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April 7, 2021

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PATRICK HUME
COUNCIL MEMBER

KEVIN D. SPEASE
COUNCIL MEMBER

The Honorable Ben Hueso
Chair, Senate Energy, Utilities, and Communications Committee
State Capitol Building, Room 4035
Sacramento, CA 95814

RE: SB 556 (Dodd) Street Light Poles, Traffic Signal Poles, Utility Poles,
and Support Structures: Attachments.
Notice of OPPOSITION (As Amended 03/16/21)

Dear Senator Hueso:

The City of Elk Grove (“Elk Grove”) respectfully opposes SB 556 (Dodd), related to wireless broadband infrastructure deployment.

As recently confirmed by the Federal Ninth Circuit Court of Appeals, under Federal FCC regulations, cities retain local authority to impose reasonable aesthetic regulations on telecommunication providers’ facilities, provided the regulation is technically feasible. (*See City of Portland v. United States, 969 F.3d 1020, 1039-1043 (9th Cir. 2020).*) SB 556 is an unnecessary regulation that threatens local control and conflicts with FCC law and regulations by seeming to require that cities make space available to telecommunications providers without recognizing the unique characteristics of a community that call for a local regulatory point of view.

The principle is poignantly illustrated by the City of Elk Grove’s recent experience. In 2018 and 2019, Elk Grove held multiple public meetings and workshops concerning the issue of telecommunications facility regulation and siting, seeking input from stakeholders, including residents, community advocates, and industry representatives. Expert and technical analysis was solicited and provided to the City Council in conjunction with those meetings and workshops. The proceedings culminated in a City ordinance that struck a delicate balance between the concerns of the residents and the telecommunications industry, while ensuring compliance with applicable state and federal law. (*See City of Elk Grove Ordinance 19-2019, adopted Sept. 11, 2019.*) The proceedings also resulted in agreements in late 2019 between the City of Elk Grove and New Cingular PCS (an AT&T affiliate), and the City of Elk Grove and Verizon Wireless. Those agreements, negotiated and executed in good faith and as part of an open and public process, regulate the telecommunications facility deployment plan and facility siting by these companies. Cities must retain the ability to implement ordinances and agreements, such as those implemented in the City of Elk Grove, in order to protect public facilities and address the specific and unique needs of a local community.

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SB 556 also goes too far in seeking to restrain the monetary rate a local government agency can charge telecommunications providers for use of an agency's property. The \$270 amount referenced in SB 556, which seems to find its origins in the FCC's Small Cell Order 18-133, is only a benchmark amount that is presumptively considered reasonable by the FCC Order. It is not a mandatory limit. Under the FCC Order and federal law, cities retain authority to justify different rate amounts. (See *City of Portland, supra*, 969 F.3d at 1037-1039). Cities and telecommunications providers also retain the freedom of contract to negotiate and agree upon different amounts. There is no need for additional state regulations infringing on these principles.

SB 556 improperly threatens to erode local regulatory authority. But, in doing so, it is unlikely to advance the stated goal of the legislation to remove barriers to telecommunications deployment and improve internet access. Elk Grove is an example of a diverse community that has been able to strike a balance between the competing needs of the residents and the telecommunications industry to reach a mutually beneficial solution. These determinations are ideally made at the local level to address the specific qualities and attributes of the local community.

For the reasons set forth above, the City of Elk Grove respectfully opposes SB 556. Thank you for your consideration of this matter.

Sincerely,



Bobbie Singh-Allen
MAYOR
City of Elk Grove

cc: The Honorable Bill Dodd, Senator
The Honorable Richard Pan, Senator
The Honorable Jim Cooper, Assemblymember
Charles Anderson, League of California Cities, Sacramento Valley
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