

1 [Opposing California State Assembly Bill 57 (Quirk) - Wireless Telecommunication Facilities]

2

3 **Resolution opposing California State Assembly Bill 57, authored by Assembly Member**
4 **Quirk, which would significantly limit San Francisco’s ability to regulate wireless**
5 **telecommunication facilities.**

6

7 WHEREAS, There are over 1,033 existing commercial cell towers (WTS facilities) in
8 San Francisco’s 47 square miles; and

9 WHEREAS, San Francisco’s WTS facilities provide significant connectivity and public
10 safety benefits for residents, business, and visitors; and

11 WHEREAS, In the last three years approximately 35 large (“macro”) WTS facilities
12 have been approved by the City, in primarily residential neighborhoods; and

13 WHEREAS, The San Francisco Public Utilities Commission and San Francisco
14 Municipal Transportation Agency have recently made thousands of City-owned poles
15 available for the installation of WTS facilities; and

16 WHEREAS, Assembly Bill (AB) 57 would create an expansive California-only automatic
17 approval remedy for any new WTS facility or major co-location significantly beyond Federal
18 mandates; and

19 WHEREAS, AB 57 does not provide clarity as to the State’s interest in the siting,
20 operation, or maintenance of a single locally-installed WTS facility even though it broadly
21 states that “a wireless facility is a Statewide concern, and not a municipal affair;” and

22 WHEREAS, AB 57 does not appear to recognize the complex nature of land use,
23 environmental review (e.g. archaeological, geotechnical, sensitive habitat, historic
24 preservation), and noise effect consideration, that may be associated with local approval of an
25

1 application to construction a WTS facility, especially when that facility is poorly sited or
2 designed; and

3 WHEREAS, AB 57 does not clarify whether necessary and complex building and fire
4 safety code review must also occur within State-imposed deadlines, or if a “deemed
5 approved” remedy would allow installation to begin without proper approvals; and

6 WHEREAS, AB 57 could force local governments to deny applications that are
7 incomplete or contain inadequate designs by effectively removing the ability of local
8 governments to halt the State-imposed review clock or for wireless carriers and local
9 governments to agree extend the review clock; and

10 WHEREAS, AB 57 references public notice required for the application, but not public
11 notice that may be required by law and, therefore, appears inconsistent with the California
12 Permit Streamlining Act; and

13 WHEREAS, AB 57 could be construed to require automatic approval of an application
14 to construct a WTS facility even if an approved application is appealed by a member of the
15 public in a timely manner; and

16 WHEREAS, AB 57 creates timing constraints that could incentivize wireless carriers to
17 pursue litigation or re-application even though a viable neighborhood appropriate design is in
18 sight; and

19 WHEREAS, AB 57 may also incentivize carriers to rely less on (preferred) rooftop-
20 mounted WTS facilities and instead rely on a larger number of facilities mounted on wooden
21 utility poles to meet their service needs; and

22 WHEREAS, WTS facilities mounted on wooden utility poles present a number of
23 aesthetic concerns, particularly within the City’s historic residential neighborhoods, can be
24 noisy, and are less likely to feature long-term resilient battery backup in the event of a disaster
25 or power outage; and

1 WHEREAS, Many review and approval delays for WTS facilities can be attributed to
2 incomplete or inaccurate designs, inaccurate radio-frequency safety reports, a lack of
3 community engagement, or co-locations at existing facilities that are poorly designed,
4 installed, or maintained, or lack prior building permit completion; and

5 WHEREAS, AB 57 is opposed by the League of California Cities, the California
6 Chapter of the American Planning Association, and the California State Association of
7 Counties; now, therefore, be it

8 RESOLVED, That the City respectfully urges the California Legislature to not approve,
9 or the Governor of California to veto, AB 57, unless amended to maintain meaningful local
10 control over the review of WTS facilities; and, be it

11 FURTHER RESOLVED, That the City respectively urges the State of California to
12 create a broadband connectivity group, as envisioned in the original language of AB 57, to: 1)
13 Encourage State agencies, special districts (e.g. flood or sanitation), and utilities to proactively
14 consider the siting of both commercial and publicly-operated WTS facilities; and
15 2) Encourage State agencies, special districts (e.g. flood or sanitation), and utilities to reduce
16 time and review barriers for commercial or publicly-operated wired broadband investments
17 across State owned lands or State rights-of-way; and 3) Encourage model building and
18 development codes that require multiple points of wired connectivity into residential dwellings
19 and commercial suites so as to reduce cost and competition barriers for municipal,
20 commercial, or non-profit internet service providers.

21
22
23
24
25