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Public Works Order No: 188097 REGULATIONS IMPLEMENTING THE REQUIREMENTS OF SAN FRANCISCO PUBLIC WORKS CODE ARTICLE 27

Section 1. PURPOSES OF ORDER

- A. This Order implements the requirements of Public Works Code Article 27, adopted by the Board of Supervisors in Ordinance No. 76-14, as amended in Ordinance No. 198-17.
- B. This Order replaces in its entirety San Francisco Public Works Order No. 182933, Regulations Implementing the Requirements of San Francisco Public Works Code Article 27, which was approved by the Director of Public Works on September 27, 2014.

Section 2. DEFINITIONS

- A. Use of Defined Terms.

Unless the context otherwise specifies or requires, when capitalized the terms defined in this Section shall mean the following for all purposes of this Order:

- 1. "Business Day" means any Monday through Friday that is not observed as an official holiday by the City.
- 2. "Day" means any calendar day. For the purposes hereof, the time in which an act is to be performed shall be computed by excluding the first Day and including the last. For the purposes hereof, if the

time in which an act is to be performed falls on a Day that is not a Business Day the time for performance shall be extended to the following Business Day.

3. "Feasible Location" means a proposed location for a Surface-Mounted Facility that meets both the Applicant's technical requirements and the criteria for Preferred Locations under Public Works Code § 2704(b).
4. "Installation Period" means a time set forth in a Surface-Mounted Facility Site Permit for Permittee to Substantially Complete Installation of the permitted Surface-Mounted Facility. Unless a longer period is otherwise stated in the Permit, the Installation Period shall be one year after the issuance of the Permit.
5. "Order" means these San Francisco Public Works Regulations Implementing the Requirements of San Francisco Public Works Code Article 27.
6. "Public Works Code" means the S.F. Public Works Code.
7. "Substantially Complete Installation" or "Substantial Completion of Installation" means when the Permittee has installed: (a) all of the Permittee's equipment approved in a Permit; and (b) any street tree required in the Permit.

B. Defined Terms Used in Article 27.

The capitalized terms used in this Order shall have the same meaning as set forth in Public Works Code § 2702.

C. Undefined Terms Used in Article 27.

The following terms are used in Public Works Code Article 27 but are not capitalized. They shall have the following meanings when used in Article 27 or in this Order:

1. "Adjacent" as used in Article 27 means the following:
 - (a) On the same side of the street and in front of the building or in front of the next building on either side, when a proposed

location for a Surface-Mounted Facility is near a Historic Resource.¹

(b) On the same side of the street and in front of, when a proposed location for a Surface-Mounted Facility is near a City park or Open Space or public or private elementary or middle school.

2. “Open Space” means an area of land protected or conserved by the City on which development is indefinitely set aside. “Open Space” shall not include empty lots, paper streets, or street islands.

Section 3. REQUIREMENTS FOR CHOOSING LOCATIONS FOR SURFACE-MOUNTED FACILITIES

A. Preferred Locations.

1. The Department shall not approve a location that an Applicant has identified as a Preferred Location for a Surface-Mounted Facility as required by Public Works Code § 2704(a) unless the Preferred Location satisfies the requirements of Public Works Code § 2704(b).
2. Notwithstanding the foregoing, the Placement Criteria set forth in Exhibit A are guidelines that are intended to ensure that a proposed Surface Mounted Facility will not interfere with public use of the streets. For this reason, the Department may waive any of the criteria in Exhibit A should the Department determine that the application of any particular criteria would prevent the use of a Preferred Location for a Surface-Mounted Facility that would otherwise satisfy the requirements of Public Works Code § 2704(b).

B. Use of Disfavored Locations.

1. The Department shall not issue a Surface-Mounted Facility Site Permit at a disfavored location unless the Applicant sufficiently demonstrates that physical or technical constraints require the Applicant to install a propose Surface-Mounted Facility in a disfavored location.

¹ The location of the applicable Historic Resources can be found on the Department’s web site:

<http://www.sfdpw.org/Modules/ShowDocument.aspx?documentid=319>

2. A request under Public Works Code § 2704(c) to use any disfavored locations for a Surface-Mounted Facility due to physical or technical constraints must be in writing.
3. The Department shall notify the Applicant within five (5) Business Days after receipt of such a request whether the Department will approve the request.
4. If the request is approved, the Applicant may include the disfavored locations in its Preferred Location List that will be submitted to the Department following the community meeting.

C. Waiver of Location Approval Requirements.

1. The Department may waive the location approval requirements of Article 27 in their entirety as authorized under Public Works Code § 2703(b) provided the Applicant sufficiently demonstrates that physical or technical constraints limit its choice to a single location.
2. A request to waive the location approval requirements must be in writing.
3. The Department shall notify the Applicant within five (5) Business Days after receipt of such a request whether the Department will tentatively approve the waiver.
4. If the Department tentatively approves the waiver, the Department shall refer the proposed location for the Surface-Mounted Facility to the Planning Department. The Planning Department shall determine whether to impose any Conditions on its approval of the Application. If the proposed location is Adjacent to a park or Open Space, the Department shall also refer the approved location to the Recreation and Park Department. The Recreation and Park Department shall determine whether to impose any Conditions on its approval of the Application.
5. The Planning Department and/or Recreation and Park Department will provide a response to the Department and the Applicant in writing within a reasonable time.
6. If the waiver has been tentatively approved and the review by the Planning and/or Recreation and Park Departments has been completed, the Department will notice a public hearing on the proposed waiver and approved location. Notice of the hearing shall be issued in the manner required by Public Works Code § 2713(b) and Section 9.D of this Order.

7. If the Director approves the waiver and proposed location following the hearing, the Applicant may submit an Application for a Surface-Mounted Facility Permit at the approved location.

Section 4. COMMUNITY MEETINGS

A. Submission of Preferred Locations to the Department.

1. Prior to a community meeting, the Applicant may submit its Preferred Locations, Feasible Locations, and site plans to the Department so that the Department can advise the Applicant in advance of the meeting whether: (a) the Applicant has identified all Feasible Locations; (b) any or all of the Applicant's Preferred Locations and/or Feasible Locations appear to comply with the Placement Criteria; (c) any or all of the Applicant's Preferred Locations and or Feasible Locations could be rejected under the Placement Criteria because they are in areas that the Department determines would be suitable for a street tree; and (d) the Department would consider waiving any of the Placement Criteria for one or more of the Applicant's Preferred Locations and/or Feasible Locations.
2. The Department recommends that the Applicant submit these Preferred Locations to the Department at least fourteen (14) Business Days prior to the community meeting, so that the Department can provide its input prior to the community meeting.

B. Notice of Community Meeting.

1. An Applicant shall issue a notice of a community meeting at least fourteen (14) Days prior to the meeting.
2. The Applicant shall mail and post the notice of community meeting to the Persons identified in Public Works Code § 2713(b) and Section 8.G of this Order.
3. In addition to the date, time, and place for the community meeting, the notice of a community meeting on any Preferred Locations for a Surface-Mounted Facility shall contain the following information:
 - (a) A list of all Feasible Locations for the proposed Surface-Mounted Facility identified by the Applicant;
 - (b) A list of all of the Applicant's Preferred Locations for the proposed Surface-Mounted Facility;

- (c) The physical dimensions of the proposed Surface-Mounted Facility;
- (d) A reasonably accurate photo-simulation of the proposed Surface-Mounted Facility, showing its approximate scale, at each of the Preferred Locations;
- (e) A discussion of any technological limitations on the proposed location for the Surface-Mounted Facility, including identifying any other equipment owned by the Applicant that will be connected to the Applicant's proposed Surface-Mounted Facility;
- (f) A statement of the Applicant's need for and use of the proposed Surface-Mounted Facility;
- (g) If applicable, a statement that any Persons may propose that a mural be painted on the Surface-Mounted Facility if a Permit is issued (unless the Department as granted an exception to the mural requirement); and
- (h) A statement identifying the translation services that will be available at the community meeting and that any Persons requiring translation services at the meeting shall submit a request to the Applicant in writing at least three (3) Days prior to community meeting; and
- (i) The following statement at the top of the notice:

“IMPORTANT NOTICE CONCERNING YOUR RIGHTS

PLEASE TAKE NOTICE that [Applicant Name] intends to apply for a Surface-Mounted Facility Site Permit to install a Surface-Mounted Facility in your neighborhood. As required by S.F. Public Works Code § 2705, [Applicant Name] is conducting a community meeting to develop a list of preferred locations for the proposed Surface-Mounted Facility and prioritize its preferred locations for submission to San Francisco Public Works. While you will have an opportunity at a later date to protest the issuance of a Surface-Mounted Facility Site Permit at one or more of the preferred locations, the community meeting will be your only opportunity to work with [Applicant Name] in the selection of one or more preferred locations.”

C. Location and Time for Community Meeting.

1. The Applicant shall use its best efforts to hold the community meeting at a location that is within 1,500 (fifteen hundred) feet of at least one of the Applicant's Preferred Location for the Surface-Mounted Facility. If there are no suitable locations within this distance, the community meeting shall be held at a suitable location that is near one of the Applicant's Preferred Locations.
2. The Applicant shall schedule the community meeting on Business Days after 5:00 p.m. or on weekends.

D. Purpose of Community Meeting.

In addition to the items set forth in Public Works Code § 2705(a), the Applicant shall discuss at the community meeting:

1. How the Applicant's Preferred Locations should be prioritized;
2. Whether any of the Applicant's Feasible Locations should be added to the Preferred Location List;
3. Whether there are any locations that were not identified by the Applicant that should be added to the Applicant's Preferred Location List;
4. Whether any of Applicant's Preferred Locations should be removed from the Preferred Location List because they are unacceptable to the community;
5. Ways in which the Applicant can mitigate the visual impact of the proposed Surface-Mounted Facility by installing a street tree (if applicable) or other screening devices or means; and
6. (a) How the community can work with the Applicant, the Department, and the San Francisco Arts Commission to install a mural on the permitted Surface-Mounted Facility; or (b) due to the Applicant's intent to pay a mural "in-lieu" fee, that the community can explore using the funds for a neighborhood beautification project.

E. Translation Services.

1. Prior to the community meeting, the Applicant shall determine the language(s) that are relevant to the neighborhood where the

proposed Surface-Mounted Facility will be located so that translation services can be made available.

2. A language is relevant if at least twenty (20) percent of the residents of the neighborhood speak that language at home. The Applicant can make this determination by reviewing the San Francisco Planning Department's Neighborhoods Socio-Economic Profiles.²
3. If the Applicant is unable make a determination what languages are relevant, the Applicant shall consult with the Department before issuing the notice of community meeting. The Applicant shall translate the notice and provide translation services in any of the languages requested by the Department.
4. The Applicant shall also provide translation services in any languages requested in response to the Applicant's notice of community meeting.

F. Subsequent Review of Additional Locations and Community Outreach.

1. Following the community meeting, the Applicant shall review any locations identified during the community meeting that the Applicant has reason to believe are Feasible Locations for Applicant's proposed Surface-Mounted Facility.
2. If the Applicant intends to add, delete, or reprioritize its Preferred Locations as a result of the community meeting, the Applicant shall provide all Persons that attended the meeting with a revised list of its Preferred Locations.

Section 5. EXTENSIONS OF TIME TO PROCESS APPLICATIONS FOR SURFACE-MOUNTED FACILITY SITE PERMITS

A. Extensions for State Video Franchise Holders.

1. Should an Applicant that has been issued a state video franchise require any additional time to complete any of the tasks required of an Applicant for a Surface-Mounted Facility, the Applicant shall submit a request for an extension in writing to the Department setting forth the amount of additional time required. The request shall be deemed granted unless the Department notifies the

² This document can be found at:
<http://www.sf-planning.org/modules/showdocument.aspx?documentid=8779>

Applicant in writing within two (2) Business Days that the request has been denied.

2. Should the Department or any City department reviewing an Application for a Surface-Mounted Facility Site Permit or a Preferred Location List submitted by Applicant that has been issued a state video franchise require any additional time to complete any of the tasks required of the Department or such City department, they shall submit a request in writing to the Applicant. If the Applicant will not agree to the extension, the Applicant must notify the City in writing within three (3) Business Days after the request that the extension has been denied.
3. Any extension granted by the Applicant or the City pursuant to the requirements of this Section 5 shall be considered a mutual agreement under Public Utilities Code § 5885(c)(5) to extend the time deadline for processing an Application for a Surface-Mounted Facility Site Permit.
4. The Department shall consider the Applicant's failure to meet any of the time deadlines required by Public Works Code Article 27 as the Applicant's agreement under Public Utilities Code § 5885(c)(5) to extend the time deadline set forth in Public Utilities Code § 5885(c)(2) for processing an Application for a Surface-Mounted Facility Site Permit.

B. Extensions for All Other Applicants.

If the Department's resources do not allow the Department to meet any of the time deadlines imposed by Article 27 for an Applicant that does not hold a state video franchise, including an Applicant that is a City department, the Department may extend any of those deadlines by notifying the Applicant in writing.

Section 6. PREFERRED LOCATION LISTS

A. Submission.

1. An Applicant shall not submit a Preferred Location List to the Department until the completion of the community meeting in which the Preferred Locations were identified and discussed.
2. Unless the Department has waived the Pre-Application Approval Process pursuant to Public Works Code § 2703(b) and Section 3.C, above, no Application for a Surface-Mounted Facility Site

Permit shall be approved without the submission and Department approval of a Preferred Location List.

3. A single Applicant may submit up to five Preferred Location Lists to the Department every five (5) Business Days.
4. Upon request of the Applicant, the Department may grant an extension of the time to submit a Preferred Location List beyond the ten (10) Days set forth Public Works Code § 2707. In no event, however, will the Department extend the time to submit a Preferred Location List to more than twenty (20) Days after the completion of the community meeting.

B. Form of Preferred Location List.

1. A Preferred Location List shall be submitted on the form attached hereto as Exhibit B.1.
2. In addition to the Preferred Location List, the Applicant shall provide the Department with a reasonably accurate photo-simulation of the proposed Surface-Mounted Facility, showing its approximate scale, at each of the Preferred Locations.

C. Order of Processing.

In accordance with S.F. Campaign and Governmental Conduct Code § 3.400, the Department shall process all Preferred Location Lists in the order in which they are received.

D. Planning Department Review of Preferred Location Lists.

1. The Department shall refer all Preferred Locations Lists to the Planning Department for its review.
2. As set forth in Public Works Code § 2708(b)(5), the Planning Department has fourteen (14) Days to review a Preferred Location List, unless the Applicant agrees to extend the time for the department's review.
3. The Planning Department may disapprove a Preferred Location if the Planning Department determines that the Preferred Location does not satisfy the criteria for Preferred Locations contained in Public Works Code §§ 2704(b)(1), (2), (4), and (5).
4. The Planning Department may add Conditions to its approval of a Preferred Location if the Planning Department determines that

Conditions are required for the Preferred Location to satisfy the criteria for Preferred Locations described in Public Works Code §§ 2704(b)(1), (2), (4), and (5).

5. The Planning Department may disapprove the Applicant's request to use a disfavored location if the Planning Department determines that such use will unreasonably affect the defining characteristics of the disfavored locations described in Public Works Code §§ 2704(c)(1) through (5) and (7).
6. The Planning Department may impose Conditions on the Applicant's request to use a disfavored location if the Planning Department determines that such Conditions are necessary to ensure that such use will not unreasonably affect the defining characteristics of the disfavored locations described in Public Works Code §§ 2704(b)(1) through (5) and (7).

E. Recreation and Park Department Review of Preferred Location Lists.

1. The Department shall refer all Preferred Locations Lists that contain a Preferred Location or disfavored location that is Adjacent to a City park or Open Space to the Recreation and Park Department for its review.
2. As set forth in Public Works Code § 2709(b)(5), the Recreation and Park Department has fourteen (14) Days to review a Preferred Location List, unless the Applicant agrees to extend the time for the Department's review.
3. The Recreation and Park Department may disapprove a Preferred Location if the Recreation and Park Department determines that the Preferred Location does not satisfy the criteria for Preferred Locations described in Public Works Code § 2704(b)(6).
4. The Recreation and Park Department may add Conditions to its approval of a Preferred Location if the Recreation and Park Department determines that Conditions are required for the Preferred Location to satisfy the criteria for Preferred Locations described in Public Works Code § 2704(b)(6).
5. The Recreation and Park Department may disapprove the Applicant's request to use a disfavored location described in Public Works Code § 2704(c)(6) if the Recreation and Park Department determines that such use will unreasonably affect the Aesthetic Character of an Adjacent City park or Open Space.

6. The Recreation and Park Department may impose Conditions on the Applicant's request to use a disfavored location described in Public Works Code § 2704(c)(6) if the Recreation and Park Department determines that such Conditions are necessary to ensure that such use will not unreasonably affect the Aesthetic Character of an Adjacent City park or Open Space.

F. Approval or Rejection of Preferred Location Lists.

1. The Department may reject a Preferred Location List if the Department or any City department that reviewed the Preferred Location List determines that none of the Applicant's Preferred Locations or disfavored locations satisfies the requirements of Article 27, including the Placement Criteria. The Department shall include in the written notice the reasons for the rejection.
2. If the Preferred Location List is approved, the Department shall include in the written notice of approval: (a) any of the information set forth in Public Works Code § 2707(b) that is applicable to the Applicant's Preferred Locations; (b) if applicable, the street tree that will be required at each of the Applicant's Preferred Locations, or whether an in-lieu fee will be required instead; and (c) if applicable, the identity of any Persons that should be notified of the proposed Surface-Mounted Facility for purposes of determining whether they will propose adding a mural to the Surface-Mounted Facility.

Section 7. INSTALLATION OF STREET TREE

A. Installation of a Street Tree.

1. The Department shall notify the Department's Bureau of Urban Forestry of the Applicant's Preferred Locations for the Surface-Mounted Facility immediately upon receipt of a Preferred Location List.
2. Within ten (10) Days after receipt of such notice, the Department's Bureau of Urban Forestry will notify the Applicant whether one (1) or more of the Preferred Locations are appropriate for a street tree. The Bureau will base its determination on the standards set forth in Department Order No. 178,631, Regulating the Planting, Maintenance, or Removal of Trees and Landscape Material on Public Sidewalk Areas.³ If so, the Bureau will select the

³ Copy available at:

<http://www.sfdpw.org/modules/showdocument.aspx?documentid=3922>

appropriate species and location for a street tree at each of the Preferred Locations.

3. If the Department's Bureau of Urban Forestry determines that one (1) or more of the Preferred Locations are appropriate for a street tree: (a) the Applicant shall include the required street tree in the Notice of Intent; and (b) the Department shall include the required street tree in the Surface-Mounted Facility Site Permit.
4. If the Department's Bureau of Urban Forestry determines that a street tree is not appropriate for one (1) or more of Applicant's Preferred Locations, the Department shall require the Applicant to pay an "in-lieu" fee rather than to install a street tree.
5. The requirements of this Section shall not apply where the Applicant has elected under Public Works Code § 2710(b)(2) to pay an "in-lieu" fee rather than to install a street tree.

B. Installation Requirements.

1. When required in a Surface-Mounted Facility Site Permit, the Permittee shall Substantially Complete the Installation of a street tree within six (6) months of the installation of the permitted Surface-Mounted Facility.
2. Permittee shall notify the Department's Bureau of Urban Forestry at least three (3) Business Days prior to installation of the required street tree.
3. Permittee shall notify the Department's Bureau of Urban Forestry when Permittee has Substantially Completed the Installation of the any required street tree.
4. Should Permittee fail to install the required street tree in the time required by this Section, the Department shall provide the Permittee notice that it has thirty (30) Days to complete the installation, after which time the Department shall instead charge the Permittee the applicable "in-lieu" fee.

C. "In-Lieu" Payment into Adopt-A-Tree Fund.

1. An "in lieu" payment shall be made into the Department's "Adopt-A-Tree" fund prior to the issuance of a Surface-Mounted Facility Site Permit.

2. As specified in Public Works Code §§ 802(h) and 807(f), the “in-lieu” fee shall be \$1847 per tree, or such adjusted amount authorized under those sections.

Section 8. REQUIREMENTS FOR NOTICE OF INTENT TO SUBMIT AN APPLICATION FOR A SURFACE-MOUNTED FACILITY SITE PERMIT

A. Department Review.

The Department shall complete its review of a Notice of Intent within three (3) Business Days of receipt from the Applicant.

B. Department Approval.

1. The Department shall not approve a Notice of Intent unless the Department determines that the Applicant has provided the Department with all of the information contained in the checklist attached hereto as Exhibit C.
2. The Department’s approval of a Notice of Intent shall be in writing, and shall inform the Applicant that it may issue public notice of the Notice of Intent, if the Department has determined that public notice is required.

C. Department Rejection.

1. The Department shall reject a Notice of Intent if the Department determines that the Applicant has not complied with all of the requirements of Public Works Code § 2712(d).
2. The Department’s rejection of a Notice of Intent shall be in writing, and shall inform the Applicant of the reasons for the rejection.

D. Five-Year Plans.

The Department shall determine that the Applicant complied with this requirement of Public Works Code § 2712(d)(9) if the Applicant submits a five-year plan containing all of the following information to the extent known to the Applicant:

1. The number of Surface-Mounted Facilities the Applicant anticipates need to install in the next five (5) years;
2. The uses of those proposed Surface-Mounted Facilities;

3. The approximate locations of those proposed Surface-Mounted Facilities; and
 4. The approximate dates when the Applicant anticipates submitting a Proposed Location List for those Surface-Mounted Facilities.
- E. Public Notice of Notice of Intent.
1. The Applicant shall send a copy of the Notice of Intent to the Persons identified in Public Works Code § 2713(b).
 2. The Applicant shall also send an e-mail containing a PDF of the Notice of Intent to the neighborhood groups serving the vicinity of its proposed Surface-Mounted Facility on the same day the Applicant mails and posts the Notice of Intent, which groups are identified in lists maintained by the Planning Department and are available at: <http://www.sf-planning.org/index.aspx?page=1654>.
 3. The Applicant shall also send an e-mail to the Department at the address listed in Exhibit D containing a PDF of any Notice of Intent posted by the Applicant on the same day the Applicant mails and posts the Notice of Intent.
 4. The Applicant shall also send an e-mail to any City department that reviewed the Preferred Location List at the address listed in Exhibit D containing a PDF of any Notice of Intent posted by the Applicant on the same day the Applicant mails and posts the Notice of Intent.
 5. The Applicant shall also post a copy of the Notice of Intent in front of every property that is identified as a Preferred Location.
- F. Form of the Notice of Intent.
1. The Notice of Intent shall be in the form attached hereto as Exhibit B.2.
 2. The Notice of Intent shall be translated into the languages used by the Applicant during the community meeting process as required by Section 4.E, above.
- G. Time for Posting and Mailing Notice of Intent.
1. The Applicant may mail and post the Notice of Intent immediately upon the Department's approval of the Notice of Intent.

2. The Applicant must complete the mailing and posting of the Notice of Intent within six (6) months of the Department's approval of the Notice of Intent. If the Applicant fails to meet this deadline, the Department may require the Applicant to restart the community meeting process.

Section 9. NOTICE OF INTENT PROTEST PROCEDURES

A. Submission of Protest.

1. Any Person may file a protest following the issuance of a Notice of Intent either by mail or through the Department's website.
2. The procedures for filing a protest are contained in Public Works Code § 2714(b) and are explained in detail in the Department's form Notice of Intent attached hereto as Exhibit B.2.
3. The Department will notice a hearing on any protest that is submitted in the time required by Public Works Code § 2714(b). Any untimely protests will not be accepted by the Department.

B. Notice of Protest and Responses.

1. The Department shall promptly give notice of any timely protest to the Applicant and any City department that reviewed the Preferred Location List. The notice shall include a copy of the protest.
2. The Applicant shall submit a response to the protest within five (5) Business Days of receiving the protest from the Department. The Applicant shall serve a copy of its response on the protester and any City department that reviewed the Preferred Location List.

C. Manner of Service.

Service of any notice or response required under this Section upon the Department shall be through the Department's website and to any of the protesters shall be by e-mail, unless a protester has not provided the Department with an e-mail address, in which case service to the protester shall be by U.S. Mail.

D. Notice of Hearing Date.

In addition to the written notice required by Public Works Code § 2713(b), the Department shall notify the general public of the hearing by doing all of the following:

1. Placing a notice in the official newspaper of the City and County of San Francisco;
2. Posting a notice on the bulletin board located inside of the Office of San Francisco Public Works, City Hall Room 348;
3. Posting a notice of the meeting on the Department's website; and
4. Sending the notice to any Person requesting notice of the issuance of a Notice of Intent.

E. Conduct of Hearing.

1. This Section sets forth minimum requirements for the conduct of a hearing following a protest of a Notice of Intent. Hearing officers may establish additional rules for the conduct of the hearing, provided those rules are consistent with Public Works Code Article 27 and this Order.
2. The evidentiary portion of the hearing shall be conducted in the following manner:
 - (a) The hearing officer shall include in the record all the documentation set forth in Public Works Code § 2714(f).
 - (b) The hearing officer shall include in the record any documents submitted to the Department prior to the hearing.
 - (c) Any Person attending the hearing may introduce documents into the record.
 - (d) The hearing officer shall determine in advance of the hearing how much time shall be allotted to each Person seeking to testify. The hearing officer may allot more time for the protester and the Applicant than for other Persons participating in the hearing. If there is more than one protester, the hearing officer may allot to the Applicant as much time as the aggregate time allotted for all of the protestors.
 - (e) The hearing officer shall hear testimony in the following order: (i) any protester; (ii) any Person supporting the protest; (iii) the Applicant; (iv) any Person supporting the Application; (v) the Department; and (vi) any other City department.

- (f) Only the hearing officer may ask questions of a witness. Any Person attending the hearing may propose questions for the hearing officer to ask of a witness. The hearing officer may allot additional time to a witness when the hearing officer poses questions.
- 3. The hearing officer is not bound by the formal rules of evidence. All relevant evidence may be admitted if it is the sort of evidence upon which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule that would render the admission of such evidence improper in a civil action.
- 4. With the agreement of the parties either on the record or in writing, the hearing officer may continue the hearing in order to receive additional evidence.

F. Hearing Continuances to Resolve Protest.

- 1. The Department encourages an Applicant for a Surface-Mounted Facility Site Permit that is the subject of a protest to meet with protesters at any time after a protest is filed come to an agreement as to the location of the Applicant's proposed Surface-Mounted Facility.
- 2. To facilitate cooperation between the Applicant and any protestors, the Applicant may request in writing that the Department continue one or more of the following:
 - (a) The date set for the hearing in the Department's notice;
 - (b) The deadline for filing a response to a protest if a protest was submitted;
 - (c) The date for the hearing if a protest was submitted;
 - (d) The hearing itself if the hearing has been commenced;
 - (e) The deadline for the hearing officer to issue a report and recommendation if the hearing has been completed; and
 - (f) The deadline for the Director to issue a decision if the hearing officer has issued a report.
- 3. If the Applicant is a state video provider, the Department shall consider the Applicant's request to continue any of the deadlines

identified in this Section a mutual agreement under Public Utilities Code § 5885(c)(5) to extend the time deadline for processing the Application for a Surface-Mounted Facility Site Permit.

4. If the hearing officer grants a continuance prior to the hearing, the Department shall send an e-mail notice of the continuance to all Persons that filed a protest. If the continuance is granted after the hearing was held, the Department shall send an e-mail notice of the continuance to all Persons that either submitted a protest or appeared at the hearing.
- G. Resolution of Protest by Modifying the Proposed Surface-Mounted Facility or Adding Conditions of Approval.
1. The hearing officer may discontinue the hearing so that an Applicant for a Surface-Mounted Facility Site Permit and any protestors may discuss resolving the protest by modifying the installation of the Surface-Mounted Facility at one (1) or more of the Preferred Locations or adding conditions of approval.
 2. Any modifications or additional conditions agreed to under this Section must concern the Surface-Mounted Facility at one of the Preferred Locations set forth in the Notice of Intent. Using a different location for the Surface-Mounted Facility is not the type of modification or condition that can be allowed following a protest.
 3. If the Applicant and all of the protesters agree to the use of one (1) or more of the Preferred Locations with certain modifications to the proposed Surface-Mounted Facility and/or additional conditions of approval, the following shall occur:
 - (a) The Applicant shall submit to the Department, the hearing officer, and protesters a letter identifying any agreed upon modifications to the proposed Surface-Mounted Facility at one (1) or more of the Preferred Locations and additional Conditions of approval along with a photo-simulation of the Surface-Mounted Facility with any modifications or conditions.
 - (b) As soon as possible after receipt of the letter, the hearing officer shall resume the hearing to take testimony concerning the parties' agreed to modifications to the proposed Surface-Mounted Facility at one (1) or more of the Preferred Locations and any additional conditions of approval.
 - (c) The parties' agreement shall not bind the hearing officer. The hearing officer may recommend approval of the proposed

Surface-Mounted Facility Site Permit at any one (1) of the Preferred Locations with the proposed modifications and additional conditions set forth in the letter, or may recommend approval of any one (1) of the Preferred Locations contained in the original Notice of Intent with the conditions of approval contained therein.

(d) Nothing in this Section shall be construed to limit the hearing officer's authority to recommend disapproval of all of the Preferred Locations including the Preferred Location with the proposed modifications and additional conditions set forth in the letter.

4. If the Applicant and the protesters cannot reach an agreement, the Applicant shall advise the hearing officer in writing that there is no agreement. The Applicant shall send a copy of the notice to the protestors. Within five (5) days of receipt of notice from the Applicant, the hearing officer shall issue the hearing officer's report based on the evidence in the record during the hearing.

H. Hearing Officer's Report and Director's Decision.

The process for issuance of the hearing officer's report and Director's decision are set forth in Public Works Code §§ 2714(g) and 2714(h).

Section 10. SURFACE-MOUNTED FACILITY SITE PERMITS

A. Application.

Each Applicant for a Surface-Mounted Facility Site Permit shall be submitted online and contain the information required in the Department's online Application form.

B. Final Determination.

As required by Public Works Code § 2715(f), the Department shall issue a final determination to approve or deny an Application for a Surface-Mounted Facility Site Permit within two (2) Days of receipt of the Application.

C. Notice of Final Determination.

1. The Department shall mail a notice of final determination to approve or deny a Surface-Mounted Facility Site Permit to the Persons identified in Public Works Code § 2716(a) immediately upon issuance.

2. The Applicant shall post a notice of final determination to approve or deny a Surface-Mounted Facility Site Permit as required by Public Works Code § 2716(b) immediately upon issuance.

D. Contents of Notice.

A notice of final determination shall be in the form attached hereto as Exhibit B.3.

E. Proof of Compliance with Posting Requirement.

Within two (2) Business Days of posting a notice of final determination, the Applicant shall submit a copy of the notice that it posted to the Department along with a written statement containing the date and time of the posting and the street addresses of all locations where the notice was posted.

F. Denials.

1. The Department shall deny an Application for a Surface-Mounted Facility for any of the reasons set forth in Public Works Code §2715(d).
2. In addition, at the request of the Applicant the Department may issue a final determination denying an Application for a Surface-Mounted Facility Site Permit after each of the following actions:
 - (a) The Department's denial of a request to allow the Applicant to include on its Preferred Location List a disfavored location identified in Public Works Code § 2704(c).
 - (b) The Department's issuance of Director's order under Public Works Code § 2703(b) denying a request to: (i) waive the location approval requirements of Article 27; or (ii) approve the Applicant's proposed location for its Surface-Mounted Facility.
 - (c) The Department's refusal to approve a Preferred Location List under Public Works Code § 2707(a).
 - (d) The Department's refusal to approve a Notice of Intent under Public Works Code 2712(c).
 - (e) The Applicant's refusal to accept any Conditions on the Applicant's use of one or more Preferred Locations for a

proposed Surface-Mounted Facility that are imposed by any City department.

3. Following any of these Department actions, an Applicant may request a final determination from the Department by submitting an Application for a Surface-Mounted Facility Site Permit.

G. Exceptions

A Surface-Mounted Facility Site Permit shall not be required under the following circumstances:

1. The replacement of an existing Surface-Mounted Facility at the same location, provided the replacement Surface-Mounted Facility would be installed on the existing foundation and would not be substantially larger in height or volume than the existing Surface-Mounted Facility.
2. The installation of any equipment in the Public Right-of-Ways pursuant to an encroachment permit issued by the Public Works pursuant to Article 15 of the Public Works Code.

Section 11. MURALS

A. Public Outreach.

1. An Applicant for a Surface-Mounted Facility Site Permit shall make reasonable efforts to inform local residents and other interested Persons that Applicant's proposed Surface-Mounted Facility may be used for installation of a mural.
2. In addition to discussing a mural at the community meeting, the Applicant shall notify community groups in the neighborhood where the Surface-Mounted Facility is proposed to be located.
3. The requirements of this Section shall not apply where the Applicant has elected under Public Works Code § 2711(c) to pay an "in-lieu" fee rather than allow a mural to be installed on its permitted Surface-Mounted Facility.

B. Implementation.

1. Where applicable, during the Pre-Application Process the Applicant and the Department will solicit designs for a mural from local residents and community groups.

2. Upon issuance of a Surface-Mounted Facility Site Permit that allows for the installation of a mural, the Permittee and the Department will work with local residents and community groups to select one or more designs that are appropriate for the neighborhood where the Surface-Mounted Facility will be installed.
3. The Permittee and the Department will then submit one or more of those designs San Francisco Arts Commission for its approval of the mural to be installed on a particular Surface-Mounted Facility. No design shall be submitted that is not approved by the Permittee. If more than one design is submitted, the Permittee may identify its preferred design. No mural shall be allowed if the design is not approved by the Arts Commission.
4. Before placing a mural on a permitted Surface-Mounted Facility, a Permittee (other than a City department), the City, and the mural artist shall enter into an agreement setting forth the terms and conditions of the artist's use of the Surface-Mounted Facility, which agreement shall be approved by the Department. No approval is required if the Permittee uses the form Mural Installation Agreement that is attached hereto as Exhibit B.4.

C. Costs.

1. A Permittee that has allowed for the installation of a mural shall be solely responsible for the costs of all materials and labor that are reasonable and necessary to install the selected mural on the permitted Surface-Mounted Facility. Neither the City nor any person installing the mural shall be required to pay any of these costs.
2. The Permittee and the mural artist shall establish a budget for the installation of a mural on a permitted Surface-Mounted Facility, which budget will limit Permittee's financial responsibility.
3. In establishing a budget for the installation, the Permittee shall use a labor cost that is no lower than the minimum wage set forth in Chapter 12R of the San Francisco Administrative Code.
4. If the Permittee and the mural artist cannot agree on a budget, the Department will work with the Permittee and the mural artist to establish a budget based on the Department's understanding of the reasonable and necessary cost of the installation. The Department may consult with the San Francisco Arts Commission to determine the reasonable and necessary costs. Absent the Applicant's approval, the budget shall not exceed the amount of

the “in-lieu” fee that would otherwise be applicable under Public Works Code § 2711(c)(2).

5. In order to reduce costs and expedite installation and maintenance of murals, the Department recommends that the Permittee and mural artist agree to use a graffiti-proof vinyl shield rather than painting the mural directly on the permitted Surface-Mounted Facility.

D. Exception to Mural Requirement.

1. The Department may grant an exception to the mural requirement if the Applicant demonstrates that exceptional circumstances related to either public safety or its own technical requirements prevent the installation of a mural on a permitted Surface Mounted Facility.
2. Any request for an exception must be based on a report from a licensed engineer. Under Public Works Code § 2729(f), the department may retain the services of its own technical expert in order to review and evaluate the Applicant’s report.
3. The Department recommends that an Applicant apply for this exception prior to the community meeting, so that the Applicant can inform the community during the meeting that an exception to the mural requirement has been approved.

E. Enforcement.

1. The Permittee may not prohibit the installation of a mural that has been approved by the San Francisco Arts Commission.
2. The Department may issue a notice of deficiency under Section 2723(a) if the Permittee refuses to allow the installation of an approved mural.

F. Maintenance of Murals.

1. The Permittee that has allowed a mural to be installed on its permitted Surface-Mounted Facility shall be responsible for the maintenance of any mural installed on a permitted Surface-Mounted Facility, which includes removing any Graffiti from the mural.
2. The Permittee may agree to allow the mural artist to repair any damages made to the mural, but shall not be responsible for the

costs of such repair to the extent such costs exceed the cost of replacing a graffiti-proof vinyl shield.

G. Payment and Use of “In-Lieu” Fees

1. An Applicant that has elected to pay an “in-lieu” fee shall pay the fee into the “Public Works Street Beautification Excavation Fund” prior to the issuance of the Surface-Mounted Facility Site Permit.
2. Any person wishing to use any “in-lieu” fees paid into “Public Works Street Beautification Excavation Fund” for beautification projects in the Public Right-of-Way shall submit a proposal to Public Works.
3. The proposal shall set forth the following: (a) the location of the proposed project; (b) the nature of the proposed project; (c) the identity of all persons involved in the project; and (d) the proposed budget for the project. The proposal shall be on the form attached as Exhibit B.5 (Application for Public Right-of-Way Beautification Project). If the proposal is to install a mural, the proposer must submit a Mural Design Information Form to the San Francisco Arts Commission that complies with all of the Commission’s requirements.
4. The Department will consult with the Planning Department and the San Francisco Arts Commission to determine whether the proposed project is appropriate for the location. The Planning Department and San Francisco Arts Commission shall work with the proposer to address any concerns either agency has with the project.
5. Once the Planning Department and San Francisco Arts Commission have approved the project, the Department will approve the budget for the project.
6. The proposer will then notify the community of the project in the same manner as required by Section 8.E for a Notice of Intent. The notice shall include the following: (a) the location of the proposed project; (b) the nature of the proposed project; (c) the identity of all persons involved in the project; and (d) the budget for the project.
7. The notice shall state that community organizations and fronting property owners may protest the proposed project. If any protests are submitted, the Department may, in consultation with the

Planning Department and Arts Commission, decide to reject the proposed project.

Section 12. INSTALLATION OF PERMITTED SURFACE-MOUNTED FACILITY

A. Installation Period and Extension.

1. Permittee must start installation of permitted Surface-Mounted Facility within the Installation Period unless the Department, on the written request of Permittee, extends the Installation Period.
2. The Department shall grant a request to extend the Installation Period if Permittee shows that additional time is needed for reasons directly related to construction requirements. The Department may deny a request to extend the Installation Period if the request is made for any other reason. The Department shall inform Permittee of its decision to grant or deny a request for an extension within five (5) Business Days of the request.
3. Any extension of the Installation Period granted by the Department may be subject to additional special conditions, including, but not limited to, conditions that ensure the timely start and Substantial Completion of Installation during the extended Installation Period.

B. Substantial Completion of Installation.

1. Permittee shall provide the Department with a notice of starting installation of a permitted Surface-Mounted Facility immediately upon starting installation.
2. Permittee shall Substantially Complete Installation of a Surface-Mounted Facility within sixty (60) Days of starting installation.
3. Permittee shall file with the Department a notice of Substantial Completion of Installation within five (5) Business Days of Substantial Completion of Installation of a permitted Surface-Mounted Facility.

C. Failure to Timely Start and/or Substantially Complete Installation.

If Permittee fails to timely Start Installation within the Installation Period, or Substantially Complete Installation as required by this Section, the Department may revoke the previously issued Surface-Mounted Facility Site Permit.

D. Signage.

The Substantial Completion of Installation shall include the installation of an easily readable sign on the permitted Surface-Mounted Facility that includes the information required by Public Works Code § 2722(a).

Section 13. CONSTRUCTION REQUIREMENTS

A. Compliance with Permit.

Permittee's construction of a Surface-Mounted Facility shall fully comply with Permittee's Surface-Mounted Facility Site Permit, including any Conditions contained therein.

B. Compliance with Excavation Code.

Any excavation of the Public Right-of-Way that is necessary to install Permittee's Surface-Mounted Facility shall be performed in the manner required by Article 2.4 of the Public Works Code.

C. Other Permits and Authorizations.

Permittee shall obtain all other permits and authorizations from the Department or third parties that may be required prior to construction of any Surface-Mounted Facility in the Public Right-of-Way.

D. Municipal Transportation Agency.

Permittee shall contact the Municipal Transportation Agency for traffic requirements prior to beginning construction/installation.

E. Traffic Regulations.

Permittee shall conduct its construction/installation operations in accordance with the requirements of S.F. Transportation Code.

F. Damage to Existing Facilities.

Permittee shall be solely responsible for any damage to existing facilities caused by Permittee's construction/installation activities.

Section 14. DEPARTMENT INSPECTION

A. Time for Inspection.

The Department shall inspect a permitted Surface-Mounted Facility as required by Public Works Code § 2710(b) within ten (10) Business Days after receipt of notice of Substantial Completion of Installation.

B. Requirements of Inspection.

The Department shall inspect an installed Surface-Mounted Facility to determine whether the installation is in accordance with the requirements of Article 27 of the Public Works Code and this Order, the Surface-Mounted Facility Site Permit, including any Conditions imposed by any City department, and other Applicable Law including Article 2.4 of the Public Works Code.

Section 15. INSPECTION OF PERMITTED SURFACE-MOUNTED FACILITIES

A. Frequency.

As required by Public Works Code § 2722(e), a Permittee shall inspect each permitted Surface-Mounted Facilities on a regular basis but not less than quarterly.

B. Graffiti.

1. A Permittee shall remove any Graffiti found on a Surface-Mounted Facility within three (3) Business Days after discovering the Graffiti during an inspection or being notified that there is Graffiti on a Surface-Mounted Facility.
2. In the event a Permittee fails to timely remove Graffiti from a Surface-Mounted Facility as required in this Section, in addition to issuing a notice of deficiency under Public Works Code § 2723(a) the Department shall have the option to perform or cause to be performed such removal in such manner as the Director deems expedient and appropriate on behalf of the Permittee and to charge the Permittee the actual costs incurred, including but not limited to administrative costs.

C. Maintenance and Submission of Inspection Records.

1. As required by Public Works Code § 2722(f), a Permittee shall maintain written records of any inspections, repairs, and maintenance of its permitted Surface-Mounted Facilities. Permittee's records related to Graffiti removal shall contain the following information: (a) the date the Graffiti was discovered; (b) the location of the Surface-Mounted Facility; (c) whether the

discovery was made as a result of the Permittee's inspection or from a report; and (d) the date the Graffiti was removed.

2. Within ten (10) Days of any request from the Department, a Permittee shall provide the Department with a copy of its inspection records. By written notice, the Department may require a Permittee to submit its inspection records to the Department on a quarterly basis.

D. Violations.

The Department shall consider a Permittee's failure to maintain inspection records or provide a copy of those inspection records to the Department when requested a violation of the requirements of Article 27 and this Order, for which the Department may issue a notice of deficiency.

Section 16. NOTICE OF DEFICIENCY

A. Contents of Notice.

A notice of deficiency issued pursuant to Public Works Code § 2723(a) shall:

1. State the basis for the Department's determination that a permitted Surface-Mounted Facility is not in compliance with a Surface-Mounted Site Permit, Public Works Code Article 27, other Applicable Law including Public Works Code Article 2.4, or this Order;
2. State the amount of time the Permittee has to correct the deficiency, which shall take into account the nature of the deficiency; and
3. State the Department's remedies if Permittee fails to take corrective action, which can include revocation of the Permit, fines of up to \$1,000 per day, suspension of Department review of other Applications, and, for repeated failures to take corrective action, requiring the removal of the permitted Surface-Mounted Facility.

B. Compliance with Notice of Deficiency.

1. A Permittee shall timely comply with a notice of deficiency or be subject to the remedies available to the Department.

2. If a Permittee should fail to timely comply with a notice of deficiency the Department may take the corrective action and issue the penalties set forth in the notice.

C. Graffiti.

The Department may issue a notice of violation for a Permittee's failure to remove Graffiti from a permitted Surface-Mounted Facility within three (3) Days after discovering or being notified that there is Graffiti on the Surface-Mounted Facility.

Section 17. ABANDONED SURFACE-MOUNTED FACILITIES

A. Notice of Abandonment.

1. The Department shall notify a Permittee whenever the Department has reason to believe that a Surface-Mounted Facility, whether or not permitted under Public Works Code Article 27, has been abandoned, because it has not been properly maintained or is no longer being used by the Permittee.
2. The notice shall state that Permittee has sixty (60) Days to remove the abandoned Surface-Mounted Facility from the Public Right-of-Way.

B. Response to a Notice of Abandonment.

1. If Permittee disagrees with the Department's notice of abandonment, within sixty (60) Days of receipt of the notice Permittee shall notify the Department in writing that:
 - (a) The Surface-Mounted Facility is in good working order and is being used by the Permittee; or
 - (b) Permittee intends to return the Surface-Mounted Facility to good working order for use by Permittee within thirty (30) Days.
2. If the Department agrees with Permittee, the Department shall withdraw the notice.
3. At the request of Permittee in writing, the Department may grant Permittee an extension of time after the issuance of notice of abandonment to remove or repair a Surface-Mounted Facility.

C. Failure to Remove Abandoned Facility.

1. If Permittee fails to remove an abandoned Surface-Mounted Facility within sixty (60) Days after the receipt of written notice of abandonment the Department may remove the facility.
2. The Department will endeavor to remove the Surface-Mounted Facility and to return the equipment to Permittee in the same condition as it was at the time of removal. The Department, however, does not assume any responsibility for any damage to the equipment resulting from the Department's removal and storage of any abandoned equipment.
3. The Department may deduct the cost of removing the abandoned Surface-Mounted Facility from Permittee's deposit required under Public Works Code § 2725.

Section 18. DEPOSIT

Permittee's deposit required under Public Works Code § 2725 shall be available to the Department to secure the faithful performance of the obligations of Permittee under any Surface-Mounted Facility Site Permit. If Permittee has not made such a deposit, Permittee shall submit and maintain with the Department one bond, cash deposit, or other security acceptable to the Department securing the faithful performance of the obligations of Contractor and its agent under any Permit issued under this Order. The deposit shall be in the sum of twenty-five thousand dollars (\$25,000) in favor of "San Francisco Public Works, City and County of San Francisco." If the Director has deducted any amounts from such a deposit pursuant to this Order, Permittee must restore the full amount of the deposit prior to the Department's issuance of a subsequent Permit. The Department shall return the deposit to Permittee should Permittee cease to operate any Surface-Mounted Facilities in the Public Right-of-Way.

Section 19. ADDITIONAL FEES

- A. Director May Require Additional Permit Fees.
 1. Pursuant to Public Works Code § 2729(f), the Director may require an Applicant for a Surface-Mounted Facility Site Permit to pay a sum in excess of the normal Permit fees.
 2. The Department shall not approve an Application for a Surface-Mounted Facility Site Permit unless Applicant agrees to pay these additional Permit fees when required.
- B. Imposition of Additional Permit Fees.

1. Any City department reviewing an Application for a Surface-Mounted Facility Site Permit shall determine whether its review of an Application will be unusually costly. A City department other than the Department shall provide the Department with an estimate of its additional costs along with an explanation of the reasons these additional costs must be incurred.
2. Prior to requiring additional Permit fees, the Director shall notify an Applicant that it will be unusually costly for either the Department or another City department to review an Application for a Surface-Mounted Facility Site Permit. The notice shall include an estimate of its additional costs along with an explanation of the reasons these additional costs must be incurred, and shall offer the Applicant the opportunity to withdraw or modify the Application in order to avoid any additional Permit fees.
3. Any costs incurred by a City department as set forth in Public Works Code § 2729(f) and in this Section shall be charged to the Applicant as additional Permit fees.
4. In the event the Applicant fails to pay as required, the Department may deduct the cost of the advertisement from Permittee's deposit required under Public Works Code § 2725 and Section 17, above.

Section 20. RECOVERY OF CITY DEPARTMENT COSTS

A. Costs of Technical Experts.

1. Pursuant to Public Works Code § 2729(f), any City department may retain the services of a technical expert in order to evaluate an Application for a Surface-Mounted Facility, and seek reimbursement for the cost of those services from the Applicant.
2. Prior to incurring any reimbursable costs, a City department shall notify an Applicant that it requires the services of a technical expert. The notice shall explain in detail the expert services required and offer the Applicant the opportunity to withdraw or modify the Application in order to avoid those costs.
3. If the Applicant intends to pursue the Application, the applicable City department shall then work with the Applicant to identify Persons with the necessary expertise to provide the required services and to establish a budget for the expert's services.

4. Any costs incurred by a City department as set forth in Public Works Code § 2729(f) and in this Section shall be charged to the Applicant as additional Permit fees.
5. In the event the Applicant fails to pay as required, the Department may deduct the cost of the advertisement from Permittee's deposit required under Public Works Code § 2725 and Section 17, above.

B. Publication Cost for Notice of Hearing.

1. The Department shall require an Applicant for a Surface-Mounted Facility Site Permit that is the subject of a protest to reimburse the Department for the cost of publishing notice of the hearing in the official newspaper of the City and County of San Francisco.
2. After placing the advertisement, the Department shall bill the Applicant for such costs, which bill shall be due and payable within thirty (30) Days.
3. In the event the Applicant fails to pay as required, the Department may deduct the cost of the advertisement from Permittee's deposit required under Public Works Code § 2725 and Section 17, above.

Section 21. DEPARTMENT FORMS

A. Use of Department Forms Required.

The Department, an Applicant for a Surface-Mounted Facility Site Permit, or a Permittee shall use the forms authorized by this Order and attached hereto as the following Exhibits:

- A. Placement Criteria
- B.1 Preferred Location List
- B.2 Notice of Intent
- B.3 Notice of Final Determination
- B.4 Mural Installation Agreement (optional)
- B.5 Application for Public Right-of-Way Beautification Project
- C. Notice of Intent Checklist
- D. Addresses for Notice of Intent

B. Changes to Authorized Forms.

The Department may change the authorized forms as necessary to facilitate the issuance of Surface-Mounted Facility Site Permits.

C. New Forms.

The Department may prepare and issue new authorized forms as necessary to facilitate the issuance of Surface-Mounted Facility Site Permits.

Approved:

8/6/2018

X 

Sanguinetti, Jerry
Bureau Manager
Signed by: Sanguinetti, Jerry

8/6/2018

X 

Thomas, John
Deputy Director and City Engineer
Signed by: Thomas, John

8/7/2018

X Mohammed Nuru

Nuru, Mohammed
Public Works Director
Signed by: Nuru, Mohammed

EXHIBIT A

SURFACE-MOUNTED FACILITY PLACEMENT CRITERIA

1. **Pedestrian Clearances.**
 - a. A minimum of four feet (4') of pedestrian clearance (free of all obstacles for a clear path of travel, unobstructed pedestrian walkway) on sidewalks in RH (Residential House) and P (Public Use) Districts.
 - b. A minimum of six feet (6') of pedestrian clearance (free of all obstacles for a clear path of travel, unobstructed pedestrian walkway) on sidewalks in higher density Mixed-Residential (RC and RM), NC (Neighborhood-Commercial) and C (Commercial) Districts, and in any other Districts that require additional sidewalk space for pedestrian flow.
 - c. All Streets: No intrusion onto pedestrian "clear zones" at corners.
2. **Crosswalks.** A minimum of five feet (5') from the edge of crosswalk area on approach to an intersection and five feet (5') from the edge of crosswalk areas on the exit from an intersection. Placement is preferred on the exit of an intersection.
3. **Curbs.** A minimum of twenty-four inches (24"), but not more than thirty six inches (36") from the face of the curb.
4. **Fire Clearances.** A minimum of eight feet (8') from any fire escape and/or fire exit and five feet (5') from any fire hydrant.
5. **Parking Areas.** A minimum of five feet (5') from any driveway, curb ramp, or blue zone parking space.
6. **Parklets.** A minimum of ten feet (10') from any permitted Parklet.
7. **Other Above-Ground Structures.** A minimum of forty inches (40") from any other above-ground structure not otherwise specified herein including, but not limited to, street light poles, parking meters, trees, etc.
8. **Transit stops, Transit Shelters, and Kiosks.** A minimum of sixty feet (60') from any Municipal Transportation Agency transit stop, whether flagged or not, and transit shelter and/or kiosk.
9. **Street Art.** A minimum of five feet (5') from any certified street artist's

designated area per list to be provided by the Department.

10. **Public Art Work.** A minimum of sixty feet (60') from any public art work under the jurisdiction of the San Francisco Arts Commission, except for public art on kiosks, per the San Francisco Civic Art Collection published by the San Francisco Arts Commission.
11. **Storm Drains/Utility Facilities.** Shall not cover any storm drain or other utility facility.
12. **Signage.** Shall not obstruct a view of any traffic sign, way-finding sign, or any other related existing facility.
13. **Location Suitable for Street Tree.** Shall not be installed in any location that would interfere with the planting of a street tree, as described in Department Order No. 178,631, Regulating the Planting, Maintenance, or Removal of Trees and Landscape Material on Public Sidewalk Areas.
14. **Schools.** A minimum of twenty feet (20') to either side of any sidewalk length used for drop-off and pickup of students.

The following Preferred Locations do not comply with the Placement Criteria because:

5. The Applicant seeks approval of a Surface-Mounted Facility Site Permit at a disfavored location under Public Works Code § 2704(c) (answer questions below if applicable):

The Applicant has no other option because (explain in detail):

The following proposed location(s) are disfavored because (identify applicable subsection(s) of Public Works Code § 2704(c)):

I certify that the information contained in the application is correct.

Applicant's Authorized Agent

Date (MM/DD/YY)

(Name)

(Title)

EXHIBIT B.2

APPLICANT LETTERHEAD

[Add MM/DD/YYYY]

**NOTICE OF INTENT TO SUBMIT APPLICATION
FOR SURFACE-MOUNTED FACILITY SITE
PERMIT**

IMPORTANT NOTICE CONCERNING YOUR RIGHTS

Application No.:

Applicant:

Applicant Contact:

Telephone Number:

Email Address:

PLEASE TAKE NOTICE that [Applicant Name] intends to file an application with San Francisco Public Works for a permit to install a Surface-Mounted Facility at one of the following preferred locations: [List all addresses]. The Department has not yet issued a permit and could decide to deny the permit.

PLEASE TAKE FURTHER NOTICE you have the opportunity to participate in the permitting process by protesting one or more of the Applicant's preferred locations. You must submit a protest with 10 days of the date of this notice. The instructions for submitting a protest can be found below. If you submit a protest, San Francisco Public Works will convene a hearing to determine: (i) whether San Francisco Public Works should issue a permit at one of the preferred locations; and (ii) if so, whether San Francisco Public Works should add any conditions to the permit. San Francisco Public Works will notify you of the hearing date, which will be within 20 days of the receipt of your protest. Should you choose to attend the hearing, you will have the opportunity to express your concerns about the proposed Surface-Mounted Facility.

PLEASE TAKE FURTHER NOTICE, that a photo-simulation of the proposed Surface-Mounted Facility at each of the preferred locations is attached hereto.

Applicant intends to submit an application for a Surface-Mounted Facility Site Permit in front of one of the following preferred locations [Add Street Addresses of Nearest Properties]:

If the application is approved, Applicant will install the following Surface-Mounted Facility at one of these preferred locations [Describe Facility]:

Applicant intends to use the proposed Surface-Mounted Facility to [Describe Use]:

Applicant's order of preference for these preferred locations is as follows [Add List of Preferred Locations in Order of Preference]:

Applicant has informed Public Works that its ability to choose a location for the proposed Surface-Mounted Facility is limited by the following technical constraints [Delete if Not Applicable]:

The Planning Department/Recreation and Park Department has/have reviewed each of the preferred locations identified in this Notice of Intent and made the following determination as to the suitability of the preferred locations for Applicant's Surface-Mounted Facility [Delete if Not Applicable]:

Certain City departments have determined that it is appropriate to place conditions on the installation of the proposed Surface-Mounted Facility. These conditions include the following [Delete if Not Applicable]:

San Francisco Public Works:

Planning Department:

Recreation and Park Department:

Applicant has accepted all of those conditions except [Delete if Not Applicable]:

San Francisco Public Works:

Planning Department:

Recreation and Park Department:

Certain City departments have proposed alternate locations for the proposed Surface-Mounted Facility. These alternate locations include the following [Delete if Not Applicable]:

San Francisco Public Works:

Planning Department:

Recreation and Park Department:

Applicant has determined that the following proposed alternate locations [are/are not] acceptable [Choose One or Delete if Not Applicable]:

The Applicant intends to allow the installation of a mural on its Surface-Mounted Facility. Anyone interested in installing a mural on the proposed Surface-Mounted Facility after San Francisco Public Works issues the Surface-Mounted Facility Site Permit should contact the Applicant and the Department at the addresses set forth below. [Delete if Not Applicable]

The Applicant is electing to pay an “in-lieu” fee rather than permitting the installation of a mural on its permitted Surface-Mounted Facility. [Delete if Not Applicable]

The Applicant is electing to pay an “in-lieu” fee rather than installing a street tree. [Delete if Not Applicable]

PLEASE TAKE NOTICE that, pursuant to San Francisco Public Works Code § 2714, any person may protest the Applicant’s preferred locations by submitting a written protest to San Francisco Public Works within 10 days from the date of this notice (Add [MM/DD/YYYY]) either online or by mail at the address below:

Through San Francisco Public Works’ website:

<http://bsm.sfdpw.org/PermitsTracker/SMFObjection.aspx>

Entering Application No.____[Add Application No.]

By mail to:

San Francisco Public Works
Bureau of Street Use and Mapping
1155 Market Street, 3rd Floor
San Francisco, CA 94103
Attn: Surface-Mounted Facility Protest
Application No.____ [Add Application No.]

PLEASE TAKE FURTHER NOTICE that San Francisco Public Works will not accept a protest unless it is received either online or through the mail by the required date. You must include the application number in your protest.

If you require additional information concerning submitting a protest or want to submit comments on the Application, you can contact San Francisco Public Works at [Add Public Works Contact Phone Number]

If you require additional information concerning this Notice of Intent and the technical requirements for Applicant's proposed Surface-Mounted Facility, you can contact the Applicant at [Add Name, Telephone Number and Email Address of Applicant Contact]:

EXHIBIT B.3

**NOTICE OF FINAL DETERMINATION APPROVING
SURFACE-MOUNTED FACILITY SITE PERMIT**

(Final Determination to Approve)

[MM/DD/YYYY]

Permit No.:

Applicant:

Applicant Contact:

Telephone Number:

Email Address:

San Francisco Public Works has approved the above-referenced Application submitted by [Applicant Name] for a Surface-Mounted Facility Site Permit at [Number and Street Address]. A copy of the Permit is attached.

The permitted Surface-Mounted Facility consists of a [Describe Physical Characteristics and Provide Dimensions]:

Applicant will use the permitted Surface-Mounted Facility to [Describe Use]:

A photo-simulation of the approved Surface-Mounted Facility is attached.

The Permit includes the following condition(s):

1. [Identify City Department and Conditions]
2. [Identify City Department and Conditions]
3. [Identify City Department and Conditions]

Within fifteen (15) calendar days of the mailing and posting of this notice, any person may appeal the issuance of the Permit to the Board of Appeals. Appeals must be filed in person by either the appellant or the appellant's agent. Generally, the Board of Appeals requires that an appointment be made to file an appeal. For further information regarding the appeals process you may contact the Board of Appeals in person at 1650 Mission Street, Suite 304 or call 415-

575-6880 or go to the Board of Appeals' website:
<http://sfgov.org/bdappeal/appeal-process>

For information about the Application or Permit you may contact [Applicant] at the address set forth above or San Francisco Public Works at the following address: San Francisco Public Works, Bureau of Street Use and Mapping, 1155 Market Street, 3rd Floor, [add telephone].

(Final Determination to Deny)

[MM/DD/YYYY]

Permit No.:

Applicant:

Applicant Contact:

Telephone Number:

Email Address:

San Francisco Public Works has denied the above-referenced Application submitted by [Applicant Name] for a Surface-Mounted Facility Site Permit at [Number and Street Address].

EXHIBIT B.4

MURAL INSTALLATION AND MAINTENANCE AGREEMENT

THIS MURAL INSTALLATION AND MAINTENANCE AGREEMENT (this “Agreement”) dated _____ (“Effective Date”) is made this <<INSERT DATE>>, in the City and County of San Francisco, State of California, by and between <<INSERT NAME OF OWNER IN ALL CAPS AND UNDERSCORED>> (“Owner”), << INSERT NAME OF ARTIST IN ALL CAPS AND UNDERSCORED>> (“Artist”) and the City and County of San Francisco (“City”).

WITNESSETH:

WHEREAS, Article 27 of the City and County of San Francisco Public Works Code requires Owner to allow a mural to be painted on a Surface-Mounted Facility that has been installed in the public right-of-way pursuant to a permit issued by San Francisco Public Works.

WHEREAS, Owner, working with San Francisco Public Works and the San Francisco Arts Commission, has selected Artist to install a mural on the permitted Surface-Mounted Facility at Owner’s expense; and

WHEREAS, Owner desires to provide such authority on the terms and conditions set forth herein:

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained in this Agreement and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto agree as follows:

**ARTICLE 1
DEFINITIONS**

Unless the context otherwise requires, the following capitalized terms (whether singular or plural) shall have the meanings set forth below:

- 1.1 “Alter” or “Alteration” shall mean, with respect to the Mural, to alter, repair, modify, remove, relocate, sell, dispose of, distort, destroy, mutilate, or deface.
- 1.2 “Budget” shall mean the budget attached hereto as part of Appendix A intended to fully cover the cost of installing the Mural at the Permitted Site.
- 1.3 “Mural” shall mean the work of art designed or produced by Artist and selected for installation on the Permitted Site as depicted in Appendix B.

1.4 "Permitted Site" shall mean <<INSERT LOCATION OF SURFACE-MOUNTED FACILITY >> as shown in Appendix C.

ARTICLE 2 INSTALLATION, TERM, FUNDING, REMOVAL

2.1 Authorization. Owner authorizes Artist to install the Mural at the Permitted Site using the materials identified in Appendix D.

2.2 Term. This Agreement shall have a term of ten years from the Effective Date, unless this Agreement is terminated pursuant to Sections 2.6 below or extended by the parties in writing. Notwithstanding the foregoing, and subject to provisions of Sections 2.6 and 2.7 below, Owner agrees to maintain the Mural on the Permitted Site for a minimum of ten years from the date that installation is completed.

2.3 Supervision. Owner reserves the right to supervise Artist's installation of the Mural on the Permitted Site. Artist shall notify Owner in writing when Artist intends to install the Mural so that Owner can supervise Artist's installation to the extent necessary to protect Owner's Surface-Mounted Facility from damage. Artist may proceed with the installation if Owner is not present, unless Owner has notified Artist in writing that Artist may not proceed unless Owner is present.

2.4 Funding. Owner shall cover the costs of all materials and labor to install the Mural at the Permitted Site, but only to the extent those costs are within the Budget. Artist shall be responsible for any costs that exceed the Budget. Owner shall provide Artist with 50% of the funding within ten days of receiving a request from the Artist that includes a notice that the Artist intends to begin installation of the Mural. The remaining 50% of the funding shall be provided upon completion of the installation. If the Artist fails to complete the installation, Artist agrees to refund to Owner any funds provided to Artist.

2.5 Completion of Installation. Artist shall complete installation within 120 days after the Effective Date.

2.6 Termination. Owner may elect to terminate this Agreement without any liability to Artist should Artist: (a) fail to install the Mural that is depicted in Exhibit A; or (b) fail to complete installation of the Mural on the date required by Section 2.5 for any reason whatsoever including lack of funding. In the event of such termination, Owner may elect to cover or remove those parts of the Mural that have been installed.

2.7 Removal. Artist understands that Owner installed the Surface-Mounted Facility in the public right-of-way to use to provide <<DESCRIBE FUNCTION OF SURFACE-MOUNTED FACILITY >>. Should Owner reasonably determine that the Mural is harming Owner's Surface-Mounted Facility or limiting the Owner's

use of the Surface-Mounted Facility for the purpose for which it is intended, Owner may provide Artist with 60-day notice that Owner will remove the Mural from the Permitted Site at the end of the notice period. If possible, Owner shall work with Artist to find another suitable site for the Mural.

ARTICLE 3
INTELLECTUAL PROPERTY, MAINTENANCE AND REPAIRS, ALTERATION,
ARTIST'S RIGHTS

3.1 Copyright. Subject to the restrictions and usage rights and licenses granted to Owner hereunder, and unless otherwise agreed to by the parties in writing, Artist shall retain all 17 U.S.C. §106 copyrights in all original works of authorship produced under this Agreement. If Artist is comprised of two or more individual persons, the individual persons shall be deemed joint authors of the Mural.

3.2 Owner's Intellectual Property License. Artist hereby grants to Owner, and to Owner's agents, authorized contractors and assigns, and to City an unlimited and irrevocable license to do the following with respect to the Mural:

- I. Implementation, Use, and Display. Owner may use and display the Mural on the Permitted Site only. To the extent the Mural involves design elements that are incorporated by Artist into the design of the Permitted Site, Owner may implement such elements at the Permitted Site.
- II. Reproduction and Distribution. Owner and City may make, display, and distribute, and authorize the making, display, and distribution of photographs and other reproductions of the Mural. Owner and City may use such reproductions for any Owner-related or City-related purpose, including advertising, educational and promotional materials, brochures, books, flyers, postcards, print, broadcast, film, electronic, and multimedia publicity. Owner and City shall ensure that such reproductions are made in a professional and tasteful manner, in their sole and reasonable judgment. Owner and City shall make reasonable efforts to ensure that such reproductions include the following credit line and copyright notice where practicable: "Title of Artwork" © [Year of completion] by <<INSERT ARTIST'S NAME OR OTHER COPYRIGHT HOLDER'S NAME>>. Failure to include such credit line and notice in any reproductions shall not constitute a breach of this agreement. Neither Owner nor City may license or sublicense its rights for any private or commercial purpose. This license granted hereunder does not include the right to sell photographs or reproductions of the Mural or to authorize the sale of such photographs or reproductions.

3.3 Third Party Infringement. Neither Owner nor City is responsible for any third party infringement of Artist's copyright or for protecting Artist's intellectual property rights.

3.4 Publicity. Owner and City shall have the right to use Artist's name, likeness, and biographical information, in connection with the display or reproduction and distribution of the Mural. Artist shall be reasonably available to attend any ceremonies related to the Mural.

3.5 Trademark. In the event that Owner's or City's use of the Mural creates trademark, service mark or trade dress rights in connection with the Mural, Owner and City shall have an exclusive and irrevocable right in such trademark, service mark, or trade dress.

3.6 Resale Royalty. If Owner sells the Mural as a fixture to its Surface Mounted Facility, the Owner and the Artist agree that the resale price of the Mural shall be presumed to be less than the funds provided to Artist by Owner under this Agreement. Thus, Owner has no obligation to pay resale royalties pursuant to California Civil Code § 986 or any other law requiring the payment of resale royalties.

3.7 Maintenance and Repairs. Owner shall be responsible for maintenance and repair of the Mural only to the same extent that Public Works Code Article 27 requires owner to maintain a permitted Surface-Mounted Facility.

3.8 Waiver of Artist's Rights. With respect to the Mural produced under this Agreement, and in consideration of the procedures and remedies specified in this Agreement, Artist hereby waives any and all claims, arising at any time and under any circumstances, against Owner and City, its officers, agents, employees, successors and assigns, arising under the federal Visual Artists Rights Act (17 U.S.C. §§106A and 113(d)), the California Art Preservation Act (Cal. Civil Code §§987, et seq.), and any other local, state, federal or international laws that convey rights of the same nature as those conveyed under 17 U.S.C. §106A, Cal. Civil Code §§ 987, et seq., or any other type of moral right protecting the integrity of works of art. Specifically, Artist hereby waives any and all such claims against Owner or any future owners of the Permitted Site, and its agents, officers and employees, and City for Alteration of the Mural regardless of whether such Alteration is made necessary for Owner to use its Surface-Mounted Facility for its own business purposes. Artist hereby represents and warrants that the Artist is authorized to sign this waiver.

3.9 Indemnity. Artist represents and warrants that the Mural is the sole work of the Artist and does not infringe the intellectual property rights of any third parties. Artist agrees to indemnify Owner and/or City against any claims brought against Owner or City alleging that the Mural infringes the intellectual property rights of any third parties.

ARTICLE 4
NOTICES AND OTHER COMMUNICATIONS

4.1 Requirements. Unless otherwise specifically provided herein, all notices, consents, directions, approvals, instructions, requests and other communications hereunder shall be in writing, shall be addressed to the person and address set forth below and shall be (a) deposited in the U.S. mail, first class, certified with return receipt requested and with appropriate postage, (b) hand delivered or (c) sent via facsimile (if a facsimile number is provided below):

If to Owner:	<<INSERT OWNER NAME>> <<INSERT ADDRESS>> San Francisco, CA <<INSERT ZIP CODE>> Attn: <<INSERT CONTACT NAME>> Email: <<INSERT EMAIL ADDRESS >>
If to Artist:	<<INSERT NAME OF ARTIST>> <<INSERT ADDRESS>> San Francisco, CA <<INSERT ZIP CODE>> Attn: <<INSERT CONTACT NAME>> Email: <<INSERT EMAIL ADDRESS >>
If to City:	San Francisco Public Works Bureau of Street Use and Mapping 1155 Market Street, 3rd Floor San Francisco, CA 94103 Email: <<INSERT EMAIL ADDRESS >>

4.2 Effective Date of Notice. All communications sent in accordance with Section 4.1 shall become effective on the date of receipt. Such date of receipt shall be determined by: (a) if mailed, the return receipt, completed by the U.S. postal service; (b) if sent via hand delivery, a receipt executed by a duly authorized agent of the party to whom the notice was sent; or (c) if sent via facsimile, the date of telephonic confirmation of receipt by a duly authorized agent of the party to whom the notice was sent or, if such confirmation is not reasonably practicable, the date indicated in the facsimile machine transmission report of the party giving such notice.

4.3 Change of Address. From time to time any party hereto may designate a new address for purposes of this Article 4 by notice to the other party.

**ARTICLE 5
MISCELLANEOUS**

5.1 Limitation of Liability. UNDER NO CIRCUMSTANCES SHALL ONE PARTY TO THIS AGREEMENT BE LIABLE TO THE OTHER PARTY FOR

ANY SPECIAL, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES, INCLUDING LOST PROFITS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR ANY ACTIVITIES PERFORMED IN CONNECTION WITH THIS AGREEMENT, REGARDLESS OF WHETHER A CLAIM MADE BY THAT PARTY IS BASED ON CONTRACT OR TORT.

5.2 Survival. The provisions contained in Article 3 above shall survive the expiration or termination of this Agreement.

5.3 Modification. This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved in the same manner as this Agreement.

5.4 Governing Law; Venue. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California, without regard to its conflict of laws principles. Venue for all litigation relative to the formation, interpretation and performance of this Agreement shall be in San Francisco.

5.5 Headings. All article and section headings and captions contained in this Agreement are for reference only and shall not be considered in construing this Agreement.

5.6 Entire Agreement. This Agreement and the Appendices hereto set forth the entire Agreement between the parties, and supersede all other oral or written provisions.

5.7 Counterparts. This Agreement may be executed in multiple counterparts and signatures may be exchanged by facsimile or electronically, each of which shall be deemed to be an original document, and all of which together shall constitute one and the same document.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first specified herein.

OWNER

<<INSERT NAME OF OWNER IN ALL CAPS>>

By:

Print Name:

Title:

ARTIST

**<<INSERT NAME OF ARTIST IN ALL
CAPS>>**

By:

Print Name:

Title:

CITY AND COUNTY OF SAN FRANCISCO

By:

Print Name:

Title:

EXHIBIT B.5

**APPLICATION FOR FUNDING OF PUBLIC RIGHT-
OF-WAY STREET BEAUTIFICATION PROJECT**

Applicant Name:

Organization (if applicable):

Mailing Address:

Telephone No.:

E-Mail Address:

1. Proposed Location:

2. Proposed Project (describe in detail):

3. All Persons Involved in the Project:

4. Proposed Budget (provide details):

5. If the Proposed Project is for a mural, attached is a copy of the Mural Design Information Form submitted to the San Francisco Arts Commission.

I certify that the information contained in the application is correct.

By:

(Write or Type Name)

Date (MM/DD/YYYY)

(Sign Name)

CITY AND COUNTY OF SAN FRANCISCO

ACTION ON APPLICATION

1. The application has been reviewed by the Planning Department (check applicable box).

The Planning Department recommends that the project be approved as submitted.

The Planning Department recommends that the project be approved with the following modifications or conditions:

The Planning Department recommends that the project be denied for following reasons:

By:

(Write or Type Name)

Date (MM/DD/YYYY)

(Sign Name)

2. The application has been reviewed by the San Francisco Arts Commission (check applicable box).

The Arts Commission recommends that the project be approved as submitted.

The Arts Commission recommends that the project be approved with the following modifications or conditions:

The Arts Commission recommends that the project be denied for the following reasons:

By:

(Write or Type Name)

Date (MM/DD/YYYY)

(Sign Name)

3. Based on these recommendations (check one):

- Public Works approves the project as proposed and budgeted.
- Public Works approves the project as budgeted with the conditions required by the Planning Department or Arts Commission.
- Public Works approves the project as proposed in the amount of \$_____. Public Works has reduced/increased the proposed budget for the following reasons:

Public Works approves the project with any added conditions in the amount of \$_____. Public Works has reduced/increased the proposed budget for the following reasons:

Public Works disapproves the project for the following reasons (check all that apply):

- Due to the recommendation of the Planning Department.
- Due to the recommendation of the Arts Commission.
- Due to cost of the proposed project.
- Due to lack of funds available for the proposed project.
- Other (explain):

EXHIBIT C

NOTICE OF INTENT CHECKLIST

A Notice of Intent is not complete unless Applicant has submitted all the following information to San Francisco Public Works:

- A. A list of at least two acceptable Preferred Locations.
- B. A list of all Conditions imposed by any City department and a statement whether Applicant accepts those Conditions.
- C. A drawing of each Preferred Location showing the following:
 - 1. Street name
 - 2. Names of cross streets
 - 3. Face of curb ("FOC")
 - 4. Property lines ("PLs")
 - 5. Distance from FOC to face of the Surface-Mounted Facility
 - 6. Distance from FOC to PLs
 - 7. Distance from FOC to back of the Surface-Mounted Facility
 - 8. Locations and dimensions (if known) of existing above-ground street furniture (utility poles, bus shelters, fire hydrants, garbage receptacles, parking meters, etc.) and distance from the proposed location of the Surface-Mounted Facility
 - 9. Locations and dimensions (if known) of existing underground utility facilities (vaults, manholes, handholds, meters, etc.) and distance from the proposed location of the Surface-Mounted Facility
 - 10. Distance from nearest cross street to the Surface-Mounted Facility
 - 11. Identification of Surface-Mounted Facility type and dimensions including any appurtenances
 - 12. Color of the Surface-Mounted Facility
 - 13. Distance from any driveways, curb ramps, or blue zone parking spaces
 - 14. Representation of any existing or required street tree or landscaping
- D. Detailed plans showing each Surface-Mounted Facility Applicant intends to install.
- E. If Applicant conducts business outside of San Francisco, a statement that Applicant is not using smaller cabinets that serve identical purposes in those other jurisdictions.

- F. If Applicant is replacing an existing Surface-Mounted Facility with a larger Surface-Mounted Facility, a justification for using the larger Surface-Mounted Facility.
- G. Verification of completion of community meeting requirement including:
 - 1. List of all the feasible locations and Preferred Locations for its proposed Surface-Mounted Facility that Applicant provided at the community meeting
 - 2. Copy of letter mailed to property owners and residents
 - 3. Copy of mailing list
 - 4. Verification of date of mailing
 - 5. Copy of posted notice of community meeting
 - 6. Verification of date and locations of posting
 - 7. Minutes of community meeting
 - 8. Verification of post-meeting reviews of additional locations for the proposed Surface-Mounted Facility (if any)
- H. Verification that Applicant attempted to place the Surface-Mounted Facility underground, including a statement from a licensed engineer to the effect that no adequate technology is available to make it technologically or economically feasible to place all or even part of the Surface-Mounted Facility underground.
- I. If it is not possible to install the entire Surface-Mounted Facility underground, a statement that Applicant will:
 - 1. Limit the height or footprint of the proposed Surface-Mounted Facility to the maximum extent possible
 - 2. Use stainless steel or the appropriate color for the Surface-Mounted Facility, along with a graffiti-proof coating
 - 3. Install any required street trees and/or landscaping
 - 4. Comply with City department conditions
- J. Verification that Applicant has explored reasonable opportunities to co-locate its proposed Surface-Mounted Facility with other street furniture.
- K. Verification that Applicant has explored reasonable opportunities to have its proposed Surface-Mounted Facility used to serve a dual function such as a bench or other amenity.
- L. Verification that the installation of the proposed Surface-Mounted Facility will not enable Applicant to remove an existing Surface-Mounted Facility.
- M. A five-year plan in the form required by San Francisco Public Works.

- N. Verification that any required review of Applicant's installation of a Surface-Mounted Facility under the California Environmental Quality Act has been completed.
- O. If applicable, a statement that Applicant has elected to pay an "in-lieu" fee rather than install a street tree at any of the Preferred Locations.
- P. If applicable, a statement that Applicant has elected to pay an "in-lieu" fee rather than allow the installation of a mural on its Surface-Mounted Facility. The notice shall also state that community members may submit an application to Public Works for use of the "in-lieu" fee for local public right-of-way beautification projects.

EXHIBIT D

ADDRESSES FOR NOTICE OF INTENT

San Francisco Public Works
Bureau of Street Use and Mapping
Attn: Surface-Mounted Facility Permit Unit
1155 Market Street, 3rd Floor
San Francisco, CA 94103
smf@sfdpw.org

Department of City Planning
Attn: Surface-Mounted Facility Team
1650 Mission Street, Suite 400
San Francisco, CA 94103
CTYPLN.SMFReview@o365mailrouting.sfgov.org

Recreation and Park Department
Attn: Surface-Mounted Facility, Planning Unit
30 Van Ness, 4th Floor
San Francisco, CA 94103
rdplanning@sfgov.org