



PUBLIC WORKS DEPARTMENT

CITY HALL

10300 TORRE AVENUE • CUPERTINO, CA 95014-3255

TELEPHONE: (408) 777-3354 [www.cupertino.org](http://www.cupertino.org)

## **CITY COUNCIL STAFF REPORT**

Meeting: June 6, 2017

### **Subject**

Authorize the Mayor to send a letter opposing SB 649

### **Recommended Action**

Authorize the Mayor to send a letter to Senator Ben Hueso (the author of the bill), and to copy Senator Jim Beall, Assemblyman Evan Low, Assemblyman Marc Berman, and League of Cities Regional Public Affairs Manager Seth Miller

### **Description**

SB 649 (Hueso). Wireless Telecommunications Facilities eliminates public input, full local design review, and the ability for local governments to negotiate leases or any public benefit for the installation of "small cell" equipment on taxpayer funded property.

### **Discussion**

The City of Cupertino has expended considerable effort in establishing agreements with several installers and wireless providers for installation of small cells on City owned streetlight poles. These existing agreements create a consistent and fair playing field among the various providers, and possess reasonable terms that are acceptable to the City and to each of these providers. SB 649 would erode these efforts and would give providers, who have not yet signed agreements with the City, an unfair business advantage due to the different terms and requirements that SB 649 would impose on Cities.

Further, SB 649 would unconstitutionally preempt local authority by requiring local governments to make available sites they own for the installation of a "small cell." While the City may place "fair and reasonable terms and conditions" on the use of City property, the proposal does not provide the City with any discretion to deny a "small cell" to be located on City property. In effect, this measure unconstitutionally gives control of public property to private telecommunications companies, while also precluding local governments from leasing or licensing publicly owned property.

**Sustainability Impact**

No sustainability impact.

**Fiscal Impact**

SB 649 would reduce future revenues from small cell facilities located on City owned streetlight poles.

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Prepared by: Chad Mosley, City Engineer

Approved for Submission by: David Brandt, City Manager

**Attachments:**

A - Draft Letter of Opposition to SB 649