City and County of San Francisco

San Francisco Department of Public Works

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DPW Order No: 180222

REGULATIONS IMPLEMENTING THE REQUIREMENTS OF SAN FRANCISCO PUBLIC WORKS CODE ARTICLE 25 AND REVISING AND SUPERSEDING DEPARTMENT OF PUBLIC WORKS ORDER NO. 179,406

Section 1. PURPOSES AND APPLICABILITY OF ORDER

A. Purposes.

1. The Department adopted Department of Public Works Order No. 179,406 on June 29, 2011 for the purpose of implementing the requirements of San Francisco Public Works Code Article 25, approved by the Board of Supervisors on January 4, 2011 in Ordinance No. 12-11 and effective on February 14, 2011.

2. The Department is adopting this Department of Public Works Order to correct, amend, and clarify various aspects of Order No. 179,406. This Order, therefore, supersedes Order No. 179,406 in its entirety.

B. Application to Permits Issued under S.F. Administrative Code § 11.9 (b).

1. Since the repeal of S.F. Administrative Code § 11.9 (b), the Department and Persons issued permits under Section 11.9(b) have attempted to address requests to renew those permits or replace or modify permitted equipment. The Department has also attempted to enforce certain violations of Section 11.9(b).

2. The Department has determined it is necessary to apply the provisions of this Order that relate to those and similar matters to permits issued under Section 11.9(b).

3. The following requirements of this Order shall apply to permits issued under Section 11.9(b): (a) Section 6.B.1; (b) Section 7.B.1; (c) Section 19; (d) Section 21.C; (e) Section 22; (f) Section 23; (g) Section 24; (h) Section 25; (i) Section 26; (j) Section 27; and (k) Section 37.

Section 2. DEFINITIONS

A. Use of Defined Terms. Unless the context otherwise specifies or requires, when capitalized the terms defined in this Section shall, for all purposes of this Order, have the meanings specified herein.

B. Defined Terms. The following definitions are to be equally applied to both the singular and plural forms of any of the terms defined herein.

1. "Adjacent" means:

   (a) On the same side of the street and in front of the building or the next building on either side, when used in connection with a national historic landmark, California landmark, San Francisco Landmark, structure of merit, architecturally significant building, or locally significant building;

   (b) In front of and on the same side of the street, when used in connection with a City park or open space; and

   (c) The Utility or Street Light Pole on the same side of the street and in front of the address used in the Application, or the next property on either side of the address used in the Application, when used in connection with the street tree requirement contained in Public Works Code § 1506.

2. "Applicable Law" means all applicable federal, state, and City laws, ordinances, codes, rules, regulations, orders, standard plans and specifications, as the same may be amended or adopted from time to time. "Applicable Law" also means the requirements contained in a Utility Conditions Permit previously issued to an Applicant.

3. "Applicant" means a Person that has applied for a Personal Wireless Service Facility Site Permit. Where the Applicant is an agent for a Person that will be a Permittee, the term Applicant shall include Permittee.

4. "Application" means an application for a Personal Wireless Service Facility Site Permit.

5. "Block Face" means the sidewalk between and including two (2) contiguous curb corners without any intervening street or other roadway, not including alleys.

6. "Business Day" means any Monday through Friday that is not observed as an official holiday by the City.

7. "CEQA" means the California Environmental Quality Act (California Public Resources Code § 21000, et seq.).

8. “City” means the City and County of San Francisco.

9. “Compatibility Standard” means the Planning Protected, Zoning Protected, or Park Protected Compatibility Standard applicable to the proposed location for a Personal Wireless Service Facility as fully described in Public Works Code § 1502(l), (s), (y), and (z).

10. “Complete” when referring to an Application for a Personal Wireless Service Facility Site Permit means that the Applicant has provided the Department with all of the information required in Section 5 below.

11. “Conditions” means any additional requirements that a City department reviewing an Application for a Personal Wireless Service Facility Site Permit has determined are necessary for the Application to meet those requirements of Public Works Code Article 25 that are within that department’s purview, provided that no such Conditions may include a requirement that an Applicant use a particular technology for a Personal Wireless Service Facility.

12. “Day” means any calendar day. For the purposes hereof, the time in which an act is to be performed shall be computed by excluding the first Day and including the last. For the purposes hereof, if the time in which an act is to be performed falls on Day that is not a Business Day the time for performance shall be extended to the following Business Day.

13. “Department” means the City and County of San Francisco Department of Public Works.

14. “Director” means the Director of the Department or his or her designee.

15. “Emergency” means an unforeseen combination of circumstances or the resulting state that calls for immediate action in order to prevent injury to persons or property or to ensure the continuous provision of Personal Wireless Services.

16. “FCC” means the Federal Communications Commission.

17. "Graffiti" means any inscription, word, figure, marking or design that is affixed, marked, scratched, drawn or painted on a Personal Wireless Service Facility, whether permanent or temporary, without the consent of Permittee.

18. “Immediate Vicinity” means:

    (a) Within one (1) block in any direction from the boundary of a Planning Protected Location that is a national historic landmark district, listed

or eligible national register historic district, listed or eligible California register historic district, San Francisco landmark district, local historic or conservation district, or locally significant district;

(b) Within twenty-five (25) feet of the property lines from the properties that are Adjacent to a Planning Protected Location that is a national historic landmark, California landmark, San Francisco landmark, structure of merit, architecturally significant building, or locally significant building, or across the street from the above boundary lines;

(c) Within one (1) block in any direction from the boundary of a Zoning Protected Location; or

(d) Within one (1) block in any direction from the boundary of a Park Protected Location.

19. "Installation Period" means a time set forth in a Personal Wireless Service Facility Site Permit for Permittee to Substantially Complete Installation of the permitted Personal Wireless Service Facility. Unless a longer period is otherwise stated in the Permit, the Installation Period shall be one (1) year after the issuance of the Permit.

20. "Order" means these Department of Public Works Regulations Implementing the Requirements of San Francisco Public Works Code Article 25 and Revising and Superseding Department of Public Works Order No. 179,406.

21. "Park Protected Location" means a proposed location for a Personal Wireless Service Facility in the Public Rights-of-Way that is Adjacent to a City park or open space.

22. "Permittee" means a Person issued a Personal Wireless Service Facility Site Permit by the Department under Public Works Code Article 25 and this Order.

23. "Person" means any natural person, corporation, or partnership.
24. "Personal Wireless Service" means commercial mobile services provided under a license issued by the FCC.

25. "Personal Wireless Service Facility" means antennas and related facilities and equipment used to provide or facilitate the provision of Personal Wireless Service.

26. "Personal Wireless Service Facility Site Permit" or "Permit" means a permit issued under Public Works Code Article 25 and this Order as it has been approved, amended, or renewed by the Department.

27. “Planning Protected Location” means any of the proposed locations for a Personal Wireless Service Facility described in Public Works Code § 1502(r).

28. “Public Health Compliance Standard” means whether:

    (a) Any potential human exposure to radio frequency emissions from a proposed Personal Wireless Service Facility described in an Application is within the FCC guidelines; and

    (b) Noise at any time of the day or night from the proposed Personal Wireless Service Facility described in an Application is not greater than forty-five (45) dBA as measured at a distance three (3) feet from any residential building facade.

29. “Public Rights-of-Way” means the area in, on, upon, above, beneath, within, along, across, under, and over the public streets, sidewalks, roads, lanes, courts, ways, alleys, spaces, and boulevards within the geographic area of the City in which the City now or hereafter holds any property interest, which is dedicated to public use.

30. “Public Works Code” means the S.F. Public Works Code.

31. “Start Installation” or “Starting Installation” means the date when Permittee first installs any of the equipment approved in a Permit.

32. “Step-Down Tier III Facility” means a Personal Wireless Service Facility that would be a Tier III Facility because of the size of the antenna enclosure(s) being added to a Utility or Street Light Pole, but that would not add any equipment enclosure(s) to any Utility or Street Light Pole.

33. “Step-Down Tier II Facility” means a Personal Wireless Service Facility that would be a Tier II Facility because of the size of the antenna enclosure(s) being added to a Utility or Street Light Pole, but that would not add any equipment enclosure(s) to any Utility or Street Light Pole.

34. “Street Light Pole” means a pole used solely for street lighting and which is located in the Public Rights-of-Way.

35. “Substantially Complete Installation” or “Substantial Completion of Installation” means the earlier of the date when either: (a) Permittee has installed all of the Permittee’s equipment approved in a Permit; or (b) a permitted Personal Wireless Service Facility is being used to provide or facilitate the provision of Personal Wireless Service.

36. “Tentative Approval” means the Department’s approval of an Application for a Tier III Facility Permit that requires public notice before final approval.

37. “Tier I Criteria” is the criteria for the equipment allowed to be used with a Tier I Personal Wireless Service Facility, as set forth in Public Works Code § 1503(a).

38. “Tier II Criteria” is the criteria for the equipment allowed to be used with a Tier II Personal Wireless Service Facility, as set forth in Public Works Code § 1503(b).

39. “Tier I Facility” is a Personal Wireless Service Facility that complies with the Tier I Criteria.

40. “Tier III Facility” is a Personal Wireless Service Facility that does not meet the Tier I Criteria or Tier II Criteria.

41. “Tier II Facility” is a Personal Wireless Service Facility that complies with the Tier II Criteria.

42. “Tier I Facility Permit” is a Permit to install a Tier I Facility.

43. “Tier III Facility Permit” is a Permit to install a Tier III Facility.

44. “Tier II Facility Permit” is a Permit to install a Tier II Facility.

45. “Tier III Necessity Standard” means whether a Tier II Facility is insufficient to meet the Applicant’s service needs because the Applicant has demonstrated one of the following:

    (a) A Tier II Facility would not provide the coverage or functionality the Applicant requires to meet its service needs in the vicinity of the proposed Tier III Facility.

    (b) Approval of the Application for a Tier III Facility Permit would reduce the number of Personal Wireless Service Facilities that the Applicant would otherwise need to install in the vicinity of the proposed Tier III Facility.

46. “UCP” means a Utility Conditions Permit issued by the Department under S.F. Administrative Code § 11.9(a).

47. “Utility Pole” means a power pole or telephone pole (with or without street lights), transportation or traffic pole, or other similar pole located within the Public Rights-of-Way.

48. “Verified Statement” means a statement that is signed by a Person with knowledge of the contents thereof.

49. “Zoning Protected Location” means a proposed location for a Personal Wireless Service Facility in the Public Rights-of-Way that is within a Residential or Neighborhood Commercial zoning district under the San Francisco Planning Code.

Section 3. GENERAL REQUIREMENTS FOR PERSONAL WIRELESS SERVICE FACILITY SITE PERMITS

A. Permit Required.

A Personal Wireless Service Facility Site Permit shall be required for each and every Personal Wireless Service Facility to be installed in the Public Rights-of-Way. The Department will process each Application for a Personal Wireless Service Facility Permit separately.

B. Application Processing.

1. In accordance with S.F. Campaign and Governmental Conduct Code § 3.400, the Department shall process all Applications for Personal Wireless Service Facility Site Permits in the order in which they are received.

2. There is no limit to the number of Applications for Personal Wireless Service Facility Site Permits that an Applicant may file at any given time. The Department, however, is not required to begin processing more than ten (10) Applications filed by any single Applicant in any period of five (5) consecutive Business Days.

C. CEQA Approval Required.

The Department shall not issue a Personal Wireless Service Facility Site Permit until the Applicant has obtained from the Planning Department any CEQA approval that is required for the construction/installation of the proposed Personal Wireless Service Facility.

Section 4. COMMUNITY MEETINGS

The Department encourages Applicants for Personal Wireless Service Facility Site Permits to meet with local residents and business owners in affected neighborhoods in advance of filing Applications. This is especially true where the Application is for a Tier III Facility Permit.

Section 5. APPLICATION REQUIREMENTS

An Application for a Personal Wireless Service Facility Site Permit shall not be Complete unless it contains all of the following information.

A. Application Form.

Each Applicant for a Personal Wireless Service Facility Site Permit shall submit a completed Application form.

B. Identification of Equipment.

1. An Application shall identify all equipment the Applicant intends to install on one or more Utility or Street Light Poles.

2. To be Complete, the Application must include at least one antenna and related equipment cabinet.

C. Proof of Permission.

An Application shall contain proof that the Applicant has obtained permission from the Utility or Street Light Pole owner(s) to install the proposed Personal Wireless Service Facility on any existing Utility or Street Light Pole, or to replace an existing Utility or Street Light Pole to accommodate the proposed Personal Wireless Service Facility. Proof that the Applicant is a member in good standing of the Northern California Joint Pole Association will be sufficient for joint Utility Poles.

D. Proof of Authority to Use the Public Rights-of-Way

An Application shall contain proof the Applicant has a valid and existing Utility Conditions Permit.

E. Proof of CEQA Compliance.

An Application shall contain proof the Applicant has obtained any required CEQA approval for the construction/installation of the proposed Personal Wireless Service Facility from the Planning Department, or a statement as to when the Applicant expects to obtain such required CEQA approval.

F. Proof of Compliance with the Public Health Compliance Standard.

An Application shall contain proof of compliance with the Public Health Compliance Standard as follows:

1. An original Verified Statement from a registered engineer to the effect that the Applicant complies with the Public Health Compliance Standard.

2. An Applicant may choose to file only one (1) original Verified Statement of compliance with the Public Health Compliance Standard for every type of equipment that the Applicant intends to use with two (2) or more Applications for Personal Wireless Service Facility Site Permits. After the Department has approved one (1) Application for a Personal Wireless

Service Facility Site Permit using a particular type of equipment, when filing any subsequent Applications using the identical equipment the Applicant may file a copy of both the previously filed original Verified Statement and the Department of Public Health's approval of that Verified Statement.

3. Notwithstanding the foregoing, if the Department of Public Health has ever imposed any Conditions on the Applicant's use of a particular type of equipment the Applicant shall include such information in the Application.

G. Location Drawing.

An Application shall contain a location drawing of the proposed Personal Wireless Service Facility in a twenty feet (20') to one inch (1") scale (20:1 scale) showing each of the following:

1. Street name;

2. Names of cross streets;

3. Utility or Street Light Pole to be used;

4. All existing facilities on the Utility Pole or Street Light Pole; and

5. All proposed facilities on the Utility or Street Light Pole.

H. Additional Requirements for Tier II and III Applications.

An Application for a Tier II or Tier III Facility Permit shall contain the following additional information:

1. A photographic simulation of the proposed Personal Wireless Service Facility at the proposed location showing views from across and down the street; and

2. A photograph or site drawing in a twenty feet (20') to one inch (1") scale (20:1 scale) showing the location of any existing Personal Wireless Service Facilities in the Public Rights-of-Way that are within a one hundred and fifty foot (150') radius of the proposed Personal Wireless Service Facility.

I. Additional Requirements for Tier III Applications.

An Application for a Tier III Facility Permit shall also state that the Application complies with the Tier III Necessity Standard.

J. Proof of Compliance with Insurance Requirements.

An Application shall contain a certificate of insurance in a form acceptable to the City's Risk Manager showing that the Applicant complies with the requirements of Public Works Code § 1526.

K. Application Fees.

An Application shall include checks for any fees that are payable to each City department that must review the Application. If a City department is entitled to additional fees under Public Work Code § 1527(d), the department shall notify the Applicant at a later date.

Section 6. APPLICATION PROCESS FOR TIER I AND TIER II FACILITY PERMITS

A. Completeness Review.

1. The Department shall first determine whether an Application for a Tier I or Tier II Facility Permit is Complete.

2. The Department shall notify the Applicant within three (3) Business Days of its receipt of an Application whether the Application is Complete.

3. If the Application is Complete, the Department shall process the Application as set forth in this Section.

4. If the Application is not Compete, the Department shall return the Application along with the statement of what additional information the Department requires to make the Application Complete.

B. Suspension or Denial of Application for Lack of Compliance.

The Department may suspend review of or deny a Complete Application for a Tier I or Tier II Facility Permit for either of the following reasons:

1. The Department has issued to the Applicant a notice of deficiency related to any existing Personal Wireless Service Facility Site Permit, and the Applicant has not corrected the deficiency within a reasonable time as required by the Department under Section 27 below.

2. The Applicant has failed to file an Application for a Personal Wireless Service Facility Site Permit for a Personal Wireless Service Facility that was installed either before the effective date of Ordinance No. 214-07 or

pursuant to a permit issued under S.F. Administrative Code § 11.9(b), at the time when such Application is required by Section 31 below.1[1]

C. Initial Review of Complete Tier I Applications.

Within (5) Business Days of the Department's determination that an Application for a Tier I Facility Permit is Complete, the Department shall:

1. Notify the Applicant whether the Application satisfies the Tier I Criteria and whether any Conditions will be added to the Department's approval of an Application that satisfies the Tier I Criteria.

2. Refer the Application to the Department of Public Health for review under the Department of Public Health Compliance Standard.

D. Initial Review of Complete Tier II Applications.

Within (5) Business Days of the Department's determination that an Application for a Tier II Facility Permit is Complete, the Department shall:

1. Notify the Applicant whether the Application satisfies the Tier II Criteria and whether any Conditions will be added to the Department's approval of an Application that satisfies the Tier II Criteria.

2. Refer the Application to the Department of Public Health for review under the Department of Public Health Compliance Standard.

3. If required, or if the Department exercises its discretion, refer the Application to the Planning and/or Recreation and Park Department for review under the appropriate Compliance Standard. If referral is discretionary, DPW will notify Applicant of the referral.

E. Initial Review of Complete Applications for Step-Down Tier II or Step-Down Tier III Facilities.

1. Within (5) Business Days of the Department's determination that an Application for a Step-Down Tier II or Step-Down Tier III Facility is Complete, the Department shall notify the Applicant whether the

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1[1] The Department recognizes that the court has enjoined Ordinance No. 12-11 to the extent that the Ordinance requires persons issued permits under S.F. Administrative Code § 11.9(b) to apply for Permits under Article 25 when the § 11.9(b) permits expire. The Department does not intend to enforce any aspect this Order that relates to this requirement while the injunction remains in place, or should the court ultimately rule that this requirement of the Ordinance is unlawful. The Department is retaining this and other provisions relying on this requirement for the purpose of completeness only.

Application has been correctly designated a Step-Down Tier II or Step-Down Tier III Facility.

2. If the Application is correct, the Department shall process an Application for a Step-Down Tier II Facility as an Application for a Tier I Facility Permit and an Application for a Step-Down Tier III Facility as an Application for a Tier II Facility Permit.

3. If the Application is incorrect, the Department shall process an Application for a Step-Down Tier II Facility as an Application a Tier II Facility Permit and an Application for a Step-Down Tier III Facility as an Application for a Tier III Facility Permit unless the Applicant notifies the Department that it will elect either to: (a) withdraw the incorrect Application; or (b) modify the incorrect Application to comply with the requirements for a Step-Down Tier II or Tier III Facility. In either case, the Department will return the Application to the Applicant.

F. Final Determinations.

1. The Department shall issue a final determination denying an Application for a Tier I or Tier II-A Facility Permit within three (3) Business Days of any of the following events:

   (a) The Department's determination that the Application does not meet the Tier I or Tier II Criteria, as applicable;

   (b) The Department's receipt of a determination from the Department of Public Health that the Application does not comply with the Public Health Compliance Standard; or

   (c) If the Department exercised its discretion under Public Works Code § 1509(a)(2) to refer a Tier II-A Application to the Planning and/or Recreation and Park Department, the Department's receipt of a determination from either of those City departments that the Application does not satisfy the applicable Compatibility Standard; or

   (d) If any City department adds any Conditions to its approval of the Application, the Department's receipt of a notice from the Applicant that it rejects any of those Conditions.

2. The Department shall issue a final determination approving an Application for a Tier I or Tier II-A Facility Permit within three (3) Business Days of the occurrence of the last of the following events:

   (a) The Department's determination that the Application meets the Tier I or Tier II Criteria, as applicable; or

(b) The Department's receipt of a determination from the Department of Public Health that the Application complies with the Public Health Compliance Standard; or

(c) If the Department exercised its discretion to refer a Tier II-A Application to the Planning and/or Recreation and Park Department, the Department's receipt of a determination from either of those City departments (or both if required) that the Application satisfies the applicable Compatibility Standard; or

(d) If any City department adds any Conditions to its approval of the Application, the Department's receipt of a notice from the Applicant that it accepts all of those Conditions.

3. The Department shall issue a final determination denying an Application for a Tier II-B or Tier II-C Facility Permit within three (3) Business Days of any of the following events:

(a) The Department's determination that the Application does not meet the Tier II Criteria;

(b) The Department's receipt of a determination from the Department of Public Health that the Application does not comply with the Public Health Compliance Standard; or

(c) The Department's receipt of a determination from the Planning and/or the Recreation and Park Department that the Application does not satisfy the applicable Compatibility Standard; or

(d) If any City department adds any Conditions to its approval of the Application, the Department's receipt of a notice from the Applicant that it rejects any of those Conditions.

4. The Department shall issue a final determination approving an Application for a Tier II-B or Tier II-C Facility Permit within three (3) Business Days of the occurrence of the last of the following events:

(a) The Department's receipt of a determination from the Department of Public Health that the Application complies with the Public Health Compliance Standard; or

(b) The Department's receipt of a determination from the Planning and/or the Recreation and Park Department that the Application satisfies the applicable Compatibility Standard; or

(c) If any City department adds any Conditions to its approval of the Application, the Department's receipt of a notice from the Applicant that it accepts all of those Conditions.

Section 7. APPLICATION PROCESS FOR TIER III FACILITY PERMITS

A. Completeness Review.

1. The Department shall first determine whether an Application for a Tier III Facility Permit is Complete.

2. The Department shall notify the Applicant within five (5) Business Days of its receipt of the Application whether the Application is Complete.

3. If the Application is Complete, the Department shall process the Application as set forth below.

4. If the Application is not Compete, the Department shall return the Application along with the statement of what additional information the Department requires to make the Application Complete.

B. Suspension or Denial of Application for Lack of Compliance.

The Department may suspend review of or deny a Complete Application for a Tier III Facility Permit for either of the following reasons:

1. The Department has issued to the Applicant a notice of deficiency related to any existing Personal Wireless Service Facility Site Permit, and the Applicant has not corrected the deficiency within a reasonable time as required by the Department under Section 27 below.

2. The Applicant has failed to file an Application for a Personal Wireless Service Facility Site Permit for a Personal Wireless Service Facility that was installed either before the effective date of Ordinance No. 214-07 or pursuant to a permit issued under S.F. Administrative Code § 11.9(b), at the time when such Application is required by Section 31.2[2]

C. Initial Review of Complete Applications.

Within (5) Business Days of the Department's determination that an Application for a Tier III Facility Permit is Complete, the Department shall notify the Applicant:

1. Whether the Application satisfies the Tier III Necessity Standard.

2[2] *See* footnote 1.

2. Whether the Department will add any Conditions to the Department's Tentative Approval of a Tier III Facility Permit that satisfies the Tier III Necessity Standard.

D. Referral to Other City Departments.

Immediately following the Department's determination that the Application satisfies the Tier III Necessity Standard, the Department shall:

1. Refer the Application to the Department of Public Health for review under the Department of Public Health Compliance Standard.

2. Refer the Application to the Planning and/or Recreation and Park Department for review under the appropriate Compliance Standard.

E. Tentative Approvals.

The Department shall issue a Tentative Approval of an Application for a Tier III Facility Permit within three (3) Business Days of the occurrence of the last of the following events:

1. The Department's receipt of a determination from the Department of Public Health that the Application complies with the Public Health Compliance Standard; or

2. The Department's receipt of a determination from the Planning and/or the Recreation and Park Department that the Application satisfies the applicable Compatibility Standard; or

3. If any City department adds any Conditions to its approval of the Application, the Department's receipt of a notice from the Applicant that it accepts all of those Conditions.

F.Final Determinations.

1. The Department shall issue a final determination denying an Application for a Tier III Facility Permit without a Tentative Approval within three (3) Business Days of any of the following events:

   (a) The Department's determination that the Application does not meet the Tier III Necessity Standard;

   (b) The Department's receipt of a determination from the Department of Public Health that the Application does not comply with the Public Health Compliance Standard;

(c) The Department's receipt of a determination from the Planning and/or Recreation and Park Department that the Application does not satisfy the applicable Compatibility Standard; or

(d) If any City department reviewing the Application adds any Conditions to its approval of the Application, the Department's receipt of a notice from the Applicant that it rejects any of those Conditions.

2. The Department shall issue a final determination denying an Application for a Tier III Facility Permit with a Tentative Approval that is subject to a protest within three (3) Business Days after the Director issues a decision upholding the protest and denying the Application.

3. The Department shall issue a final determination approving an Application for a Tier III Facility Permit with a Tentative Approval as follows:

(a) If no protest is timely submitted, the Department shall issue a final determination approving the Application within ten (10) Business Days after the time to file a protest has expired; or

(b) If a protest is timely submitted, the Department shall issue a final determination approving the Application within two (2) Business Days after the Director issues a decision denying the protest and approving the Application

Section 8. PLANNING DEPARTMENT REVIEW

A. Referral Required or Allowed.

1. Prior to approving an Application for a Tier II-B Facility Permit, the Department shall refer the Application to the Planning Department for review under the appropriate Planning or Zoning Protected Location Compatibility Standard.

2. Prior to approving an Application for a Tier III-A or Tier III-B Facility Permit, the Department shall refer an Application that satisfies the Tier III Necessity Standard to the Planning Department for review under the appropriate Planning or Zoning Protected Location Compatibility Standard.

3. The Department may refer an Application for a Tier II-A Facility Permit to the Planning Department if the proposed location for the Personal Wireless Service Facility is in the Immediate Vicinity of a Planning Protected or Zoning Protected Location. After referral, the Application shall be treated as an Application for a Tier II-B Facility.

B. Approval Required.

The Department shall not approve an Application for a Tier II-B, Tier III-A, or Tier III-B Facility Permit unless the Planning Department determines that the Application satisfies the appropriate Planning or Zoning Protected Location Compatibility Standard.

C. Conditions.

1. The Planning Department's determination that an Application for a Tier II-B or Tier III-B Facility Permit satisfies the Planning Protected or Zoning Protected Location Compatibility Standard may include such Conditions as the Planning Department deems appropriate to insure that the Application satisfies the applicable Planning or Zoning Protected Location Compatibility Standard.

2. The Planning Department's determination that an Application for a Tier II-B or Tier III-B Facility Permit satisfies the Zoning Protected Location Compatibility Standard for a location that is within a Residential zoning district may include a Condition that the Personal Wireless Service Facility not obstruct the view from or the light into any adjacent residential window.

3. The Planning Department's determination that an Application for a Tier II-B or Tier III-B Facility Permit satisfies the Planning Protected or Zoning Protected Location Compatibility Standard may include a Condition that Permittee plant and maintain an appropriate street tree Adjacent to the Utility or Street Light Pole so as to provide a screen for the permitted Personal Wireless Service Facility.

D. Review Following a Protest.

1. If a protest of a Tier III-B Facility Permit includes a claim that the proposed Tier III-B Facility obstructs the view from or the light into any adjacent residential window, the Planning Department will review the photographs and other documentation submitted by the protester.

2. Within five (5) Business Days of receipt of the protest, the Planning Department will notify the Department, the protester, and the Applicant in writing whether the Planning Department agrees with the protester that the proposed Tier III-B Facility obstructs the views or light and, if so, what Conditions the Planning Department will add to the Tier III-B Facility Permit to address the obstruction.

Section 9. RECREATION AND PARK DEPARTMENT REVIEW

A. Referral Required or Allowed.

1. Prior to approving an Application for a Tier II-C Facility Permit, the Department shall refer the Application to the Recreation and Park Department for review under the Park Protected Location Compatibility Standard.

2. Prior to approving an Application for a Tier III-C Facility Permit, the Department shall refer an Application that satisfies the Tier III Necessity Standard the Recreation and Park Department for review under the Park Protected Location Compatibility Standard.

3. The Department may refer an Application for a Tier II-A Facility Permit to the Recreation and Park Department if the proposed location for the Personal Wireless Service Facility is in the Immediate Vicinity of a Park Protected Location. After referral, the Application shall be treated as an Application for a Tier II-C Facility.

B. Approval Required.

The Department shall not approve an Application for a Tier II-C or Tier III-C Facility Permit unless the Recreation and Park Department determines that the Application satisfies the Park Protected Location Compatibility Standard.

C. Conditions.

1. The Recreation and Park Department's determination that an Application for a Tier II-C or Tier III-C Facility Permit satisfies the Park Protected Location Compatibility Standard may include such Conditions as the Recreation and Park Department deems appropriate to insure that the Application satisfies the Park Protected Location Compatibility Standard.

2. The Recreation and Park Department's determination that an Application for a Tier II-C or Tier III-C Facility Permit satisfies the Park Protected Location Compatibility Standard may include a Condition that Permittee plant and maintain an appropriate street tree Adjacent to the Utility or Street Light Pole so as to provide a screen for the permitted Personal Wireless Service Facility.

Section 10. DEPARTMENT OF PUBLIC HEALTH REVIEW

A. Referral Required.

Prior to approving an Application for a Personal Wireless Service Facility Site Permit, the Department shall refer the Applicant's Verified Statement concerning compliance with the Public Health Compliance Standard to the Department of Public Health for review under the Public Health Compliance Standard.

B. Approval Required.

The Department shall not approve an Application for a Personal Wireless Service Facility unless the Department of Public Health determines that the Application complies with the Public Health Compliance Standard.

C. Conditions.

The Department of Public Health's determination that an Application for a Personal Wireless Service Facility Site Permit complies with the Public Health Compliance Standard may include such Conditions as the Department of Public Health deems appropriate to insure such compliance.

Section 11. PROCEDURE FOR IMPOSING CONDITIONS OF APPROVAL

A. Time for Notice of City Department Conditions.

If any City department imposes any Conditions on its approval or Tentative Approval of an Application for a Personal Wireless Service Facility Site Permit, the Department shall notify the Applicant in writing of the Conditions within two (2) Business Days of receipt of the determination from the applicable City department.

B. Contents of Notice of City Department Conditions

The Department's notice of City department Conditions shall:

1. State in detail all of the Conditions required for the Department to approve the Application for a Personal Wireless Service Facility;

2. Identify the City department that imposed the Conditions; and

3. State that the Applicant has five (5) Business Days to notify the Department whether it accepts the Conditions.

C. Initial Acceptance or Rejection of Conditions.

1. If the Applicant fails to timely accept, object, or propose modifications to any City department Conditions, the Department shall treat the Conditions as rejected and deny the Application.

2. At the request of the Applicant in writing, the Department may extend the time for the Applicant to determine whether to accept or reject the Conditions.

D. Objections to Conditions.

1. Within five (5) Business Days of receipt of notice that a City department has imposed any Conditions in its approval of an Application for a Personal Wireless Service Facility the Applicant may send the applicable City department written objections to the Conditions and request that the department modify one or more of those Conditions.

2. In addition to or instead of submitting objections to any City department Conditions, the Applicant may propose certain modifications to its Application for a Personal Wireless Service Facility Site Permit as an alternate means of satisfying the department's Conditions.

3. At the request of the Applicant in writing, the Department may extend the time for the Applicant to determine whether to object to any Conditions and/or propose modifications to its Application.

4. Within five (5) Business Days of receipt of the Applicant's objections and/or request for modification to its Application, the applicable City department will notify the Applicant whether the department will modify any of the Conditions based on the objections and proposed modifications.

5. Within five (5) Business Days of receipt of the notice from a City department, the Applicant shall notify the applicable City department and the Department whether it: (a) accepts the original Conditions if the department rejects the Applicant's objections; (b) accepts the Conditions as modified by any City department based on the Applicant's objections and proposed modifications. In no event may the Applicant make any further objections to the Conditions or request any new or different modifications to the Application.

6. If any proposed City department Conditions or modifications to the Application are stated in the alternative, the Applicant's acceptance of those Conditions or modifications to the Application must specifically identify which of those Conditions or modifications to the Application the Applicant accepts. If any proposed City department Conditions or modifications to the Application requires further information from the

Applicant, the Applicant must provide the City department with any information or documentation that is necessary to determine whether the Applicant's acceptance complies with the Conditions or modification to the Application.

7. The applicable City department will notify the Applicant within two (2) Business Days whether the Applicant's acceptance complies with the Conditions.

8. If the acceptance is in compliance, the Department will issue a Tentative Approval of the Application.

9. If the acceptance is not in compliance, the Department will deny the Application.

E. Conditions Requested as Part of a Protest.

1. If the Planning Department determines after a protest that a proposed Tier III-B Facility obstructs the view from or the light into any adjacent residential window, the Planning Department may add certain additional Conditions to its approval of the Tier III-B Facility Permit.

2. Within five (5) Business Days of receipt of these additional Conditions, the Applicant will notify the Department, the Planning Department, and the protester in writing whether the Applicant accepts or objects to the proposed Condition.

Section 12. NOTICE OF TENTATIVE APPROVAL OF TIER III FACILITY PERMIT

A. Department's Notice to Applicant.

The Department shall notify the Applicant of a Tentative Approval of an Application for a Tier III Facility Permit as follows:

1. Within three (3) Business Days of the receipt of the required determinations from all City departments that must review the Application if no City department has included any Conditions of approval.

2. Within three (3) Business Days of the receipt of notice that the Applicant has accepted any and all Condition imposed by any City department.

B. Applicant's Notice to the Public.

1. The Applicant shall notify the public of a Tentative Approval of an Application for a Tier III Facility by mailing and posting the notice required

by Public Works Code § 1512(b) within five (5) Business Days of receipt of the Tentative Approval from the Department.

2. The Applicant shall promptly notify the Department of its compliance with the requirements of Public Works Code § 1512(b). The Applicant shall provide the Department with a copy of the notices mailed and posted along with the following information:

   (a) A list of all Persons to whom the Applicant sent the notice, and a statement that the list complies with Public Works Code § 1512(b)(1);

   (b) A list of all locations where the Applicant posted the notice, and a statement that the locations comply with Public Works Code § 1512(b)(2); and

   .

   (c) The date the notices were mailed and posted.

3. Notwithstanding the foregoing, at the request of the Applicant in writing the Department may grant the Applicant additional time to comply with the notice requirements of Public Works Code § 1512.

C. Contents of Notice.

1. The Applicant's notice shall contain all of the information specified in Public Works Code § 1512(c).

2. The Applicant's notice shall also state that any Person requesting that the Planning Department impose a Condition to address obstructing the view from or the light into any adjacent residential window shall include with such protest photographs or other documentation depicting the potential obstruction of the view or light so that the Planning Department can review the claim and make a determination whether appropriate Conditions should be added to the Tier III-B Facility Permit.

D. Failure to Issue Proper Notice.

The Department shall not complete processing of an Application for a Tier III Facility Permit until the Department determines that the Applicant fully complied with the requirements of Public Works Code § 1512.

Section 13. PROCEDURE FOLLOWING A PROTEST

A. Notice of Protest.

1. The Department shall promptly give notice of any protest to the Applicant and any City department that reviewed the Application.

2. The notice shall include a copy of the protest.

B. Responses to Protest.

1. The Applicant may submit a response to the protest within seven (7) Business Days of receiving the protest from the Department. The Applicant shall serve a copy of its response on the protester and any City department that reviewed the Application.

2. The Department may submit a response to the protest within seven (7) Business Days of sending the protest to the Applicant. The Department shall serve a copy of its response on the protester, the Applicant, and any other City department that reviewed the Application. If the Applicant fails to serve a copy of its response as required, a protester may request a continuance of the hearing, which shall be granted by the hearing officer upon a showing that the protester was prejudiced by the Applicant's failure.

3. Any other City department that reviewed the Application may submit a response to the protest within seven (7) Business Days of receiving the protest from the Department. Such City department shall serve a copy of its response on the protester, the Applicant, and any other City department that reviewed the Application.

4. The Department may agree in writing to extend the Applicant's time for filing a response. The Applicant shall promptly notify the protester and any other City department of the extension in writing. The Applicant's extension will have the effect of extending the time for City departments to file their responses.

C. Manner of Service.

Service of any notice or response required under this Section shall be by e-mail, unless a protester has not provided the Department with an e-mail address, in which case service to the protester shall be by U.S. Mail.

D. Notice of Hearing Date.

In addition to the written notice required by Public Works Code § 1513(c), the Department shall notify the general public of the hearing by:

1. Placing a notice in the official newspaper of the City and County of San Francisco;

2. Posting a notice in front of the Department's office located in Room 344 at City Hall;

3. Posting a notice on the Department's website; and

4. Sending the notice to any Person requesting notice of any Tentative Approval of a Personal Wireless Service Facility Site Permit.

E. Conduct of Hearing.

This Section sets forth minimum requirements for the conduct of a hearing following a protest of a Tentative Approval. Hearing officers may establish additional rules, not inconsistent with Public Works Code Article 25 and this Order, for the conduct of the hearing.

1. The evidentiary portion of the hearing shall be conducted in the following manner:

   (a) The hearing officer shall make part of the record all the documentation set forth in Public Works Code § 1513(e).

   (b) The hearing officer shall make part of the record any documents submitted to the Department prior to the hearing.

   (c) The hearing officer will take testimony. Any Person attending the hearing may testify and introduce documents into the record. The hearing officer shall determine in advance of the hearing how much time shall be allotted to each Person seeking to testify. The hearing officer may allot more time for the protester and the Applicant than for other Persons participating in the hearing; provided, however, that each protester will be given at least 5 (five) minutes to present his or her case. If there is more than one protester, the Applicant shall be allotted at least as much time as that allotted to all of the protestors.

   (d) The hearing officer shall hear testimony in the following order: (i) the Department; (ii) any other City department; (iii) any protester; (iv) any Person supporting the protest; (v) the Applicant; (vi) any Person supporting the Application. The hearing officer shall also allow for a rebuttal from each protester.

   (e) Only the hearing officer may ask questions of a witness. Any Person attending the hearing may propose questions for the hearing officer to ask of a witness. The hearing officer may allot additional time to a witness when the hearing officer poses questions.

2. The hearing officer is not bound by formal rules of evidence. All relevant evidence may be admitted if it is the sort of evidence upon which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule

that would render the admission of such evidence improper in a civil action.

3. With the agreement of the parties, the hearing officer may continue the hearing in order to receive additional evidence.

F. Hearing Officer's Report.

The hearing officer shall issue a written report and recommendation within ten (10) Business Days of the close of evidence. The report shall include a summary of the evidence and a recommendation to the Director to either uphold or deny the protest of an Application.

G. Director's Decision.

The Director shall issue a written decision adopting, modifying, or rejecting the hearing officer's report and recommendation within seven (7) Business Days of receipt of the report.

Section 14. POST PROTEST MODIFICATION OF APPLICATION

A. Modification Encouraged To Resolve Protest.

The Department encourages an Applicant for a Personal Wireless Service Facility Site Permit that is the subject of a protest to meet with protester at any time after a protest is filed to determine whether the Application can be modified so as to obviate the need for the protest.

B. Hearing May Be Postponed or Suspended.

1. To facilitate cooperation between the Applicant and any protestors, the Applicant may request one or more of the following, in writing:

(a) That the Department postpone the deadline for filing a response to a protest;

(b) That the Department postpone issuing a notice of hearing date;

(c) That the Department postpone the hearing date; and/or

(d) That the hearing officer suspend the hearing.

2. The Department shall notify any protester that the hearing has been postponed or suspended as a result of a request by the Applicant.

C. Limited Modification.

Any modification allowed under this Section must concern the Personal Wireless Service Facility to be installed on the Utility or Street Light Pole identified in the Application. Moving the proposed Personal Wireless Service Facility to another Utility or Street Light Pole is not the type of modification that can be allowed following a protest.

D. Procedure Following Agreement.

If the Applicant and every protester agree to modify the Application, the following shall occur:

1. The hearing officer shall discontinue the hearing.

2. The Applicant shall submit a revised Application that contains the agreed upon modifications. The Applicant will provide the protesters with a copy of the revised Application.

3. The protesters shall withdraw the protest, provided the Permit contains the agreed upon modifications and the Application is otherwise the same as the original Application.

4. The Department shall issue a final determination approving the Application as modified within five (5) Business Days of receipt of the revised Application, provided that the Department determines that the revised Application contains the agreed upon modifications and is otherwise the same as the original Application.

Section 15. NOTICE OF FINAL DETERMINATION

A. Department's Notice.

1. The Department shall notify the Applicant of a final determination to deny an Application for a Personal Wireless Service Facility Site Permit.

2. The Department shall provide notice of a final determination to approve an Application for a Personal Wireless Service Facility Site Permit as follows:

(a) To the Applicant and to any person or group identified in the neighborhood mailing list maintained by the Planning Department for any neighborhood that is within three hundred (300) feet of the permitted Personal Wireless Service Facility.

(b) If a hearing was held following a protest of an Application for a Tier III Facility Permit, to any Person who either filed a protest, submitted evidence, or appeared at the hearing, and whose name and address is known to the Department.

(c) To any Person requesting notice of a final determination to approve an Application for a Personal Wireless Service Facility Site Permit.

3. Service of any notice required under this Section shall be by e-mail, unless an e-mail address is not available for any Person entitled to notice, in which case the notice to that Person shall be by U.S. Mail.

B. Applicant's Notice to the Public.

1. Immediately upon receipt a notice of final determination from the Department approving an Application for a Personal Wireless Service Facility Site Permit the Applicant shall post the notice in conspicuous places throughout the Block Face where the permitted Personal Wireless Service Facility is to be located.

2. After posting the notice, the Applicant shall provide the Department with a list of all locations where the Applicant posted the notice and the date when posted.

C. Form of Notice of Final Determination.

A notice of final determination approving an Application for a Personal Wireless Service Facility Site Permit shall contain the information required in Public Works Code § 1514(a)(2).

Section 16. INSTALLATION OF STREET TREES

A. Installation Procedure.

1. The Department shall notify the Department's Bureau of Urban Forestry of the proposed location for the Personal Wireless Service Facility immediately upon receipt of a determination from the Planning and/or Recreation and Park Department that said City department has imposed a Condition on a Personal Wireless Service Facility Site Permit, pursuant to Public Works Code § 1506, that the Applicant install a street tree.

2. The Department's Bureau of Urban Forestry shall work with Permittee and the Adjacent property owners to determine whether the proposed location for the Personal Wireless Service Facility is appropriate for a street tree and, if so, to select the appropriate species and location for the any tree the Planning and/or Recreation and Park Department has required as a Condition of approval of a Personal Wireless Service Facility Site Permit.

3. If the Department's Bureau of Urban Forestry, Permittee, and the Adjacent property owners determine that the proposed location for the Personal Wireless Service Facility is appropriate for a street tree, the Department

shall include in a Personal Wireless Service Facility Site Permit a description of the required tree and location.

4. At the time the location is selected, the Department's Bureau of Urban Forestry and Permittee shall ensure that the fronting property owners sign a Tree Planting Application, which shall require the fronting property owner to assume responsibility for maintenance of the tree after the Permit has expired.

5. Permittee shall install any street tree required in a Personal Wireless Service Facility Site Permit within six (6) months of the Applicant's issuance of a notice of Substantial Completion of Installation.

6. Permittee shall notify the Department's Bureau of Urban Forestry at least seventy-two (72) hours prior to installation of the required street tree.

7.

B. "In-Lieu" Payment into Adopt-A-Tree Fund.

1. If the Department's Bureau of Urban Forestry, Permittee, and adjacent property owner determine that a street tree is inappropriate at the proposed location for the Applicant's Personal Wireless Service Facility, the Department shall instead require the Applicant to make an "in-lieu" payment into the Department's "Adopt-A-Tree" fund.

2. As specified in Public Works Code §§ 802(h) and 807(f), the amount of the "in-lieu" fee shall be $1,641 per tree, or such adjusted amount authorized under those sections. The "in-lieu" fee shall be payable prior to the Department's issuance of the Personal Wireless Service Facility Site Permit.

C. Care and Maintenance of Street Trees.

1. Permittee shall be responsible for the care and maintenance of any street tree required to be installed by Permittee in the Public Rights-of-Way under Public Works Code § 1506 during the term of the Personal Wireless Service Facility Site Permit. In this regard, Permittee shall assume the duty of a "property owner" as set forth in Public Works Code § 805.

2. For a fee to be determined by the Department, Permittee may elect to have the Department be responsible for the care and maintenance of any street required to be installed in the Public Rights-of-Way under Public Works Code § 1506. The terms and conditions of the Department's duties and responsibilities shall be contained in a separate agreement between Permittee and the Department.

3. Upon the expiration of a Personal Wireless Service Facility Site Permit, the fronting property owner shall assume responsibility for maintenance of any

street tree installed by a Permittee in the Public Rights-of-Way pursuant Public Works Code § 1506.

D. Bureau of Urban Forestry Fee.

1. In order to process an Application for a Personal Wireless Service Facility Site Permit in those instances where the Planning or Recreation and Park Department has required the installation of a street tree under Public Works Code § 1506, the Department's Bureau of Urban Forestry must make a number of visits to the proposed location of the Personal Wireless Service Facility to determine: (a) whether the site is appropriate for a street tree; and, (b) if so, to further determine the appropriate species and location for the street tree.

2. Pursuant to Public Works Code § 1527(d), the Director of Public Works has determined it is unusually costly for the Department to process such Application.

3. For every Application that requires a street tree, the Director of Public Works hereby imposes a processing fee of $345.

4. Such fee shall be due and payable to the Department's Bureau of Urban Forestry within 10 (ten) days of the Department notifying the Applicant that the Planning or Recreation and Park Department has required a street tree.

Section 17. PERSONAL WIRELESS SERVICE FACILITY SITE PERMITS

A Personal Wireless Service Facility Site Permit shall be in a form approved by the Department and shall contain such information as the Department deems appropriate. In addition, the Department shall include in the Permit any Condition imposed by any City department and accepted by Permittee.

Section 18. INSTALLATION

A. Installation Period and Extension.

1. Permittee must Start Installation of a Personal Wireless Service Facility authorized by a Personal Wireless Service Facility Site Permit within the Installation Period unless the Department, on the written request of Permittee, extends the Installation Period.

2. The Department shall grant a request to extend the Installation Period if Permittee shows that additional time is needed for reasons directly related to construction requirements. The Department may deny a request to extend the Installation Period if the request is made for any other reason.

The Department shall inform Permittee of its decision to grant or deny a request for an extension within five (5) Business Days of the request.

3. Any extension of the Installation Period granted by the Department may be subject to additional special conditions, including, but not limited to, conditions that ensure the timely Start and Substantial Completion of Installation during the extended Installation Period.

B. Starting Installation.

Permittee shall provide the Department with a notice of Starting Installation within five (5) Business Days of Starting Installation of a Personal Wireless Service Facility.

C. Substantial Completion of Installation.

1. Permittee shall Substantially Complete Installation of a Personal Wireless Service Facility within sixty (60) Days of Starting Installation.

2. Permittee shall file with the Department a notice of Substantial Completion of Installation within five (5) Business Days of Substantial Completion of Installation of a Personal Wireless Service Facility.

3. Permittee shall file with the Department a Verified Statement from a registered engineer that the permitted and installed Personal Wireless Service Facility complies with the Public Health Compliance Standard within thirty (30) Business Days of Substantial Completion of Installation of a Personal Wireless Service Facility.

D. Failure to Timely Start and/or Substantially Complete Installation.

If Permittee fails to timely Start Installation within the Installation Period, or Substantially Complete Installation as required by this Section, the Department may revoke the previously issued Personal Wireless Service Facility Site Permit.

Section 19. CONSTRUCTION REQUIREMENTS

A. Compliance with Permit.

Permittee's construction of a Personal Wireless Service Facility shall fully comply with Permittee's Personal Wireless Service Facility Site Permit, including any Conditions contained therein.

B. Other Permits and Authorizations.

Permittee shall obtain all other permits and authorizations from the Department or third parties that may be required prior to any construction, maintenance, repair,

replacement, or modification of any Personal Wireless Service Facility ay. This shall include a temporary occupancy permit.

C. Department of Parking and Traffic.

Permittee shall contact the Department of Parking and Traffic for traffic requirements prior to beginning construction/installation.

D. Traffic Regulations.

Permittee shall conduct its construction/installation operations in accordance with the requirements of Article 11 of the S.F. Traffic Code.

E. Damage to Existing Facilities.

Permittee shall be solely responsible for any damage to existing facilities caused by Permittee's construction/installation activities.

F. Damage to the Public Rights-of-Way.

Permittee shall be solely responsible for any damage to the Public Rights-of-Way caused by Permittee's construction/installation activities.

G. City Signage.

Permittee shall be solely responsible for ensuring that any City signage removed from a Utility Pole or Street Light Pole during installation of a Personal Wireless Service Facility is replaced in the same location, unless Permittee obtains permission in writing from the City department responsible for installing and maintaining the sign to remove or relocate the sign.

Section 20. INSPECTION

A. Time for Inspection.

The Department shall inspect a permitted and installed Personal Wireless Service Facility as required under Public Works Code § 1516(b) within five (5) Business Days after receipt of notice of Substantial Completion of Installation required under Section 18 above.

B. Requirements of Inspection.

The Department shall inspect an installed Personal Wireless Service Facility to determine whether:

1. The installation is in accordance with the requirements of the Personal Wireless Service Facility Site Permit, including any Conditions imposed by any City department and accepted by Permittee.

2. The permitted Personal Wireless Service Facility complies with the Public Health Compliance Standard.

3. The Permittee has replaced any City signage that was removed from a Utility Pole or Street Light Pole during installation of a Personal Wireless Service Facility.

C. Notice of Deficiency.

The Department shall issue a notice of deficiency under Public Works Code § 1517(b) and Section 27 below if the Department determines after an inspection that an installed Personal Wireless Service Facility is not in compliance with a Personal Wireless Service Facility Site Permit, including any Conditions imposed by any City department and accepted by Permittee, the Public Health Compliance Standard, or any of the requirements of this Order.

Section 21. TERM AND RENEWAL

A. Term.

1. A Personal Wireless Service Facility Site Permit shall have a term of two (2) years.

2. The term shall commence upon the the Department's completion of the inspection required under Public Works Code § 1516(b) and Section 20 above.

B. Notice of Expiration of Permit.

1. Thirty (30) Days prior to the expiration of a Personal Wireless Service Facility Site Permit that may be renewed the Department shall notify Permittee that the Permit will expire if not renewed.

2. Ninety (90) Days prior to the expiration of a Personal Wireless Service Facility Site Permit that may not be renewed the Department shall notify a Permittee that the Permit will expire and that Permittee may file an Application for a new Permit at the same location.

C. Renewal.

1. Under Public Works Code § 1520, Permittee may renew a Personal Wireless Service Facility Site Permit for up to four (4) additional terms of two (2) years.

2. Permittee seeking to renew a Personal Wireless Service Facility Site Permit shall submit a renewal Application under Section 22 below. Permittee may submit the renewal Application no sooner than sixty (60) Days prior to the expiration of the term of the Permit.

D. Application for New Permit.

1. At least thirty (30) Days prior to the expiration of the ten (10) year term of a Personal Wireless Service Facility Site Permit, Permittee may file an Application for a new Permit.

2. A timely filed Application for a new Permit will extend the term of a Permit until the Department either denies or approves the Application for a new Permit.

Section 22. RENEWAL PROCEDURE

A. Renewal Application.

An Application to renew a Personal Wireless Service Facility Site Permit shall contain the following:

1. A completed renewal Application form.

2. A Verified Statement from a registered engineer that the operation of the permitted and installed Personal Wireless Service Facility complies with the Public Health Compliance Standard.

3. A Verified Statement that no readily available technology makes it feasible for the Applicant to replace the existing equipment with less visually obtrusive equipment based on the identical technology used for the permitted Personal Wireless Service Facility.

B. Completeness Review.

1. The Department shall first determine whether a renewal Application is Complete.

2. The Department shall notify the Applicant within three (3) Business Days whether the renewal Application is Complete.

3. If the renewal Application is Complete, the Department shall process the Application as set forth below.

4. If the renewal Application is not Compete, the Department shall return the Application along with the statement of what additional information the Department requires to make the Application Complete.

C. Initial Review of Complete Renewal Applications.

Within (5) Business Days of the Department's determination that a renewal Application is Complete, the Department shall:

1. Determine whether there have been any changes to Applicable Law that would allow the Department to deny a new Application for the identical Personal Wireless Service Facility Site Permit at the permitted location. If so, the Department shall notify the Applicant that the renewal Application will be reviewed in the same manner as would a new Application for a Personal Wireless Service Facility Site Permit.

2. Determine whether Applicable Law concerning human exposure to radio frequency emissions has changed since the date of the approval of the Application. If so, the Department shall refer the renewal Application to the Department of Public Health.

3. Determine whether there have been any changes in Applicable Law affecting the location of the permitted Tier II or Tier III Personal Wireless Service Facility such that an Application that had not been referred to the Planning and/or Recreation and Park Department at the time it was approved must now be referred to one or both of those City departments. If so, the Department shall refer the renewal Application to the Planning and/or Recreation and Park Department.

4. Determine whether the Department should exercise its discretion to refer an Application to renew a Tier II Facility Permit to the Planning and/or Recreation and Park Department if the location of the Personal Wireless Service Facility is in the Immediate Vicinity of a Planning Protected, Zoning Protected, or Park Protected Location.

D. Effect of Renewal Application.

A timely filed renewal Application will extend the term of a Permit until the Department either denies or approves the renewal Application.

E. Deadline for Final Determination.

1. If the Department does not refer a renewal Application to any other City department, the Department shall issue a final determination approving or denying the renewal Application within fifteen (15) Business Days of receipt of a completed Application.

2. If the Department refers the renewal Application to the Department of Public Health department and to no other City department, the Department shall issue a final determination approving or denying the renewal Application within three (3) Business Days of receipt of a determination from the Department of Public Health that the installed Personal Wireless Service Facility complies or does not comply with the Public Health Compliance Standard and Applicable Law related to human exposure to radio frequency emissions.

3. If the Department refers the renewal Application to the Planning and/or Recreation and Park Department, the Department shall process the renewal Application as it would any Application for a Personal Wireless Service Facility Site Permit under Public Works Code Article 25 and this Order.

F. Approval of Renewal Application.

The Department shall approve a renewal Application provided that:

1. There have been no changes to Applicable Law that would allow the Department to deny a new Application for a Personal Wireless Service Facility Site Permit for the identical Personal Wireless Service Facility at the permitted location; and

2. An Applicant has shown that there is no readily available technology for Personal Wireless Service Facilities that would make it feasible for the Applicant for a renewal Permit to replace the existing equipment with less visually obtrusive equipment based on the identical technology used for the permitted Personal Wireless Service Facility.

G. Denial of Renewal Application.

The Department shall deny a renewal Application for either of the following reasons:

1. An Applicant fails to provide the Department with a Verified Statement from a registered engineer confirming that the permitted Personal Wireless Service Facility complies with the Public Health Compliance Standard.

2. The Planning and/or Recreation and Park Department recommend denial of the Application under the newly applicable Compatibility Standard.

3. The Applicant has not shown that there is no readily available technology for Personal Wireless Service Facilities that would make it feasible for the Applicant for a renewal Permit to replace the existing equipment with less

visually obtrusive equipment based on the identical technology used for the permitted Personal Wireless Service Facility.

H. Suspension or Denial for Lack of Compliance.

The Department may suspend review of or deny a renewal Application for any one (1) of the following reasons:

1. The Department has issued to the Applicant a notice of deficiency related to any existing Personal Wireless Service Facility Site Permit, and the Applicant has not corrected the deficiency within a reasonable time as required by the Department under Section 27 below.

2. The Applicant has failed to file an Application for a Personal Wireless Service Facility Site Permit for a Personal Wireless Service Facility that was installed either before the effective date of Ordinance No. 214-07 or pursuant to a permit issued under S.F. Administrative Code § 11.9(b), at the time when such Application is required by Section 31 below.3[3]

I. Public Notice of Approval.

Public notice of a Department determination to approve a renewal Application is required only if the renewal Application is required to be reviewed by the Planning and/or Recreation and Park Department due to changes in Applicable Law affecting the location of a permitted Tier II or Tier III Personal Wireless Service Facility.

J. Effect of Approval.

The Department's approval of a renewal Application shall extend the term of a Personal Wireless Service Facility for another two (2) years from the date the renewal Application was submitted, provided that the term shall not exceed ten (10) years.

K. Denial or Failure to Renew Application.

1. If the Department denies a renewal Application, Permittee shall promptly remove the formerly permitted Personal Wireless Service Facility from the Public Rights-of-Way unless the Applicant files an appeal of the denial with the Board of Appeals. In which case, the Department will stay enforcement of any removal requirement until the Board of Appeals issues a determination on the Applicant's appeal.

2. If Permittee fails to timely file a renewal Application, the Department will notify Permittee that the Permit has expired and shall require Permittee to

3[3] See footnote 1.

remove the formerly permitted Personal Wireless Service Facility from the Public Rights-of-Way within thirty (30) Days from the date of the notice.

3. Notwithstanding the requirements of this Section, for good cause shown the Department may allow a Permittee that has failed to timely file a renewal Application to file one. In no event, however, shall the Department allow a Permittee to file a renewal Application after the date the Department has required Permittee to remove the permitted Personal Wireless Service Facility from the Public Rights-of-Way.

Section 23. REMOVAL OF FACILITIES

A. Removal of Permitted Equipment.

Permittee may remove any equipment installed on a Utility or Street Light Pole as part of a Personal Wireless Service Facility Site Permit provided that such removal does not render the permitted Personal Wireless Service Facility non-operational. Permittee shall notify the Department in writing that Permittee has removed permitted equipment.

B. Required Upon Expiration or Termination.

Upon the expiration or termination of a Personal Wireless Service Facility Site Permit, Permittee shall permanently remove all permitted Personal Wireless Service Facilities at Permittee's own cost and expense.

C. Failure to Remove Permitted Equipment.

If Permittee fails to timely remove a Personal Wireless Service Facility after expiration or termination of a Personal Wireless Service Facility Site Permit the Department shall take all reasonable, necessary, and appropriate action in accordance with Applicable Law to remedy Permittee's failure to comply and may charge the reasonable costs actually incurred, including but not limited to administrative costs, to Permittee.

Section 24. REPLACEMENT OF EQUIPMENT

A. Allowed for Identical Equipment.

A Permittee may replace equipment used at a permitted Personal Wireless Service Facility provided the replacement equipment is of substantially the same size, appearance, and power as the permitted equipment being replaced.

B. Equipment Replacement Procedure.

1. Non-Emergency Replacements.

(a) A Permittee seeking to replace equipment installed on a Utility or Street Light Pole pursuant to a Personal Wireless Service Facility Site Permit where there is no Emergency shall provide the Department with the notice and Verified Statement required under this Section at least 2 (two) Business Days prior to replacing the equipment.

(b) The Department shall approve or deny the request to replace existing equipment within five (5) Business Days after receipt of the notice and Verified Statement required under this Section.

2. Emergency Replacements.

(a) A Permittee seeking to replace equipment installed on a Utility or Street Light Pole pursuant to a Personal Wireless Service Facility Site Permit on an Emergency basis shall provide the Department with the notice and Verified Statement required under this Section within two (2) Days of replacing the equipment.

(b) The Department shall approve or deny the request to replace existing equipment within five (5) Business Days after receipt of the notice and Verified Statement required under this Section.

B. Information Required for Replacement Equipment.

As required under this Section, when replacing equipment on a permitted Personal Wireless Service Facility a Permittee shall provide the Department with the following:

1. A Verified Statement that the replacement equipment is of substantially the same size, appearance, and power as the permitted equipment being replaced.

2. A Verified Statement from a registered engineer to the effect that the replacement equipment complies with the Public Health Compliance Standard.

C. Department Approval.

The Department shall approve a request to replace equipment installed on a Utility or Street Light Pole pursuant to a Personal Wireless Service Facility Site Permit if the Department finds that the information contained in the Verified Statement required under this Section is correct.

Section 25. MODIFICATION OF PERSONAL WIRELESS FACILITY SITE PERMITS

A. Application Required.

An Application to modify a Personal Wireless Service Facility Permit is required if Permittee seeks to replace equipment used at the permitted Personal Wireless Service Facility that is not of substantially the same size, appearance, and power as the permitted equipment being replaced.

B. Modification Procedure for Tier I or Tier II Facility Permits.

1. A Permittee seeking to modify a Tier I or Tier II Facility Permit shall file an Application containing all of the information set forth in Section 5 above.

2. The Department shall approve an Application to modify a Tier I or Tier II Facility Permit provided that the proposed modified Personal Wireless Service Facility meets the applicable Tier I or Tier II Criteria.

3. The Department shall not require a Permittee to provide notice of a Department final determination to approve an Application to modify a Tier I or Tier II Facility Permit.

C. Modification Procedure for Tier III Facilities.

1. A Permittee seeking to modify a Tier III Facility Permit shall file an Application containing all of the information set forth in Section 5 above.

2. The Department shall process an Application to modify a Tier III Facility Permit as it would any Application for a Tier III Facility Permit.

3. Notwithstanding the foregoing, the Department shall have the discretion to waive the requirement that Permittee issue a notice of the Department's Tentative Approval of an Application to modify a Tier III Facility Permit.

Section 26. ABANDONED PERSONAL WIRELESS SERVICE FACILITIES

A. Notice of Abandonment.

1. The Department shall notify Permittee whenever the Department has reason to believe that a Personal Wireless Service Facility has been abandoned because it has not been properly maintained or because it is no longer being used to provide Personal Wireless Service. A Personal Wireless Service Facility that has been marked with Graffiti has not been properly maintained.

2. The notice shall state that Permittee has sixty (60) Days to remove the abandoned Personal Wireless Service Facility from the Public Rights-of-Way.

B. Response to a Notice of Abandonment.

1. If Permittee disagrees with the Department's notice of abandonment, within sixty (60) Days of receipt of the notice Permittee shall notify the Department in writing that:

   (a) The Personal Wireless Service Facility is in good working order; or

   (b) Permittee intends to repair or replace any equipment used for a Personal Wireless Service Facility that has not been properly maintained within thirty (30) Days; or

   (c) Permittee will remove any Graffiti from the Personal Wireless Service Facility within thirty (30) Days.

2. At the request of Permittee in writing, the Department may grant Permittee an extension of time to repair or replace the abandoned Personal Wireless Service Facility.

3. If the Department agrees with Permittee, the Department shall withdraw the notice.

C. Failure to Remove Abandoned Facility.

1. If Permittee fails to remove the abandoned Personal Wireless Service Facility, as required by the Department, the Department may remove the facility.

2. The Department will endeavor to remove the Personal Wireless Service Facility and to return the equipment to Permittee in the same condition as it was at the time of removal. The Department, however, does not assume any responsibility for any damage to the equipment resulting from the Department's removal and storage of any abandoned equipment.

3. The Department may deduct the cost of removing the abandoned Personal Wireless Service Facility from Permittee's deposit required under Public Works Code § 2.4.40 and Section 28 below.

Section 27. NOTICE OF DEFICIENCY

A. Contents of Notice.

A notice of deficiency issued pursuant to Public Works Code § 1517(b) shall:

1. State the basis for the Department's determination that a permitted Personal Wireless Service Facility is not in compliance with a Personal Wireless Service Facility Site Permit, Public Works Code Article 25, or this Order;

2. Give Permittee reasonable time to correct the deficiency. If the notice of deficiency concerns a violation of the Public Health Compliance Standard, the Department may require immediate compliance;

3. State the Department's remedies if Permittee fails to take corrective action, which can include revocation of the Permit; and

4. Notify Permittee whether the Department intends to suspend review of or deny other pending Applications for a Personal Wireless Service Facility Site Permits should Permittee fail to timely correct the deficiency.

B. Compliance with Notice of Deficiency.

1. Permittee shall timely comply with a notice of deficiency.

2. If Permittee should fail to timely comply with a notice of deficiency the Department:

(a) Shall take the corrective action set forth in the notice; and

(b) May suspend review of or deny Permittee's pending Applications for Personal Wireless Service Facility Site Permits.

Section 28. DEPOSIT

Permittee's deposit required under Public Works Code § 2.4.40 shall be available to the Department to secure the faithful performance of the obligations of Permittee under any Personal Wireless Service Facility Site Permit. If Permittee has not made such a deposit, Permittee shall submit and maintain with the Department one (1) bond, cash deposit, or other security acceptable to the Department securing the faithful performance of the obligations of Contractor and its agent under any Permit issued under this Order. The deposit shall be in the sum of $25,000 in favor of the "Department of Public Works, City and County of San Francisco." If the Director has deducted any amounts from such a deposit pursuant to this Order, Permittee must restore the full amount of the deposit prior to the Department's issuance of a subsequent Permit. The Department shall return the deposit to Permittee should Permittee cease to operate any Personal Wireless Service Facilities in the Public Rights-of-Way.

Section 29. ADDITIONAL FEES

A. Director May Require Additional Permit Fees.

1. Pursuant to Public Works Code § 1527(d), the Director may require an Applicant for a Personal Wireless Service Facility Site Permit to pay a sum in excess of the normal Permit fees.

2. The Department shall not approve an Application for a Personal Wireless Service Facility Site Permit unless Applicant agrees to pay these additional Permit fees when required.

B. Imposition of Additional Permit Fees for Individual Applications.

1. Any City department reviewing an Application for a Personal Wireless Service Facility Site Permit shall determine whether its review of an individual Application will be unusually costly. A City department other than the Department shall provide the Department with an estimate of its additional costs along with an explanation of the reasons these additional costs must be incurred.

2. Prior to requiring additional Permit fees, the Director shall notify an Applicant that it will be unusually costly for either the Department or another City department to review an Application for a Personal Wireless Service Facility Site Permit. The notice shall include an estimate of its additional costs along with an explanation of the reasons these additional costs must be incurred, and shall offer the Applicant the opportunity to withdraw or modify the Application in order to avoid any additional Permit fees.

3. With the consent of the Applicant, the applicable City department may incur these costs and recover them as additional Permit fees.

C. Imposition of Additional Permit Fees for a Class of Permit Applications.

1. The Director may impose additional fees for a class of Applications for Personal Wireless Service Facility Site Permits where the Director has determined that processing such Applications will be usually costly to process.

2. To impose such additional fees, the Director must issue a Director's order stating the reasons such fees are required and necessary.

3. Once the Director establishes such fees, the Department shall not approve an Application for a Personal Wireless Service Facility Site Permit unless and until the fee is paid, if applicable.

Section 30. RECOVERY OF CITY DEPARTMENT COSTS

A. Costs of Technical Experts.

1. Pursuant to Public Works Code § 1527(f), any City department may retain the services of a technical expert in order to evaluate an Application for a Personal Wireless Service Facility Site Permit, and seek reimbursement for the cost of those services from an Applicant.

2. Prior to incurring any reimbursable costs, a City department shall notify an Applicant that it requires the services of a technical expert. The notice shall explain in detail the expert services required and offer the Applicant the opportunity to withdraw or modify the Application in order to avoid those costs.

3. If the Applicant intends to pursue the Application, the applicable City department shall then work with the Applicant to identify Persons with the necessary expertise to provide the required services and to establish a budget for the expert's services.

4. With the consent of the Applicant, the applicable City department shall retain the expert to perform the required services.

B. Publication Cost for Notice of Hearing.

1. The Department shall require an Applicant for a Personal Wireless Service Facility that is the subject of a protest to reimburse the Department for the cost of publishing notice of the hearing in the official newspaper of the City and County of San Francisco.

2. After placing the advertisement, the Department shall bill the Applicant for such costs, which bill shall be due and payable within thirty (30) Days.

3. In the event the Applicant fails to pay as required, the Department may deduct the cost of the advertisement from Permittee's deposit required under Public Works Code § 2.4.40 and Section 28 above.

Section 31. EXISTING PERSONAL WIRELESS SERVICE FACILITIES

A. Personal Wireless Service Facilities Permitted Under S.F. Administrative Code § 11.9(b).4[4]

1. As required by Ordinance No.12-11, the Department shall not renew any permit issued pursuant to S.F. Administrative Code § 11.9(b).

2. Within 60 (sixty) Days of the expiration date of any permit issued a permit under Administrative Code § 11.9(b), the Department shall notify the Person issued the permit that:

(a) The permit will expire in 60 (sixty) Days; and

(b) Such Person has one hundred and eighty (180) Days from the later of the date of receiving notice from the Department or the date the

4[4] See footnote 1.

existing permit expires to file an Application for a Personal Wireless Service Facility Site Permit under Public Works Code Article 25 and this Order.

3. The timely filing of such Application for a Personal Wireless Service Facility Site Permit under Public Works Code Article 25 shall extend the term of the permit issued under Administrative Code § 11.9(b) until the Department issues a final determination on such Application.

4. The Application shall state whether the proposed Personal Wireless Service Facility is identical to or different from the existing Personal Wireless Service Facility.

5. The Department will process such an Application as it would any Application for a Personal Wireless Service Facility Site Permit.

B. Personal Wireless Service Facilities Installed Prior to the Effective Date of Ordinance No. 214-07.

1. Any Person that installed a Personal Wireless Service Facility in the Public Rights-of-Way prior to the Effective Date of Ordinance No. 214-07 shall notify the Department of the location of each of those facilities.

2. Any Person that installed a Personal Wireless Service Facility in the Public Rights-of-Way prior to the Effective Date of Ordinance No. 214-07 shall file an Application for a Personal Wireless Service Facility Site Permit under Public Works Code Article 25 and this Order for each of those facilities.

3. The Application shall state whether the proposed Personal Wireless Service Facility is identical to or different from the existing Personal Wireless Service Facility.

4. The Department will process such an Application as it would any Application for a Personal Wireless Service Facility Site Permit.

C. Department Action on Applications under this Section.

1. If an Application filed as required under this Section is approved the Department shall issue a new Permit under Public Works Code Article 25 and this Order.

2. If an Application filed as required under this Section is denied the Department shall order the Person maintaining the Personal Wireless Service Facility to remove the Personal Wireless Service Facility from the Public Rights-of-Way within sixty (60) Days of the denial.

3. If a Permit issued under this Section is for a Personal Wireless Service Facility that is different from the previously permitted and/or installed facility, the Department shall allow Permittee sixty (60) Days to modify the facility to comply with the Permit.

4. All other conditions of a Personal Wireless Service Facility Site Permit shall apply to a Permit issued under this Section.

Section 32. DEPARTMENT FORMS

A. Use of Department Forms Required.

The Department, an Applicant for a Personal Wireless Service Facility Site Permit or a Permittee shall use the forms authorized by this Order and attached hereto as the following Exhibits:

1. Application
2. Notice of Completeness/Deficiency of Application
3. Notice of City Department Conditions
4. Notice of Satisfaction of Tier I or Tier II Criteria
5. Department Notice of Tentative Approval to Applicant
6. Applicant's Notice by Mail of Tentative Approval
7. Public Notice of Tentative Approval (Posting)
8. Notice of Final Determination to Deny Application
9. Notice of Final Determination to Approve Application
10. Personal Wireless Service Facility Site Permit
11. Notice of Starting Installation
12. Notice of Substantial Completion of Installation
13. Request to Replace Antenna(s)/Equipment
14. Notice of Expiration of Permit (Renewal Allowed)
15. Notice of Expiration of Permit (No Renewal Allowed)
16. Application to Renew a Personal Wireless Service Facility Site Permit
17. Notice of Completeness/Deficiency of Renewal/Modification Application
18. Notice of Final Determination to Deny Renewal/Modification
19. Notice of Final Determination to Approve Renewal/Modification
20. Notice of Suspension of Review of Application
21. Application to Modify a Personal Wireless Service Facility Site Permit
22. Notice of Applicant's Initial Response to City Department Conditions
23. Notice of City Departments' Response to Applicant's Initial Response to City Department Conditions
24. Notice of Emergency Replacement of Antenna(s)/Equipment

B. Changes to Authorized Forms.

The Department may change the authorized forms as necessary to facilitate the issuance of Personal Wireless Service Facility Site Permits.

C. New Forms.

The Department may prepare and issue new authorized forms as necessary to facilitate the issuance of Personal Wireless Service Facility Site Permits.

Approved:

Jerry Sanguinetti, Bureau Manager Bureau of Street-Use and Mapping	Mohammed Nuru Director of Public Works

4/30/2012	5/1/2012
X	X Mohammed Nuru
Sanguinetti, Jerry Approver 1	Nuru, Mohammed Approver 2