



## Public Facilities Committee Agenda

### City of Newton In City Council

**Wednesday, July 18, 2018**

**7:00 PM**  
**Room 204**

*The Committee will meet jointly with the Finance Committee to discuss the following item:*

#### **Referred to Public Facilities and Finance Committees**

- #410-18**      **Appropriate \$100,000 for schematic design study for potential boiler projects**  
HER HONOR THE MAYOR requesting authorization to transfer the sum of one hundred thousand dollars (\$100,000) from budget Reserve to the F.A. Day/Bigelow Boiler Replacement Account for the purpose of paying costs of conducting schematic design studies at F.A. Day Middle School and Bigelow Middle School for potential boiler replacement projects for which the City may be eligible for a grant from the Massachusetts School Building Authority.
- #324-18**      **President Laredo's appointment of Robert Hnasko to the Design Review Committee**  
Robert Hnasko, 49 Miller Road, Newton Centre, appointed as a member of the DESIGN REVIEW COMMITTEE for a term to expire December 31, 2021.
- #384-18**      **Appointment of Puja Vohra to the Citizens Commission on Energy**  
HER HONOR THE MAYOR appointing PUJA VOHRA, 130 Day Street, Newton, as a member of the CITIZENS COMMISSION ON ENERGY for a term to expire June 15, 2021. (60 days: 8/17/18)
- #385-18**      **Appointment of Jonathan Klein to the Citizens Commission on Energy**  
PRESIDENT LAREDO appointing JONATHAN KLEIN, 107 Woodward Street, Newton Highlands, as a member of the CITIZENS COMMISSION ON ENERGY for a term to expire June 30, 2021. (60 days: 8/17/18)
- Chairs Note:*** *The Department of Public Works will present an overview of the City's Vehicle Replacement Program.*
- #42-18**      **Review of City Council regulations governing petitions for wireless communications**  
COUNCILORS CROSSLEY, ALBRIGHT AND LAPPIN requesting a review of proposed City Council regulations pursuant to City Code Sec. 23-20, governing petitions for

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The location of this meeting is accessible and reasonable accommodations will be provided to persons with disabilities who require assistance. If you need a reasonable accommodation, please contact the city of Newton's ADA Coordinator, Jini Fairley, at least two business days in advance of the meeting: [jfairley@newtonma.gov](mailto:jfairley@newtonma.gov) or (617) 796-1253. The city's TTY/TDD direct line is: 617-796-1089. For the Telecommunications Relay Service (TRS), please dial 711.

permission to install wireless communications facilities and new poles proposed for wireless communications use in the public ways of the City. Such rules would cover petitions that are subject to review under G.L. c. 166, §22 and 47 U.S.C. §332(c) (7) and petitions that are subject to review under 47 U.S.C. §1455 (“Eligible Facilities Requests”).

***Chairs Note:*** *The Chair will entertain a discussion on an update on the status of the Crescent Street Housing Project.*

**Respectfully submitted,**

**Deborah Crossley, Chair**



RUTHANNE FULLER  
MAYOR

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Office of the Mayor

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Honorable City Council  
Newton City Hall  
1000 Commonwealth Avenue  
Newton Centre, MA 02459

July 9, 2018  
RUTHANNE FULLER  
MAYOR  
NEWTON, MA 02459  
2018 JUL - 9 AM 10:39  
RUTHANNE FULLER

Ladies and Gentlemen:

I write to request that your Honorable Council docket for consideration a request to authorize the appropriation and expenditure of One Hundred Thousand Dollars (\$100,000) for the purpose of paying costs of conducting a Schematic Design Study at the F.A. Day Middle School and the Bigelow Middle School for potential boiler replacement projects, including the payments of all costs incidental or related thereto, and for which the City may be eligible for a grant from the Massachusetts School Building Authority ("MSBA"), said amount to be expended under the direction of the F.A.Day/Bigelow Boiler Replacement Committee.

To meet this appropriation I request the Honorable Council authorize the transfer of the sum of \$100,000 from Acct 0110498-5790 FY19 Current Year Budget Reserve to the F.A.Day/Bigelow Boiler Replacement Account.

The City acknowledges that the MSBA's grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any costs the City incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the City.

Thank you for your consideration of this matter.

Sincerely,

Ruthanne Fuller  
Mayor

# Massachusetts School Building Authority

Deborah B. Goldberg  
*Chairman, State Treasurer*

James A. MacDonald  
*Chief Executive Officer*

John K. McCarthy  
*Executive Director / Deputy CEO*

June 27, 2018

The Honorable Ruthanne Fuller, Mayor  
City of Newton  
1000 Commonwealth Avenue  
Newton Centre, MA 02459

Re: City of Newton, F.A. Day Middle School, Bigelow Middle School

Dear Mayor Fuller:

I am pleased to report that on June 27, 2018, the Board of Directors (the "Board") of the Massachusetts School Building Authority (the "MSBA") voted to invite the City of Newton (the "City") into the Accelerated Repair Program to partner with the MSBA in conducting a Schematic Design Study at the F.A. Day Middle School and at the Bigelow Middle School for potential boiler replacement projects.

I do want to emphasize that this invitation to partner on a Schematic Design Study is *not* approval of a project, but is strictly an invitation to the City to work with the MSBA to explore potential solutions to the building needs that have been identified. Moving forward in the MSBA's Accelerated Repair Program process requires a partnership with the MSBA, and communities that "get ahead" of the MSBA without MSBA approval will not be eligible for grant funding. To qualify for any funding from the MSBA, local communities must follow the MSBA's statute, regulations, and policies, including the Accelerated Repair Program requirements, which require MSBA partnership and approval at each step of the process.

The Accelerated Repair Program will focus on the preservation of existing assets by performing energy-efficient and cost-saving upgrades, which will result in direct operational savings for school districts. Districts that are invited into the Accelerated Repair Program will be required to use Owner's Project Managers and Designers who are pre-selected and randomly assigned by the MSBA and must also adhere to other requirements that are unique to this program, such as implementing an accelerated project schedule and complying with the MSBA's reimbursement dollar thresholds. Districts will be expected to complete a Schematic Design Study and receive authorization for a Project Funding Agreement by the Board of Directors no later than 12 months from Program invitation. Districts seeking reimbursement under the Accelerated Repair Program will be allowed to submit requests for reimbursement monthly, but only if the total value of the invoices being submitted equals more than \$50,000.

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June 27, 2018

Newton Invitation to Accelerated Repair Program Board Action Letter

During the Schematic Design Study phase, the MSBA will partner with the City and its assigned Owner's Project Manager and Designer to find the most fiscally responsible, educationally appropriate and sustainable solution to the building needs identified at the F.A. Day Middle School and at the Bigelow Middle School. The City must complete a number of pre-requisites prior to beginning work with its consultants. Please submit the following information to the MSBA by no later than the date listed below in order to fulfill these pre-requisites:

- A current routine and capital maintenance plan for the City's school facilities, to be submitted electronically using the MSBA web-based tool (submit prior to September 27, 2018); and,
- An Initial Compliance Certification (attachment to this letter) executed by the City to ensure that the City understands and will comply with the MSBA's requirements and regulations (submit prior to September 27, 2018).

The City must approve funding for the Feasibility Study/Schematic Design portion of this potential project within 60 calendar days of the date of invitation into the Accelerated Repair Program (August 27, 2018). Submission of the properly certified documentation that the City has appropriated its funding should be submitted to the MSBA prior to September 27, 2018. Future funding for the total project budget will be required within 90 days after the date of the MSBA's approval of the project scope and budget.

Once the City has completed the pre-requisites listed above according to the MSBA's standards, the MSBA will assign an Owner's Project Manager and Designer using the MSBA's list of pre-selected and randomly assigned consultants for the Accelerated Repair Program. In the meantime, I wanted to share with you the Board's decision and provide a brief overview of what this means for the City of Newton.

I look forward to continuing to work with you as part of the MSBA's Accelerated Repair Program. As always, feel free to contact me or my staff at (617) 720-4466 should you have any questions.

Sincerely,

  
John K. McCarthy  
Executive Director

Cc: Legislative Delegation  
Marc Laredo, President, Newton City Council  
Ruth Goldman, Chair, Newton School Committee  
Dr. David A. Fleishman, Superintendent, Newton Public Schools  
File: 10.2 Letters

**Massachusetts School Building Authority**

Deborah B. Goldberg, State Treasurer and Receiver-General

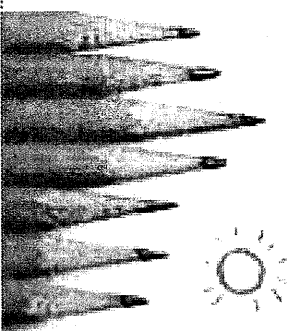
*Chairperson*

James MacDonald

*Chief Executive Officer*

Jack McCarthy

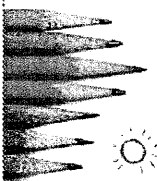
*Executive Director*



**Accelerated Repair Program  
Syllabus**

**2018 Invitations**

**June 27, 2018**



# Accelerated Repair Program

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Q-Search

**Massachusetts School Building Authority**  
*Funding Affordable, Sustainable and Efficient Schools in Partnership with Local Communities*

## Accelerated Repair Program

As a result of the lessons learned from its Green Repair Program, the MSBA has instituted an Accelerated Repair Program ("Program") as part of its ongoing repair program. The Program is primarily for the repair and/or replacement of roofs, windows/doors, and/or boilers with the potential to include additional systems as may be determined by the MSBA contingent upon available funding and capacity in the capital pipeline. The Program focuses on the preservation of existing assets by performing energy-efficient and cost-saving upgrades, which will result in direct operational savings for school districts. In order to maximize the impact of this Program, districts are required to use pre-selected consultants. In addition, districts are required to appropriate funding quickly in order to adhere to an accelerated project schedule.

Districts that have repair needs in their school facilities that inhibit the cost-effective and energy-efficient delivery of the district's educational program expressed interest in the Accelerated Repair Program through the MSBA's Statement of Interest ("SOI") process. Since 2010, districts have been participating in our Repair Programs as indicated in the table below:

Year	Districts	Schools	Total Project Costs	Maximum Facility Grants Approved	Number of Projects Finalized
2017 Accelerated	20	35	\$77,474,038*	\$51,291,230*	0
2016 Accelerated	28	48	\$156,588,234	\$83,007,586	0
2015 Accelerated	24	43	\$136,690,652	\$91,974,052	6
2014 Accelerated	34	47	\$108,410,094	\$65,388,035	29
2013 Accelerated	25	45	\$84,650,790	\$54,662,551	39
2012 Accelerated	24	36	\$53,009,653	\$38,267,952	36
Green	93	189	\$366,647,226	\$222,889,218	188

\* Financial totals reflect the 25 projects approved for Project Funding Agreements as of the April 10, 2018 Board of Directors Meeting.

### Accelerated Repair Program Overview

- 2018 Accelerated Repair Program Statement of Interest (SOI) Information

### Annual Project History

- 2017 Accelerated Repair Program Invitations
- 2016 Accelerated Repair Program Invitations
- 2015 Accelerated Repair Program Invitations
- 2014 Accelerated Repair Program Invitations
- 2013 Accelerated Repair Program Invitations
- 2012 Accelerated Repair Program Invitations

### Prerequisite Documents

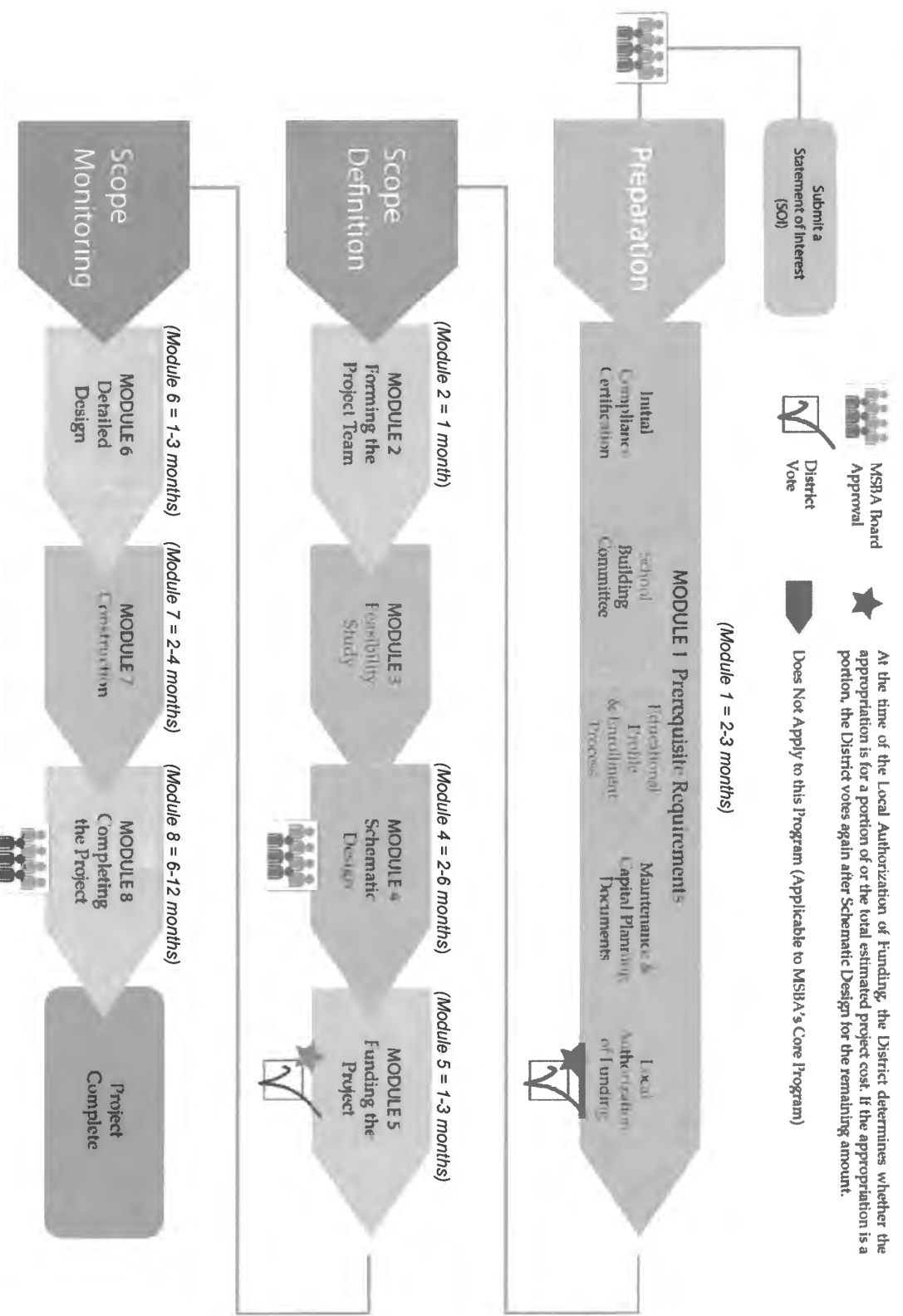
- Initial Compliance Certification (ICC)
- Terms and Conditions
- Schematic Design/Vote Language
- Accelerated Repair Program Solicits for 2017 Invitations (Updated)



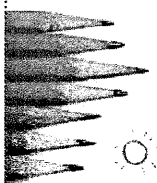
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- III. Forming the Project Team
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- VII. Detailed Design
- VIII. Construction
- IX. Completing the Project

# I. Process Overview



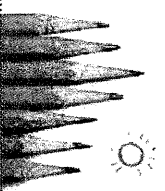




## II. Prerequisite Requirements

Per the MSBA Board Action Letter sent to all 2018 districts invited to participate in the Accelerated Repair Program, the prerequisite deliverables have the following deadlines:

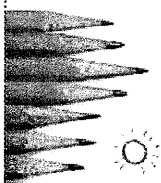
Deliverable	June Invites
<p><b>Certified funding vote for Schematic Design</b></p> <ul style="list-style-type: none"> <li>MSBA has issued <b>Vote Bulletins</b> to inform cities, towns, and regional school districts of the requirements for warrant articles, motions, orders, and votes related to any potential projects that may be eligible for MSBA funding (“Schematic Design Vote Language” link on ARP webpage)</li> <li>“Cost Data” link on ARP webpage provides previous project budgets for reference</li> </ul>	<p>August 27, 2018</p>
<p><b>Certified funding vote submission</b></p> <ul style="list-style-type: none"> <li>MSBA requires an original, certified copy of the vote/letter identifying the appropriated funds for the Schematic Design of Accelerated Repair project(s)</li> </ul> <p><b>Initial Compliance Certification (“ICC”) submission</b></p> <ul style="list-style-type: none"> <li>Includes Exhibit A - Accelerated Repair Program Terms and Conditions</li> </ul>	<p>September 27, 2018</p>
<p><b>Current routine and capital maintenance plan (“MCP”) submission</b></p> <ul style="list-style-type: none"> <li>Not required if submitted within previous 36 months (See Board Action Letter if required)</li> <li>If required, MCP access form must be submitted first (“Guidelines &amp; Forms”)</li> </ul>	<p>September 27, 2018</p>



# III. Forming the Project Team | Process

## Process described in Consultant Assignment Procedure (ARR webpage)

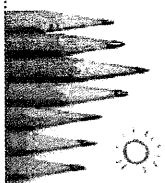
- Districts receive notification of assignments after completion of prerequisite documents
  - Notification includes contact information for OPM and designer
- MSBA standard project management and design services contracts for ARR projects should be executed within **four weeks** of assignment notification
  - **District is Owner to both OPM and Designer contract and therefore must hold its consultants to the responsibilities of the contracts**
  - OPM and Designer contracts are available on ARR webpage
  - Contracts can not be altered or added to in any way
  - OPM contract executed first to allow OPM to assist with designer negotiation
    - OPM contract includes not-to-exceed fee for the Schematic Design phase depending on the number of schools and initial estimated Total Project Budget(s)
      - See Attachment A to the Contract for Project Management Services for more information
- **Initial Project Schedule (Gantt chart) will be provided to MSBA following execution of project management and design services contracts. Initial Project Schedule will identify:**
  - **Board Meeting for approval of a Project Funding Agreement (“PFA”)**
  - **Summer selected for construction (2019 or 2020)**
- If a consultant declines an assignment to a particular ARR district, fails to reach agreement with a district on an ARR project, or ceases to perform services for an ARR project for any reason, the district will be assigned a new consultant per the MSBA consultant assignment process



## III. Forming the Project Team | OPM Report

### **OPM Monthly Reporting described in OPM Contract ( Section 8.1.3)**

- OPM monthly reporting begins for the month when the OPM contract is executed and continues until the month in which the project receives Board of Directors' approval of the Final Audit
  - Districts must complete an OPM Report System Access Request Form with assistance from their OPMs (massschoolbuildings.org/guidelines/guides)
    - OPM Report Access Request Form should be submitted to the MSBA with the OPM contract upon execution of the OPM contract
- Monthly reports are due through the MSBA online system on the 12<sup>th</sup> of each month
  - Monthly reports include the following attachments for submission:
    - Budget and Cost Report – MSBA Format
    - Project Schedule (Gantt chart)
    - Projected Cash Flow vs. Actual Cash Flow
- Failure to submit timely and complete reports may impact review and payment of reimbursement requests
  - OPM monthly reports support the MSBA's review of submitted invoices by further describing project progress



# IV. Schematic Design | Board Packages

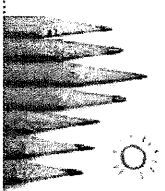
## Schematic Design Package Submission Deadline (By 5:00 PM)

## MSBA Board of Directors Meeting

October 17, 2018	December 12, 2018
January 2, 2019	February 13, 2019
February 20, 2019	April 10, 2019
May 8, 2019	June 26, 2019

\* Board Meeting dates in 2019 are projected. Official dates will be provided when available.

- Districts must return to the Board of Directors for PFA approval within 10 months of invitation. An additional 2 months can be granted with MSBA approval. If the District fails to fulfill its obligations within the timeline, the MSBA may, in its sole discretion, remove the District from the Program
- Packages submitted after deadlines for consideration at the corresponding Board Meeting will not be processed by the MSBA
  - Late submittals will be scheduled for the following Board Meeting
- All items on the MSBA Schematic Design Checklist (ARP webpage) must be included as one submittal
  - Submittal includes hard copy (half size drawings) and electronic disc for all documents
  - District and OPM must certify that submittal is complete
- Concerns or questions among district representatives, consultants, and sub-consultants about any part of the Schematic Design submittal should be reconciled prior to submitting the package to the MSBA



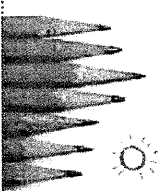
## IV. Schematic Design | Total Project Budget

### **Comprehensive Schematic Design is Critical**

- Board approval is tied to the specific project scope, budget, and schedule presented in the Schematic Design
- Estimated maximum total facilities grant is the product of the eligible project scope and the reimbursement rate
  - Estimated maximum total facilities grant is calculated assuming all potentially eligible budget (including potentially eligible contingency) becomes actual eligible costs, which is unlikely
- Any third-party funding forecasted to be received by the district will not be included in the estimated basis of the total facilities grant with the exception of Clean Energy Incentive Rebates (See Project Advisory 54)
- Districts with more than one school project may not transfer grants between schools
- If the project scope includes the replacement of windows and doors, the MSBA requests that the project team confirm that the persons responsible for implementation of the District's emergency procedures as well as responding emergency medical, fire protection, and police agency representatives have been consulted regarding the inclusion of security design elements and that any associated requirements from those persons have been included in the project

### **Developing the Project Schedule**

- Project schedule must establish completion and submission of 60% and 100% Construction Documents to the MSBA as well as specific dates for bidding, notice to proceed, and substantial completion in Gantt Chart format
- Districts with more than one school or a school combining the replacements of roofs, exterior windows/doors, and/or boilers must delineate the project schedule for each school and scope
- Districts must determine during Schematic Design when construction will occur
  - Cost estimates must reflect the year of construction



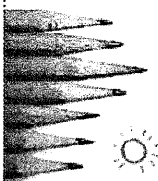
## IV. Schematic Design | Total Project Budget

### Reviewing ADA Accessibility Upgrades as required by 521 CMR

- Districts and their consultants are responsible for determining the applicability of 521 CMR
- MSBA will reimburse the following ADA upgrades necessitated when the estimated cost of the project is less than 30% of the assessed value of the building but more than \$500,000:
  - Accessible public entrance as well as accessible public toilet room, telephone, and drinking fountain (if public toilets, telephones, and drinking fountains are provided)
    - If the District and their consultants propose an elevator for a building which does not have an accessible public entrance, the MSBA will review the proposed elevator to determine the eligibility
- MSBA will not reimburse ADA upgrades when the estimated cost of the project exceeds 30% of the assessed value of the building

### Formulating the Total Project Budget

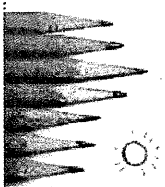
- Project soft costs, which include OPM and Designer fees, are determined by the district; however, eligibility is capped:
  - If estimated eligible construction cost is greater than \$1.25M, eligible soft costs are capped at 20% of the estimated eligible construction cost
  - If estimated eligible construction cost is less than \$1.25M, eligible soft costs are capped at \$250,000
- Contingency funds are determined by the district with their consultants; however, eligibility is capped:
  - Construction Contingency – 5% of estimated eligible construction cost
  - Owner's Contingency – 0.5% of estimated eligible construction cost (Project soft costs cap supersedes Owner's Contingency cap)



## IV. Schematic Design | Total Project Budget

### Developing the Cost Estimate

- Submitted cost estimates must include:
  - CSI format
  - All proposed bid alternates
  - Cost of commissioning testing
    - Including specifically identified cost of spray and air testing on window projects
  - Specific to roof projects:
    - Separately identified costs to make roof solar ready
    - Separately identified costs to remove, remediate, and replace
    - Roof areas separately identified by type (PVC, EPDM, shingle, etc.)
  - Specific to windows/doors projects:
    - Separately identified costs to remove, remediate, and replace
    - Window areas separately identified by the following:
      - Systems: punched/ribbon window, storefront, or curtainwall
      - Wind zone: wind zone per ASTM E1996
      - Frame material: aluminum, steel, wood, other
  - Specific to boiler projects:
    - Separately identified costs to remove, remediate, and replace
    - Boilers identified in size by MBH

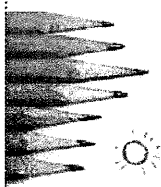


## IV. Schematic Design | Total Project Budget

### ARP Eligibility Determinations

- When reviewing Schematic Design submittals for districts invited in 2018, MSBA will make the following eligibility determinations:
  - MSBA will not participate in the estimated construction cost (including cost mark-up in the estimate) for the following:
    - Replacement of building systems with less than the required years of service (year of installation compared to year of SOL submittal)
      - Roof and Boilers = 25 years (installed in or after 1994 is ineligible)
      - Windows/Doors = 30 years (installed in or after 1989 is ineligible)
    - Replacement of underground storage tanks or gas lines up to the boiler room
    - Replacement of heating, ventilation, or air conditioning units
    - Masonry restoration including cleaning and sealing beyond the invited project scope
    - Site work associated with sub-grade roof drainage
    - Installation of canopies and vestibules beyond the existing building footprint
    - Temporary repairs



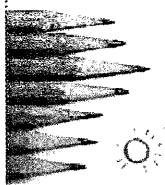


## IV. Schematic Design | Total Project Budget

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### ARP Eligibility Determinations

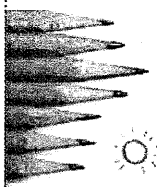
- When reviewing Schematic Design submittals for districts invited in 2018, MSBA will make the following eligibility determinations:
  - MSBA will not participate in the estimated construction cost (including cost mark-up in the estimate) nor a matching proportion of soft costs for the following:
    - Building systems in spaces deemed ineligible per MSBA Regulations (swimming pools, hockey rinks, field houses and other such systems)
    - Building systems beyond ARP scope (extended floor or ceiling replacements, fire protection systems, photovoltaic panels, and other such systems)
    - ADA upgrades necessitated when the estimated cost of the project exceeds 30% of the assessed value of the building



## V. Commissioning | Coordination

### **MSBA pays 100% of commissioning consultant costs**

- MSBA assigns commissioning consultant to each project
  - Following MSBA's receipt of district's Schematic Design package, the Schematic Design is provided to the assigned commissioning consultant to produce a work order.
  - Work order is executed following the project's approval for a PFA by the MSBA Board of Directors
- Commissioning consultant reviews the Schematic Design and 60% Construction Documents as well as develops commissioning specifications and a Commissioning Plan for the Final Construction Documents
- OPM works with commissioning consultant to coordinate site visits, testing, and training
  - MSBA recommends District participate in site visits, especially kick-off meeting, and testing
  - For boiler project, OPM also coordinates equipment training for District with contractor and commissioning consultant
- Commissioning consultant issues final report following completion of testing
- OPM coordinates with the commissioning consultant to ensure execution of MSBA Commissioning Certificate of Completion during the Closeout phase



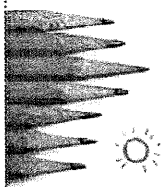
## VI. Funding the Project | PFA Execution

For local approval of Total Project Budget funding, each district must:

- Secure funding within 90 days of receiving the MSBA Board of Directors' approval of the project scope and budget
- Appropriate the total project budget including Construction and Owner's Contingencies
- Use MSBA standard vote language found on ARP webpage
  - MSBA will review District's vote language provided within Schematic Design submission

For execution of a Project Funding Agreement, each district must:

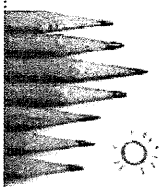
- Obtain funding within 90 days of Board Approval
- Sign and return PFA to the MSBA's Legal Department within 30 days of obtaining funding or receiving the PFA, whichever is later
  - Return of PFA includes the following documents:
    - Exhibit A – Total Project Budget executed with same signatures as Initial Compliance Certification
    - Certified funding vote
    - Certified copy of vote which authorizes the district to enter into and be bound by the PFA and authorizing the signatory to execute the PFA on behalf of the district
    - Legal Counsel Certification which requires the district's legal counsel to identify which local official or governmental body has the full legal authority to execute the PFA on behalf of the district and to bind the district to its terms



## VI. Funding the Project | ProPay

Through its “pay-as-you-build” Progress Payment System, the MSBA reimburses districts for eligible project costs during construction

- OPMs assist districts with the completion of the ProPay Access Form found on the MSBA website ([massschoolbuildings.org/guidelines/guides](http://massschoolbuildings.org/guidelines/guides))
- MSBA's Audit Department provides ProPay training for districts following the execution of a Project Funding Agreement (<http://www.massschoolbuildings.org/programs/pro-pay>)
  - ProPay training offered at MSBA office and remotely (2<sup>nd</sup> Friday each month)
  - MSBA strongly encourages district and OPM staff to attend a training
  - District can enter Total Project Budget(s) into ProPay at MSBA training
  - District has discretion to give OPM access to operate ProPay on behalf of the District
- All Total Project Budget entries must mirror the Exhibit A - Total Project Budget, including Construction and Owner's Contingencies, as approved by the MSBA's Board of Directors and executed by the MSBA and district
- **Once the Total Project Budget is entered into ProPay, districts can submit requests for reimbursement monthly**
  - MSBA's Audit Department will review requests for reimbursement of \$50,000 or more per school. Requests including less than \$50,000 will be returned to the district for future resubmission with additional invoices.



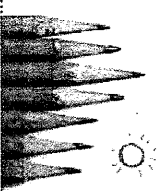
## VII. Detailed Design | CD Submissions

### **60% Construction Documents Submittal (electronic submission to Dropbox only)**

- 60% Construction Documents Submission Checklist (ARRP webpage) must be submitted
  - Basis of Design Narrative
    - Reconciled with scope and construction cost estimate in Schematic Design
  - Project Manual and Drawings
  - Cost Estimate
    - Identifies all proposed bid alternates
  - Updated Project Schedule (Gantt Chart)

### **Final Construction Documents Submittal (hard copy and CD submission to MSBA PM)**

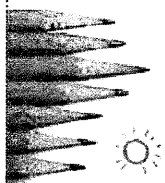
- Final Construction Document Submission Checklist (ARRP webpage) must be submitted
  - Project Narrative
    - Comparison of final construction documents to PFA explaining significant deviations in cost and/or scope
  - Project Manual and Drawings (half size drawings) including all Addenda
  - Executed Contractor's Contract(s)
  - Contractor's approved Schedule of Values modeled after MSBA's standardized sample
  - Template Project Funding Agreement Bid Amendment Worksheet
  - Updated Project Schedule (Gantt Chart)



## VIII. Construction | PFA Bid Amendment

### Schedule for PFA Bid Amendment

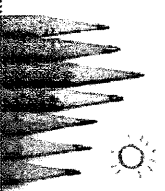
- Bid results shared with MSBA upon receipt
- **Finalized Schedule of Values submitted within 60 calendar days of receipt of bids**
  - SOV data should be subtotaled in accordance with the CSI divisions of work corresponding to the divisions shown in the MSBA's ProPay system and be modeled after the SOV template shown on the (ARRP webpage)
    - Schools bid together must be separated in SOV
  - ARRP Bid Amendment Worksheet (ARRP webpage) should be submitted and match the SOV for the MSBA to review
    - If the construction contract includes costs found ineligible within the PFA, the MSBA requests that the amount(s) be identified when submitting the SOV and ARRP Bid Amendment Worksheet
  - Any Budget Revision Request ("BRR") needed to transfer soft costs should be submitted with the SOV to the MSBA
- Upon receipt of these documents, the MSBA will prepare a revised PFA Exhibit A, Total Project Budget, for review by the District and the OPM
  - MSBA requests that the District return any comments or questions within 14 calendar days of receipt of the revised PFA Exhibit A
  - Upon resolution of any comments and/or questions, the MSBA will send the PFA-Bid Amendment to the District for execution. The District is required to review, execute and return its executed PFA-Bid amendment to the MSBA within 21 calendar days of receipt of the PFA Bid Amendment.



## VIII. Construction | PFA Bid Amendment

### Grant Adjustment per PFA Section 2.3

- If bidding results in PFA Construction Budget savings:
  - Maximum facilities grant decreases to reflect savings in reimbursable costs
  - Bid savings may be transferred to Contingencies as ineligible budget following review by district's legal counsel
    - District must provide certificate of compliance signed by voting authority with executed PFA Bid Amendment to confirm transfer
- If bidding results in overage to PFA Construction Budget:
  - Bid cost greater than the eligible PFA Construction Budget is ineligible
  - If additional construction cost requires transfer from eligible portion of Construction Contingency, that portion of the Construction Contingency becomes ineligible and the estimated basis of the maximum facilities grant is reduced proportionately



## VIII. Construction | Budget Revision Requests

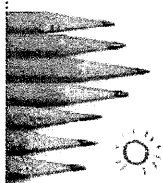
### Construction Contingency (hard costs)

- PFA Construction Budget overage - **Ineligible**
- Change Orders – **Potentially Eligible within Cap**
  - One CO review completed by MSBA per district
  - COs reviewed for eligibility not validity (See *Manual for the Eligibility of Change Orders* found in Module 7 – Construction on the MSBA website)
  - **COs must be submitted when executed and no later than 90 days after substantial completion**
    - COs submitted with MSBA’s Template Change Order Log (ARP webpage)
    - OPM completes Change Order Log for MSBA review
      - “Comments” column in Log provides a district and its consultants the opportunity to describe COs and their basis for eligibility
      - **If MSBA does not receive COs & Log within 90 days, MSBA will issue a letter to the district. All Change Orders not submitted to the MSBA within 120 days after substantial completion will be deemed ineligible for reimbursement.**

### Owner’s Contingency (soft costs) – **Potentially Eligible within Soft Cost & Owner’s Contingency Caps**

- Transfers for additional consultant costs may be eligible
  - Additional fees resulting from schedule extensions will not be eligible
- Transfers for additional legal fees are ineligible
- Transfers for additional utility company operating costs are ineligible
- Transfers for additional swing space/modular costs are ineligible

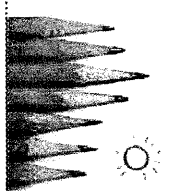




## VIII. Construction | Monitoring the Work

### Coordination and monitoring

- Per OPM contract, Project Representative is present during contractor operations
  - 8.6.2 The Owner's Project Manager shall provide an on-site Project Representative, who shall be dedicated exclusively to the Project, either as an employee of the Owner's Project Manager or as a subconsultant to the Owner's Project Manager.
    - 8.6.2.1 The Project Representative shall be subject to the approval of the Owner and the Owner reserves the right to require the Owner's Project Manager to replace the Project Representative at any time during the course of the Project.
    - 8.6.2.2 The Project Representative shall have at least five years of experience in on-site supervision of projects similar in size and complexity to the Project.
    - 8.6.2.3 The Project Representative shall be present at all times when the Contractor is conducting operations at the site starting from issuance by the Owner of a Notice to Proceed to the Contractor and continuing until substantial use or substantial completion as determined by the Owner and thereafter on an, as needed basis, until issuance to the Contractor of a Certificate of Final Completion by the Owner.
- Designer certifies percentage of work for contractor payment requisitions
- MSBA's Commissioning Consultant performs the following:
  - Reviews contractor submittals
  - Provides site observation reports
  - Monitors commissioning testing
- OPM assists district in completing 50% DCAMM evaluations of designer and GC



## IX. Completing the Project | Closeout

Both OPM and designer play a critical role in readying projects for closeout

- OPM coordinates with designer, commissioning consultant, District, and MSBA to complete the steps found in Module 8 – Completing the Project (ARP webpage) within 270 days of substantial completion of construction contract
  - Module 8 describes the closeout process and forms
    - PFA Bid Amendment budget entry into ProPay (immediately following execution of PFA Bid Amendment)
    - Change Order review (within 90 days of substantial completion)
    - Final BRR submission including Change Orders and outstanding soft cost transfers (within 90 days of substantial completion)
    - OPM assists district in completing 100% DCAMM evaluations of designer and GC
    - OPM coordinates with commissioning consultant to ensure execution of Commissioning Certification
    - Submission of final reimbursement request (immediately following payment of final project invoice)
  - Module 8 identifies the deadlines for all Audit Department deliverables in advance of Board Meetings (Submission prior to a deadline does not guarantee that a district's final audit will be presented at that Board Meeting)
- Closeout phase concludes with Final Audit Approval by a vote of the MSBA Board of Directors

Rob Hnasko, CTS, DMC-D  
617-850-5811  
49 Miller Road, Newton, MA 02459

**Acentech**, Cambridge, MA  
Senior Consultant

March 2017 - Present

Provided Project Management and Technical Design Consulting Services for AV, Security, and Telecommunications projects.

**Vanderweil Engineers**, Boston, MA  
March 2012 -

November 2012 -

Technology Consultant for MEP Design Firm

Focused on providing a continuous improvement approach to the design of AV, Security, & Telecommunication projects while focusing on profitability

- Responsible to design Technology & Conduit Infrastructure from Programming & Basis of Design through Construction Documents phases for Corporate, Healthcare, and Educational markets
- Performed QC/QA analysis of internal documents for AV, Security, & Telecomm drawing & specification packages
- Attended site walk thrus, created punch lists, and observational project reports. Created standards for using Bluebeam on a tablet to improve accuracy and efficiency of project closeout reports
- Maintained and grew relationships with vendors and integrators. Responsible for setting up continuing education classes.
- Initiated & led a group of internal CAD Technicians and Engineers to create standard Revit families for AV, Security, & Telecommunications devices. Researched and applied methods of using Revit database to produce higher quality drawings and improve QC.
- Presented AV101 Lunch & Learns to Architect firms with focus on business development and describing the roles and expectations for deliverables by the technology consultant

**ADTECH Systems**, Sudbury, MA

June 2012 - November 2012

Sales Engineer for Audiovisual Integrator

Used a consultative approach to cultivate prospective Corporate and Higher Education customers of Audiovisual & Technology projects in New England

- Created proposals and negotiates with potential clients ranging from Consultant Bids to Design Build Installs
- Performed onsite client needs assessments, generated equipment proposals, creates engineering drawings in AutoCAD, communicates with PM & customer, technical & engineering support, and final system evaluation, and customer sign-off
- Fostered relationships with existing customers by establishing trust and providing technical solutions and introduced new products & technologies

**Bose Corporation**, Framingham, MA

July 2004 - June 2012

Design Engineer for America's Professional Systems Division

Lead Audio/Video Design Engineer responsible for \$6.5M of revenue per year in a fast

Rob Hnasko, CTS, DMC-D

617-850-5811

[hnasko@gmail.com](mailto:hnasko@gmail.com)

49 Miller Road, Newton, MA 02459

paced environment of over 300 audio/video projects per year in the national restaurant & retail chain store category.

- Provide Sales Engineering support for remote Account Managers by cultivating client relationships and providing technical assistance and training.
- Developed AV system estimates and proposals, create labor quotes, wrote executive summaries, created installation and user manual
- Developed international audio system design standards for national retail store clients who are expanding into Europe and Asia
- Commissioned audio systems on-site with RTA/SPL tools such as SMAART and NTI Acoustilyzer

**GroupComm Systems, Inc.**, (company *acquired by Steelcase*)

April 2001 - July 2004

CAD Systems Engineer for AV integrator

- Designed & drafted Audiovisual solutions for clients using industry standard products for corporate and educational clients
- Created & maintained standard AutoCAD block libraries

**Advanced Thermal Solutions, Inc.**, Norwood, MA

July 2000-Feb 2001

Staff Engineer for Engineering Consultant

- Used 2D & 3D tools to conceptualize and design and apply thermal engineering solutions to microelectronics systems.

**Edwards and Kelcey**, Charlestown, MA

February-July 2000

AutoCAD Designer for Consultant

- Drafted architectural, electrical, and structural drawings of cellphone towers and antennas for international telecommunication companies

Education:

**Wentworth Institute of Technology, Boston, MA**

Bachelor of Science in Electromechanical Engineering, Cum Laude

Certifications:

Infocomm Certified Technology Specialist, Bose - Modeler Auditor Certified, SynAudCon, Crestron DMC-D-4K, SMART Certified Sales Professional

Computer Skills:

Revit & AutoCAD, Bluebeam & Bluebeam Studio, Google SketchUp, Microsoft & Google Office Suites, Bose & Biamp DSP, SMAART

**SUMMARY**

Eighteen+ years of experience in leading energy efficiency and sustainability in the built environment, strategic planning for utility energy program design and implementation, campuses and property management groups, green building technology and research, zero energy buildings, renewable energy, energy codes and state, federal energy policies.

**PROFESSIONAL EXPERIENCE****Independent Consultant, Green Elements, LLC****April 2017 – Present**

- Strategic planning for energy efficiency and green building consulting: state, utilities, corporations
- Research, implementation support for zero energy buildings, integrating energy efficiency and renewable energy

**Principal Analyst, National Grid****Sept. 2010 – Dec. 2016**

- **Lead, Commercial/Industrial Program Planning**
  - Overall lead for the Company's Rhode Island (RI) energy efficiency program planning
  - Organized energy saving targets, budgets to implement utility programs and guidelines for program design
  - Successfully achieved all planned energy reduction targets for last six years which resulted in significant reduction in KBTU consumption in RI
  - Key company representative for commercial building during public hearings, other state regulatory meetings, stakeholder engagement, and presenter at building and energy industry forums
- **Lead, Zero Energy Taskforce**
  - Managed and facilitated a multi-stakeholder Zero Energy Building Taskforce for RI that included integration of energy efficiency, renewable energy, battery storage and electric vehicles and impact on GHG emissions
  - Established a long-term roadmap for zero energy buildings in RI, with presentations to the Governor's office
- **Strategic Energy management Program (SEMP) with Large Campuses**
  - Designed and implemented a new energy efficiency program (SEMP) for top quartile customers in RI and -- Massachusetts (MA), with customized technical assistance and incentives
  - Led the SEMP project for a large IT company, two university campuses, a property management group and a major hospital group
  - Collaborated with the leadership teams of above customers in establishing energy savings goals for their building portfolio, including solar capacity and electric vehicle charging stations for their campuses and coordinated their corporate environmental sustainability goals
- **Program Manager, Codes and Standards**
  - Advocated for higher standards of energy code and appliance standards to various stakeholders
  - Developed a codes and standards program on behalf of MA utilities (MassSave) and RI
  - Worked closely with State Energy Offices of both states to establish a new approach to support this program
- **Staff Manager**
  - Managed a team of staff members, contractors and consultants in the role of **primary lead** for National Grid's Rhode Island energy efficiency strategy group

**Sustainability Consultant, Davis Langdon (now AECOM)****Feb 2008 – June 2009**

- **LEED project management:** Provided sustainable design consulting to large clients like college campuses and state/federal facilities. Also responsible for reviewing registered LEED projects for the US Green Building Council (Leadership in Energy & Environmental Design).
- **LEED and Green Consulting:** Worked with many clients including colleges and property management groups to incorporate LEED and green features in their portfolio of buildings
- **Life cycle cost analysis:** Conducted an economic life cycle cost analysis for several projects combining energy, transportation and water use predictions with replacement operations and maintenance cost.
- **Green policy:** Assisted City of San Francisco with development of a green building ordinance for private sector buildings in San Francisco. This included green building guidelines development and implementation, technical assistance to projects and government agencies.

**Project Manager, Heschong Mahone Group, Inc (now TRC Inc)****Feb 2002 – Jan 2008**

- **Energy efficiency program design and implementation:** Project manager for two California state wide multifamily energy efficiency public programs through California Public Utilities Commission.
- **Codes and standards development:** Conducted research and analysis of insulation, lighting and skylighting as part of California Energy Code change proposal team for California Energy Commission.

- *Building simulation*: Conduct energy simulation for comparative analysis of energy savings associated with commercial and residential buildings using Micropas, EnergyPro, SkyCalc and DOE simulation programs.
- *Daylighting and productivity analysis*: Conducted research and analysis on impacts of daylighting on human performance in schools and offices for the California Energy Commission's PIER project.
- *Training programs*: Project manager for statewide trainings that includes developing training material and conducting training sessions to developers, architects/engineers on energy efficiency and other green measures in multifamily residential design.

**Research Assistant, Center for Environmental Studies, Arizona State University** **Aug 1999 – Oct 2001**

- Data analysis of energy efficiency measures for the Amberjack Project, a sustainability initiative in Arizona, involving green home construction, energy conservation and life cycle analysis of building materials.
- Research and retrospective analysis of US-Mexican border environmental issues, specifically addressing the impact of air and water quality deterioration through Southwest Center for Environmental Policy (SCERP) program.

**Architect, Jasbir Sawhney & Associates, New Delhi, India** **Dec 1997 – Mar 1999**

- Responsible for building design, including development and execution for a private high school project and a leading luxury hotel. Managed relationships with global architecture firms as relevant to specific projects.

**Architect, Arab Engineering Bureau, Doha, Qatar** **Mar 1996 – Oct 1997**

- Responsible for working drawing detailing for multiple residential and commercial projects. Key projects include a high rise apartment building, airline offices and club-houses.

**EDUCATION**

**Master of Science, Building Design (Energy and Climate)** **1999- 2001**  
School of Architecture, Arizona State University, Tempe, Arizona

**Bachelor of Architecture** **1991- 1996**  
Institute of Environmental Design, Vallabh Vidya Nagar, Gujarat, India

**CERTIFICATIONS**

- Essential Management Skills for Emerging Leaders, Harvard Continuing Education **Jan 2017 - April 2017**
- LEED Accredited Professional

**VOLUNTEER**

- Net Zero Coalition, USGBC Boston Chapter
- Vibha, Education for underprivileged children

**SELECTED PUBLICATIONS & PRESENTATIONS**

- "The Path to Zero Energy Schools", High Performance Schools Summit, NEEP Summit, RI, 2016
- "Innovations in Commercial Program Delivery and Management", Esource Conference, Denver, CO, 2014
- "Path to energy code compliance: State and utility partnership", GreenBuild'14 Conference, New Orleans
- "Integrating Emerging Technologies, Voluntary Programs, Codes & Standards", ACEEE MT, 2014
- "Energy Efficiency in State/Municipal Sector", US Senator Whitehouse Municipal Energy Event, 2013
- "Utility & Program Administrator Role in Advancing Codes & Standards", CEE Conference, 2012
- Cost and Value of Green Buildings, Women in Architecture and the Committee on the Environment, 2008
- "Modular Skylights Systems: Design Guidelines", ACEEE Summer Study Conference, 2004
- "Measuring Sustainable Neighborhood Plans", PLEA conference proceedings, November 2003
- "Overcoming Vulnerability: Southwest Center for Environmental Research & Policy, Co-Author, 2003

# JONATHAN KLEIN

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jon@toplinestrategy.com · <https://www.linkedin.com/in/jonklein/>

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## EXPERIENCE

**2001 TO PRESENT**

**PRESIDENT, THE TOPLINE STRATEGY GROUP, INC**

I founded the Topline Strategy Group to bring top tier strategy consulting services to growing technology businesses. Since 2001 the company has supported over 100 clients ranging from start ups to Fortune 500 companies in developing growth strategies.

**1999 – 2001**

**VICE PRESIDENT OF MARKETING, PROMPTU**

Oversaw all aspects of marketing for a venture-funded, eCRM software company

**1998 - 1999**

**DIRECTOR OF INDUSTRY MARKETING, DOCENT**

Responsible for developing industry strategies and plans for Docent's elearning software.

**1996 - 1998**

**PRODUCT MANAGER, DOCUMENTUM**

Responsible for defining and bringing to market the company's new suite of internet solutions.

**1995**

**ASSOCIATE, TRINITY VENTURES**

Worked with Senior Partners to identify, evaluate and manage venture capital investments.

**1991 - 1995**

**CASE LEADER, THE BOSTON CONSULTING GROUP**

Developed growth strategies for F500 companies.

## EDUCATION

**1989 - 1991**

**MBA, THE KELLOGG GRADUATE SCHOOL OF MANAGEMENT**

**1989 - 1991**

**BS ELECTRICAL ENGINEERING, CORNELL UNIVERSITY**

## Memorandum

To: Members of the City Council

From: Councilor Deb Crossley, Chair, PF Committee

Date: July 12, 2018

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As you may be aware from reading Public Facilities Committee Reports, the Committee has been spending a number of meetings over many weeks sorting out appropriate procedures and standards to guide the installation of wireless telecommunication facilities on public ways in the City.

You will recall that the City has for years received and granted applications for grants of location for utility poles. What is new is that increases in demand for services by customers (and access to service for public safety responders) have changed the geometry of cell towers from tall and distant to shorter and much more close to each other. Indeed, the ideal is for these facilities to be installed on existing or new telephone or light poles.

We are all aware of the amount of wiring on these poles already – electricity, telephone, and cable television. In an ideal world, we would no add anything else. Unfortunately, the City, even though it owns the public ways, is limited by paramount federal law in Newton's ability to deny telecommunication providers access to existing or new utility poles.

The Committee, however, has been working with Verizon as the dominant local provider, to craft the standards and procedures discussed above to minimize the impact on our public ways and the properties – primarily our homes – that are nearby. Please review the entire document, but here are some highlights:

- A certification by the applicant telecommunication carrier that its equipment complies with all duly applicable federal radio emission standards.
- A requirement that the equipment be silent, or if not, as quiet as possible, independent of Newton's noise ordinance, which also applies.
- Targeting these facilities as much as possible to avoid sensitive locations, like in front of homes, along scenic roads, at entrances to village centers, and within historic districts, and focusing on those areas where public safety coverage is important, including mapping both in advance if possible.
- Providing early review of applications to avoid surprises to either the applicant or the nearby property owners.
- [elaborate]

While the Committee should be proud of the work that has gone on so far, there is complementary work to be done, such as clarifying and shaping appropriate sanctions if the ground rules so carefully crafted are ignored.

The overall message is that changes in the Newton streetscape are coming, so please be prepared. In the meantime, I or Mr. Mandl will be glad to answer any questions you may have.



## LAW DEPARTMENT



CITY OF NEWTON, MASSACHUSETTS  
CITY HALL

1000 COMMONWEALTH AVENUE  
NEWTON CENTRE, MA 02459  
TELEPHONE (617) 796-1240  
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**ACTING CITY SOLICITOR  
OUIDA C.M. YOUNG**

**DEPUTY CITY SOLICITORS**  
ANGELA BUCHANAN SMAGULA  
JEFFREY A. HONIG

**ASSISTANT CITY SOLICITORS**  
MARIE M. LAWLOR  
ROBERT J. WADDICK  
MAURA E. O'KEEFE  
ALAN D. MANDL  
JULIE B. ROSS  
JILL M. MURRAY  
JONAH M. TEMPLE

To: Public Facilities Committee  
From: Ouida Young, Acting City Solicitor  
Alan Mandl, Assistant City Solicitor  
Date: July 12, 2018

Re: Grant of Location Procedures and Standards for Wireless Communications Facilities  
#42-18

These Procedures and Standards were considered during the Committee's June 6, 2018 meeting. A draft was presented for discussion. The item was held for further consideration.

After the June 6, 2018 meeting, further input was provided by Verizon Wireless. The Law Department, Councilors Baker and Crossley, and City consultant Bryan Hopkins (Comm-Tract) reviewed and discussed changes to the proposed Procedures and Standards and a revised draft has been prepared.

Attached are a redlined document which shows the changes made to the June 6<sup>th</sup> draft and a clean copy of the proposed draft dated July 12.<sup>th</sup>

**Summary of Standards Revisions and Recommendations**

This is a summary of the Procedures and Standards that have been the subject of comments and discussion at and since the June 6<sup>th</sup> meeting. At the end of the summary are recommendations for future action.

- **Application Fees/Batch Applications:** The batch application standard has been removed due to opposition at the June 6<sup>th</sup> meeting. The application fee recommendation of \$500 per location remains and was submitted to the Finance Committee for its review (Part III(G) at p.4). See Future Matters.

- **Peer review-** The peer review provision is unchanged. Peer review should be reserved for exceptional circumstances, such as situations when outside expertise is needed to inform the City Council’s decision (Part III(H) at p.4).
- **Clarification of appeals and reconsideration-** Edits have been made to clarify that if an applicant seeks reconsideration of a City Council decision, that decision will be treated as a proposed and not a final decision. This clarification avoids the need for the applicant to seek judicial review pending the outcome of its request for reconsideration. We recommend that this clarification be accepted (Part III(N) at p.7).
- **Sensitive Locations-** As discussed, pre-application meetings will be voluntary. The application form will reveal whether a proposed pole attachment is a sensitive location, as described in the Standards (Part 4(B)(2) at p.10). After further internal discussion, no change is recommended to “directly in front of, and in close proximity to, a residence” (Part 4(B)(2) at p.10). Councilor Baker suggested that the City make available to applicants maps of sensitive areas, such as historic districts, scenic roads, village entrance points and underground utility districts. It is recommended that these materials be made readily available to interested parties. See Future Matters.
- **Historic Districts-** The provision dealing with proposed locations within Historic Districts was accepted and has not been changed (Part 4(B)(3) at p.10).
- **Underground Utility Locations-** The standard has been revised. Poles shall not be installed for wireless communications purposes in locations where cable, electric and telecommunications facilities are located underground (Part 4(B) at 11). If there is an existing City-owned streetlight pole in an underground utility location, a wireless service provider would need to obtain DPW Commissioner approval of a proposed attachment, enter into a license agreement with the City and obtain a grant of location subject to these Procedure and Standards. Any other applicable permitting requirements (electrical, etc.) would also apply.
- **Radio Frequency Emissions-** The previous draft has been revised. Based on further discussions, the current draft tracks federal limitations on municipal authority and adds a requirement that the wireless service provider certify that its facilities do and will comply with the FCC’s RFE standards (Part 4(C) at p.11).
- **Electric Meters on Utility Poles-** The previous draft has been revised. Adoption of the current language is recommended. The Law Department confirmed with Eversource that its current practices require meters on poles where wireless communications facilities are attached. Further research turned up inconsistent information on whether the City of Boston ever banned these meters. The most recent information is that Boston allows these meters. The draft Standards allow the City Council to adjust the lowest point of

attachment depending on whether an electric meter is required (Part 4(D)(7) at p.14). See Future Matters.

- **Noise-** The previous draft has been revised. In response to the discussion at the June 6<sup>th</sup> meeting and further review, the current draft requires silent or close to silent equipment and states that in no case may the equipment exceed applicable City Code noise limitations (Part 4(D)(7)(g) at p.17). See Future Matters.
- **Insurance and Indemnification Requirements-** Following additional internal discussion, it is recommended that these requirements be removed from the Standards. The rationale for removing these requirements is that (1) they are not expected to afford the City additional protection; (2) they have not been deemed necessary in the case of electric company poles and attachments; (3) administration of insurance requirements would be burdensome; and (4) if City-owned streetlight poles are involved, the City may require insurance and indemnification terms (Part 4(D) (8)(g)(iii) and (g)(v) at pp.20-21).
- **Trees-** As previously discussed, locating wireless equipment within the drip line of a tree would be left to the discretion of the Tree Warden (Part IV (G)(8)(d)(iii) at p. 20).
- **Verizon Wireless suggested edits-**at pp.11,12,13,14,15, 17,19, 20 (Part 4-D, Part 4-F, Part 4-G (4), (5), (7a,7b, 7g,7h, 7k, 7n), 8d, 8g (4) have been reviewed by Comm-Tract. The proposed draft reflects Comm-Tract's recommendations.

## Future Matters

- Application Form:** A draft is attached. It will be finalized once the grant of location Procedures and Standards are finalized. The Procedures direct that the application form will be provided by the Commissioner of Public Works. Planning and Development has assisted in developing the application form.
- Batch Applications:** Batch applications and related fees are recommended for future consideration. Batch applications would make it easier for a wireless service provider to improve service in parts of the City where substandard wireless service adversely affects the community has raised public safety concerns regarding emergency situations and 911 calls. This issue requires attention as more users have dropped landline phones and depend upon wireless service. The City Council can consider whether batch applications should be limited to geographic areas with substandard wireless service.
- Engineering Standards:** Existing City Code Chapter 23 grant of location engineering standards should be reviewed and revised in light of City policies

(safety, aesthetics, etc.).

- Planning Guidelines:** The City Street Design Guide should have a completed section on wireless attachments in the public way. It should include pole diagrams, photos of poles and a related narrative that would assist wireless service providers in designing and positioning their pole attachments in a manner consistent with the City Council’s grant of location standards. In concert with DPW, Planning and Development and the wireless industry, the City should consider appropriate designs for wireless attachments to City-owned streetlights and appropriate streetlight pole structures in the event of future licensing of attachment space.
- Noise Standards:** The City Council may review and revise the City Code in order to specifically address noise emissions from wireless and other pole attachments.
- Meters:** If the City Council wants to explore a ban on the attachment of electric meters to utility poles in the public ways, it should, at a minimum, receive a legal review of municipal authority to impose a ban.
- City Code Fines:** Review the grant of location enforcement process and the application of fines under the City Code.
- Additional Attachments:** The City must comply with federal law regarding the review of additional wireless attachments to a pole with existing wireless attachments. Procedures and Standards have been drafted for future review and are coordinated with G.L.c.166, §22 requirements.
- City-Wide Plan:** The Committee may wish to recommend that the City develop a wireless infrastructure plan. The increased deployment of wireless facilities, the evolution of technology and the growth of services available through wireless highlight the need for a wireless infrastructure plan.
- Attachments:** Draft Procedures and Standards dated July 12, 2018 (clean and redlined copies)  
Draft Application Form

**PROPOSED DRAFT DATED JULY 12, 2018**

**CITY COUNCIL GRANT OF LOCATION PROCEDURES AND STANDARDS FOR WIRELESS COMMUNICATIONS FACILITIES TO BE LOCATED IN PUBLIC WAYS**

**I. INTRODUCTION**

The City Council regulates the placement of wireless communications facilities in the public ways pursuant to municipal authority under Massachusetts General Laws Chapter 166, Sections 21 *et seq.*, other applicable Massachusetts Laws, City Code Section 23, and applicable federal law, including 47 U.S.C. §§253 and 332(c)(7).

The public ways in Newton are a uniquely valuable resource, closely linked with the City's residential character and natural beauty. Many public ways have been enhanced by the planting and maintenance of public shade trees.

The City Council wishes to preserve and protect community safety and aesthetics in its residential neighborhoods and village centers, consistent with its streetscape design principles. Many residences have a small amount of frontage between the residence and the public ways. Public ways, including sidewalks, must remain accessible and safe under ADA and traffic standards. The City has several scenic roadways. It also has historic districts and historic buildings. Aesthetics and compatibility with immediate surroundings are important considerations in reviewing future use of the public ways.

A competing consideration is a public interest in maximizing wireless service coverage and enabling wireless service capacity that is adequate to meet the needs of the City (including public safety communications needs), its residents and businesses. Further, the City Council recognizes that its authority to regulate the use of the public ways is subject to and limited by both state and federal laws.

The potential for proliferation of wireless communications facilities attachments to utility poles in public ways, due, in part, to recent changes in federal law, evolving wireless technology, and demand for wireless services has created a significant concern about degradation of the character of residential areas, village centers, scenic roads and historical districts, and adverse impacts upon public safety and well-being of City residents and other users of the public ways.

The City Council also wishes to limit noise and vibration levels that may be associated with some types of wireless communications facilities. The City Council cannot deny a request to place, construct, or modify personal wireless service facilities on the basis of environmental; effects of radio frequency emissions to the extent that such facilities comply with the Federal communications Commission's ("FCC") regulations concerning such emissions.

The City Council therefore finds it necessary and desirable to provide for reasonable regulation and orderly deployment of wireless communications facilities in the public ways. Accordingly, it adopts these Wireless Grant of Location Procedures and Standards (the “Procedures and Standards”).

## **II. SCOPE OF THESE PROCEDURES AND STANDARDS**

These Procedures and Standards govern the permitting of (1) wireless communications facilities attachments to existing or replacement utility poles which are located in the public ways and which do not have any pre-existing wireless attachments; (2) wireless communications facilities attachments to existing or replacement poles which are located in the public ways and which do have pre-existing wireless attachments, but do not satisfy the requirements under 47 U.S.C. §1455 and related Federal Communications Commission (“FCC”) regulations; and (3) constructing a new pole in a public way for purposes of providing wireless communications services. A party seeking to attach to a City-owned pole also will be required to enter into a license agreement with the City and comply with its terms and conditions.

These Procedures and Standards do not apply to the filing and review of “Eligible Facilities Requests”, as defined under 47 U.S.C. §1455 (and related FCC regulations), that involve a pole (1) located in a public way and (2) classified as a “base station” under 47 U.S.C. §1455. If an applicant seeks approval pursuant to 47 U.S.C. §1455 and related FCC regulations, the Applicant must submit a separate application in accordance with related instructions. If that application is denied, the Applicant may submit a new grant of location application governed by these Procedures and Standards.

## **III. GRANT OF LOCATION APPLICATION PROCEDURES**

### **A. Who May Apply**

An Applicant must demonstrate that it is qualified and eligible under G.L.c.166, §21 to place its facilities on utility poles located in the public ways. For example, a Statement of Business Operations filing with the Massachusetts Department of Telecommunications and Cable, if any, should be provided, and a link to existing tariffs, if any, should be supplied. Where applicable, current records of any FCC license to offer service should be provided. The Applicant should demonstrate that its proposed facilities will be used to carry out the telecommunications services covered by its Statement of Business Operations and/or an applicable FCC license. Carrier neutral Applicants shall provide evidence that they have a contract with at least one wireless service provider which will make use of the proposed facilities or that they will accept a condition that they shall not construct proposed facilities unless they have first submitted evidence that they have a contract with at least one wireless service provider which will make use of the proposed facilities.

Also, the Applicant should provide evidence of its authority to conduct in Massachusetts the business carried out through the proposed facilities.

### **B. Application Filings**

Applicants shall use the application form provided by the Commissioner of Public Works. This form shall be made available through the Commissioner, City Clerk and on the City website. Use of this application form is required to best assure timely review of the completeness of the application. The application form may be revised from time to time.

Although not required to do so, Applicants are encouraged to schedule a pre-application meeting with the City Engineer, Wire Inspector, Fire Department, IT Department and Planning and Development Department to (1) describe their proposed location, Wireless Communications Facilities and plans; (2) identify potential issues; and (3) address questions. If a pre-application meeting is requested, information regarding the proposed location, Wireless Communications Facilities and plans should be submitted to the Commissioner of Public Works at least seven (7) days before the scheduled pre-application meeting. A separate application shall be submitted for each separate location.

### **C. Copies of Application**

An application shall be filed with the City Clerk and the City Clerk will date stamp the application. Applicants are encouraged to obtain a date stamped copy of the application for their own records.

The Applicant shall provide to the City Clerk as follows: (a) one (1) copy of the complete application in paper format, (b) a complete application in PDF format and (c) a complete application in a digital format compatible with the City's systems. The City Clerk will make copies of the complete application available to other City departments. Applicants will be notified if an application should be filed through the City's website, in which case a link will be provided by the City Clerk.

### **D. Incomplete Applications**

Each application will be logged in by the City Clerk to establish the filing date. The City will follow procedural requirements for incomplete applications and any continued incompleteness established by the FCC in its orders regarding applications to locate wireless communications facilities in the public ways, subject to 47 U.S.C. §332(c)(7). Formal notice of initial incompleteness shall be given to the Applicant by the City Clerk as soon as possible, and in all cases within thirty (30) days of the application filing date and will specifically identify: (1) all missing information; and (2) the code provision, application instruction or otherwise publicly

stated guideline that requires the information to be submitted. If such notice is not provided to the Applicant within such thirty (30) day period, the application shall be deemed complete.

**E. Pole Owner Permission to Attach to Utility Pole**

The Applicant shall submit evidence of pole owner permission to attach its facilities to the specific pole or poles included in its application (if any). If such evidence is not currently available, as a condition of any grant of location, the Applicant must provide to the City, prior to the Applicant's commencement of construction of the attachments, such evidence of permission. A letter from the pole owner which certifies that it has granted the Applicant a location-specific license for the proposed location and identifies the pole number of such location will constitute evidence of permission.

**F. Tax Attestation**

The Applicant shall complete the tax attestation which is part of the grant of location application.

**G. Application Fees**

At the time of filing its application, the Applicant shall submit the Application Fee specified in City Code Section 17-3. The Application Form may be revised to reflect any change in the amount of the Application Fee under the City Code. The Application Fee is listed in the Application Form.

**H. Peer Review**

The Public Facilities Committee shall determine whether a peer review of an application is needed in order for it to fully evaluate the Applicant's proposal. A peer review may be conducted at the Applicant's expense, as authorized under state statute, City ordinance and City Council regulations.

**I. Initial Review of Application**

The City Engineer, Commissioner of Public Works, a representative of the Planning and Development Department, and as needed, representatives of the Fire, Inspectional Services and IT Departments, will conduct an initial review of the application in order to determine whether it is complete as provided for above. The Commissioner of Public Works shall notify the City Clerk and the applicant as to the completeness of the application within thirty (30) days of the application filing date. If the application is found to be complete, each reviewing department shall submit to the City Clerk a written report with recommendations within thirty (30) days of the application filing date. These written recommendations shall be typed, dated and provided in letter or memo format. Copies of these written reports shall be furnished by the City Clerk to the



applicant. In the event that the Commissioner of Public Works fails to notify the City Clerk as to the completeness of the application within such thirty (30) day period, the application shall be deemed complete. Where a proposed location is in an historic district, the Planning and Development Department may also receive input from an Historic Planner, subject to limiting such input to the application of these Standards by the City Council. See Section IV (B)(3) for separate review by an Historic District Commission for locations in an historic district.

**J. Notice of Public Hearing**

Notice of the public hearing on a grant of location application will be provided in accordance with G.L.c.166, §22 and Chapter 23 of the City Code.

**K. Modification or Supplementation of Application**

The Applicant shall disclose at least forty-eight (48) hours prior to the public hearing any modification(s) of or supplementation to its proposal as submitted. The City may determine that proposed modifications are so substantial that the public notice of the application is inadequate and that submission of a new grant of location application is required. Applications that are found incomplete must be supplemented as described above (See Section III-D, Incomplete Applications).

**L. Public Hearing and Hearing Record; Requests for Exceptions**

The City Council Public Facilities Committee will conduct a public hearing on the application. The hearing record will include, at a minimum, (1) the Applicant's application, including its payment(s) of the application fees and any peer review fee(s); (2) written reports on the application, if any, submitted by the City Engineer, Commissioner of Public Works and any other City departments; (3) a transcript, audiotape or videotape of the public hearing (the Applicant also is free to record the public hearing); (4) proof of notice of the public hearing; (5) evidence that parties required to be notified of the public hearing were timely and properly notified; (6) any supplemental written materials supplied by the Applicant at least forty-eight (48) hours prior to the public hearing; (7) materials presented by any member of the public, City officials or a City peer reviewer at the public hearing; and (8) any additional materials provided by the Applicant at the request of the Public Facilities Committee. Materials may include, but are not limited to photographs, mock-ups, videos or written documentation. Any materials to be submitted by a City peer reviewer shall be filed with the City Council and provided to the applicant at least forty-eight (48) hours prior to the public hearing.

The City Council acknowledges that its Procedures and Standards are subject to applicable state and federal law. Also, due to potential variations in Wireless Communications Facilities, technical service objectives and changed circumstances over time, a limited exception for proposals may be warranted where strict compliance with these Procedures and Standards

would (1) conflict with state or federal law; or (2) impose an unnecessary or unduly burdensome requirement on the Applicant, taking into account benefits to the City from enforcing the requirement. If the Applicant intends to seek an Exception from any City Council requirement(s) which regulate the placement, construction and modification of personal wireless services facilities on the grounds that it would: (1) prohibit or have the effect of prohibiting the provision of personal wireless services; (2) unreasonably discriminate among providers of functionally equivalent services; or (3) be unnecessary or unduly burdensome in the context of the particular application and location, the Applicant should submit information in support of its position in its application. The Applicant also may request an Exception to any condition recommended in a city department report following that department's review of the application. The City Council will determine whether to grant such an Exception.

#### **M. Written Decision and Statement of Reasons; Time Frame**

The Public Facilities Committee will vote on its recommended action, provide a statement of reasons for its recommendations and support its recommendations by reference to the hearing record. It shall submit a report on its vote to the City Council. After receipt of such report, the City Council will consider the application at its next meeting and issue a written decision in accordance with the requirements of state and federal law. The City Council may adopt and incorporate by reference the recommended action and statement of reasons provided by the Public Facilities Committee or modify the same, supported by a statement of reasons and reference to the hearing record in support of any modification. In the event that the City Council issues its decision after the expiration of any applicable federal "shot clock" date and in the absence of a tolling agreement with an unexpired term as of the date of the City Council's decision, the City Council shall provide a statement of reasons why additional time was needed to review and act upon an application. If the Public Facilities Committee has not submitted its report to the City Council prior to the expiration of an applicable "shot clock" interval and in the absence of a tolling agreement with an unexpired term, the Public Facilities Committee shall include in its report a statement of reasons why additional time was needed to review the application.

An Applicant shall be permitted to submit proposed findings of fact and a proposed City Council order based upon the hearing record no later than seven (7) days after the close of the public hearing conducted by the Public Facilities Committee; provided, however that if the exercise of this step would delay a final decision by the City Council, such permission is conditioned upon the Applicant's execution of a tolling agreement not to exceed thirty (30) days (or such later date acceptable to the applicant).

#### **N. Appeals and Reconsideration**

An Applicant may petition the City Council for reconsideration within thirty (30) days after receipt of a final decision. If the Applicant files a petition for reconsideration, it has the effect of suspending the final decision, which shall then be treated for all purposes as only a proposed decision, until the petition for reconsideration is resolved. The City Council may issue a decision on a petition for reconsideration within thirty (30) days of the filing of the petition for reconsideration. A failure of the City Council to act on the petition for reconsideration within such thirty (30) day period shall be deemed a final denial of such petition. Any appeals from a final decision by the City Council shall be governed by applicable law.

#### **O. Acceptance of Grant of Location Order with Conditions**

Grants of location must be accepted by the Applicant as required under Massachusetts General Laws Chapter 166, Section 22. The Applicant shall pay the fee for recording the grant of location order as required under the City Code.

### **IV. SUBSTANTIVE STANDARDS FOR WIRELESS COMMUNICATIONS FACILITIES IN PUBLIC WAYS; DESIGN GUIDELINES**

These Standards provide objective, uniform criteria for the review of grant of location applications for the placement of Wireless Communications Facilities in the public ways (1) by attachment to a Utility Pole that has no pre-existing wireless attachments; (2) by attachment to a Utility Pole that has pre-existing wireless attachments where the application does not qualify or has not been submitted for review under 47 U.S.C. §1455 and related FCC regulations; and (3) by attachment to a new pole constructed for communications uses.

All Wireless Communications Facilities that are located within the public ways shall be designed and maintained so as to minimize visual, noise and other impacts on the surrounding community and to avoid any obstruction of the use of public ways, including sidewalks. In order to assist Applicants, the Planning and Development Department will provide Design Guidelines which may be considered in preparing and reviewing applications. The Design Guidelines shall be consistent with these Standards and may provide details, descriptions and examples of acceptable Wireless Communications Facilities attachments, including visual depictions. In the event of any conflict between the Design Guidelines and these Standards, these Standards take precedence over the Design Guidelines.

## A. Definitions

The following terms are defined for the purposes of these Guidelines as follows:

- (1) **Alternative Antenna Structure** means an existing pole or other structure that can be used to support an antenna and is not a Utility Pole or City-owned Infrastructure. Except as otherwise provided for by these Regulations, the requirements for an Alternative Antenna Structure shall be those required in Section 30-18A of the City Code (the wireless zoning ordinance).
- (2) **Antenna Structure** means any structure designed to specifically support an antenna, and/or any appurtenance mounted on such a structure or antenna.
- (3) **Applicant** includes any person or entity submitting an application to install Personal Wireless Service Facilities.
- (4) **City-Owned Infrastructure** means infrastructure including, but not limited to, streetlight poles and traffic signals owned, operated and maintained by the City and located in a public way.
- (5) **Distributed Antenna System** means a network of spatially separate antenna nodes connected to a common source via a transport medium that provides wireless service within a geographic area.
- (6) **Exception** means a grant of relief by the City Council from specific limitations in these Standards as part of a decision on a grant of location.
- (7) **Monopole** for purposes of these procedures and standards means a structure taller than 40 feet high composed of a single spire, pole or tower used to support antennas or related equipment and the primary purpose of which is to serve as a support structure for wireless communications facilities.
- (8) **Personal Wireless Service Facilities** means facilities for the provision of personal wireless services, which include commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services.
- (9) **Small Cell Antennas** means an antenna either installed singly or as part of a network to provide coverage or enhance capacity in a limited defined area.
- (10) **Tower** means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. Except as otherwise provided for by these

Regulations, the requirements for a Tower and associated antenna facilities shall be those required in Section 30-18A of the City Code (the wireless zoning ordinance).

- (11) **Utility Pole** means an upright pole used to support electric cables, telephone cables, telecommunications cables and related facilities owned and maintained by an electric distribution company or incumbent local exchange carrier which is regulated by the Massachusetts Department of Public Utilities and/or the Massachusetts Department of Telecommunications and Cable. A Utility Pole does not include City-owned Infrastructure.
- (12) **Wi-Fi Antenna** means an antenna used to support Wi-Fi broadband Internet access service based on the IEEE 802.11 standard that typically uses unlicensed spectrum to enable communication between devices.
- (13) **Wireless Communications Facility** means a structure, antenna, pole, tower, equipment, accessory equipment and related improvement used, or designed to be used, to provide wireless transmission of voice, data, images or other information, including but not limited to, cellular phone service, personal communications service, paging and Wi-Fi service.

## **B. Determination of Site Locations**

1. **Analysis of Installation Request-** The City Council determines the location of all Wireless Communications Facilities to be located in or on public ways. The City Council will not unreasonably discriminate among providers of functionally equivalent services. The City Council will not take action that prohibits or has the effect of prohibiting (a) the provision of personal wireless service or (b) the ability of any entity to provide any interstate or intrastate telecommunications service.
2. **Sensitive Locations** – Applicants are encouraged to avoid pole locations that would be (a) directly in front of, and in close proximity to, a residence, (b) on a scenic road, (c) in front of and on the same side of the street as an historic building listed in the Massachusetts Historic Register, (d) in an historic district (see below); (e) at an entry point to a village center; or (f) within an existing underground utility district established pursuant to G.L.c.166, §§ 22A-22N. Applicants are encouraged to use existing Utility Poles which do not support existing Wireless Communications Facilities. Please refer to the Planning and Development Department’s Street Design Guidelines.
3. **Historic Districts-** Applicants are encouraged to avoid pole locations within an historic district. The applicant shall disclose in its grant of location Application whether a proposed location is within an historic district. If the proposed location is within an historic district, the applicant is encouraged either to (a) file for a

certificate of appropriateness, hardship or non-applicability from an historic district commission prior to filing its grant of location Application or (b) file for a certificate with the historic district commission concurrently with filing its grant of location Application. If the applicant has obtained such a certificate for a proposed location prior to the time that it files its grant of location Application, it shall submit the certificate as part of its grant of location Application. If a certificate is issued during the pendency of the grant of location Application, the applicant shall submit the certificate to the Public Facilities Committee. If a certificate is required but not yet issued at the time of the report of the Public Facilities Committee to the City Council, the City Council may issue a grant of location which is conditioned upon the applicant's obtaining a certificate from the historic district commission. If the City Council issues a grant of location prior to a vote of an historic district commission on an application for a certificate, the applicant shall provide a copy of the City Council's grant of location order to the historic district commission prior to the historic district commission's vote on its application for a certificate.

4. **Underground Utility Districts-** Poles shall not be installed for wireless communications purposes in locations where cable, electric and telecommunications facilities are located underground. If there is an existing City-owned streetlight pole in such a location, a party wishing to attach Wireless Communications Facilities to such a pole must obtain a license agreement or other required permission from the City in addition to a grant of location pursuant to these Procedures and Standards.
5. **Locations Outside of Public Ways-** The placement of Wireless Communications Facilities outside of the public ways is subject to review and approval under the City Zoning Ordinance.

**C. RF Emissions and Other Monitoring Requirements**

In accordance with federal law, the City Council shall not regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions ("RFE") to the extent that such facilities comply with the FCC's regulations concerning such emissions. As part of its application, the applicant shall provide a statement certifying that the proposed facility will comply with such requirements.

**D. Additional Grant of Location Approval Required; Activity that does not Require Additional Grant of Location Approval**

Any increase in the height, number or dimensions of Wireless Communications Facilities components after construction shall be subject to City Council approval in accordance with applicable law. No City Council approval is required for renewing, repairing or replacing the Wireless Communications Facilities as long as they do not increase the height, number or dimensions of the existing Wireless Communications Facilities or decrease ground clearance

below the minimum allowed. The Commissioner of the Department of Public Works, at the request of the Applicant, may determine that a *di minimus* increase does not require further approval. In the event that, after a grant of location order and before construction, the position of a Wireless Communications Facilities component needs or is required to be moved, the Applicant shall submit any revisions to its plans to the Commissioner of Public Works, the Fire Department and the Inspectional Services Department, which may authorize the change so long as the change does not reduce ground clearance below the minimum allowed, or increase the height, dimensions or number of the Wireless Communications Facilities by more than a minor amount or violate applicable City requirements. No pole shall be removed or replaced without the written approval of the Inspector of Wires, as provided for under City Code Section 23-9.

#### **E. Other Permits**

Applicants are responsible for obtaining any additional permits required by law. Such permits may include, but are not limited to, building permits, electrical permits, street opening permits and historic district commission certificates.

#### **F. New Poles**

Applications for the construction of new poles are discouraged. Existing Utility Poles and their locations should be utilized where available. Any new pole proposed for wireless communications use in excess of 40 feet shall be considered a Monopole and prohibited in the public ways unless an Exception is granted by the City Council. An Applicant proposing to construct a new pole for wireless communications use must demonstrate that it is not reasonably feasible for it to attach to an existing Utility Pole or replacement Utility Pole at the existing location.

#### **G. General Standards**

- (1) **Number Limitation-** Unless otherwise authorized by the City Council for good cause shown, only one (1) personal wireless service provider or DAS provider shall be allowed to own, attach and/or operate Wireless Communications Facilities which are attached to a single Utility Pole. This provision does not prohibit a carrier neutral host from allowing one or more wireless service providers to use its Wireless Communications Facilities.
- (2) **City-Owned Infrastructure-** No Wireless Communications Facilities shall be mounted to City-owned infrastructure located in the public ways, including but not limited to, streetlights and traffic signals, unless authorized in writing by the Commissioner of Public Works and Mayor or her authorized designee. The Commissioner of Public Works determines whether a location is suitable and the Mayor exercises control over licensing the use of that location. In such cases, a grant of location application also is required to attach to City-owned infrastructure.

- (3) **Replacement Poles-** If an application requires replacement of an existing Utility Pole to accommodate proposed Wireless Communications Facilities, the replacement pole shall be designed to resemble the appearance and dimensions of existing poles near the proposed location, including size, height, color, materials and style to the maximum extent feasible (taking into account pole owner control of its Utility Poles). Any licensing of the use of a concrete City-owned streetlight pole location will require the replacement of the existing City-owned pole and such other specifications as determined by the Commissioner of Public Works. These specifications will be part of the license agreement between the applicant and the City.
- (4) **New Monopoles or Poles-** Subject to exceptions under these Standards, no new Monopole or Utility Pole whose primary purpose is to support personal Wireless Communications Facilities shall be installed within the public ways of the City unless authorized by the City Council. Only pole mounted antennas shall be permitted in the public ways. Towers and Monopoles not authorized by the City Council are prohibited in the public ways.
- (5) **Exceptions for a New Pole Which is Not a Replacement Pole-** An Exception shall be required to place a new pole that is not a replacement for an existing pole in a public way. If an Exception is granted for placement of a new pole in the public way:
- i. To the maximum extent feasible (taking into account ownership of the new pole), the new pole shall be designed to resemble the appearance and dimensions of existing poles near the proposed location, including size, height, color, materials and style, with the exception of any existing pole designs that are scheduled to be removed and not replaced.
  - ii. Such new poles shall be subject to a height limitation of forty (40) feet unless a taller height is permitted by the City Council.
  - iii. A new pole justification analysis shall be submitted to demonstrate why (1) existing Utility Poles or locations outside of the public ways cannot be utilized and (2) the new pole is the least intrusive means possible, including a demonstration that the new pole is designed to be the minimum functional height and width required to support the proposed Wireless Communications Facilities.
  - iv. For all wooden poles, conduit and cables attached to the exterior of poles shall be mounted flush thereto.



- v. A new pole shall not require the replacement of adjacent poles or require the rearrangement of existing facilities of the pole owner, the City or another entity attaching to adjacent poles.
- (6) **ADA Requirements-** Wireless service facilities shall not interfere with ADA standards and requirements.
- (7) **Attachment to Utility Poles; Limitations-** No such personal Wireless Communications Facilities shall be attached to a Utility Pole unless all of the following conditions are satisfied:
- a. **Surface Area of Antenna-** In general, the personal wireless service antenna, including antenna panels, whip antennas or dish-shaped antennas, shall be as small as practicable, taking into account aesthetic and public safety considerations.
  - b. **Size of Above Ground Wireless Communications Facilities-** The total combined volume of all above ground equipment and appurtenances serving a personal wireless service antenna shall be as small as practicable, taking into account aesthetic and public safety considerations.
  - c. **Lowest Point Above Grade-** The operator of Wireless Communications Facilities shall, whenever possible, locate the base of the equipment or appurtenances at a height of no lower than eight (8) feet above grade. No facilities may be installed at grade without the approval of the Commissioner of Public Works and the City Council. If the City prohibits electric meters on utility poles or the electric distribution company does not require an electric meter, the operator shall locate the base of the equipment or appurtenances no lower than twelve (12) feet above grade.
  - d. **Height-** The top of the highest point of the Utility Pole shall not exceed forty (40) feet and the combination of the height of the utility pole and personal wireless service antenna extension shall not exceed forty-four (44) feet above ground level.
  - e. **Color-** To the maximum extent practicable, the color of the Wireless Communications Facilities shall be similar to and blend with (a) the existing equipment on the Utility Pole and/or on other nearby Utility Poles, (b) the color of the Utility Pole, or (c) another color reasonably satisfactory to and directed by the City Council. The

Wireless Communications Facilities shall have non-reflective materials.

- f. **Shielding of Wiring-** Any wiring on the pole must be covered with an appropriate cover or cable shield.
- g. **Mounting-** Antenna elements and equipment shall be mounted as close to the surface of the pole as practical and feasible
- h. **Antenna Panel Covering-** Personal wireless service antenna shall include a radome, cap or other antenna panel covering or shield and shall use a color that blends with the color of the utility pole on which it is mounted.
- i. **Signage-** Other than signs required by federal or state law or by the pole owner, Wireless Communications Facilities shall not have signs installed thereon. Identification tags may be utilized in accordance with governmental and/or pole owner requirements.
- j. **Wiring and Cabling-** Wires and cables connecting the antenna and/or appurtenances shall be installed in accordance with the National Electrical Safety Code in force at the time of installation of the wires and cables or any stricter standards required by a pole owner, and TIA/EIA applicable codes.
- k. **Grounding-** The Wireless Communications Facilities shall be grounded in accordance with the National Electrical Safety Code in force at the time of installation of the wires and cables or any stricter standard required by a pole owner.
- l. **Guy Wires-** No guy wires or other support wires shall be used in connection with Wireless Communications Facilities unless the facilities are proposed to be attached to an existing Utility Pole. that incorporates guy wires prior to the date that the applicant has applied for a grant of location, or unless the use of guy wires or support wires allows for an installation that furthers the objectives of these procedures and standards better than other practical alternatives that do not include the use of such wires.
- m. **Wind Loads-** The proposed Wireless Communications Facilities shall be properly engineered to withstand wind loads required by applicable safety codes and pole owner requirements. An evaluation of high wind load capacity shall include the impact of the proposed

attachments on the existing Utility Pole with existing utility facilities and any third-party attachments. Such an evaluation shall be performed by the Applicant or the pole owner. A certificate of compliance with applicable safety codes and pole owner requirements from the pole owner may be submitted in place of such an evaluation.

- n. **Obstructions-** Each component part of the Wireless Communications Facilities shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, cause safety hazards to pedestrians and motorists or otherwise incommode the public's use of the public way. Nor shall any such component obstruct intersection visibility. The Wireless Communications Facilities shall not interfere with access to or operation of a streetlight, fire alarm cable, municipal fiber optic facilities, fire hydrant, fire alarm, fire station, fire escape, water valves and facilities, sewer facilities, underground vault, valve housing structure, or any other public health or safety facility. The Wireless Communications Facilities shall not interfere with snow plowing, side walk clearing, leaf removal or the maintenance of public shade trees. The Wireless Communications Facilities shall not interfere with the pole owner's vegetation management practices and obligations. The maintenance of the Wireless Communications Facilities shall not cause any such obstructions except as otherwise expressly permitted by the Standards.
- o. **Traffic Safety-** All Wireless Communications Facilities shall be designed and located in such a manner as to avoid adverse impacts on traffic and pedestrian safety. Wireless Communications Facilities shall not project over the public way or sidewalk (beyond the berm or curb) in such a manner and at a height that will interfere with the public use of the public way or sidewalk. The Applicant shall comply with the Uniform Traffic Manual for Traffic Control at all times during construction or installation.
- p. **Lighting-** the Applicant's Wireless Communications Facilities shall not produce any lighting or blinking light that is not required by federal or state law or by an applicable industry safety code.

- q. **Security-** the Applicant shall provide adequate security for its Wireless Communications Facilities in accordance with current industry practices and any applicable standards.
- r. **Noise-** The Applicant shall employ Wireless Communications Facilities that are either silent or generate as little noise as is technically feasible and commercially practicable in light of industry standards and equipment specifications. In all cases, the Applicant shall comply with any applicable City noise ordinance. In the event that its facilities fail to comply with such ordinance, the Applicant shall provide noise suppression equipment as reasonably necessary to bring the facilities into compliance with such ordinance. In addition, the Applicant shall provide demonstrate that it is capable of promptly shutting down and repairing any equipment that is not in compliance with City noise regulations.
- s. **Vibration-** The Applicant shall demonstrate that it is capable of promptly shutting down and repairing any equipment that vibrates excessively.
- t. **Non-Interference with other Users of Utility Pole-** The Applicant and its facilities shall not interfere with the operation and maintenance of any wires, cables or equipment already attached to a utility pole, including but not limited to streetlights and cable, electrical and telecommunications facilities (including any City communications facilities such as fiber optic cables and copper alarm transmission lines). Streetlights already attached to the pole shall not be moved unless required by the pole owner(s), and then only to the extent permitted under any applicable agreement between the pole owner and the City or, absent such applicable agreement, formally consented to by the Commissioner of Public Works. Signage already attached to a pole shall not be moved without the prior written consent of the City department that controls the placement of the signage.

## 8. Other Requirements

- a. **Expiration of Permit for Non-Use-** The Applicant shall pay the fee for recording a grant of location order as provided for under G.L.c.166, §22 and City Code §17-3. If the Applicant fails to construct and operate the approved Wireless Communications Facilities within one hundred eighty (180) days after such acceptance, the City may notify the Applicant of its intent to revoke the grant of location and direct the removal of any unused

Wireless Communications Facilities. The Applicant shall have the opportunity to cure this failure or provide good cause for the failure based upon factors outside of its control.

- b. **Abandonment and Removal-** Any abandoned or unmarked Wireless Communications Facilities, wires and equipment shall be removed in accordance with City Code §23-14.
- c. **Non-Emergency Repairs-** Non-emergency repairs shall be performed as follows: (1) at least forty-eight (48) hours' advance notice shall be provided to the Commissioner of Public Works and the Police Department; (2) a police detail may be required; and (3) work shall be performed on weekdays during hours designated by the Commissioner of Public Works.
- d. **Removal of Utility Pole-**In the event that a Utility Pole is being removed and replaced by the pole owner(s), the Applicant shall transfer the Wireless Communications Facilities to the replacement pole in accordance with the pole attachment agreement(s) between the Applicant and the pole owner(s). In the event a pole is not a double pole, and the pole owner no longer needs the pole for its own use and is proposing to remove the pole and not replace it, the Applicant shall have the right to remain on the pole pursuant to its grant of location, but shall reasonably cooperate in moving its equipment to another available and technically suitable pole if one is available and approved for the attachment of its. Wireless Communications Facilities and the grant of location allowed for the removed pole location shall terminate. Applicants shall register with and participate in the NJUNs program or any successor program in effect.
- e. **Licenses and Permits-** The Applicant must obtain all other permits required by law.
- f. **Performance Bond-** As required under §23-11 of the City Code.
- g. **Other Conditions for Approval-** All Wireless Communications Facilities shall be subject to the following additional conditions of approval, as well as any modification of these conditions or additional conditions of approval deemed necessary by the Commissioner of Public Works, City Wire Inspector or the City Council:
  - (i) **As-Built Drawings-**The Applicant shall submit as-built drawings within thirty (30) days after installation of its Wireless Communications Facilities. As-built drawings shall be in an electronic format acceptable to the City which can be linked to the

City's GIS. To the extent practicable, as-built drawings should be able to be incorporated into the GIS layers.

- (ii) **Contact and Site Information-**The Applicant shall submit and maintain current basic contact and site information on a form to be supplied by the City. Such information shall include, but is not limited to (a) name, address and twenty-four (24) hour local or toll-free and cellphone numbers of the Applicant, the owner, operator and agent or person responsible for maintenance of the Wireless Communications Facilities and (b) the owner of the Wireless Communications Facilities.
- (iii) **Drip Lines of Trees-** The City discourages the installation of Wireless Communication Facilities within the dripline of a Public Shade Tree or other City owned tree. If there is no alternative to the installation of a Wireless Communication Facility within the dripline of a Public Shade Tree or other City owned tree the installing party must comply with the City's Public Tree Regulation and obtain a Tree Permit from the Tree Warden. The City will not permit the pruning, cutting, or damage to a Public Shade Tree or other City owned tree to facilitate the installation of a Wireless Communication Facility unless approved by the Tree Warden.
- (iv) **Relocation-** An Applicant shall promptly remove and relocate, at no charge to the City, any facilities or equipment if the removal of a pole is made necessary by a change in the grade, alignment or width of any public way, or by construction, maintenance or operation of any City facilities.

## V. ENFORCEMENT; APPLICABILITY OF CHAPTER 23 OF CITY CODE

The City Inspector of Wires shall have the authority to enforce these Standards in accordance with Massachusetts law and Chapter 23 of the City Code, to the extent applicable. Chapter 23 of the City Code applies to Wireless Communications Facilities located in the public ways as follows: Sections 23-1, 23-2, 23-5, 23-6, 23-7, 23-8, 23-9, 23-10, 23-11, 23-12, 23-13, 23-14, 23-15, 23-16, and 23-17, 23-19 and 23-20. Conduit provisions under Chapter 23 may apply where an Applicant proposes to install conduit.

**VI. AMENDMENTS**

The City Council may from time to time amend these Procedures and Standards in accordance with law and such amended Procedures and Standards will apply to subsequently filed applications.

**PROPOSED DRAFT DATED JULY 12, 2018**

**CITY COUNCIL GRANT OF LOCATION PROCEDURES AND STANDARDS FOR WIRELESS COMMUNICATIONS FACILITIES TO BE LOCATED IN PUBLIC WAYS**

**I. INTRODUCTION**

The City Council regulates the placement of wireless communications facilities in the public ways pursuant to municipal authority under Massachusetts General Laws Chapter 166, Sections 21 *et seq.*, other applicable Massachusetts Laws, City Code Section 23, and applicable federal law, including 47 U.S.C. §§253 and 332(c)(7).

The public ways in Newton are a uniquely valuable resource, closely linked with the City's residential character and natural beauty. Many public ways have been enhanced by the planting and maintenance of public shade trees.

The City Council wishes to preserve and protect community safety and aesthetics in its residential neighborhoods and village centers, consistent with its streetscape design principles. Many residences have a small amount of frontage between the residence and the public ways. Public ways, including sidewalks, must remain accessible and safe under ADA and traffic standards. The City has several scenic roadways. It also has historic districts and historic buildings. Aesthetics and compatibility with immediate surroundings are important considerations in reviewing future use of the public ways.

A competing consideration is a public interest in maximizing wireless service coverage and enabling wireless service capacity that is adequate to meet the needs of the City (including public safety communications needs), its residents and businesses. Further, the City Council recognizes that its authority to regulate the use of the public ways is subject to and limited by both state and federal laws.

The potential for proliferation of wireless communications facilities attachments to utility poles in public ways, due, in part, to recent changes in federal law, evolving wireless technology, and demand for wireless services has created a significant concern about degradation of the character of residential areas, village centers, scenic roads and historical districts, and adverse impacts upon public safety and well-being of City residents and other users of the public ways.

The City Council also wishes to limit noise and vibration levels that may be associated with some types of wireless communications facilities. The City Council cannot ~~base grant~~ deny a request to place, construct, or modify personal wireless service facilities on the basis of ~~location orders upon~~ environmental effects of radio frequency emissions ~~from wireless to the extent that~~



such facilities comply with the Federal communications facilities in the public ways- Commission's ("FCC") regulations concerning such emissions.

The City Council therefore finds it necessary and desirable to provide for reasonable regulation and orderly deployment of wireless communications facilities in the public ways. Accordingly, it adopts these Wireless Grant of Location Procedures and Standards (the "Procedures and Standards").

## **II. SCOPE OF THESE PROCEDURES AND STANDARDS**

These Procedures and Standards govern the permitting of (1) wireless communications facilities attachments to existing or replacement utility poles which are located in the public ways and which do not have any pre-existing wireless attachments; (2) wireless communications facilities attachments to existing or replacement poles which are located in the public ways and which do have pre-existing wireless attachments, but do not satisfy the requirements under 47 U.S.C. §1455 and related Federal Communications Commission ("FCC") regulations; and (3) constructing a new pole in a public way for purposes of providing wireless communications services. A party seeking to attach to a City-owned pole also will be required to enter into a license agreement with the City and comply with its terms and conditions.

These Procedures and Standards do not apply to the filing and review of "Eligible Facilities Requests", as defined under 47 U.S.C. §1455 (and related FCC regulations), that involve a pole (1) located in a public way and (2) classified as a "base station" under 47 U.S.C. §1455. If an applicant seeks approval pursuant to 47 U.S.C. §1455 and related FCC regulations, the Applicant must submit a separate application in accordance with related instructions. If that application is denied, the Applicant may submit a new grant of location application governed by these Procedures and Standards.

## **III. GRANT OF LOCATION APPLICATION PROCEDURES**

### **A. Who May Apply**

An Applicant must demonstrate that it is qualified and eligible under G.L.c.166, §21 to place its facilities on utility poles located in the public ways. For example, a Statement of Business Operations filing with the Massachusetts Department of Telecommunications and Cable, if any, should be provided, and a link to existing tariffs, if any, should be supplied. Where applicable, current records of any FCC license to offer service should be provided. The Applicant should demonstrate that its proposed facilities will be used to carry out the telecommunications services covered by its Statement of Business Operations and/or an applicable FCC license. Carrier neutral Applicants shall provide evidence that they have a

contract with at least one wireless service provider which will make use of the proposed facilities or that they will accept a condition that they shall not construct proposed facilities unless they have first submitted evidence that they have a contract with at least one wireless service provider which will make use of the proposed facilities.

Also, the Applicant should provide evidence of its authority to conduct in Massachusetts the business carried out through the proposed facilities.

## **B. Application Filings**

Applicants shall use the application form provided by the Commissioner of Public Works. This form shall be made available through the Commissioner, City Clerk ~~or~~and on the City website. Use of this application form is required to best assure timely review of the completeness of the application. The application form may be revised from time to time.

Although not required to do so, Applicants are encouraged to schedule a pre-application meeting with the City Engineer, Wire Inspector, Fire Department, IT Department and Planning and Development Department to (1) describe their proposed location, Wireless Communications Facilities and plans; (2) identify potential issues; and (3) address questions. If a pre-application meeting is requested, information regarding the proposed location, Wireless Communications Facilities and plans should be submitted to the Commissioner of Public Works at least seven (7) days before the scheduled pre-application meeting. A separate application shall be submitted for each separate location.

~~An Applicant may file a consolidated grant of location application (“Consolidated Application” or “Batch Application”) for up to ten (10) separate locations, or a greater number if agreed to by the Commissioner of Public Works, provided that all of the Wireless Communications Facilities in the Consolidated Application:~~

- ~~(1) are (a) located within a two (2) mile radius or are (b) located on one (1) or two (2) contiguous public ways;~~
- ~~(2) consist of substantially similar equipment;~~
- ~~(3) are to be placed on similar types of Utility Poles; and~~
- ~~(4) substantially comply with these Procedures and Standards.~~

~~The City may issue a notice of incompleteness (in accordance with Section III D) as to one or more of the proposed locations and the Applicant’s Consolidated Application will not move forward until all locations in the Consolidated Application are complete.~~

~~In rendering a decision on a Consolidated Application, the City Council may approve some locations and deny other locations, but shall not use the denial of one or more grants of location to deny the entire Consolidated Application.~~

~~If within a single ten (10) day period the City receives applications from one or more petitioners seeking grants of location for more than twenty (20) separate locations, the City may extend its review period(s) by up to sixty (60) days. If the City elects such an extension, it shall inform in writing any Applicant to whom the extension will be applied. The City also may extend its review period for any specific application if it determines that an extension is reasonably necessary.~~

### **C. Copies of Application**

An application shall be filed with the City Clerk and the City Clerk will date stamp the application. Applicants are encouraged to obtain a date stamped copy of the application for their own records.

The Applicant shall provide to the City Clerk as follows: (a) one (1) copy of the complete application in paper format, (b) a complete application in PDF format and (c) a complete application in a digital format compatible with the City's systems. The City Clerk will make copies of the complete application available to other City departments. Applicants will be notified if an application should be filed through the City's website, in which case a link will be provided by the City Clerk.

### **D. Incomplete Applications**

Each application will be logged in by the City Clerk to establish the filing date. The City will follow procedural requirements for incomplete applications and any continued incompleteness established by the FCC in its orders regarding applications to locate wireless communications facilities in the public ways, subject to 47 U.S.C. §332(c)(7). Formal notice of initial incompleteness shall be given to the Applicant by the City Clerk as soon as possible, and in all cases within thirty (30) days of the application filing date and will specifically identify: (1) all missing information; and (2) the code provision, application instruction or otherwise publicly stated guideline that requires the information to be submitted. If such notice is not provided to the Applicant within such thirty (30) day period, the application shall be deemed complete.

#### **E. Pole Owner Permission to Attach to Utility Pole**

The Applicant shall submit evidence of pole owner permission to attach its facilities to the specific pole or poles included in its application (if any). If such evidence is not currently available, as a condition of any grant of location, the Applicant must provide to the City, prior to the Applicant's commencement of construction of the attachments, such evidence of permission. A letter from the pole owner which certifies that it has granted the Applicant a location-specific license for the proposed location and identifies the pole number of such location will constitute evidence of permission.

#### **F. Tax Attestation**

The Applicant shall complete the tax attestation which is part of the grant of location application.

#### **G. Application Fees**

At the time of filing its application, the Applicant shall submit the Application Fee specified in City Code Section 17-3. The Application Form may be revised to reflect any change in the amount of the Application Fee under the City Code. The Application Fee is listed in the Application Form. ~~The application fees for batch applications will be provided in the Application Form.~~

#### **H. Peer Review**

The Public Facilities Committee shall determine whether a peer review of an application is needed in order for it to fully evaluate the Applicant's proposal. A peer review may be conducted at the Applicant's expense, as authorized under state statute, City ordinance and City Council regulations.

#### **I. Initial Review of Application**

The City Engineer, Commissioner of Public Works, a representative of the Planning and Development Department, and as needed, representatives of the Fire, Inspectional Services and IT Departments, will conduct an initial review of the application in order to determine whether it is complete as provided for above. The Commissioner of Public Works shall notify the City Clerk and the applicant as to the completeness of the application within thirty (30) days of the application filing date. If the application is found to be complete, each reviewing department shall submit to the City Clerk a written report with recommendations within thirty (30) days of the application filing date. These written recommendations shall be typed, dated and provided in letter or memo format. Copies of these written reports shall be furnished by the City Clerk to the

applicant. In the event that the Commissioner of Public Works fails to notify the City Clerk as to the completeness of the application within such thirty (30) day period, the application shall be deemed complete. Where a proposed location is in an historic district, the Planning and Development Department may also receive input from an Historic Planner, subject to limiting such input to the application of these Standards by the City Council. See Section IV (B)(3) for separate review by an Historic District Commission for locations in an historic district.

**J. Notice of Public Hearing**

Notice of the public hearing on a grant of location application ~~must~~will be provided in accordance with G.L.c.166, §22 and Chapter 23 of the City Code.

**K. Modification or Supplementation of Application**

The Applicant shall disclose at least forty-eight (48) hours prior to the public hearing any modification(s) of or supplementation to its proposal as submitted. The City may determine that proposed modifications are so substantial that the public notice of the application is inadequate and that submission of a new grant of location application is required. Applications that are found incomplete must be supplemented as described above (See Section III-D, Incomplete Applications).

**L. Public Hearing and Hearing Record; Requests for Exceptions**

The City Council Public Facilities Committee will conduct a public hearing on the application. The hearing record will include, at a minimum, (1) the Applicant's application, including its payment(s) of the application fees and any peer review fee(s); (2) written reports on the application, if any, submitted by the City Engineer, Commissioner of Public Works and any other City departments; (3) a transcript, audiotape or videotape of the public hearing (the Applicant also is free to record the public hearing); (4) proof of notice of the public hearing; (5) evidence that parties required to be notified of the public hearing were timely and properly notified; (6) any supplemental written materials supplied by the Applicant at least forty-eight (48) hours prior to the public hearing; (7) materials presented by any member of the public, City officials or a City peer reviewer at the public hearing; and (8) any additional materials provided by the Applicant at the request of the Public Facilities Committee-. Materials may include, but are not limited to photographs, mock-ups, videos or written documentation. Any materials to be submitted by a City peer reviewer shall be filed with the City Council and provided to the applicant at least forty-eight (48) hours prior to the public hearing.

The City Council acknowledges that its Procedures and Standards are subject to applicable state and federal law. Also, due to potential variations in Wireless Communications

Facilities, technical service objectives and changed circumstances over time, a limited exception for proposals may be warranted where strict compliance with these Procedures and Standards would (1) conflict with state or federal law; or (2) impose an unnecessary or unduly burdensome requirement on the Applicant, taking into account benefits to the City from enforcing the requirement. If the Applicant intends to seek an Exception from any City Council requirement(s) which regulate the placement, construction and modification of personal wireless services facilities on the grounds that it would: (1) prohibit or have the effect of prohibiting the provision of personal wireless services; (2) unreasonably discriminate among providers of functionally equivalent services; or (3) be unnecessary or unduly burdensome in the context of the particular application and location, the Applicant should submit information in support of its position in its application. The Applicant also may request an Exception to any condition recommended in a city department report following that department's review of the application. The City Council will determine whether to grant such an Exception.

#### **M. Written Decision and Statement of Reasons; Time Frame**

The Public Facilities Committee will vote on its recommended action, provide a statement of reasons for its recommendations and support its recommendations by reference to the hearing record. It shall submit a report on its vote to the City Council. After receipt of such report, the City Council will consider the application at its next [hearingmeeting](#) and issue a written decision in accordance with the requirements of state and federal law. The City Council may adopt and incorporate by reference the recommended action and statement of reasons provided by the Public Facilities Committee or modify the same, supported by a statement of reasons and reference to the hearing record in support of any modification. In the event that the City Council issues its decision after the expiration of any applicable federal "shot clock" date and in the absence of a tolling agreement with an unexpired term as of the date of the City Council's decision, the City Council shall provide a statement of reasons why additional time was needed to review and act upon an application. If the Public Facilities Committee has not submitted its report to the City Council prior to the expiration of an applicable "shot clock" interval and in the absence of a tolling agreement with an unexpired term, the Public Facilities Committee shall include in its report a statement of reasons why additional time was needed to review the application.

An Applicant shall be permitted to submit proposed findings of fact and a proposed City Council order based upon the hearing record no later than seven (7) days after the close of the public hearing conducted by the Public Facilities Committee; provided, however that if the exercise of this step would delay a final decision by the City Council, such permission is conditioned upon the Applicant's execution of a tolling agreement not to exceed thirty (30) days (or such later date acceptable to the applicant).

#### **N. Appeals and Reconsideration**

An Applicant may petition the City Council for reconsideration within thirty (30) days after receipt of a final decision. If the Applicant files a petition for reconsideration, it has the effect of suspending the final decision, which shall then be treated for all purposes as only a proposed decision, until the petition for reconsideration is resolved. The City Council may issue a decision on a petition for reconsideration within thirty (30) days of the filing of the petition for reconsideration. A failure of the City Council to act on the petition for reconsideration within such thirty (30) day period shall be deemed a final denial of such petition. Any appeals from a final decision by the City Council shall be governed by applicable law.

#### **O. Acceptance of Grant of Location Order with Conditions**

Grants of location must be accepted by the Applicant as required under Massachusetts General Laws Chapter 166, Section 22. The Applicant shall pay the fee for recording the grant of location order as required under the City Code.

### **IV. SUBSTANTIVE STANDARDS FOR WIRELESS COMMUNICATIONS FACILITIES IN PUBLIC WAYS; DESIGN GUIDELINES**

These Standards provide objective, uniform criteria for the review of grant of location applications for the placement of Wireless Communications Facilities in the public ways (1) by attachment to a Utility Pole that has no pre-existing wireless attachments; (2) by attachment to a Utility Pole that has pre-existing wireless attachments where the application does not qualify or has not been submitted for review under 47 U.S.C. §1455 and related FCC regulations; and (3) by attachment to a new pole constructed for communications uses.

All Wireless Communications Facilities that are located within the public ways shall be designed and maintained so as to minimize visual, noise and other impacts on the surrounding community and to avoid any obstruction of the use of public ways, including sidewalks. In order to assist Applicants, the Planning and Development Department will provide Design Guidelines which may be considered in preparing and reviewing applications. The Design Guidelines shall be consistent with these Standards and may provide details, descriptions and examples of acceptable Wireless Communications Facilities attachments, including visual depictions. In the event of any conflict between the Design Guidelines and these Standards, these Standards take precedence over the Design Guidelines.

## A. Definitions

The following terms are defined for the purposes of these Guidelines as follows:

- (1) **Alternative Antenna Structure** means an existing pole or other structure that can be used to support an antenna and is not a Utility Pole or City-owned Infrastructure. Except as otherwise provided for by these Regulations, the requirements for an Alternative Antenna Structure shall be those required in Section 30-18A of the City Code (the wireless zoning ordinance).
- (2) **Antenna Structure** means any structure designed to specifically support an antenna, and/or any appurtenance mounted on such a structure or antenna.
- (3) **Applicant** includes any person or entity submitting an application to install -Personal Wireless Service Facilities.
- (4) **City-Owned Infrastructure** means infrastructure including, but not limited to, streetlight poles and traffic signals owned, operated and maintained by the City and located in a public way.
- (5) **Distributed Antenna System** means a network of spatially separate antenna nodes connected to a common source via a transport medium that provides wireless service within a geographic area.
- (6) **Exception** means a grant of relief by the City Council from specific limitations in these Standards as part of a decision on a grant of location.
- (7) **Monopole** for purposes of these procedures and standards means a structure taller than 40 feet high composed of a single spire, pole or tower used to support antennas or related equipment and the primary purpose of which is to serve as a support structure for wireless communications facilities.
- (8) **Personal Wireless Service Facilities** means facilities for the provision of personal wireless services, which include commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services.



- (9) **Small Cell Antennas** means an antenna either installed singly or as part of a network to provide coverage or enhance capacity in a limited defined area.
- (10) **Tower** means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. Except as otherwise provided for by these Regulations, the requirements for a Tower and associated antenna facilities shall be those required in Section 30-18A of the City Code (the wireless zoning ordinance).
- (11) **Utility Pole** means an upright pole used to support electric cables, telephone cables, telecommunications cables and related facilities owned and maintained by an electric distribution company or incumbent local exchange carrier which is regulated by the Massachusetts Department of Public Utilities and/or the Massachusetts Department of Telecommunications and Cable. A Utility Pole does not include City-owned Infrastructure.
- (12) **Wi-Fi Antenna** means an antenna used to support Wi-Fi broadband Internet access service based on the IEEE 802.11 standard that typically uses unlicensed spectrum to enable communication between devices.
- (13) **Wireless Communications Facility** means a structure, antenna, pole, tower, equipment, accessory equipment and related improvement used, or designed to be used, to provide wireless transmission of voice, data, images or other information, including but not limited to, cellular phone service, personal communications service, paging and Wi-Fi service.

## **B. Determination of Site Locations**

- 1. Analysis of Installation Request-** The City Council determines the location of all Wireless Communications Facilities to be located in or on public ways. The City Council will not unreasonably discriminate among providers of functionally equivalent services. The City Council will not take action that prohibits or has the effect of prohibiting (a) the provision of personal wireless service or (b) the ability of any entity to provide any interstate or intrastate telecommunications service.
- 2. Sensitive Locations** – Applicants are encouraged to avoid pole locations that would be (a) directly in front of, and in close proximity to, a residence, (b) on a scenic road, (c) in front of and on the same side of the street as an historic building listed in the Massachusetts Historic Register, (d) in an historic district (see below); (e) at an entry point to a village center; or (f) within an existing

underground utility district established pursuant to G.L.c.166, §§ 22A-22N. Applicants are encouraged to use existing Utility Poles which do not support existing Wireless Communications Facilities. Please refer to the Planning and Development Department's [Street Design Guidelines](#).

3. **Historic Districts-** Applicants are encouraged to avoid pole locations within an historic district. The applicant shall disclose in its [grant of location](#) Application whether a proposed location is within an historic district ~~and what, if, any certificates are needed from.~~ [If the proposed location is within an historic district commission. In order to best assure consistency between historic district commission and City Council decisions regarding an Application,](#) the applicant ~~shall is encouraged either to~~ (a) file for ~~and obtain~~ a certificate [of appropriateness, hardship or non-applicability](#) from an historic district commission prior to filing its grant of location ~~application~~ [Application](#) or (b) file for a certificate with the historic district commission ~~prior to or~~ concurrently with filing its grant of location Application. If the applicant has obtained such a certificate for a proposed location prior to the time that it files its grant of location Application, it shall submit the certificate as part of its [grant of location](#) Application. If a certificate is issued during the pendency of the grant of location Application, the applicant shall submit the certificate to the Public Facilities Committee. If a certificate is required but not yet issued at the time of the report of the Public Facilities Committee to the City Council, the City Council may ~~(a)~~ issue a grant of location ~~based upon these Procedures and Standards and (b) condition a grant of location based which is conditioned~~ upon the applicant's ~~provision of obtaining~~ a certificate from the historic district commission. [If the City Council issues a grant of location prior to commencing construction a vote of an historic district commission on an application for a certificate, the applicant shall provide a copy of the City Council's grant of location order to the historic district commission prior to the historic district commission's vote on its application for a certificate.](#)
4. **Underground Utility Districts--** [Poles shall not be installed for wireless communications purposes in locations where cable, electric and telecommunications facilities are located underground. If there is an existing City-owned streetlight pole in such a location, a party wishing to attach Wireless Communications Facilities shall not be permitted in an underground utility district and shall be subject to removal to such a pole must obtain a license agreement or other required permission from the City in addition to a grant of location pursuant to the procedures established under M.G.L. Chapter 166, §§22A-22N if they are in a location that subsequently has been designated an underground utility district. these Procedures and Standards.](#)
5. **Locations Outside of Public Ways-** The placement of Wireless Communications Facilities outside of the public ways is subject to review and approval under [the](#) City Zoning Ordinance.

### **C. RF Emissions and Other Monitoring Requirements**

In accordance with federal law, the City Council shall not regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions (“RFE”) to the extent that such facilities comply with the FCC’s regulations concerning such emissions. ~~The Applicant shall provide proof that the proposed wireless service facilities will comply with FCC RFE regulations. Upon completion of construction, the Applicant shall furnish proof of compliance with such FCC regulations. The City also may request proof of compliance if (1) the Applicant changes its use of the location or adds to or replaces equipment at the location; (2) additional Wireless Communications Facilities at or in the immediate vicinity of the location cause a reasonable concern regarding cumulative emissions; or (3) a change in law which affects then-existing FCC compliance standards. As part of its application, the applicant shall provide a statement certifying that the proposed facility will comply with such requirements.~~

### **D. Additional Grant of Location Approval Required; Activity that does not Require Additional Grant of Location Approval**

Any increase in the height, number or dimensions of Wireless Communications Facilities components after construction shall be subject to City Council approval in accordance with applicable law. No City Council approval is required for renewing, repairing or replacing the Wireless Communications Facilities as long as they do not increase the height, number or dimensions of the existing Wireless Communications Facilities or decrease ground clearance below the ~~required level.~~minimum allowed. The Commissioner of the Department of Public Works, ~~upon a showing by~~at the request of the Applicant, may determine that a *di minimus* increase does not require further approval. In the event that, after a grant of location order and before construction, the position of a Wireless Communications Facilities component needs or is required to be moved, the Applicant shall submit any revisions to its plans to the Commissioner of Public Works, the Fire Department and the Inspectional Services Department, which may authorize the change so long as the change does not reduce ground clearance below the minimum allowed, or increase the height, dimensions or number of the Wireless Communications Facilities by more than a minor amount or violate applicable City requirements. No pole shall be removed or replaced without the written approval of the Inspector of Wires, as provided for under City Code Section 23-9.

### **E. Other Permits**

Applicants are responsible for obtaining any additional permits required by law. Such permits may include, but are not limited to, building permits, electrical permits, street opening permits and historic district commission certificates.

### **F. New Poles**

Applications for the construction of new poles are discouraged. Existing Utility Poles and their locations should be utilized where available. Any new pole proposed for wireless communications use in excess of 40 feet shall be considered a Monopole and prohibited in the public ways unless an Exception is granted by the City Council. An Applicant proposing to construct a new pole for wireless communications use must demonstrate that it ~~(or the party which would use the new pole)~~ does not ~~have the option of attaching~~ reasonably feasible for it to attach to an existing Utility Pole or replacement Utility Pole at the existing location.

#### G. General Standards

- (1) **Number Limitation-** Unless otherwise authorized by the City Council for good cause shown, only one (1) personal wireless service provider or DAS provider shall be allowed to own, attach and/or operate Wireless Communications Facilities which are attached to a single Utility Pole. This provision does not prohibit a carrier neutral host from allowing one or more wireless service providers to use its Wireless Communications Facilities.
- (2) **City-Owned Infrastructure-** No Wireless Communications Facilities shall be mounted to City-owned infrastructure located in the public ways, including but not limited to, streetlights and traffic signals, unless authorized in writing by the Commissioner of Public Works and Mayor or her authorized designee. The Commissioner of Public Works determines whether a location is suitable and the Mayor exercises control over licensing the use of that location. In such cases, a grant of location application also is required to attach to City-owned infrastructure.
- (3) **Replacement Poles-** If an application requires replacement of an existing Utility Pole ~~in order~~ to accommodate proposed Wireless Communications Facilities, the replacement pole shall be designed to resemble the appearance and dimensions of existing poles near the proposed location, including size, height, color, materials and style to the maximum extent feasible (taking into account pole owner control of its Utility Poles~~).~~). Any licensing of the use of a concrete City-owned streetlight pole location will require the replacement of the existing City-owned pole and such other specifications as determined by the Commissioner of Public Works. These specifications will be part of the license agreement between the applicant and the City.
- (4) **New Monopoles or Poles-** Subject to exceptions under these Standards, no new Monopole or Utility Pole whose primary purpose is to support personal

Wireless Communications Facilities shall be installed within the public ways of the City unless authorized by the City Council. Only pole mounted antennas shall be permitted in the public ways. Towers and Monopoles not authorized by the City Council are prohibited in the public ways.

- (5) Exceptions for a New Pole Which is Not a Replacement Pole-** An Exception shall be required to place a new pole that is not a replacement for an existing pole in a public way. If an Exception is granted for placement of a new pole in the public way:
- i. To the maximum extent feasible (taking into account ownership of the new pole), the new pole shall be designed to resemble the appearance and dimensions of existing poles near the proposed location, including size, height, color, materials and style, with the exception of any existing pole designs that are scheduled to be removed and not replaced.
  - ii. Such new poles shall be subject to a height limitation of forty (40) feet unless a taller height is permitted by the City Council.
  - iii. A new pole justification analysis shall be submitted to demonstrate why (1) existing Utility Poles or locations outside of the public ways cannot be utilized and (2) the new pole is the least intrusive means possible, including a demonstration that the new pole is designed to be the minimum functional height and width required to support the proposed Wireless Communications Facilities.
  - iv. For all wooden poles, conduit and cables attached to the exterior of poles shall be mounted flush thereto ~~and painted to match the pole~~.
  - v. A new pole shall not require the replacement of adjacent poles or require the rearrangement of existing facilities of the pole owner, the City or another entity attaching to adjacent poles.
- (6) ADA Requirements-** Wireless service facilities shall not interfere with ADA standards and requirements.
- (7) Attachment to Utility Poles; Limitations-** No such personal Wireless Communications Facilities shall be attached to a Utility Pole unless all of the following conditions are satisfied:

- a. **Surface Area of Antenna-** In general, the personal wireless service antenna, including antenna panels, whip antennas or dish-shaped antennas, shall be as small as practicable, taking into account aesthetic and public safety considerations.
- b. **Size of Above Ground Wireless Communications Facilities-** The total combined volume of all above ground equipment and appurtenances serving a personal wireless service antenna shall be as small as practicable, taking into account aesthetic and public safety considerations.
- c. **Lowest Point Above Grade-** The operator of Wireless Communications Facilities shall, whenever possible, locate the base of the equipment or appurtenances at a height of no lower than eight (8) feet above grade. No facilities may be installed at grade without the approval of the Commissioner of Public Works and the City Council. ~~In the event that~~If the City prohibits electric meters on utility poles or the electric distribution company does not require an electric meter, the operator shall locate the base of the equipment or appurtenances no lower than twelve (12) feet above grade.
- d. **Height-** The top of the highest point of the Utility Pole shall not exceed forty (40) feet and the combination of the height of the utility pole and personal wireless service antenna extension shall not exceed forty-four (44) feet above ground level.
- e. **Color-** To the maximum extent practicable, the color of the Wireless Communications Facilities shall be similar to and blend with (a) the existing equipment on the Utility Pole and/or on other nearby Utility Poles, (b) the color of the Utility Pole, or (c) another color reasonably satisfactory to and directed by the City Council. The Wireless Communications Facilities shall have non-reflective materials.
- f. **Shielding of Wiring-** Any wiring on the pole must be covered with an appropriate cover or cable shield.
- g. **Mounting-** ~~The applicant shall use the least visible equipment possible.~~ Antenna elements and equipment shall be flush-mounted as close to the ~~extentsurface of the pole as practical and~~ feasible.

- h. **Antenna Panel Covering-** Personal wireless service antenna shall include a radome, cap or other antenna panel covering or shield and shall ~~be of use~~ a color that blends with the color of the utility pole on which it is mounted.
- i. **Signage-** Other than signs required by federal or state law or by the pole owner, Wireless Communications Facilities shall not have signs installed thereon. Identification tags may be utilized in accordance with governmental and/or pole owner requirements.
- j. **Wiring and Cabling-** Wires and cables connecting the antenna and/or appurtenances shall be installed in accordance with the National Electrical Safety Code in force at the time of installation of the wires and cables or any stricter standards required by a pole owner, and TIA/EIA applicable codes.
- k. **Grounding-** The Wireless Communications Facilities shall be grounded in accordance with the National Electrical Safety Code in force at the time of installation of the wires and cables or any stricter standard required by a pole owner.
- l. **Guy Wires-** No guy wires or other support wires shall be used in connection with Wireless Communications Facilities unless the facilities are proposed to be attached to an existing Utility Pole. that incorporates guy wires prior to the date that the applicant has applied for a grant of location, or unless the use of guy wires or support wires allows for an installation that furthers the objectives of these procedures and standards better than other practical alternatives that do not include the use of such wires.
- m. **Wind Loads-** The proposed Wireless Communications Facilities shall be properly engineered to withstand wind loads required by applicable safety codes and pole owner requirements. An evaluation of high wind load capacity shall include the impact of the proposed attachments on the existing Utility Pole with existing utility facilities and any third-party attachments. Such an evaluation shall be performed by the Applicant or the pole owner. A certificate of compliance with applicable safety codes and pole owner requirements from the pole owner may be submitted in place of such an evaluation.

- n. **Obstructions-** Each component part of the Wireless Communications Facilities shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, cause safety hazards to pedestrians and motorists or otherwise incommode the public's use of the public way. Nor shall any such component obstruct intersection visibility. The Wireless Communications Facilities shall not interfere with access to or operation of a streetlight, fire alarm cable, municipal fiber optic facilities, fire hydrant, fire alarm, fire station, fire escape, water valves and facilities, sewer facilities, underground vault, valve housing structure, or any other public health or safety facility. The Wireless Communications Facilities shall not interfere with snow plowing, side walk clearing, leaf removal or the maintenance of public shade trees. The Wireless Communications Facilities shall not interfere with the pole owner's vegetation management practices and obligations. The maintenance of the Wireless Communications Facilities shall not cause any such obstructions except as otherwise expressly permitted by the Standards.
- o. **Traffic Safety-** All Wireless Communications Facilities shall be designed and located in such a manner as to avoid adverse impacts on traffic and pedestrian safety ~~and shall not extend outward from a pole by more than two (2) feet from each side of the pole.~~ Wireless Communications Facilities shall not project over the public way or sidewalk (beyond the berm or curb) ~~or otherwise in such a manner~~ and at a height that will interfere with the public use of the public way or sidewalk. The Applicant shall comply with the Uniform Traffic Manual for Traffic Control at all times during construction or installation.
- p. **Lighting-** the Applicant's Wireless Communications Facilities shall not produce any lighting or blinking light that is not required by federal or state law or by an applicable industry safety code.
- q. **Security-** the Applicant shall provide adequate security for its Wireless Communications Facilities in accordance with current industry practices and any applicable standards.



- r. **Noise-** ~~to the extent technically feasible and commercially practicable, the~~The Applicant shall employ Wireless Communications Facilities that are ~~or close to either~~ silent or generate as little noise as is technically feasible and commercially practicable in ~~accordance with~~light of industry standards and equipment specifications. ~~The~~In all cases, the Applicant shall comply with any applicable City noise ordinance. In the event that its facilities fail to comply with such ordinance, the Applicant shall provide noise suppression equipment as reasonably necessary to bring the facilities into compliance with such ordinance. In addition, the Applicant shall provide ~~acceptable assurances~~demonstrate that it is capable of promptly shutting down and repairing any equipment that is not in compliance with City noise regulations.
- s. **Vibration-** The Applicant shall ~~provide acceptable assurances~~demonstrate that it is capable of promptly shutting down and repairing any equipment that vibrates excessively.
- t. **Non-Interference with other Users of Utility Pole-** The Applicant and its facilities shall not interfere with the operation and maintenance of any wires, cables or equipment already attached to a utility pole, including but not limited to streetlights and cable, electrical and telecommunications facilities (including any City communications facilities such as fiber optic cables and copper alarm transmission lines). Streetlights already attached to the pole shall not be moved unless required by the pole owner(s), and then only to the extent permitted under any applicable agreement between the pole owner and the City or, absent such applicable agreement, formally consented to by the Commissioner of Public Works. Signage already attached to a pole shall not be moved without the prior written consent of the City department that controls the placement of the signage.

## 8. Other Requirements

- a. **Expiration of Permit for Non-Use-** The Applicant shall pay the fee for recording a grant of location order as provided for under G.L.c.166, §22 and City Code §17-3. If the Applicant fails to construct and operate the approved Wireless Communications Facilities within one hundred eighty (180) days after such acceptance, the City may notify the Applicant of its intent to revoke the grant of location and direct the removal of any unused

Wireless Communications Facilities. The Applicant shall have the opportunity to cure this failure or provide good cause for the failure based upon factors outside of its control.

- b. **Abandonment and Removal-** Any abandoned or unmarked Wireless Communications Facilities, wires and equipment shall be removed in accordance with City Code §23-14.
- c. **Non-Emergency Repairs-** Non-emergency repairs shall be performed as follows: (1) at least forty-eight (48) hours' advance notice shall be provided to the Commissioner of Public Works and the Police Department; (2) a police detail may be required; and (3) work shall be performed on weekdays ~~between the~~during hours designated by the Commissioner of Public Works.
- d. **Removal of Utility Pole-**In the event that a Utility Pole is being removed and replaced by the pole owner(s), the Applicant shall transfer the Wireless Communications Facilities to the replacement pole in accordance with the pole attachment agreement(s) between the Applicant and the pole owner(s). ~~In the event the pole is being removed by the pole owner(s) and not replaced, the Applicant shall remove its~~In the event a pole is not a double pole, and the pole owner no longer needs the pole for its own use and is proposing to remove the pole and not replace it, the Applicant shall have the right to remain on the pole pursuant to its grant of location, but shall reasonably cooperate in moving its equipment to another available and technically suitable pole if one is available and approved for the attachment of its. Wireless Communications Facilities and the grant of location allowed for the removed pole location shall terminate. Applicants shall register with and participate in the NJUNs program or any successor program in effect.
- e. **Licenses and Permits-** The Applicant must obtain all other permits required by law.
- f. **Performance Bond-** As required under §23-11 of the City Code.
- g. **Other Conditions for Approval-** All Wireless Communications Facilities shall be subject to the following additional conditions of approval, as well as any modification of these conditions or additional conditions of approval deemed necessary by the Commissioner of Public Works, City Wire Inspector or the City Council:

- (i) **As-Built Drawings**-The Applicant shall submit as-built drawings within thirty (30) days after installation of its Wireless Communications Facilities. As-built drawings shall be in an electronic format acceptable to the City which can be linked to the City's GIS. To the extent practicable, as-built drawings should be able to be incorporated into the GIS layers.
- (ii) **Contact and Site Information**-The Applicant shall submit and maintain current ~~at all times~~ basic contact and site information on a form to be supplied by the City. Such information shall include, but is not limited to (a) name, address and twenty-four (24) hour local or toll-free and cellphone numbers of the Applicant, the owner, operator and agent or person responsible for maintenance of the Wireless Communications Facilities and (b) the ~~legal status of the~~ owner of the Wireless Communications Facilities.

~~(iii) — Insurance — The Applicant shall maintain the following insurance:~~

~~Commercial General Liability Insurance: Comprehensive liability coverage including protective, completed operations and broad form contractual liability, property damage and personal injury coverage, and comprehensive automobile liability including owned, hired, and non-owned automobile coverage. The limits for such coverage shall be: (1) bodily injury including death, one million dollars (\$1,000,000) for each person, occurrence and two million dollars (\$2,000,000) aggregate; (2) property damage, one million dollars (\$1,000,000) for each occurrence and two million dollars (\$2,000,000) aggregate.~~

~~Automobile Liability Insurance: Automobile liability coverage with limits no less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) annual aggregate.~~

~~Worker's Compensation Insurance: Full Workers' Compensation Insurance and Employer's Liability with limits as required by Massachusetts law.~~

~~All insurance certificates shall provide that the policies shall not be cancelled without endeavoring to provide the City at least thirty (30) days' prior written notice.~~

~~(iv)~~**(iii) Drip Lines of Trees-** The City discourages the installation of Wireless Communication Facilities within the dripline of a Public Shade Tree or other City owned tree. If there is no alternative to the installation of a Wireless Communication Facility within the dripline of a Public Shade Tree or other City owned tree the installing party must comply with the City's Public Tree Regulation and obtain a Tree Permit from the Tree Warden. The City will not permit the pruning, cutting, or damage to a Public Shade Tree or other City owned tree to facilitate the installation of a Wireless Communication Facility unless ~~deemed permissible~~approved by the Tree Warden.

~~(v)~~ — **Indemnification** — ~~The Applicant must execute an indemnification agreement as a condition for approval of a grant of location. A form of indemnification agreement shall be provided as part of the application form package.~~

~~(vi)~~**(iv) Relocation-** An Applicant shall promptly, ~~but in no event more than 120 days of the City's request, permanently~~ remove and relocate, at no charge to the City, any facilities or equipment if ~~and~~ when the removal of a pole is made necessary by a change in the grade, alignment or width of any public way, or by construction, maintenance or operation of any City facilities ~~or to protect the public health, safety and welfare. The Applicant shall restore any public way to the condition it was in prior to removal and relocation of its facilities or equipment.~~

## V. ENFORCEMENT; APPLICABILITY OF CHAPTER 23 OF CITY CODE

The City Inspector of Wires shall have the authority to enforce these Standards in accordance with Massachusetts law and Chapter 23 of the City Code, to the extent ~~deemed~~ applicable. Chapter 23 of the City Code applies to Wireless Communications Facilities located in the public ways as follows: Sections 23-1, 23-2, 23-5, 23-6, 23-7, 23-8, 23-9, 23-10, 23-11, 23-12, 23-13, 23-14, 23-15, 23-16, and 23-17-, 23-19 and 23-20. Conduit provisions under Chapter 23 may apply where an Applicant proposes to install conduit.

## VI. AMENDMENTS

~~3-28-2018 DRAFT REVIEWED AT THE 4-4-2018 PUBLIC FACILITIES COMMITTEE MEETING, WITH EDITS AS OF 5-31-18- CLEAN VERSION WITH CERTAIN VERIZON WIRELESS COMMENTS IN THE MARGIN~~

The City Council may from time to time amend these Procedures and Standards in accordance with law and such amended Procedures and Standards will apply to subsequently filed applications.

## APPLICATION FORM

This Application Form is to be used for the permitting of (1) Wireless Communications Facilities attachments to existing or replacement utility poles which are located in the public ways and which do not have any pre-existing Wireless Communications Facilities attachments; (2) Wireless Communications Facilities attachments to existing or replacement utility poles which are located in the public ways and which do have pre-existing Wireless Communications Facilities attachments, but do not satisfy the requirements under 47 U.S.C. §1455 and related Federal Communications Commission (“FCC”) regulations; and (3) new pole construction in a public way primarily for purposes of providing Wireless Communications Services. ~~Grant of location petitions for attachment of wireless communications facilities to utility poles located in public ways and for construction of new pole primarily for wireless communications facilities attachments~~

### A. Filing of Application

Please provide to the City Clerk in paper format an original and ~~two (2)~~ two (2) copies of your application, including all attachments. Also, provide a complete application in PDF format and in a digital format compatible with the City’s systems. one (1) electronic copy submitted on a CD in .pdf or another format approved by DPW.

~~if the application is deemed incomplete by the city, p~~Provide the name, address and other contact information of the person who should receive notice of incompleteness from the City if the application is found to be incomplete:

Name: \_\_\_\_\_ Phone: \_\_\_\_\_  
 Address: \_\_\_\_\_ Email Address: \_\_\_\_\_

### B. Applicant Contact Information

Name: \_\_\_\_\_ Phone: \_\_\_\_\_  
 Address: \_\_\_\_\_ Email Address: \_\_\_\_\_

Certification(s) by the Applicant that (1) the proposed work is authorized by the owner of the utility pole or, if not yet authorized, a commitment that no work will be performed until after it has provided to the Department of Public Works a pole owner authorization for the specific

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pole location and (2) the Applicant is authorized to make this Application, are attached as **Attachments A and B.**

**C. Other Contact Persons Regarding a Application**

Name, address, telephone number and email address of the following involved parties:

**Engineering Consultant:**

Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_ Email Address: \_\_\_\_\_

**Legal Representative of Applicant or Principal of Applicant:**

Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_ Email Address: \_\_\_\_\_

**Owner(s) of the Utility Pole(s):**

Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_ Email Address: \_\_\_\_\_

**Owner of the Proposed Wireless Communications Facilities and/or New Pole Primarily for Wireless Communications Purposes; ~~if different than user, please identify the user and describe the business relationship and agreement between the owner and user;~~**

Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_ Email Address: \_\_\_\_\_

**Other Representative(s) of the Owner of the Proposed Wireless Communications Facilities:**

Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_ Email Address: \_\_\_\_\_





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If ~~yes, in residential area,~~ what is the distance between the proposed pole location and residence that it would front?

\_\_\_\_\_

If the location is within an historic district, please identify the historic district and state whether the applicant has filed for a certificate from the historic district commission and if so, the date of that filing:

\_\_\_\_\_

Is the location in an Underground Utility District? Yes No

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**E. Pole Description**

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Is the pole location an existing pole \_\_\_\_\_; replacement of existing pole \_\_\_\_\_; new pole primarily for providing wireless communications services \_\_\_\_\_; an existing pole with pre-existing wireless communications facilities attachments, but not proposed as or eligible for treatment as a "base station" under 47 U.S.C. §1455 and related FCC regulations \_\_\_\_\_; a City-owned pole \_\_\_\_\_.

**F. Description of Proposed Wireless Communications Facilities**

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Narrative description of the proposed wireless communications facilities. Specify each component and its dimensions and approximate locations:

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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Power Supply: underground requirements-describe power supply requirements and whether connection to power supply will be aerial or underground. If underground, describe the construction work required:

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\_\_\_\_\_

APPLICATION FORM 3-28-18 DRAFT WITH ~~5-15-18~~ EDITS THROUGH AND ~~5-29-18~~ EDITS

Addition information

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Number of attachments on the pole ~~[S~~standards IV.G.1]:  
\_\_\_\_\_

~~Whether applicant will agree not add to or expand the dimensions of its initial wireless communications facilities:~~ \_\_\_\_\_

~~Whether applicant will agree not to consider the pole and its attachments as a base station under 47 U.S.C. §1455 and related FCC regulations:~~ \_\_\_\_\_

~~Compliance with ADA requirements [standards, IV.G.6]:~~ \_\_\_\_\_

Surface area of antenna ~~[s~~Standards, IV.G.7.A):  
\_\_\_\_\_

Size of above ground ~~w~~Wireless ~~e~~Communications ~~f~~Facilities (combined volume) [standards, IV.G.7.B): \_\_\_\_\_

Lowest point of wireless communications facilities above grade [standards, IV.G.7.C):  
\_\_\_\_\_

Height and dimensions of utility pole: [standards, IV.G.7.D):  
\_\_\_\_\_

Height and dimensions of antenna facilities located at the pole top or other point of attachment and overall height of the Utility Pole as modified by proposed wireless communications facilities: \_\_\_\_\_  
\_\_\_\_\_

Height of other Utility Poles within 150 feet of the proposed location: \_\_\_\_\_

Color [standards, IV.G.7.E): \_\_\_\_\_  
\_\_\_\_\_

Shielding of wiring [standards, IV.G.7.F): \_\_\_\_\_  
\_\_\_\_\_

Mounting [standards, IV.G.7.G): \_\_\_\_\_

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\_\_\_\_\_  
Antenna panel covering [standards, IV.G.7.H]: \_\_\_\_\_

\_\_\_\_\_  
Signage [standards, IV.G.7.I]: \_\_\_\_\_

\_\_\_\_\_  
Wiring and cabling [standards, IV.G.7.J]: \_\_\_\_\_

\_\_\_\_\_  
Grounding [standards, IV.G.7.K]: \_\_\_\_\_

\_\_\_\_\_  
Guy wires required [standards, IV.G.7.L]: \_\_\_\_\_

Wind load requirements (pole owner, safety code) and method of testing [standards, IV.G.7.M]:

\_\_\_\_\_  
Obstructions [standards, IV.G.7.N]: \_\_\_\_\_

\_\_\_\_\_  
Traffic safety requirements [standards, IV.G.7.O]: \_\_\_\_\_

\_\_\_\_\_  
Lighting [standards, IV.G.7.P]: \_\_\_\_\_

\_\_\_\_\_  
Security measures [standards, IV.G.7.Q]: \_\_\_\_\_

\_\_\_\_\_  
Noise [standards, IV.G.7.R]: \_\_\_\_\_

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Vibration [standards, IV.G.7.S]: \_\_\_\_\_  
\_\_\_\_\_

RFE [standards, IV.C]: \_\_\_\_\_  
\_\_\_\_\_

Compliance with ADA requirements [standards, IV.G.6]: \_\_\_\_\_  
\_\_\_\_\_

No interference with other users of the pole [standards, IV.G.7.T]: \_\_\_\_\_  
\_\_\_\_\_

Acceptance of general standards requirements [standards, IV.G.8]: \_\_\_\_\_  
\_\_\_\_\_

Whether applicant will agree not add to the number of Wireless Communications Facilities or expand the dimensions of the proposed wireless communications facilities (except with regard to replacement of existing wireless communications with comparable equipment)  
\_\_\_\_\_

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Whether applicant will agree not to consider the pole and its attachments as a "base station" under 47 U.S.C. §1455 and related FCC regulations:  
\_\_\_\_\_

(in which case any additions to the location would be subject to G.L.c. 166 grant of location application procedures and standards)

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**G. Compliance Issues**

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Identify any requirement or condition in the Standards with which the Applicant will not or cannot comply with and provide a complete explanation why it cannot or will not comply:

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Is the applicant requesting an exception to any standard? If so, please specify the standard and provide factual support for the requested exception:

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**H. Documentation Required**

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All responses shall be supported by certified to scale plans, submitted as **Attachment C**.

Additional required documents and information to be included as part of application:

Provide as **Attachment D** a copy of the applicable FCC license and any other evidence of authority to place wireless communications facilities and/or poles in the public ways under Massachusetts General Laws Chapter 166, Section 21.

Provide as **Attachment E** the license agreement(s) under which the Applicant has access to the utility poles to which it proposes to attach or a certification (by letter) from the pole owner(s) that they have entered into aerial attachment agreements with the applicant which cover the City.

Complete **Attachment F** ("Optional Checklist for Local Government to Determine whether a Facility is Categorically Excluded") to verify that the wireless communications facilities with the proposed modification will be in compliance with the FCC's radio frequency ("RF") emissions regulations. If not categorically excluded, a complete RF emissions study is required to verify that the proposed wireless communications facilities compliance with FCC RF emissions regulations.

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Provide as **Attachment G** either (1) a structural analysis of the utility poles, stamped by a professional engineer registered in the Commonwealth of Massachusetts, indicating that they can accommodate the proposed wireless communications facilities and comply with all applicable engineering and construction standards; ~~or (2)~~ if the structural analysis will be conducted by a pole owner, a pole owner certification of structural fitness of the pole must be submitted to the Commissioner of Public Works as a condition for the grant of location.

Provide as **Attachment H** the Tax Attestation pursuant to Massachusetts General Laws, Chapter 62C, Section 49A.

Provide a mock-up of the proposed wireless communications facilities at the proposed location(s) as **Attachment I**.

Any other information that the applicant chooses to submit

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Application for other required permits

Provide Applicant's certification as **Attachment J** that it shall not commence any construction until it has received all necessary permits (including but not limited to building, street opening and/or electrical permits).

I. Any Other Information that the Applicant Chooses to Submit

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(use additional pages, if necessary)

Signature of Applicant

Signature of applicant: \_\_\_\_\_

Name and Title and any Business Name: \_\_\_\_\_

Name of Principal or Client of Applicant: \_\_\_\_\_

In whose name the permit should be granted: \_\_\_\_\_

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Date signed: \_\_\_\_\_

Date of receipt of application [to be added by the eCity]:

\_\_\_\_\_

Date of expiration of 90 or 150-day period running from the date of application: \_\_\_\_\_

Agreed upon extension of the 90 or 150-day period expiration date until: \_\_\_\_\_

Agreed to by Applicant: \_\_\_\_\_

Agreed to by City: \_\_\_\_\_

Note: the applicant and the eCity may agree in writing to an extension of the applicable review period. In addition, the running of the time period for review of this application may be tolled by incompleteness of the application, provided that the eCity has timely notified the applicant of the missing information or document causing the incompleteness in accordance with FCC regulations and eCity [Proceduresguidelines](#).

**Right to Appeal**

The Applicant's right to appeal is governed by federal law.

APPLICATION FORM 3-28-18 DRAFT WITH ~~5-15-18~~ EDITS THROUGH AND ~~5-29-18~~ EDITS

**DOCUMENT CHECKLIST (Provide a ~~application as a paper original, in PDF format and a digital format compatible with the City's systems)~~**

- Certification(s) by the Applicant that (1) the proposed work is authorized by the owner of the utility pole or, if not yet authorized, a commitment that no work will be performed until after it has provided to the Department of Public Works a pole owner authorization for the specific pole location and (2) the Applicant is authorized to make this Application, are attached as **Attachments A and B**.
- All responses shall be supported by certified to scale plans, submitted as **Attachment C**.

**Additional required documents and information to be included as part of application:**

- Provide as **Attachment D** a copy of the applicable FCC license and any other evidence of authority to place wireless communications facilities and/or poles in the public ways under Massachusetts General Laws Chapter 166, Section 21.
- Provide as **Attachment E** the license agreement(s) under which the Applicant has access to the utility poles to which it proposes to attach or a certification from pole owners that they have entered into aerial attachment agreements with the applicant which cover the City.
- Complete **Attachment F** ("Optional Checklist for Local Government to Determine whether a Facility is Categorically Excluded") to verify that the wireless facilities with the proposed modification will be in compliance with the FCC's radio frequency ("RF") emissions regulations. If not categorically excluded, a complete RF emissions study is required to verify compliance with FCC RF emissions regulations.
- Provide as **Attachment G** a structural analysis of the utility poles, stamped by a professional engineer registered in the Commonwealth of Massachusetts, indicating that they can accommodate the proposed wireless communications facilities and comply with all applicable engineering and construction standards. If the structural analysis will be conducted by a pole owner, a pole owner certification must be submitted to the Commissioner of Public Works as a condition for the grant of location.
- Provide as **Attachment H** the Tax Attestation pursuant to Massachusetts General Laws, Chapter 62C, Section 49A.
- Provide a mock-up of the proposed wireless communications facilities at the proposed location(s) as **Attachment I**.



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- Provide Applicant's certification as **Attachment J** that it shall not commence any construction until it has received all necessary permits (including but not limited to building, street opening and/or electrical permits).