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May 16, 2017

The Honorable Ben Hueso  
State Capitol, Room 4035  
Sacramento, CA 95814

**RE: SB 649 (Hueso) Wireless telecommunications facilities. – OPPOSE AS AMENDED**

Dear Senator Hueso:

The Association of California Cities – Orange County (ACC-OC) represents the interests of the 34 cities in Orange County and the County of Orange, and would like to express its opposition to the proposed legislation, Senate Bill 649 (Hueso). The bill would establish a streamlined permitting process for small cell wireless facilities, and limit the fees that local governments may charge for placement of small cells on city or county owned infrastructure. This is concerning to cities in Orange County and throughout the State, because it severely restricts the ability for cities to make necessary discretionary decisions related to the aesthetic and safety of small cell and wireless infrastructure within their jurisdictions.

Currently, telecommunications 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.



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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. Many cities use these proceeds to help offset costs for providing infrastructure to low-service areas or as another revenue source for their communities. 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 or tiered system between \$100 to \$850 per small cell, per year – significantly reducing the fees that a city or county may charge for the installation of a small cell telecommunications facilities. The measure would also eliminate the collection of any escrow or similar deposit for removal of such a facility. The revenue the revenues that a local government 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.

ACC-OC has been at the forefront of wireless infrastructure issues, working with local leaders, and industry representatives to ensure project coordination between municipalities and small cell stakeholders through our “Small Cell Working Group”. This ad hoc working group has been in operation since ACC-OC’s inception and has successfully drafted Model-Encroachment Permits, worked with the County on a Wireless Infrastructure Ordinance, and has implemented guidelines for fair and non-discriminatory processes to accomplish new technological deployments. Allowing industry representatives and city officials to negotiate ordinances, agreements, and fee structures at the local level breeds the most cooperative outcome for communities and the constituents of service providers. Over the last several months, our working group has developed a [white paper](#) on small cells, providing educational information to cities by working with providers to find balanced solutions to small cell technology challenges. Unfortunately, SB 649 moves in the opposite direction of this white paper. Instead, this bill is prescriptive, delivers untested mandates, and recommends an entirely uncooperative process. The attached white paper further outlines the best practices used by industry leaders and cities, here in Orange County. This model of negotiations is not unique to our County and has continued to be duplicated statewide, but this bill would hinder those efforts. The assurances that can be made between stakeholders through this process has the potential for positive outcome for local governments, constituents, industry and promotes the general well-being of communities.

Cities require full discretionary review of small cell implementation and the deployment process. Public benefits negotiated through an already existing fair and reasonable development structure makes this bill unnecessary and punitive towards cities. For this



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and the reasons described above, the Association of California Cities – Orange County opposes SB 649. ACC-OC welcomes the opportunity to be used as a resource to you and your office on this bill, and encourages the adoption of our suggested best practices as this bill advances in the legislative process. Should you have any questions about our position, the attached white paper or about ACC-OC, please contact Diana Coronado, ACC-OC's Legislative Affairs Director, at (714) 953-1300 or at [dcoronado@accoc.org](mailto:dcoronado@accoc.org).

Sincerely,

Heather Stratman  
Chief Executive Officer  
Association of California Cities – Orange County

cc:

The Honorable Ricardo Lara  
The Honorable Senator Mark McGuire  
Senate Appropriations Committee, Members  
Senate Local Government and Finance Committee, Members  
Orange County Legislative Delegation  
ACC-OC Board of Directors