**CITY LETTER HEAD**

**Date**, 2017

Governor Jerry Brown

c/o State Capitol, Suite 1173

Sacramento, CA 95814

**RE: SB 649 (Hueso) Wireless telecommunications facilities. – VETO REQUEST**

Dear Governor Brown:

The **[insert your CITY here]** would like to express its opposition to the proposed legislation, Senate Bill 649 (Hueso), and requests that you Veto the measure when it reaches your desk. The bill would establish a streamlined permitting process for small cell facilities, and would severely restrict the fees that local governments may charge for placement of communications facilities. The bill would also limit the creation or erection of any unreasonable requirement for access to the public rights-of-way by communications providers, including delays in the negotiations and approvals for small cell and communications facilities. This is concerning to cities in Orange County and throughout the State, because it disables the ability for cities to make necessary discretionary decisions related to the aesthetic and safety of communications infrastructure within their jurisdictions.

Currently, small cell and communications service providers must receive a permit from a city or county to build for their infrastructure deployment. Where equipment is being added to an already existing structure providers must request approval to collocate on those facilities. Cities and counties cannot hinder additions to pole attachment in the public right-of way, but can oversee when those projects are taking place to ensure public safety, and that day-to-day city business is not disrupted. SB 649 aims to change the permitting process for small cell sites by redefining small cells and removing discretionary permitting authority from cities and counties. This measure considers small cell technology as equipment with all antennas on the structure (excluding associated equipment) that totals no more than six cubic feet in volume, associated equipment on pole structures not to exceed 21 cubic feet, and specified micro wireless facilities. This small cell definition would require a local government to provide streamlined permitted use if it’s located in a public right-of-way in any zone or in any zone that includes a commercial or industrial use. Additionally, this bill would mandate that a city or county make its vertical infrastructure available for the placement of small cells, and require automatic renewal of permits for telecommunications facilities. Removing these important land use zoning decisions from local governments, and usurping the public input processes through the adoption of ministerial designations is detrimental to the overall community.

Further circumventing the jurisdiction of local governments is the restructure of facility use revenue collection. Right now, local entities are authorized to charge an annual fee for use of a pole structure, and can negotiate lease rates for small cell attachments on other publicly owned vertical infrastructure. **[Option to discuss CITY’s use of pole fee and lease rate proceeds, here]**. This process is built on negotiations and years of relationship building between the city and the provider for a mutually beneficial cost-benefit. SB 649 would mandate cities to adopt a flat rate, annual, administrative permit fee charge not to exceed $250 for each small cell attached to city or county vertical infrastructure. Other city charges for installation of small cell facilities will be calculated through the multiplication of a percentage of the total usable space that would be occupied by the attachment, and the annual costs of ownership of the vertical infrastructure and its anchor. The city or county shall not levy a rate that exceeds the estimated amount required to provide use of the vertical infrastructure. And if the rate creates revenues in excess of actual costs, the city shall use those revenues to reduce the rate. The only way a city would be able to amend this or negotiate this difference in cost is through a new public hearing process, that puts municipalities in litigious and potentially costly situations. The revenue that **[insert your CITY here]** had been formally reliant on could change the level of services and prioritization of community projects that had been offered based on this income. Ultimately, reducing the ability for cities and counties to negotiate for a productive and fair public benefit through lease, rent and maintenance agreements removes yet another economic development tool for our municipalities.

**[Option to discuss your CITY’S small cell facility issues and community concerns, here.]**

In September, amendments were adopted requiring indemnification for local governments, and to strengthen existing contract agreements under current revenue structures. Additionally, amendments would require providers to report on deployment efforts in underserved areas. These amendments are a step in the right direction, but still do not provide the changes necessary to allow cities local discretionary review or provide for a fair revenue structure. Cities require full discretionary review of the small cell and communication technology implementation deployment process. Public benefits negotiated through an already existing fair and reasonable development structure makes this bill unnecessary and punitive towards cities. The **[insert your CITY here]** is committed to finding fair solutions to challenges that affect our communities. For this and the reasons described above, the **[insert your CITY here]** opposes SB 649.

Should you have any questions about our positon or about **[Insert your CITY’S name here]**, please contact **[insert contact name, here],** **[insert contact’s job title, here]**, **[insert contact phone number, here]** or at **[insert contact e-mail address here]**.

Sincerely,

**[Insert contact name, here]**

**[Insert contact’s job title, here]**

**[Insert your City name here]**

cc:

Association of California Cities – Orange County (ACC-OC)