



November 1, 2022

AT&T Mobility C/O Pramira
Attn: Genesis Alban, Authorized Agent
5001 Executive Parkway
San Ramon, CA 94583

VIA EMAIL: genesis.alban@pramira.com

**RE: AT&T Mobility Eligible Facilities Request; File No: P2022-097
75 Rowland Way; APN 153-320-06**

Dear Ms. Alban:

This letter is regarding AT&T Mobility's eligible facilities request (EFR) application submitted on September 15, 2022, to the City of Novato for the following project scope at 75 Rowland Way:

- Remove (5) (E) Panel Antennas, (1) At Sector 'A', (2) At Sector 'B' And 'C', (5) Total
- Remove (6) (E) RRUs-12 B2, (2) Per Sector (6) Total.
- Install (9) (N) Panel Antennas, (3) Per Sector (9) Total.
- Install (3) (N) RRUs-4415 B25, (1) Per Sector (3) Total.
- Install (7) (N) Antenna Pipe Mount
- Remove (1) (E) RBS 3206 Cabinet
- Install (1) (N) AT&T 6630 Baseband Unit Within (E) FIF Rack.
- Install (5) (N) Rectifiers Within (E) Power Plant.
- Install (1) (N) Battery Rack.
- Install (N) Barriers As Required.

Pursuant to the requirements of Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, as well as City of Novato Ordinance No. 1654 adopted by the Novato City Council on October 8, 2019, staff has found the proposal, as described above, meets the requirements of an eligible facilities request with respect to all of the physical modifications proposed to the existing base station and tower at the subject site, with exception of the addition of barriers to restrict access to areas with predicted radio frequency-electromagnetic energy (RF-EME) levels exceeding the FCC general public exposure levels. Therefore, AT&T Mobility's EFR is conditionally approved based on the following findings:

- a) The application and supporting materials accurately and sufficiently document the proposal meets the criteria of an eligible facilities request; and
- b) The wireless facility at issue is found to remain in compliance with design and conditions of approval applicable to the permit(s) originally approving the existing wireless facility.
- c) AT&T Mobility's "Radio Frequency—Electromagnetic Energy (RF-EME) Compliance Report" for 75 Rowland Way, prepared by EBI Consulting, dated September 1, 2022,

indicates that RF-EME exposure at certain locations on the building roof will potentially exceed MPE (Maximum Permissible Exposure) for the general public under FCC guidelines. To mitigate this circumstance, AT&T Mobility proposes the installation of barriers delineating these areas. The barriers are proposed to consist of 42-inch high plastic delineator posts linked with plastic yellow chains. The barriers would be placed outside of the boundaries of the existing rooftop antenna/equipment enclosure and screening structure at 75 Rowland Way.

The proposed barriers represent an expansion of the existing wireless facility and improvements subject to the procedures of Novato Municipal Code Section 19.38.160.B. They neither qualify as "transmission equipment" nor a physical modification to a "base station" or "tower" and so do not come within the description of an eligible facilities request. 47 CFR § 1.6100(b)(3) (See also Report & Order, In re Implementation of State & Local Gov'ts' Obligation to Approve Certain Wireless Facility Modification Requests, FCC 20-153 (Nov. 3, 2020) ["Report and Order"]) Accordingly, the barriers are not the proper subject of an eligible facilities request under Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012 and cannot be approved through this application without compliance with the City's existing land use requirements and application process. (See Report and Order at pars. 33-34 for continuing applicability of local agencies' permitting requirements and terms of existing approval even when an eligible facilities request is being made.) For any barrier to be installed, AT&T must first seek and obtain approval from the City to amend Use Permits No. 10210U and 10218U.

Conditions of Approval

1. Continuing Compliance

AT&T's wireless facility shall be and remain in compliance with FCC guidelines for RF exposure limits at all times while this approval is in effect.

2. Amend Use Permits

No barrier shall be placed upon the roof of the building 75 Rowland Way for the purpose of delineating and limiting access to areas of the roof where exposure to RF-EME is predicted to exceed the MPE (Maximum Permissible Exposure) for the general public under FCC guidelines until such time as AT&T Mobility has sought and obtains an approval from the City to amend Use Permits No. 10210U and 10218U.

3. General Approval Indemnity and Time Limits

- a. The applicant shall defend, indemnify and hold harmless the City, its agents, officers, attorneys and employees from any claim, action, or proceeding brought against the City or its agents, officers, attorneys, or employees, to attack, set aside, void or annul the City's decision to approve (and any conditions associated with this approval) the application and associated environmental determination at issue herein. This indemnification shall include damages or fees awarded against the City, if any, cost of suit, attorney's fees, and other costs and expenses incurred in connection with such action whether incurred by the applicant, the City, and/or parties initiating or bringing such action.
- b. The applicant indemnifies the City for all the City's costs, fees, and damages which the City incurs in enforcing the above indemnification provisions.

- c. Unless a shorter period applies, the time within which judicial review of this decision must be sought is governed by California Code of Civil Procedure, Section 1094.6.
- d. The conditions of project approval set forth herein include certain fees, dedication requirements, reservation requirements, and other exactions. Pursuant to Government Code Section 66020(d)(1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions. The applicant is hereby further notified that the 90-day approval period in which you may protest these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a), has begun. If the applicant fails to file a protest within this 90-day period complying with all of the requirements of Section 66020, the applicant will be legally barred from later challenging such exactions.

If you have any questions regarding this matter please contact Kaitlin Zitelli, Senior Planner at 415-899-8941 or kzitelli@novato.org.

Sincerely,

A handwritten signature in black ink that reads "Steve Marshall". The signature is written in a cursive, flowing style.

Steve Marshall, Planning Manager
For the Community Development Director