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

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

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

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

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

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

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

WHEREAS, AB 57 does not appear to recognize the complex nature of land use, environmental review (e.g. archaeological, geotechnical, sensitive habitat, historic preservation), and noise effect consideration, that may be associated with local approval of an
application to construction a WTS facility, especially when that facility is poorly sited or designed; and

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

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

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

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

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

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

WHEREAS, WTS facilities mounted on wooden utility poles present a number of aesthetic concerns, particularly within the City’s historic residential neighborhoods, can be noisy, and are less likely to feature long-term resilient battery backup in the event of a disaster or power outage; and
WHEREAS, Many review and approval delays for WTS facilities can be attributed to incomplete or inaccurate designs, inaccurate radio-frequency safety reports, a lack of community engagement, or co-locations at existing facilities that are poorly designed, installed, or maintained, or lack prior building permit completion; and

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

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

FURTHER RESOLVED, That the City respectively urges the State of California to create a broadband connectivity group, as envisioned in the original language of AB 57, to: 1) Encourage State agencies, special districts (e.g. flood or sanitation), and utilities to proactively consider the siting of both commercial and publicly-operated WTS facilities; and 2) Encourage State agencies, special districts (e.g. flood or sanitation), and utilities to reduce time and review barriers for commercial or publicly-operated wired broadband investments across State owned lands or State rights-of-way; and 3) Encourage model building and development codes that require multiple points of wired connectivity into residential dwellings and commercial suites so as to reduce cost and competition barriers for municipal, commercial, or non-profit internet service providers.
Resolution opposing California State Assembly Bill 57, authored by Assembly Member Quirk, which would significantly limit San Francisco’s ability to regulate wireless telecommunications facilities.

June 09, 2015 Board of Supervisors - AMENDED
Ayes: 11 - Avalos, Breed, Campos, Christensen, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

June 09, 2015 Board of Supervisors - ADOPTED AS AMENDED
Ayes: 11 - Avalos, Breed, Campos, Christensen, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

I hereby certify that the foregoing Resolution was ADOPTED AS AMENDED on 6/9/2015 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

I hereby certify that the foregoing resolution, not being signed by the Mayor within the time limit as set forth in Section 3.103 of the Charter, or time waived pursuant to Board Rule 2.14.2, became effective without his approval in accordance with the provision of said Section 3.103 of the Charter or Board Rule 2.14.2.

Angela Calvillo
Clerk of the Board