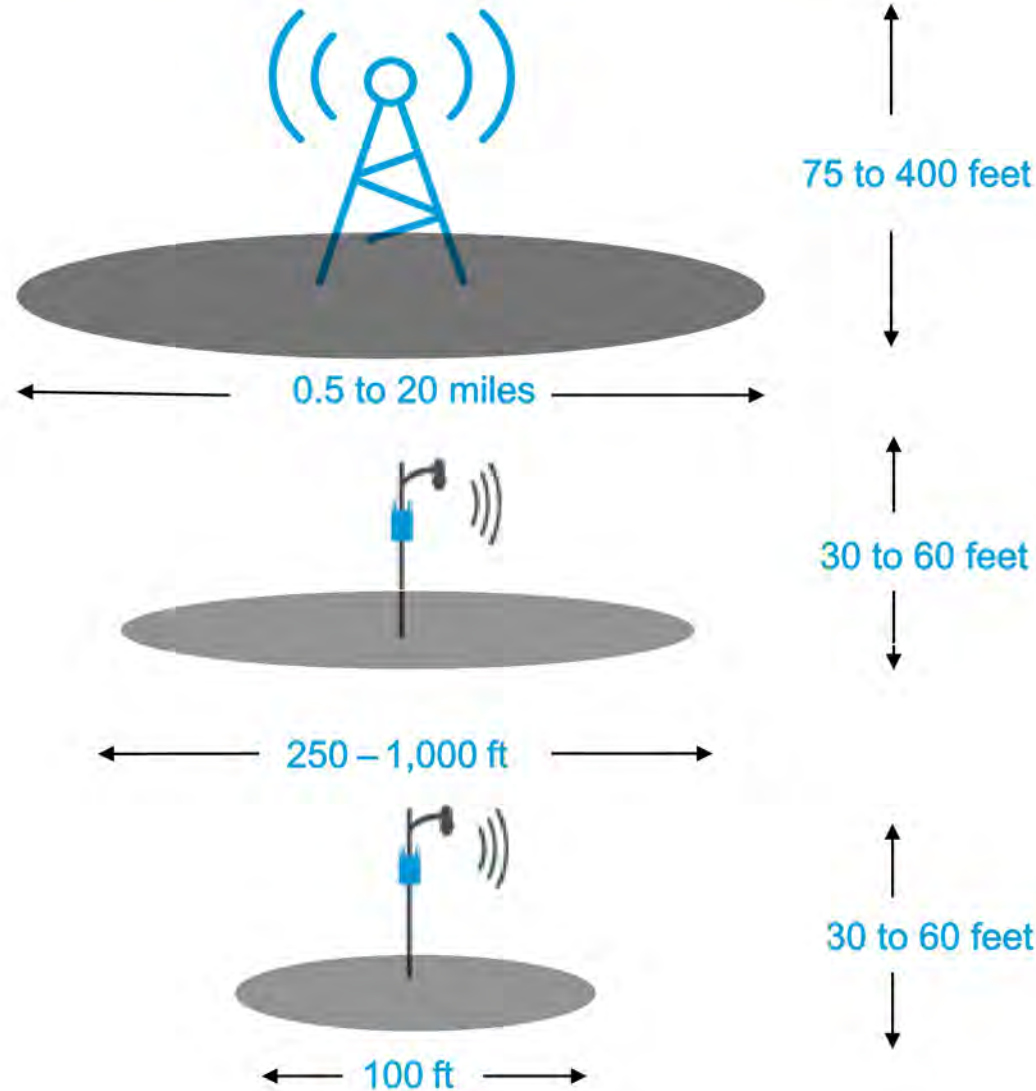


# Small cells are helping us keep up with rising consumer and business demand and prepare our network for the future.





# The Footprint or Service Area of a Site is Determined By Height and By Frequency Band



## Macrocell (4G LTE)

The common form factor for wireless communication. Higher height and lower frequencies used result in the larger service area.

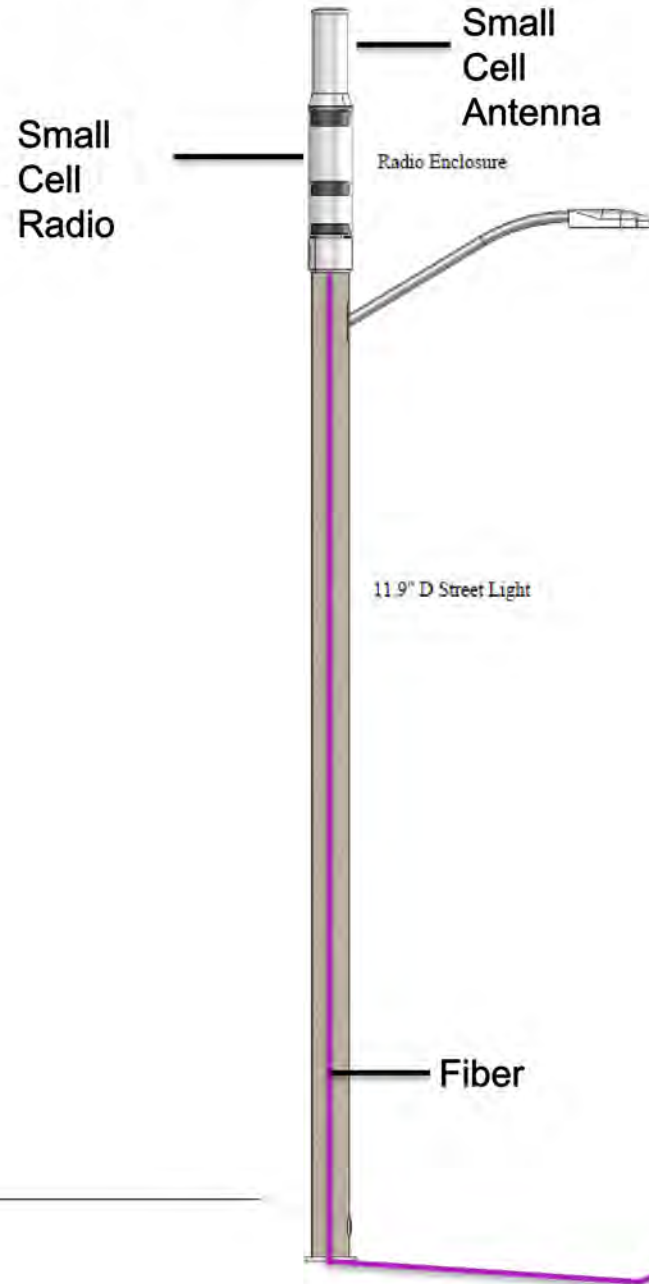
## Current Small Cell (4G LTE)

Uses the same frequencies as macrocells, in addition to utilizing unlicensed spectrum. Due to lower height, footprint is smaller. Increases density or coverage in target areas.

## Future Small Cell (5G)

Very high frequencies enabled by future 5G technology will result in a smaller footprint, but can be used to meet the exponential increased density demand. These frequencies are not used for wireless service today.

# What is a Small Cell?



## A New Network Architecture is Needed

Small cells are **flexible, targeted** network solutions that cover a radius up to 250 – 1,000 feet and can be readily deployed to specific locations, including:

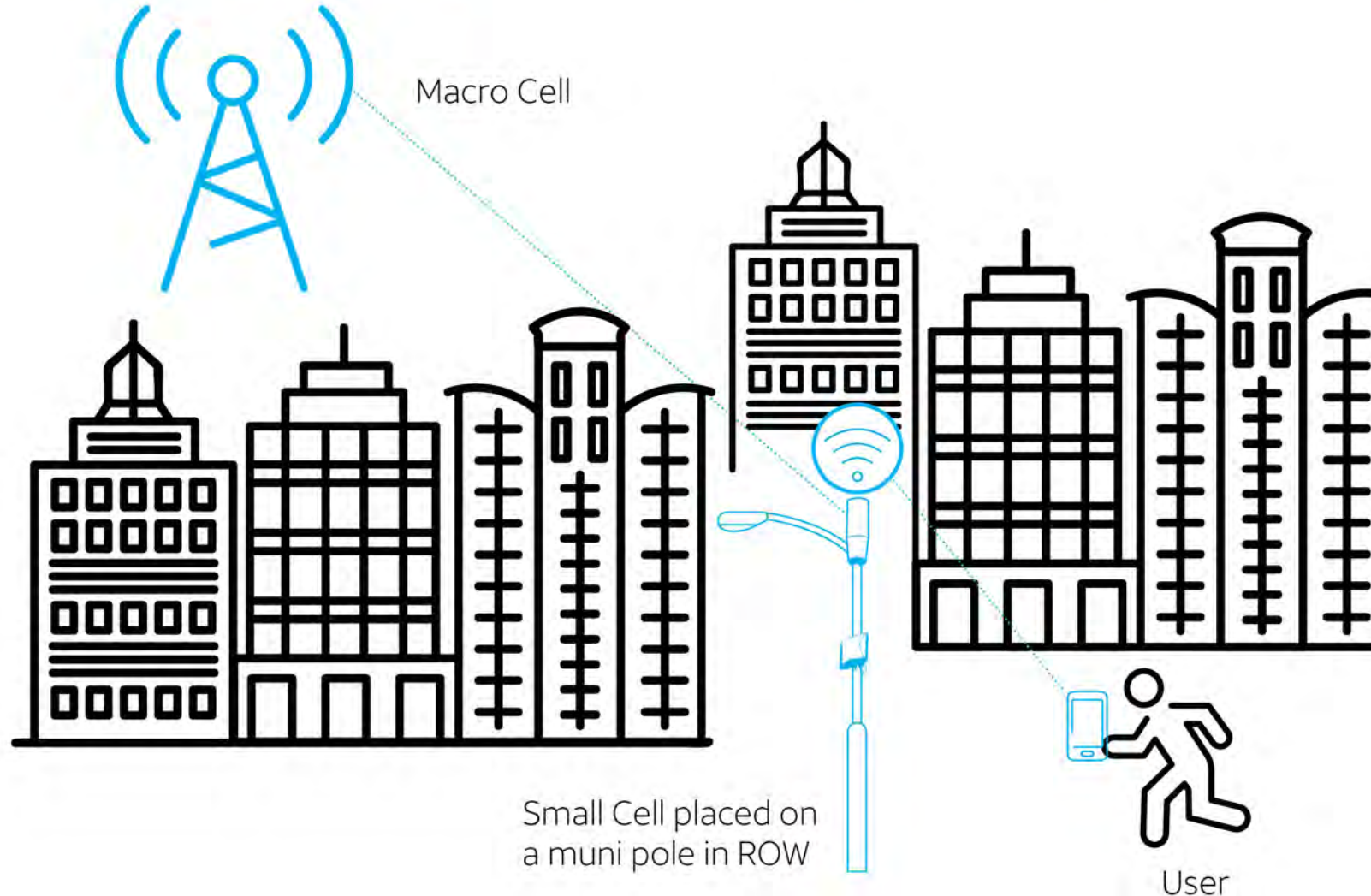
- Where customers are prone to experience connectivity issues
- Heavily populated areas that need more network density
- Areas that can't effectively be served by a traditional macro cell

This allows us to provide a better LTE experience today while also allowing us to prepare for the technologies of the future such as 5G, smart cities and new developments in the Internet of Things ( IoT)

This photo depicts an example of what a small cell could look like. Actual size, shape and dimensions may vary by location.



Small cells help to bring the network “closer” to its users to deliver increased data density, faster connectivity speeds and an overall better wireless experience.





# Radio Frequency (RF) Safety and Small Cells

- The Federal Communications Commission (FCC) has set strict safety standards for RF exposure across all wireless spectrum, including mm Wave.
- Those regulations were developed by expert scientists and engineers after extensive reviews of scientific literature related to RF biological effects and supported by other federal agencies.
- Expert scientists and government agencies from organizations like the American Cancer Society, World Health Organization and FCC have stated repeatedly that wireless antennas operating in compliance with FCC regulations do not pose health concerns.
- AT&T has a rigorous Radio Frequency (RF) safety program to ensure compliance with FCC requirements.

# Newport Beach and Small Cells

- AT&T/New Cingular MLA approved by City Council February 2019 pertaining to use of City Street Lights for Small Cell.
- AT&T Mobility is the Manager of New Cingular Wireless PCS, LLC.
- AT&T MLA Approved Designs.

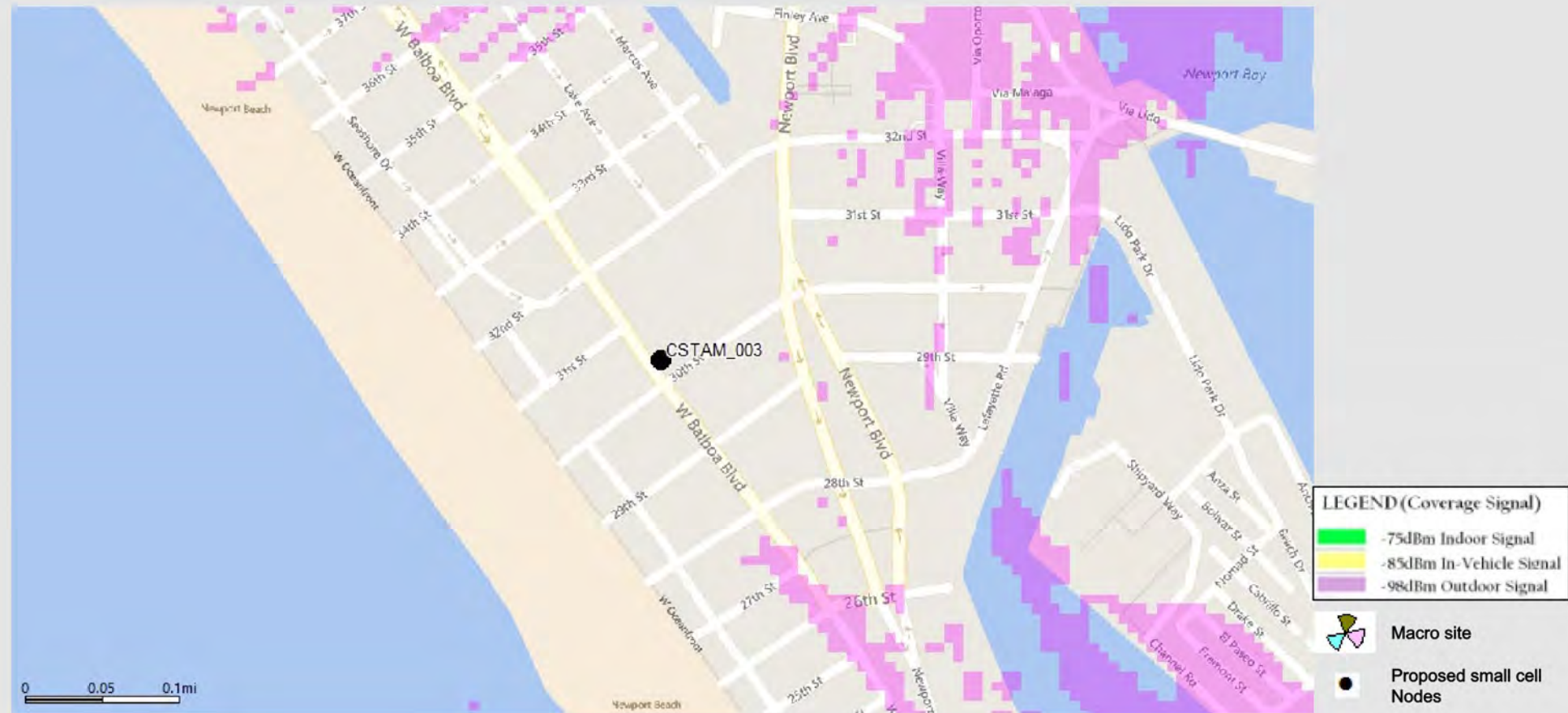


# AT&T Small Cell Node Site ID: CRAN\_RLOS\_CSTAM\_003 Alternative Sites Analysis

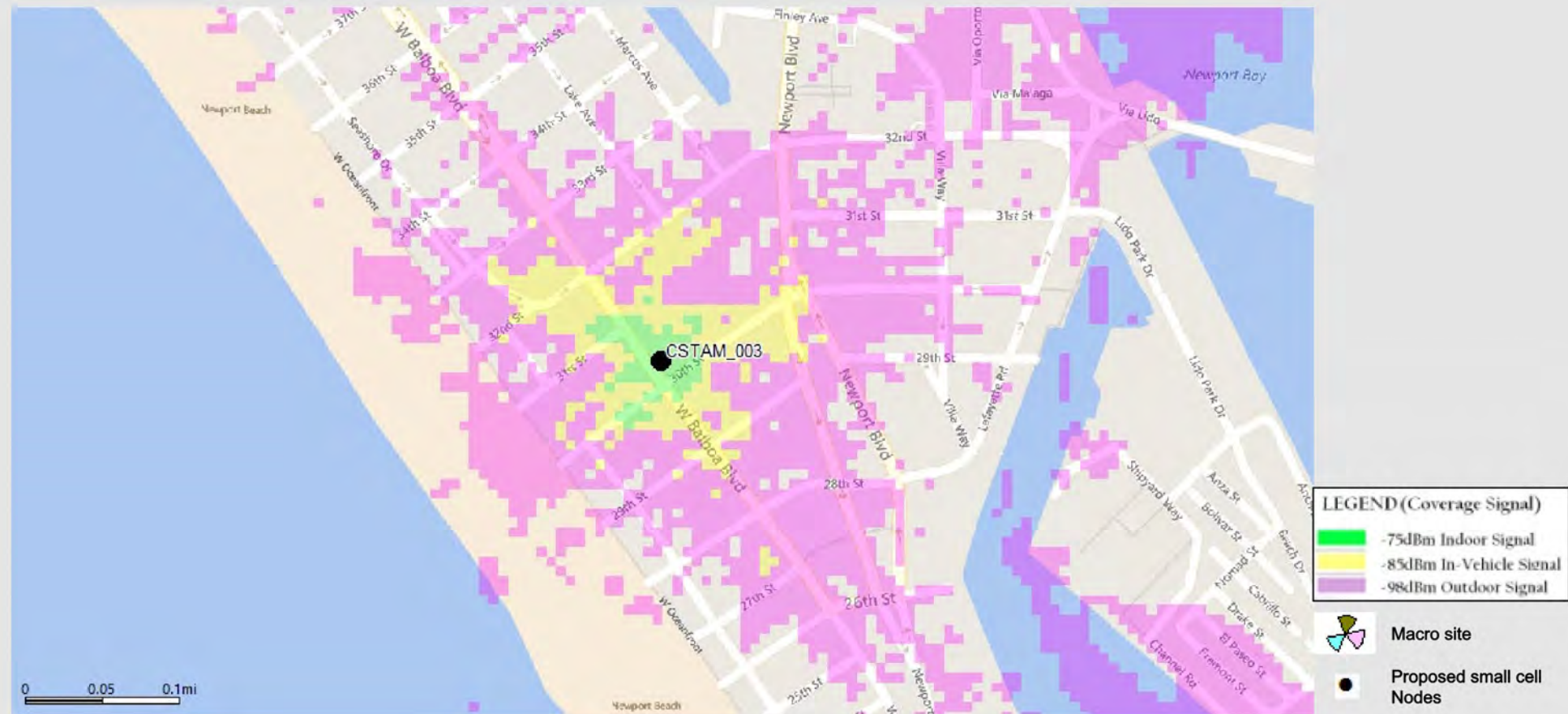
City streetlight No. SCL0796 located at the northwest corner of West Balboa Boulevard and 30<sup>th</sup> Street, Newport Beach.



## LTE 1900\_Coverage without Small cell



## LTE 1900\_Coverage with Small cell





## Map of Small Cell Node CRAN\_RLOS\_CSTAM\_003 and Alternative Sites



On this aerial map, AT&T's proposed Small Cell Node CSTAM\_003 is designated by a red marker and the alternative sites are identified by yellow markers.



## Small Cell Node CRAN\_RLOS\_CSTAM\_003





## Proposed Node

City streetlight No. SLC0697 at the northwestern corner of West Balboa Blvd. and 30<sup>th</sup> Street.



- Design meets city code
- Existing palm trees and landscape buffer
- Available utilities
- Visually least intrusive

## Alternative Site #1

Wood utility on West Balboa Blvd., north side of 30<sup>th</sup> Street.



- Exposed equipment on cross arm
- Difficult to screen
- Underground assessment district
- Visually more intrusive

## Alternative Site #2

City streetlight No. SLC0767 west side of West Balboa Blvd., south of 31<sup>st</sup> Street



- Conflicts with existing overhead lines
- ADA requirements issues

## Alternative Site #3

Wood utility on northwest of West Balboa Blvd and 30<sup>th</sup> Street.



- Exposed equipment on cross arm
- Difficult to screen
- Underground assessment district
- Visually more intrusive

## Alternative Site #4

City streetlight No. SLC0768 southwest corner of West Balboa Blvd and 31<sup>st</sup> Street.



- Conflicts with existing overhead lines
- ADA requirements issues

## Alternative Site #5

City streetlight No. SLC0766 west side of West Balboa Blvd, south of 30<sup>th</sup> Street



- Conflicts with existing overhead lines
- ADA requirements issues



