



## PUBLIC WORKS DEPARTMENT STATEMENT OF OFFICIAL ACTION

### PROJECT INFORMATION

APPLICATION: 18WIR-0023

APPLICATION DATE: August 21, 2018

SHOT CLOCK DATE: April 8, 2019

LOCATION: City-owned streetlight pole in front of 3211 Pico Blvd

APPLICANT: Mr. Franklin Orozco, Ericsson Inc. c/o M Squared Wireless

CASE ENGINEER: Thomas Check, Civil Engineering Assistant

REQUEST: Installation of a wireless facility on a City-owned streetlight pole

CEQA STATUS: The proposed small cell site is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Sections 15302 and 15303, which exempts replacement of existing utility structures and permits the installation of small new equipment and facilities in small structures.

**PUBLIC WORKS DEPARTMENT ACTION**

December 28, 2018	Determination Date
X	Application conditionally approved
	Application denied
	Other:

<b>EFFECTIVE DATE OF ACTION IF NOT APPEALED:</b>	January 12, 2019
<b>DEADLINE TO OBTAIN WIRELESS TELECOMMUNICATIONS CONSTRUCTION PERMIT IF NOT APPEALED:</b>	June 26, 2019
<b>EXPIRATION DATE OF THIS PERMIT IF NOT APPEALED:</b>	December 28, 2028
<b>DEADLINE TO APPEAL THIS DECISION:</b>	January 11, 2019

Each and all of the findings and determinations are based on the competent and substantial evidence contained in the entire record relating to the application. All summaries of information contained herein or in the findings are based on the substantial evidence in the record. The absence of any particular fact from any such summary is not an indication that a particular finding is not based in part on that fact. Each finding is independent of every other finding.

**FINDINGS**

1. The proposed facility complies with all applicable state, federal, and local laws and regulations. This application was submitted to the Public Works Department on August 21, 2018. City staff reviewed the submitted application materials in accordance with Santa Monica Municipal Code (SMMC) Chapter 7.70 and the Public Right-of-Way Personal Wireless Service Facility Standards and Regulations published November 27, 2018. The application materials satisfy the requirements stated in SMMC 7.70 and the Standards. Pursuant to SMMC 7.70.020(t) and 7.70.060, the applicant sent a City-approved notice to all businesses and residents within a 500-ft radius of the proposed installation with information regarding how to submit a public comment to the City. As stated on the notice, public comments must be submitted to the City within 14 calendar days of receiving the notice to be considered by the City. The City received no comments within the public comment period.

The wireless facility must comply with radio frequency emissions standards set by the Federal Communications Commission. The applicant submitted a radio frequency electromagnetic energy report certified by a California-licensed professional electrical engineer that demonstrates that the proposed facility will

comply with federal regulations concerning radio frequency emissions.

2. The proposed facility will not interfere with the use of the public right-of-way. The facility is proposed to be attached on top of a replacement City-owned streetlight pole. Replacement of the existing City-owned streetlight pole is necessary to ensure that the pole can structurally accommodate the wireless facility.
3. The proposed facility's impacts have been mitigated through the use of camouflage and concealment elements in that it complies with the design standards adopted by the City and published in the Public Right-of-Way Personal Wireless Service Facility Standards and Regulations.
4. The proposed facility is in compliance with all federal radio frequency emissions standards. As part of the application materials, the applicant submitted a radio frequency electromagnetic energy report certified by a California-licensed professional electrical engineer that demonstrates that the proposed facility will comply with federal regulations concerning radio frequency emissions.

#### **CONDITIONS OF APPROVAL**

1. Within thirty (30) days of transmittal of this Statement of Official Action, the project applicant shall sign a copy of this determination and return the document to the Public Works Department. Failure to return this Statement of Official Action within thirty (30) days shall constitute grounds for potential revocation of this determination.
2. Within thirty (30) days of transmittal of this Statement of Official Action, the project applicant shall pay outstanding processing fees of \$649.95. Failure to pay outstanding processing fees within thirty (30) days shall constitute grounds for potential revocation of this determination.
3. This approval is for those plans dated December 18, 2018 (revision H) inclusive of any exceptions noted thereon. Permittee shall build in strict compliance to the approved plans. No deviation from the approved plans shall be permitted without authorization from the City of Santa Monica.
4. Permittee shall obtain a Wireless Telecommunications Construction Permit within one hundred eighty (180) days of the date of this Wireless Facility Permit or the permit shall automatically become null and void. Permittee shall provide the following information of the contractor performing the work prior to obtaining a Wireless Telecommunications Construction Permit:
  - a. Point of contact, company, address, phone number, email
  - b. California Contractor State License Board number
  - c. Santa Monica business license number
  - d. Certificate of insurance acceptable to the City's Risk Manager (see Exhibit A of the Public Right-of-Way Personal Wireless Service Facility Standards

and Regulations for insurance requirements)

All licenses and certificates of insurance shall be valid through the duration of the Wireless Telecommunications Construction Permit.

5. Permittee shall comply with all Wireless Telecommunications Construction Permit inspection procedures established by the Public Works Department.
6. Permittee shall not connect the personal wireless service facility approved in this Wireless Facility Permit to a personal wireless service network (e.g., a wireless carrier's network) until receiving final inspection approval on the related Wireless Telecommunications Construction Permit from the Public Works Department.
7. Except in the case of emergencies, work, including maintenance, may only be performed on the personal wireless facility during the days and times stated below:

Monday to Friday	8 AM to 6 PM
Saturday	9 AM to 5 PM
Sunday and Holidays	No Work Permitted

NOTE: If work requires a Temporary Traffic Control Plan that prescribes more restrictive hours than those stated above, the more restrictive hours shall prevail.

8. The permittee shall submit as-built drawings within (90) days after installation of the facility. As-built drawings shall be in an electronic format acceptable to the City.
9. The permittee shall submit and maintain current at all times basic contact and site information on a form to be supplied by the City. The permittee shall notify the City of any changes to the information submitted within thirty (30) days of any change, including change of the name or legal status of the owner or operator.
10. The permittee shall notify the City in writing at least ninety (90) days prior to any transfer or assignment of the permit. The written notice required in this section must include: (1) the transferee's legal name; (2) the transferee's full contact information, including a primary contact person, mailing address, telephone number and email address; and (3) a statement signed by the transferee that the transferee shall accept all permit terms and conditions. The Public Works Director may require the transferor and/or the transferee to submit any materials or documentation necessary to determine that the proposed transfer complies with the existing permit and all its conditions of approval, if any. Such materials or documentation may include, but shall not be limited to: federal, state and/or local approvals, licenses, certificates or franchise agreements; statements; photographs; site plans and/or as-built drawings; and/or an analysis by a qualified radio frequency engineer demonstrating compliance with all applicable

regulations and standards of the FCC.

11. At all times, all required notices and/or signs shall be posted on the site as required by the Federal Communications Commission. The location and dimensions of a sign bearing the emergency contact name and telephone number shall be posted pursuant to the approved plans.
12. If a nearby property owner registers a noise complaint, the City shall forward the same to the permittee. Said complaint shall be reviewed and evaluated by the permittee. The permittee shall have ten (10) business days to file a written response regarding the complaint which shall include any applicable remedial measures. If the City determines the complaint is valid and the applicant has not taken any steps to minimize the noise, the City may hire a consultant to study, examine and evaluate the noise complaint and the permittee shall pay the fee for the consultant if the site is found in violation of Santa Monica Municipal Code Chapter 4.12. The matter shall be reviewed by the Public Works Director. If the Public Works Director determines sound proofing or other sound attenuation measures should be required to bring the project into compliance with the Code, the Public Works Director may impose conditions on the project to achieve said objective.
13. The permittee shall assume full liability for damage or injury caused to any property or person by the facility.
14. The permittee shall repair, at its sole cost and expense, any damage including, but not limited to subsidence, cracking, erosion, collapse, weakening, or loss of lateral support to City streets, sidewalks, walks, curbs, gutters, trees, parkways, street lights, traffic signals, improvements of any kind or nature, or utility lines and systems, underground utility line and systems, or sewer systems and sewer lines that result from any activities performed in connection with the installation and/or maintenance of a wireless facility in the public right-of-way. The permittee shall restore such areas, structures and systems to the condition in which they existed prior to the installation or maintenance that necessitated the repairs. In the event the permittee fails to complete such repair within thirty (30) days of being notified of the need for such repairs by the City, the City may revoke the permit pursuant to Santa Monica Municipal Code Section 7.70.110.
15. The permittee shall defend, indemnify and hold harmless the City, its agents, officers, officials, employees and volunteers from any and all: (1) damages, liabilities, injuries, losses, costs and expenses and from any and all claims, demands, law suits, writs and other actions or proceedings ("Claims") brought against the City or its agents, officers, officials, employees or volunteers to challenge, attack, seek to modify, set aside, void or annul the City's approval of any permit or regulatory approval authorized by City under Santa Monica Municipal Code Chapter 7.70; and (2) other Claims any kind or form, whether for personal injury, death or property damage, that arise from or in connection with

the permittee's or its agents', directors', officers', employees', contractors', subcontractors', licensees', or customers' acts or omissions in connection with the permit or the facility; provided, however, the permittee shall not be required to defend, indemnify, or hold harmless the City, agents, officers, officials, employees and volunteers due to the negligence, gross negligence, or willful misconduct of the City, agents, officers, officials, employees, and volunteers. In the event the City becomes aware any Claims, the City shall use best efforts to promptly notify the permittee and shall reasonably cooperate in the defense. The permittee expressly acknowledges and agrees that the City shall have the right to approve, which approval shall not be unreasonably withheld, the legal counsel providing the City's defense, and the property owner and/or permittee (as applicable) shall promptly reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense.

16. Permittee shall pay for and provide a performance bond or other form of security approved by the City Attorney's Office, which shall be in effect until the facilities are fully and completely removed and the site reasonably returned to its original condition, to cover permittee's obligations under these conditions of approval and Santa Monica Municipal Code Chapter 7.70. The security instrument coverage shall include, but not be limited to, removal of the facility. (The amount of the security instrument shall be calculated by the applicant prior to issuance of a Wireless Telecommunications Construction Permit in an amount rationally related to the obligations covered by the bond and shall be specified in the conditions of approval.) Before issuance of any Wireless Telecommunications Construction Permit, permittee must submit said security instrument.
17. Permittee shall comply with the insurance requirements as set forth in Exhibit A of the Standards for the duration of the permit. Permittee shall furnish proof of insurance prior to issuance of a Wireless Telecommunications Construction Permit.
18. Permittee shall obtain all other required prior permits and other regulatory approvals from other City departments, and state and federal agencies prior to issuance of a Wireless Telecommunications Construction Permit to perform the work. This Wireless Facility Permit and any subsequent Wireless Telecommunications Construction Permit shall be subject to the conditions and/or other requirements in any other required prior permits or other regulatory approvals from other City departments, and state and federal agencies.
19. Permittee shall agree in writing that the permittee is aware of, and agrees to abide by, all conditions of approval imposed by the permit prior to permit issuance.

**APPEAL**

Pursuant to SMMC 7.70.090, any person may appeal the Public Works Department's decision to the City Council by filing a written appeal that must be received by the City within 14 calendar days after this determination has been served on the applicant and published on the City's website. Appellants are encouraged to include in their appeals any supporting documentation.

Appeals may be filed online at [www.santamonica.gov/wirelessappeals](http://www.santamonica.gov/wirelessappeals), or mailed or hand delivered to:

City of Santa Monica  
Attn: Wireless Appeal  
1685 Main St, Rm 116  
Santa Monica, CA 90401

In your correspondence, please include the wireless application number stated in the "Project Information" section on page 1 of this Statement of Official Action or your appeal request will not be processed.

The burden is on the Appellant to comply with the appeal rules. The City is not responsible for any misdirected, incomplete, unreadable, or untimely deliveries of appeals, regardless of the means the Appellant uses to submit an appeal.

**PUBLIC WORKS DIRECTOR CERTIFICATION**

**I hereby certify that this Statement of Official Action accurately reflects the final determination of the Public Works Department of the City of Santa Monica.**

  
\_\_\_\_\_  
FOR Susan Cline, Public Works Director

12-28-18  
Date

**ACKNOWLEDGEMENT BY PERMIT HOLDER**

I hereby agree to the above conditions of approval and acknowledge that failure to comply with such conditions shall constitute grounds for potential revocation of the permit approval.

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Applicant's Signature