

**BOARD OF APPEALS, CITY & COUNTY OF SAN FRANCISCO**

Appeal of  
MATTHEW BRENNAN, )  
Appellant(s) )  
vs. )  
DEPARTMENT OF PUBLIC WORKS )  
BUREAU OF STREET-USE AND MAPPING, )  
Respondent

Appeal No. 14-135

**NOTICE OF APPEAL**

**NOTICE IS HEREBY GIVEN THAT** on July 14, 2014, the above named appellant(s) filed an appeal with the Board of Appeals of the City and County of San Francisco from the decision or order of the above named department(s), commission, or officer.

The substance or effect of the decision or order appealed from is the **ISSUANCE** on July 01, 2014, to SBC - Pacific Bell Engineering, **UTILITY EXCAVATION PERMIT** (install new cabinet) at 501 Missouri Street.

**APPLICATION NO. 14EXC-3764**

**FOR HEARING ON September 10, 2014**

**Address of Appellant(s):**

Matthew Brennan, Appellant  
533 Missouri Street #1  
San Francisco, CA 94107

**Address of Other Parties:**

SBC - Pacific Bell Engineering, Permit Holder  
c/o Foster Johnson, Agent for Permit Holder  
3000 El Camino Real, Two Palo Alto Square #300  
Palo Alto, CA 94306



Date Filed:

BOARD OF APPEALS

JUL 14 2014

APPEAL # 14-135

**CITY & COUNTY OF SAN FRANCISCO  
BOARD OF APPEALS**

**PRELIMINARY STATEMENT OF APPEAL**

I / We, **Matthew Brennan**, hereby appeal the following departmental action: **ISSUANCE** of **UTILITY EXCAVATION PERMIT 14EXC-3764** by the **Department of Public Works Bureau of Street-Use and Mapping** which was issued or became effective on: **July 01, 2014**, to: **SBC - Pacific Bell Engineering**, for the property located at: **501 Missouri Street**.

**BRIEFING SCHEDULE:**

The Appellant may, but is not required to, submit a one page (double-spaced) supplementary statement with this Preliminary Statement of Appeal. No exhibits or other submissions are allowed at this time.

Appellant's Brief is due on or before: **August 21, 2014, (no later than three (3) Thursdays prior to the hearing date)**, up to 12 pages in length, double-spaced, with unlimited exhibits, with an original and 10 copies delivered to the Board office by 4:30 p.m., and with additional copies delivered to the other parties the same day.

DPW Respondent's and Other Parties' Briefs are due on or before: **September 04, 2014, (no later than one (1) Thursday prior to hearing date)**, up to 12 pages in length, doubled-spaced, with unlimited exhibits, with an original and 10 copies delivered to the Board office by 4:30 p.m., and with additional copies delivered to the other parties the same day.

**Only photographs and drawings may be submitted by the parties at hearing.**

Hearing Date: **Wednesday, September 10, 2014, 5:00 p.m., City Hall, Room 416, One Dr. Carlton B. Goodlett Place.**

All parties to this appeal must adhere to the briefing schedule above, however if the hearing date is changed, the briefing schedule MAY also be changed. Written notice will be provided of any change to the briefing schedule.

In order to have their documents sent to the Board members prior to hearing, **members of the public** should submit an original and 10 copies of all documents of support/opposition no later than one (1) Thursday prior to hearing date by 4:30 p.m. Please note that names and contact information included in submittals from members of the public will become part of the public record. Submittals from members of the public may be made anonymously.

**Please note** that in addition to the parties' briefs, any materials that the Board receives relevant to this appeal, including letters of support/opposition from members of the public, are distributed to Board members prior to hearing. All such materials are available for inspection at the Board's office. You may also request a copy of the packet of materials that are provided to Board members at a cost of 10 cents per page, per S.F. Admin. Code Ch. 67.28.

**If you have any questions please call the Board of Appeals at 415-575-6880**

**The reasons for this appeal are as follows:**  
see attached,

**Appellant or Agent (Circle One):**  
Signature: *Matthew Brennan*  
Print Name: Matthew Brennan



Matt Brennan <matt.brennan@gmail.com>

### 5/19 DPW Public Hearing Result - 501 Missouri Street

Matt Brennan <matt.brennan@gmail.com>

Wed, Jun 25, 2014 at 7:33 AM

To: smf <smf@sfdpw.org>

Cc: Oliver Fringer <ofringer@gmail.com>, "Donaldson, Krista" <krista@donaldson.net>, Laura Mitic <laura\_mitic@yahoo.com>, Reed Kelso <kelsorj@me.com>, ladylucy@mac.com, simonr20@gmail.com, Susi Brennan <susibrennan@gmail.com>, Graham Ulvestad <gray\_u@yahoo.com>, jdunlop@fletcher@gmail.com

Dear ~~DPW~~, Board of Appeals

Thank you for providing me with the results of the 5/19 hearing on the AT&T utility box proposed for Missouri and 20th Street. While this letter addresses some of the concerns that I and others have raised, it also leaves off several important issues:

- As noted in the letter, the preferred alternative discussed at the 5/8 site walk was on 20th street. At the site walk, AT&T representatives said they would look into the feasibility of this location. The letter does not explain what the findings of feasibility assessment were. The lack of an easement request from Daniel Webster Elementary is inconsequential since the 20th Street location is not on school grounds, but on the adjacent sidewalk.
- At the site walk, we also discussed taking a second look at options for locating in front of 502 Missouri. The community attendees at the site walk agreed that 501 Missouri was a worse location because the east sidewalk is much narrower. The west sidewalk is much wider, already has a utility box, and has a sidewalk cut-out for trees that could host a utility box and screening vegetation.
- We discussed mitigating measures such as screening vegetation, but these are not mentioned in the letter. What mitigation measures has AT&T agreed to? In addition to screening vegetation, if they insist upon the 20th and Missouri location, perhaps they should also be responsible for the salary of a crossing guard to address the concerns about child visibility right next to a school.
- You note that no member of the public attended the 5/19 hearing. However there were multiple emails submitted by the 5/16 deadline which objected to the 501 Missouri location. These were individual emails, not just signatures on a petition. Why were these emails not mentioned in the letter and apparently not considered when selecting the 501 location?

Unless these issues are addressed, I believe the location at 501 Missouri should be appealed.

Regards,

Matt Brennan  
533 Missouri St.

[Quoted text hidden]

**BOARD OF APPEALS**  
**JUL 14 2014**  
**APPEAL # 14-135**

13SMF-0408 501 Missouri St Director's Decision 5-19.pdf  
272K



(415) 554-5810  
FAX (415) 554-6161  
http://www.sfdpw.org

Department of Public Works  
Bureau of Street-Use and Mapping  
1155 Market St, 3rd Floor  
San Francisco, CA 94103

### BOARD OF APPEALS

JUL 14 2014

APPEAL #

14-135

14EXC-3764

### Utility Excavation Permit

Location: Multiple Locations

Cost: \$1,242.02

Block: Lot: Zip:

Permitted pursuant to Article 2.4 of the Public Works Code in conjunction to DPW Order 178,940 permission, revocable at the discretion of the Director of Public Works, to excavate and restore the public right-of-way is granted to Permittee.

#### Permittee

Company: SBC - Pacific Bell Engineering  
Address: 795 Folsom Street, Room 426 San Francisco, CA 94107-1243  
Name: Doug Yamashita Phone: (925) 823 - 0955

<b>Conditions</b>	
<b>Emergency Confirmation Number</b>	
<b>24 Hour / 7 Day Contact:</b>	Judy Jones 415-330-1880 Cell 415-244-9799
<b>Site Address/Project:</b>	501 Missouri Street at 20th Street LSMF MI 8856397 33B-R1 (13SMF-0408)
<b>Start Date</b>	02/23/2015
<b>Permit expires on:</b>	3/8/2015
<b>Purpose</b>	Telephone
<b>Excavation Reason</b>	Install New Cabinet
<b>Excavation Reason Description</b>	
<b>Method:</b>	Open Cut: Sawcut
<b>Tracking Number1</b>	8856397 R403 4C
<b>Tracking Number2</b>	13SMF-0408 SF05-515506
<b>Project Size</b>	172
<b>Inspection</b>	

The assigned Permittee hereby agrees to comply with all requirements and conditions noted on this permit

Approved Date : 07/01/2014

When digging/excavating in sidewalk area, entire flag(s) must be replaced.\*\*

_____ Signature of Permittee	_____ Date	Distribution: Inside BSM: Utility Inspection
2014-07-01 1:37:11 PM	Plan Checker	Gene Chan

**STREET EXCAVATION REQUIREMENTS:**

1. The permittee shall call Underground Service Alert (U.S.A.), telephone number 1-800-227-2600, 48 hours prior to any excavation.
2. All work including sidewalk and pavement cutting and removal, lagging, excavation, backfill, and sidewalk and pavement restoration shall be performed by a licensed paving contractor and in accordance with the requirements of the Standard Specifications of the Bureau of Engineering, Department of Public Works, July 1986 Edition and Department of Public Works Order Nos. 176,707, copy attached.
- 3.
4. Department Order 181,305, dated 6/17/13, Reinforced Concrete Bus pads, shall be constructed in accordance with SFPDW Standard Plan, File No. 17 and SFPDW Standard Specification Section 210 except that the concrete bus pad shall have a minimum compressive strength of 4000 psi. Concrete bus pads shall be constructed at a minimum thickness of 10 to 12 inches and shall be approximately 10-foot wide.
5. Department Order 181,306 dated 9/26/13, Reinforced concrete sidewalk, shall be constructed in accordance with the SFPDW Standard Plan File No. 18 and SFPDW Standard Specification Section 204 with #3 steel reinforced bars at mid-depth of the concrete sidewalk slab.
6. Sidewalk and pavement restoration shall include the replacement of traffic lane and crosswalk striping, parking stall markings, and curb restoration which might have been obliterated during street excavation. The permittee shall perform their work under on the following options:
  - a. Allow the City to perform the striping and painting work at the permittee's expense. The permittee shall make a deposit with the Department of Parking & Traffic for this purpose in an amount estimated by the Municipal Transportation Agency (MTA) 7th Floor 1100 South Van Ness Ave telephone 701-4500, and notify the MTA at least 48 hours in advance of the time the work is to be done.
  - b. Perform the work themselves following instructions available at the Department of Parking & Traffic.
7. The permittee shall submit a non-refundable fee to Bureau of Street-Use and Mapping to pay for City Inspection of the backfill and pavement restoration. At least 48 hours in advance, the permittee shall make arrangements with the Street Improvement Section Inspectors, Department of Public Works for an inspection schedule.
8. The permittee shall file and maintain an excavation bond in the sum of \$25,000.00 with the Department of Public Works, to guarantee the completion of the pavement in the excavation area for a period of 3 years following the completion of the backfill and pavement restoration in accordance with Article 2.4.40 of the Public Works Code.
9. The permittee shall conduct construction operations in accordance with the requirements of Article 11 of the Traffic Code. The permittee shall notify the MTA 7th Floor 1100 South Van Ness Ave telephone 701-4500, for specific restrictions before starting work.
10. The permittee shall obtain the required permits, if any, from regulating agencies of the State of California.
11. The permittee shall verify the locations of any City or public service utility company facilities that may be affected by the work authorized by this permit and shall assume all responsibility for any damage to such facilities. The permittee shall make satisfactory arrangements and arrangements for any necessary temporary relocation of City or public utility company facilities.
12. The permittee shall pay the required fee for sewer installation permit at the Plumbing Inspection Division, Department of Building Inspection, 1630 Mission Street and arrange for inspection of this work, telephone 558-6054.
13. All tree removal work, planting of trees and pouring of sidewalk and/or curb shall not be performed prior to obtaining a permit from Bureau of Urban Forestry (BUF), telephone 554-6700.
14. Department Order 178,806, the recycling of Cobble Stones and Granite Curb shall follow as:
  - a. Cobblestones shall be clean of dirt prior to transporting. Extreme care shall be taken during the transporting the cobblestones to minimize damage prior to delivery to City. The cobblestones shall be neatly and securely placed on pallets so they can be moved about safely after the delivery. The minimum size of cobblestone shall be 4 inches square (16 square inches). The cobblestones shall be delivered, including off loading, to the lower lot at the Cesar Chavez Street Yard located at 2323 Cesar Chavez Street or at alternative location directed by the Department within the City of San Francisco. Contact the Department forty-eight hours (48 hours) prior to delivery. The Department can be reached at (415) 641-2627.
  - b. Granite Curb shall be neatly and securely placed on pallets so they can be moved about safely after delivery. The Contractor shall ensure that during transporting the granite curb to minimize damage. The length limit of recyclable granite curbs shall be no less than four feet.
  - c. Granite curb shall be delivered, including off loading, in the back lot at the Griffith Pump Station located at 1105 Thomas Street or at an alternative location directed by the Department within the City of San Francisco. Contact Bureau of Street and Sewer Repair (BSSR) at least forty-eight hours (48 hours) prior to delivery. BSSR can be reached at (415) 695-2087.
15. In consideration of this Permit being issued for the work described in the application, Permittee on its behalf and that of any successor or assignee shall on behalf of any lessee, promises and agrees to perform all the terms of this Permit and to comply with all applicable laws, regulations and regulations.
16. The Permittee agrees on its behalf and that of any successor or assign to hold harmless, defend, and indemnify the City and County of San Francisco, including, without limitation, each of its commissions, departments, officers, agents and employees (hereinafter collectively referred to as the "City") from and against any and all losses, liabilities, expenses, claims, demands, injuries, damages, fines, penalties, costs or damages, including, without limitation, attorneys' fees and costs (collectively, "claims") of any kind allegedly arising directly or indirectly from (i) the performance of the work authorized by this Permit, or while in or about the property subject to this Permit for any reason connected in any way whatsoever with the performance of the work authorized by this Permit, or allegedly resulting directly or indirectly from the maintenance or use of any equipment, facilities or structures authorized under this Permit, (ii) any accident or injury to any contractor or subcontractor, independent agent, or employee of either of them, while engaged in the performance of the work authorized by this Permit, or while in or about the property, for any reason connected with the performance of the work authorized by this Permit, or arising from liens or claims for work performed or labor or materials furnished in or for the performance of the work authorized by this Permit, (iii) injuries or damages to real or personal property, good will, and persons in, upon or in any way allegedly connected with the work authorized by this Permit from any cause whatsoever arising at any time, and (iv) any release or discharge, or threatened release or discharge, of any hazardous material caused or allowed by the Permittee in, under, on or about the property subject to this Permit or into the environment. As used herein, "hazardous material" means any substance, waste or material which, because of its quantity, concentration of physical or chemical characteristics is deemed by any Federal, state or local governmental authority to pose a present or potential hazard to human health or safety or to the environment.
17. The Permittee must hold harmless, indemnify and defend the City regardless of the alleged negligence of the City or any other party, except for claims resulting directly from the sole negligence or willful misconduct of the City. Permittee specifically acknowledges and agrees that the Permittee has an immediate and independent obligation to defend the City from any claim which actually or potentially falls within this indemnity provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to the City and continues at all times thereafter. Permittee agrees that the indemnification obligations assumed under this Permit shall survive the expiration of the Permit or completion of work.
18. The Permittee shall obtain and maintain through the terms of this Permit general liability, automobile liability or workers' compensation insurance to the City deems necessary to protect the City against claims for damages for personal injury, accidental death and property damage allegedly arising from any work done under this Permit. Such insurance shall in no way limit Permittee's indemnity hereunder.
19. The terms of insurance, in form and with insurers satisfactory to the City, evidencing all coverages above shall be furnished to the City before the start of any operations under this Permit, with complete copies of policies furnished promptly upon City request.
20. The permittee and any permitted successor or assign recognize and understand that this permit may create a possessory interest

# Special Conditions

## 1. Excavation

1.1. The Department of Public Works Excavation Code:

- 1.1.1. The depth shall be the standard restoration practice for all trenches greater than 18 inches in width. The restoration of the concrete curb and gutter shall be equal to 1 ft. as measured from the edge of the trench;
- 1.1.2. The standard pavement restoration requirements (mill and fill) for trenches exceeding 25% of the length of the block shall include the restoration of all affected lanes for the entire length of the block. For streets that are not delineated by painted lanes and the width of the street is less than thirteen (13) feet, the pavement restoration requirements (mill and fill) shall be for the entire length of the block (13 feet in width);
- 1.1.3. Pavement restoration in the intersection, the restoration shall be to pave all affected quadrants either with the 13 foot rule for streets without delineated traffic lanes unless it is on a Muni route and for streets with multiple delineated traffic lanes in one direction, the restoration shall be for the affected lane(s).

1.2. In accordance with specifications, all projects impacting the length of one (1) block face or more will require the installation of a project information sign, for the duration of the project. The project information sign should be located at either end of the project facing the direction of vehicular traffic. For larger projects that exceed five (5) blocks, the project information sign should be placed at five (5) block faces in both directions. The signage is intended to keep the public informed of the intent of the project, project schedule, contact information and allow for updates as needed.

1.3. If a curb, gutter or parking strip is excavated, SBC/Pacific Bell shall remove and replace the entire concrete section from the excavation to the next construction joint. (No new construction joint will be allowed).

1.4. When excavating in the sidewalk area, entire sidewalk flag(s) must be replaced to adjacent score lines.

1.5. The installation of any utility facilities within the curb return area is prohibited per DPW Order No. 175,387.

1.6. The Department of Public Works approves this permit pursuant to the following special conditions, which the Department of Public Works shall include into the permit and makes a part thereof.

### PERMIT CONDITIONS:

- 1.6.1. The excavation shall be approved for 45 day duration under the following conditions:
  - 1.6.1.1. The excavation to final paving shall be completed within fourteen (14) calendar days.
  - 1.6.1.2. SBC/Pacific Bell shall comply with Code Section 2.4.50(a), post and maintain notice(s) at the site of the excavation 72 hours prior to start of construction. If the work is anticipated to take longer than fourteen (14) calendar days, SBC/Pacific Bell shall comply with Code Section 2.4.50(b)(1), provide written notice(s) delivered by mail to each property owners on the block(s) affected by the excavation at least ten (10) days prior to start of construction. SBC/Pacific Bell shall also comply with Code Section 2.4.50(b)(ii) and (b)(iii), post and maintain notice(s) at the site of the excavation and deliver a written notice to each dwelling unit on the block(s) affected by the excavation at least ten (10) days prior to start of construction.
  - 1.6.1.3. SBC/Pacific Bell shall comply with Code Section 2.4.55(b)(i)(ii) and (iii), the 120-Hour Rule.
  - 1.6.1.4. SBC/Pacific Bell shall coordinate all work with other construction projects and events known or unforeseen such as to minimize the impact of construction project on the general public and/or event(s).
  - 1.6.1.5. SBC/Pacific Bell work shall be in accordance with DPT Blue Book or with any DPT approved traffic routing plans or DPT Special Traffic Plans.
- 1.6.2. SBC/Pacific Bell shall replace any existing traffic stripings and markings that are removed or damaged by the work activity with permanent stripings and markings after the restoration of the pavement as specified on Section 6.2 'Pavement Markings' of DPT's 'Blue Book'. SBC/Pacific Bell shall pay to DPT the cost of replacing the permanent pavement markings. For any questions, please call the contact person at DPT at (415) 701-4680.
- 1.6.3. SBC/Pacific Bell shall restore all trenches per the Excavation Code.
- 1.6.4. SBC/Pacific Bell shall remove all temporary pavement markings including USA marking on both the sidewalk and street at the completion of the excavation.
- 1.6.5. SBC/Pacific Bell shall construct curb ramps, if applicable, per Standard Curb Ramp Drawing Nos. CR-1 and CR-3, Revision 4 and CR-2, CR-4 thru CR-6, Revision 0 on any curb return/angular corner where excavation occurs. All curb ramp installation shall comply with ADA requirements.
- 1.6.6. Failure to comply with the above requirements may render this permit void and may subject SBC/Pacific Bell to a fine or citation.

# Repair Addresses

Project: J734

RW = RockWheel, SMC = Surface Mounted Cabinets, S/W = Sidewalk Work, DB = Directional Boring,  
 BP = Reinforced Concrete Bus Pad, UB = Reinforced Concrete for Utility Pull Boxes and Curb Ramps

Number of Trucks: 3    Total repair size: 172 sqft    Total Streetspace:    Total Sidewalk: sqft

Street Name	From St	To St	Sides	Other	Asphalt	Concrete	Street Space Feet	Sidewalk Feet
20TH ST	TEXAS ST	MISSOURI ST	South	RW : False SMC : False S/W Only : True DB: False BP: False UB: False	0	52		
MISSOURI ST	20TH ST	SIERRA ST	Both	RW : False SMC : True S/W Only : False DB: False BP: False UB: True	40	73		
	20TH ST	Intersection	South	RW : False SMC : False S/W Only : True DB: False BP: False UB: False	0	7		
					40	80		

# Descriptions

1739

Address	Project	Message	Job	Contact	Dates
MISSOURI ST	Intersection	Conflict with existing Street Use Permit.	13B-0125	(415) 431-2950 - (415) 431-2950	Nov 13 2013-Jun 30 2014
MISSOURI ST	Intersection	Conflict with existing excavation permit. It is mandatory that you coordinate all work for joint paving.	13EXC-5401	Juan Perez (415) 760-8744 - Juan Perez (415) 760-8744	Nov 11 2013-
TEXAS ST	MISSOURI ST -	Conflict with existing excavation permit. It is mandatory that you coordinate all work for joint paving.	13EXC-5401	Juan Perez (415) 760-8744 - Juan Perez (415) 760-8744	Nov 11 2013-
MISSOURI ST	Intersection	Proposed Excavation.	AT&T - Construction and Engineering	Paul Lucq	Nov 14 2014-Feb 11 2015
TEXAS ST	MISSOURI ST -	Banners are allowed on this street	N/A		
MISSOURI ST	Intersection	Proposed Paving.	PAVING	Edmund Lee -	Jul 1 2014-Jun 30 2015
TEXAS ST	MISSOURI ST -	Sidewalk Paving to be done by SIRP Process	SIRP Work Order	Empire Engineering & Construction Co.	
MISSOURI ST	Intersection	Prior to performing any construction, all CCSF survey monuments shall be referenced by a licensed Land Surveyor on a Corner Record or a Record of Survey, if any construction will take place within 10ft of the monument. For any questions, please call Mapping at #554-5827	Stone or Concrete Monument		
TEXAS ST	MISSOURI ST -	Prior to performing any construction, all CCSF survey monuments shall be referenced by a licensed Land Surveyor on a Corner Record or a Record of Survey, if any construction will take place within 10ft of the monument. For any questions, please call Mapping at #554-5827	Stone or Concrete Monument		
20TH ST	SIERRA ST -	Conflict with existing Street Use Permit.	11IE-0600	Refer to Agent - Refer to Agent	
20TH ST	SIERRA ST -	Conflict with existing Street Use Permit.	12MSE-0041	Refer to Agent - Refer to Agent	
20TH ST	Intersection	Conflict with existing Street Use Permit.	13B-0125	(415) 431-2950 - (415) 431-2950	Nov 13 2013-Jun 30 2014
20TH ST	Intersection	Conflict with existing excavation permit. It is mandatory that you coordinate all work for joint paving.	13EXC-5401	Juan Perez (415) 760-8744 - Juan Perez (415) 760-8744	Nov 11 2013-

QUALITY OF LIFE IN SAN FRANCISCO\* We are dedicated individuals committed to teamwork, customer service and continuous improvement in partnership with the community.

Customer Service

Teamwork

Continuous Improvement



Address	Location	Description	Job	Contact	Dates
21TH ST	SIERRA ST -	Conflict with existing excavation permit. It is mandatory that you coordinate all work for joint paving.	13EXC-5401	Juan Perez (415) 760-8744 - Juan Perez (415) 760-8744	Nov 11 2013-
20TH ST	SIERRA ST -	Conflict with existing Street Use Permit.	13MSE-0324	Refer to Agent - Refer to Agent	
20TH ST	SIERRA ST -	Conflict with existing Street Use Permit.	13SMF-0408	Refer to Agent - Refer to Agent	
21TH ST	SIERRA ST -	Conflict with existing Street Use Permit.	14MFF-0100	Refer to Agent - Refer to Agent	May 19 2014-Mar 15 2015
20TH ST	SIERRA ST -	Sidewalk Repair scheduled	14SWR-0696	Eljio F. Gomez - (415) 822-4130	Jul 18 2014-Aug 17 2014
20TH ST	Intersection	Proposed Excavation.	AT&T - Construction and Engineering	Paul Lucq -	Nov 14 2014-Feb 11 2015
21TH ST	SIERRA ST -	Proposed Excavation.	AT&T - Construction and Engineering	Paul Lucq -	Nov 14 2014-Feb 11 2015
21TH ST	SIERRA ST -	Banners are allowed on this street	N/A		
21TH ST	Intersection	Proposed Paving.	PAVING	Edmund Lee -	Jul 1 2014-Jun 30 2015
21TH ST	SIERRA ST -	Proposed Paving.	PAVING	Edmund Lee -	Jul 1 2014-Jun 30 2015
20TH ST	SIERRA ST -	Sidewalk Paving to be done by SIRP Process	SIRP Work Order	Empire Engineering & Construction Co.	
21TH ST	Intersection	Prior to performing any construction, all CCSF survey monuments shall be referenced by a licensed Land Surveyor on a Corner Record or a Record of Survey, if any construction will take place within 10ft of the monument. For any questions, please call Mapping at #554-5827	Stone or Concrete Monument		

**Stamps**

Address	Location	Permit Type	Direction	
21TH ST	MISSOURI ST -	Intersection	55,017, Rev.3 (A) - L - Standard	NorthEast
21TH ST	MISSOURI ST -	Intersection	55,017, Rev.3 (A) - L - Standard	SouthEast
21TH ST	MISSOURI ST -	Intersection	55,017, Rev.3 (A) - R - Standard	SouthEast
21TH ST	MISSOURI ST -	Intersection	55,017, Rev.3 (A) - R - Standard	SouthWest

**BOARD OF APPEALS**  
**JUL 14 2014**  
**APPEAL # 14-135**

# Appeal #14-135: Brennan vs DPW-BSM for 501 Missouri Street, Permit #14EXC-3764

Appellant Brief – 8/20/14

This appeal protests the Department of Public Works (DPW) excavation permit #14EXC-3764 granted to AT&T for a surface-mounted facility (SMF) at 502 Missouri Street. I request that the Board of Appeals overturn the excavation permit. I also ask the Board to recommend that AT&T plan and implement a thorough alternatives design process before submitting another permit application in this area.

The permit for 501 should be overturned because (1) AT&T did not implement an adequate process to develop and evaluate alternative locations and mitigation, (2) AT&T implemented a flawed permit process for the 501 Missouri Street location, and (3) the 502 Missouri Street location has several deficiencies relative to other possible locations.

The lack of a thorough consideration of alternatives was recognized by DPW in its review of AT&T's prior proposed location for this intersection. DPW denied AT&T's permit application for 502 Missouri Street (#13SMF-0007) because AT&T did not comply with DPW's request for a study of alternative locations (DPW Order #181699). AT&T did not rectify this lack of alternatives study before submitting its permit application for 501 Missouri Street (#13SMF-0408) that led to the currently contested excavation permit. Instead, AT&T merely changed location to 502 Missouri Street, which has its own deficiencies. By implementing the permit process in a flawed manner, the deficiencies were obscured from the community and DPW, leading to the approval of the permit. The deficiencies of the 501 Missouri Street location include a narrow sidewalk, proximity to school crosswalk, head-in parking, and a lack of screening options. For these reasons, multiple neighbors besides myself oppose the 501 Missouri Street location.

The next three sections of this appeal elaborate on these three primary objections to excavation permit #14EXC-3764. In the fourth section, I discuss some broader issues with the AT&T SMF program. The last section describes the actions I am requesting of the Board of Appeals.

## **Inadequate Process to Develop and Evaluate Location Alternatives**

AT&T's 2011 Memorandum of Understanding (MOU) clarifying its process for installing SMFs states that "AT&T will work with the city, community organizations, neighborhood associations, and residents to determine the best locations for potential cabinets and will not build locations [sic] where there is significant opposition to the placement of additional cabinets." In addition, DPW Order #175566, which applies to all SMF permits, describes a process whereby the applicant, guided by input from DPW, considers and prioritizes among several locations.

However, for the SMF proposed for 501 Missouri Street, AT&T has not engaged with the community and DPW in a meaningful and responsive manner. Instead, they selected and then poorly described the first location at 502 Missouri, faced considerable opposition from the community, ignored DPW's request to study alternative location, and therefore had the 502 Missouri Street permit denied. Without taking any additional steps to rectify the inadequate alternatives process, AT&T then proposed the 501 Missouri Street location. This location has similar characteristics to the factors that caused opposition to the 502 Missouri Street location and, because the sidewalk is narrower, will cause several additional impacts, as discussed in the section below.

From the start at the 502 Missouri Street location, AT&T appears to have selected locations primarily based on proximity to its existing infrastructure and without input from DPW or the community. For example, no Department Site Visit (DPW Order #175566, Section 3A-B) was conducted by DPW and AT&T, even though multiple objections were raised as to the location.

In addition to not soliciting input from the community, AT&T's representation of the SMF in the 502 Missouri Street Notice of Intent is incorrect to the point of misinforming the public. In the mock-up photo included in the Notice, the SMF appears to be north of the PG&E manhole (attached as Exhibit A-1). In this representation, the SMF appears to be less than 40" from the 20th Street street sign, less than 5 ft from the crosswalk, and in the pedestrian clear zone, all of which are in violation of DPW Order #175556's Exhibit B. In contrast, the permit's application drawings and mock-up photos from other angles more clearly show the SMF located approximately 30 ft further south, where it would be much less obtrusive (attached Exhibits A-2 and A-3). However, these permit materials were not made readily available to the community. Many of the comments objecting to this location were related to the SMF obscuring the views of drivers near a school cross walk, which is quite understandable from the Notice picture (attached Exhibit A-1). This poor project description is indicative of AT&T not conducting a thorough alternatives selection process.

In response to the community comments, the hearing, and its own review of the 502 Missouri Street permit, "the [DPW] hearing officer requested AT&T to present a report to the hearing officer to determine and identify other locations that can be considered in place of 502 Missouri Street. ... On September 24, 2013, 30 days after the hearing officer requested AT&T to provide a report, ***no report was rendered by AT&T***" (DPW Order #181699, attached below as Exhibit B).

After having the 502 Missouri Street permit rejected because of community objections and inadequate consideration of alternative locations, there is no evidence indicating that AT&T then conducted a thorough alternatives study. Instead, they merely allowed public attention to disperse, and then re-submitted at the adjacent, but less desirable 501 Missouri Street location without addressing the concerns raised by the 502 Missouri Street location. Similar to a child who asks the second parent when

the first parent says 'no', AT&T hopes to meet its needs by re-proposing with an information deficiency rather than practicing good planning and decision making.

AT&T's neglect in considering potential alternative locations is not for a lack of possible locations. During a brief site walk on May 8, 2014, representatives from AT&T, DPW, and the community (including myself), rapidly identified three alternative locations to the 501 Missouri Street location: (1) the Daniel Webster SFUSD property, (2) within the existing planter further south than the original 502 Missouri Street location, and (3) the north side of 20th Street mid-way between Missouri Street and Texas Street. With some more time and research about the siting requirements, I believe up to six possible locations could be readily identified. At the time of the site walk, neither the AT&T representatives nor DPW staff identified any obvious reasons that the three alternatives were infeasible. AT&T staff did note the need to check other factors, such as SFUSD cooperation and the location of existing underground utilities. The AT&T staff said they would evaluate the alternatives and let us know of their findings. However, AT&T did not provide the requested consideration of alternative locations and instead moved forward with their proposed 501 Missouri location.

## **501 Missouri Street Permit Process Issues**

When reviewing and participating in the 501 Missouri Street permit (#13SMF-0408), I noticed deficiencies with the AT&T's implementation of the SMF permitting process described in DPW Order #175566 and AT&T's 2011 MOU. Particularly when considered in aggregate, this list of deficiencies indicates an incomplete and flawed permitting process for the 501 Missouri Street location. The deficiencies are:

- 1) **Contact with private property owners** (Permit application #13SMF-0408's Exhibit A-2c, attached as Exhibit C-1):
  - a) Two of the contacts listed with property within 300 ft of the Missouri Street and 20th Street intersection were contacted as part of the 502 Missouri Street application and no additional effort was made to contact them again or select alternative private property owners since these owners had not replied to the previous inquiry.
  - b) San Francisco Unified School District is listed as a new contact for this permit. However, there is no indication that AT&T made any effort beyond a single letter to the district office. For instance, there is no evidence that AT&T contacted any members of the staff at the Daniel Webster campus.
  - c) In addition to the three locations listed above which are within the AT&T's stated requirement of within 300 ft from the existing cross connect box at the Missouri Street and 20th Street intersection (<http://ipnetwork4sf.att.com/our-plan/>), there are two locations listed near Wisconsin Street and 22nd Street: a City Fire House and a City water supply facility. I commend AT&T for seeking additional public property to locate the SMF. However, these locations are more than 1,200 ft from the cross connect box. Therefore, either these locations are not viable according to AT&T's own technical requirements (and included in the application to give the appearance of seeking other locations) or AT&T's technical requirement could allow them to use a location further than 300 ft away from the cross connect box. AT&T should clarify which of these two situations applies.
- 2) **Notification of Intent:** The notification list provided by AT&T (Permit application #13SMF-0408's Exhibit MOU-1, attached as Exhibit C-2) does not include addresses from the 1400 block of 20th Street, which is the block between Missouri Street and Texas Street. All of this block is within 300 ft

of the proposed 501 Missouri Street location, but is not listed as being notified. In addition, notification of neighborhood organizations (Permit application #13SMF-0408's Exhibit C-1b, attached as Exhibit C-3) did not include the Daniel Webster School community, such as the Daniel Webster PTA, even though many of the objections to the prior 502 Missouri Street location were related to the safety of Daniel Webster students using the 20th and Missouri Street cross walk.

- 3) **Alternative locations:** As discussed in detail in the previous section, the proposed 501 Missouri Street location does not address many of the issues raised in comments on the 502 Missouri Street proposal, nor is any additional rationale provided for why the 501 Missouri Street location was selected as compared to other possible locations.
- 4) **Department Site Walk:** A Department Site Visit was not conducted by DPW. During a Site Visit, DPW is supposed to review additional locations and provide guidance on location prioritization (DPW Order #175566, Section 3A-B). However, even though the DPW hearing officer at the 502 Missouri Street hearing felt that an alternatives study was warranted (DPW Order #181699, attached as Exhibit B), AT&T and DPW inexplicably agreed that a Site Walk was not necessary for this second permit.
- 5) **Department of Public Works Hearing:** Written comments submitted by 5/16/14 in advance of the 5/19/14 hearing appear to have been discounted. As per directions included in the hearing agenda (DPW Order #182530), these comments were submitted by concerned residents who could not attend the hearing. However, in its tracking documentaion, DPW deemed these comments to be 'late' (see attached Exhibit C-4). These comments were then discarded and are no longer available for public review (personal communication, Frank Lee, Executive Assistant to the Director of Department of Public Works). As noted by the DPW staff who presenteded at the hearing, 31 people submitted objections to the 501 Missouri Street location. The DPW staff noted that many of these

objections were from the same people citing the same objections to the earlier 502 Missouri Street location. Since that permit was denied, due in part to resident objections, it is not clear why the 501 Missouri Street permit was approved when it faced similar resident objections. In the Hearing Determination (DPW Order #182690) these 31 objections are mis-characterized as signatures on a petition. However, as noted above, the DPW staff presenting at the hearing clearly stated that these were separate objections, not merely signatures on a petition (as indicated in attached Exhibit C-4).

## **501 Missouri Street Location Issues**

In addition to the inadequate alternatives assessment and the permitting process described in the preceding two sections, the 501 Missouri Street location has several issues in relation to the objectives that an SMF “will have less of an impact on the convenience and necessities of property owners and occupants in the immediate vicinity of the Surface-Mounted Facility” (DPW Order #175566). Several of these issues are similar to those for the rejected 502 Missouri Street location, making it unclear why that permit was rejected (DPW Order #181699, attached as Exhibit A) and the 502 Missouri Street location has been approved (DPW Order #182690 and Permit #14EXC-3764). In fact, because of the narrower sidewalk at the 501 Missouri Street location, the 501 Missouri Street location has additional issues when compared to the 502 Missouri Street location:

- 1) Like the 502 Missouri Street location, the proposed 501 Missouri Street location is adjacent to SFUSD's Daniel Webster elementary school. This intersection experiences high traffic by children and families commuting to and from school, such that it warrants monitoring by a SFUSD crossing guard. Because of this high level of pedestrian traffic, particularly many children pedestrians who may be obscured by the SMF from drivers at the intersection, AT&T should make additional effort to locate the SMF as far from the intersection as possible.



- 2) The sidewalk at 501 Missouri Street is only 10 ft wide. As such, the proposed SMF would fill a large section of sidewalk.
- 3) The degree to which the proposed SMF would fill the sidewalk is not accurately represented in the permit and NOI photographs of the SMF mock-up because:
  - a) The NOI photograph is perpendicular to the sidewalk, and hence does not show the impact of the SMF on narrowing pedestrian clearance (see attached Exhibit C-5)
  - b) The SMF needs to be 18" from the curb and is 26" wide, for a total of 44". The first sidewalk joint in the permit photograph is 41" from the curb (see attached Exhibit C-6). However, the SMF is shown as not overlapping this sidewalk joint. Hence, the SMF portrayed in the application photographs is not to scale.
  - c) The stanchions, which AT&T has installed at numerous of its exiting SMFs that are close to the curb, are not shown in either the permit photographs or the design drawings. At other locations, AT&T has put these stanchions closer than 18" to the curb face (see attached Exhibit D-1), which seems to violate the requirements of DPW Order #175566's Exhibit B.
  - d) Since this portion of Missouri Street is head-in parking (see attached Exhibit C-5), stanchions within the 18" setback will interfere with parking. As can be seen in the permit photograph (attached Exhibit C-5), parked car would need to park further from the curb or impinge upon the SMF. As such, the stanchions should be setback at least 18" from the curb face.
  - e) The mock-up photographs do not include the concrete pad which is needed as a footing under the SMF. The AT&T SMF recently installed nearby on Pennsylvania Street has its pad extending 2" from the SMF on the curb side and 8" on the sidewalk side (see attached Exhibit D-1).
  - f) In order for the stanchions to be 18" from the curb face, the SMF needs to be shifted 6" further from the curb. If the spacing from the pad is also added, then the total width of the intrusion into

the sidewalk is 58" (18" setback + 4" stanchion allowance + 2" pad + 26" SMF + 8" pad). This is nearly half of the 10 foot (120") width of the sidewalk in this location. While the remaining walkway of 62" does exceed the required pedestrian clearance of 48", it only just meets this requirement.

- 4) Because of the narrow sidewalk, the options for mitigating the visual impacts of the SMF with screening are very limited.

### **Additional Comments on AT&T's City-wide SMF Program and Permitting Process**

On their own, I believe the prior sections provide sufficient justification for the Board to overturn AT&T's excavation permit. In addition to those specific issues with the 502 Missouri Street permit, I would like the Board to consider the larger context of AT&T's City-wide SMF program and permitting process. As I am sure the Board is well-aware, since its schedule has been choked with numerous AT&T SMF permit reviews, AT&T's program is garnering opposition across the City. This opposition is indicative of flawed project goals, implementation, and permitting for which AT&T should bear responsibility.

AT&T's SMF program was exempted from the CEQA process. I realize that this issue has been already been discussed, contested, and decided in the political and judicial spheres. As such, it is beyond the Board's purview to address this larger issue. However, the Board should consider that AT&T decided to seek exemption for programmatic CEQA environmental review, which set the stage for the frequent opposition to each individual SMF permit. As such, they are reaping the consequences of their own programmatic permitting strategy. Even if the process has not gone smoothly for them City-wide or at this particular location, where the contested permit is their second attempt, they should not be allowed

to circumvent the general DPW SMF process (DPW Order #175566) or their own 2011 MOU. They are resting in a bed of their own making.

Rather than obfuscate public participation, AT&T should pursue a more open stance with the public. For example, AT&T's website, <http://ipnetwork4sf.att.com/>, should include all permits and supporting materials to facilitate public participation in the SMF permit process. Instead, the map which lists SMF locations is hosted by the City and the City Public Request Process must be implemented to obtain documents. Instead of the City bearing the associated costs, AT&T should be responsible for the costs of gathering and providing information to the public. City staff should intermittently review this website's materials to ensure that AT&T complies.

While AT&T has claimed there are technical limitations to placing its equipment underground, we are in an age when electrical equipment is being made ever smaller, requiring lower power (and therefore generating less heat), and more durable. Instead of taking an active role to push for newer technology, AT&T's permit merely mentions a failed underground facility experiment from the 1970's. If a failed experiment from four decades ago is their best evidence, it does not seem they are trying very hard. AT&T installs thousands of these cabinets throughout the country and as such, should have the resources to work with its engineers and equipment suppliers to address this design problem.

Before this issue of the AT&T SMF on my block arose, I dropped my AT&T Internet service in favor of a local Internet Service Provider that provides faster connection speeds, better service, and a lower price. This service uses wireless connections to our house, which only requires a small antennae placed on our roof. As such, the connection is wholly within the private space, where it is nearly invisible, and not the public space, where it will impact numerous sidewalk users. So AT&T's broader approach, of a wired network, may not be the best way to provide high-speed internet throughout the City.

In light of this broader context, both technical and from other companies, AT&T has not demonstrated why it should receive preferential use of the public space. While I can vote with my pocketbook by selecting a different ISP, my only route for preserving the quality of our City's public space is now the Board of Appeals. As such, I urge to Board to overturn AT&T's excavation permit 14EXC-3764.

## **Requested Actions**

**Action 1:** In light of the reasons laid out in the preceding sections, I request that the Board of Appeals overturn 501 Missouri Street excavation permit #14EXC-3764.

**Action 2:** In addition, given AT&T's prior lack of cooperation in conducting a study of alternative locations, I request that the Board provide guidance as to what such a study should entail. Otherwise, AT&T may once again avoid its responsibilities under its 2011 MOU at a site that clearly has elevated levels of public concern. Conducting such a study is consistent with DPW's request when denying a permit for the 501 Missouri Street location (DPW Order #181699). The study should cover the following steps:

1. Develop list of metrics to evaluate alternatives. A preliminary list of metrics to consider includes: % of sidewalk blocked, reduction of driver sight lines at the Missouri Street and 20th Street intersection, feasibility of mitigation options, proximity to building features such as doors, impact to pedestrian safety, and impact to parking
2. Consider at least four alternatives which are viable under DPW design requirements and AT&T engineering requirements. If four alternatives which meet DPW and AT&T design requirements cannot be found, AT&T should document that at least six locations were considered and why three or more of the locations do not meet DPW or AT&T design criteria

3. Provide the list of metrics and a summary of the four alternative descriptions (or feasible and infeasible alternatives if fewer than four are identified) to neighbors within 300' and collect written comments
4. Revise the metrics and alternatives in response to comments
5. Evaluate the revised alternatives in relation to the metrics
6. Hold a meeting to present the revised alternatives and evaluation of the alternatives
7. Based on public input, select preferred alternative
8. Notify public of preferred alternative and allow public comments
9. Revise the preferred alternative based on public comments
10. Submit revised preferred alternative to DPW for excavation permit

**Action 3:** Consistent with AT&T's commitment to "reimburse time and materials for the City's review and processing of Lightspeed permits" (AT&T 2011 MOU, Section IIC), I ask the Board to recommend that if the Board overturns this AT&T SMF permit, that AT&T also reimburse me, a resident of the City, for the Board of Appeals filing fee of \$300. This reimbursement would only cover the materials portion of my effort; I consider my time donated on behalf of my neighbors and City residents who use the sidewalk.

# Exhibit A: Materials from #13SMF-0007 Permit for 502 Missouri Street

Exhibit A-1: #13SMF-007 Notice of Intent

Exhibit A-2: #13SMF-0007's Exhibit F-b: Site Drawing

Exhibit A-3: #13SMF-0007's Exhibit F-c: Site Photo



795 Folsom Street, Room 426  
San Francisco CA 94107-1243

**OFFICIAL NOTICE—DO NOT REMOVE DPW Order 175,566**

## IMPORTANT NOTICE CONCERNING YOUR RIGHTS

SF05-515506-8856397-33B

13SMF-0007

Date: **April 10, 2013**

Dear San Francisco Resident:

AT&T California is filing an application with the San Francisco Department of Public Works (DPW) for a permit to install an **electronics cabinet with attached electric power panel** at the following proposed location: **502 Missouri St**. A photograph of the Surface Mounted Facilities (SMF) in the proposed location and the specifications for the SMF are shown below.

**This cabinet will provide the latest telecommunications technology offering high-speed internet access and advanced digital television and entertainment services, which will be fed by fiber-optic cable to this new neighborhood hub.**

Objection to the installation of the SMF at any of the proposed locations must be submitted in writing via e-mail to [smf@sfdpw.org](mailto:smf@sfdpw.org), by mail to the **Department of Public Works, Bureau of Street-Use and Mapping, 1155 Market Street, 03<sup>rd</sup> Floor, San Francisco, California 94103-0942** or by fax to **(415) 554-6161**. You have 20 days from the date of this notice to send written notice of your objection to DPW. DPW will not consider any objection unless it is made within this 20-day period.

If you submit an objection, DPW may convene a hearing to determine whether the permit for placement of the SMF should be issued. DPW will commence any such hearing within 40 days after the receipt of any objections. You will have the opportunity to express your concerns about the SMF at the hearing should you choose to attend.

The new cabinet is 59 inches wide, 48 inches tall and 26 inches deep.



For more information, please visit: [www.att.com/ipnetwork4sf](http://www.att.com/ipnetwork4sf)

Last date to file an objection: **April 30, 2013**

(PW=415)

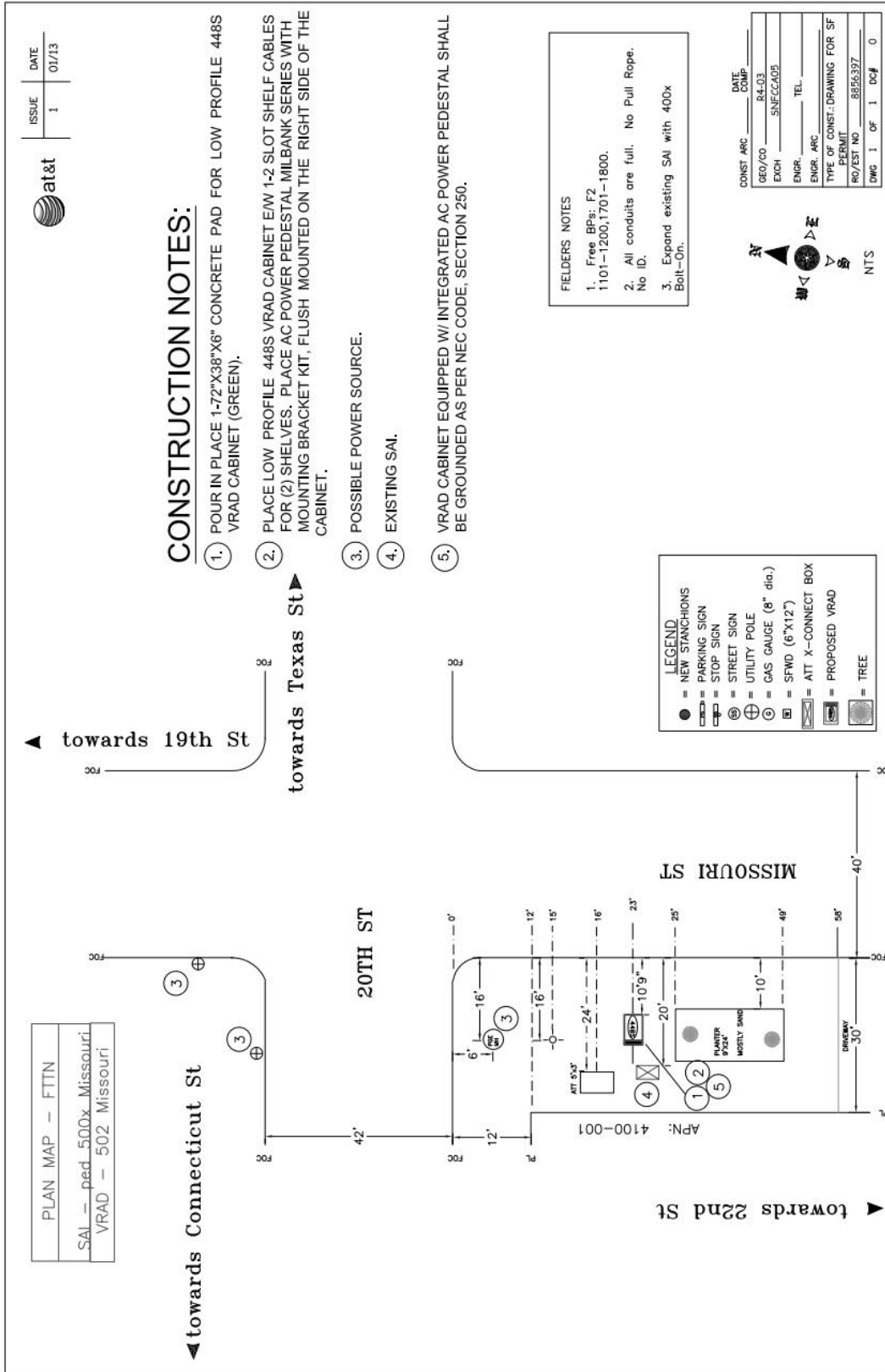




Exhibit A-3: #13SMF-0007's Exhibit F-c: Site Photo



Looking west across Missouri Street, toward the proposed location. 20<sup>th</sup> St is on the right, to the north.

Exhibit B: DPW Order #181699  
Director's Decision Regarding AT&T  
California's Request to Install a Surface  
Mounted Facility in the Vicinity of  
502 Missouri Street (13SMF-0007)



**Edwin M. Lee, Mayor**  
**Mohammed Nuru, Director**



**Jerry Sanguinetti, Bureau Manager**

## DPW Order No: 181699

DIRECTOR'S DECISION REGARDING AT&T CALIFORNIA'S REQUEST TO INSTALL A SURFACE MOUNTED FACILITY IN THE VICINITY OF **502 Missouri Street (13SMF-0007)**

**APPLICANT:** AT&T CALIFORNIA  
795 Folsom Street, #426  
San Francisco, Ca 94107

**DESCRIPTION OF REQUEST:** Surface Mounted Facility Installation

### BACKGROUND:

1. **On January 16, 2013**, the applicant (AT&T California) filed an application with the Department of Public Works (DPW) to install a Surface Mounted Facility (SMF) at the above referenced location. If approved, the applicant will file for an excavation permit to install the SMF.
2. **On April 10, 2013**, the applicant mailed and posted Notices of Intent to all businesses and residences within a 300-foot radius of the subject location.
3. DPW received **twenty-eight (28)** objections to the application during the 20 day notification period. DPW subsequently scheduled a public hearing to consider testimony received for this site. The objections include:
  - a. The SMF cabinet is next to an elementary school and the SMF will reduce visibility during pick up and drop off periods.
  - b. The SMF cabinet increase sidewalk clutter.
  - c. The SMF cabinet only benefits AT&T customers.
  - d. The SMF cabinet can cause health and radiation concerns.
  - e. The SMF cabinet is a crime and graffiti magnet, it is aesthetically unpleasant and reduces property values.
4. **On August 14, 2013**, DPW Hearing Officer **Kevin Day** conducted a hearing on the application to consider testimony regarding the subject SMF.
5. At the hearing, Lynn Fong of DPW presented a summary of the permit application stating that the applicant was in compliance with Article 2.4 of the Public Works Code and DPW Order No. 175,566.
6. At the hearing, two (2) persons testified at the hearing in opposition to the proposed installation of the SMF in the vicinity of **502 Missouri Street**. The objections included:



- a. The SMF cabinet will attract graffiti and other maintenance issues.
  - b. There is already an existing cabinet nearby, in addition to the other existing street furniture. It is unfair to place the cabinet in this location due to the existing and abundant street furniture.
  - c. The SMF cabinet will decrease public safety.
  - d. There are ample opportunities to place the box at other public locations, such as the elementary school. For example, there is ample location at the nearby Daniel Webster Elementary school and AT&T should attempt to locate the box on this public property.
  - e. The three other curb returns at the intersection should be evaluated and considered as alternate locations.
  - f. AT&T should not place cabinets in neighborhoods do not want the cabinets.
7. At the hearing, Ms. Tedi Vriheas, AT&T, stated that this SMF application complies with State rules and regulations, ADAAG, and Departmental SMF Order 175,566. Ms. Vriheas also stated that a box walk was conducted on **June 10, 2013** and 4 community members attended the box walk. At the box-walk meeting, AT&T discussed underground options. In addition, AT&T has tried to place the cabinet within the San Francisco Unified School District property; however, no one has returned AT&T's request. Ms. Vriheas stated that the proposed location is next to the current SAI box and that it can be successfully integrated into the surrounding greenery. The other location that was proposed by the box walk participants does not integrate the cabinet as effectively as the current proposed location. Ms. Vriheas has requested on behalf of AT&T California that DPW approve the application.

**RECOMMENDATION: DISAPPROVE the request to locate Surface Mounted Facility 13SMF-0007 in the vicinity of 502 Missouri Street.**

#### **FINDINGS:**

1. The Hearing Officer reviewed the application, the other materials from DPW's files, the objections, additional materials submitted by the applicant and persons protesting the application, and the testimony at the hearing.
2. On August 25, 2013, the Department informed AT&T that the hearing officer requested AT&T to present a report to the hearing officer to determine and identify other locations that can be considered in place of 502 Missouri Street. Furthermore, the hearing officer would like a copy of the letter that has been sent to the San Francisco Unified School district (SFUSD) requesting permission to place the SMF within the SFUSD property.
3. On September 24, 2013, 30 days after the hearing officer requested AT&T to provide a report, no report was rendered by AT&T. As a result, the hearing officer proceeded with making a recommendation for this site.
4. The Hearing Officer has reviewed the objections for this site and has based his recommendation on whether the applicant could install the Surface Mounted Facility in other acceptable locations (in accordance with Exhibit B) that are preferable to any of the proposed locations because use of such other acceptable locations will have less of an impact on the convenience and necessities of the property owners and occupants in the immediate vicinity of the Surface Mounted Facility (SMF). The objections placed for this site suggest alternate locations that may have less of an impact on the convenience and necessities of the property owners in the immediate vicinity of the SMF including nearby corners of Missouri and 20<sup>th</sup> Streets.



5. The Director of Public Works has reviewed the Hearing Officer's recommendation. The Director of Public Works hereby adopts the hearing officer's recommendation.

**APPEAL PROCESS:** This decision may then be appealed to the Board of Appeals within fifteen (15) calendar days of DPW's issuance of an Excavation Permit to install surface mounted facilities **13SMF-0007**. The Board of Appeals is located at 1650 Mission Street, Suite 304. To obtain further information regarding the appeal process, you can contact the Board of Appeals at 415-575-6880. You can also visit the Board of Appeals website at: <http://www.sfgov3.org/index.aspx?page=763>

10/3/2013

X



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Sanguinetti, Jerry  
Bureau Manager

10/3/2013

X



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Sweiss, Fuad  
Deputy Director and City Engineer

10/3/2013

X

Mohammed Nuru

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Nuru, Mohammed  
Director, DPW



# Exhibit C: Materials from #13SMF-0408 permit for 501 Missouri Street

Exhibit C-1: #13SMF-0408's Exhibit A-2c

Exhibit C-2: #13SMF-0408's Exhibit MOU-1

Exhibit C-3: #13SMF-0408's Exhibit C-1b

Exhibit C-4: #13SMF-0408 Public Comment Tracking Worksheet

Exhibit C-5: #13SMF-0408's Notice of Intent

Exhibit C-6: #13SMF-0408 Exhibit F-c Site Photo



SAN FRANCISCO - Job #						
A	D	E	F	G		
1	APN	Owner Names	Mail Care Of Name	Mail Address	Mail City/State/ZIP	
2		RESIDENT		465 MISSOURI ST	SAN FRANCISCO CA 94107	
3	4066-006	SAN FRANCISCO UNIFIED SCHOOL D		25 VAN NESS AVE #400	SAN FRANCISCO CA 94102-6051	
4	4067-009A	[REDACTED]		466 MISSOURI ST	SAN FRANCISCO CA 94107-2827	
5		RESIDENT		1500 20TH ST	SAN FRANCISCO CA 94107-2809	
6		RESIDENT		1502 20TH ST	SAN FRANCISCO CA 94107-2809	
7		RESIDENT		1504 20TH ST	SAN FRANCISCO CA 94107-2809	
8	4067-010	LISA M FIORE-ROCHE	FIORE & CO	510 MISSION ST	SAN FRANCISCO CA 94105-2904	
9		RESIDENT		1506 20TH ST	SAN FRANCISCO CA 94107-2809	
10	4067-011	[REDACTED]		1508 20TH ST	SAN FRANCISCO CA 94107-2809	
11		RESIDENT		1512 20TH ST	SAN FRANCISCO CA 94107-2809	
12	4067-012	HUDAHARRAH HOLDINGS		701 CAROLINA ST	SAN FRANCISCO CA 94107-2701	
13		RESIDENT		1518 20TH ST	SAN FRANCISCO CA 94107-2809	
14	4067-013	HUDAHARRAH HOLDINGS		701 CAROLINA ST	SAN FRANCISCO CA 94107-2701	
15		RESIDENT		1524 20TH ST	SAN FRANCISCO CA 94107-2809	
16		RESIDENT		1542 20TH ST	SAN FRANCISCO CA 94107-2809	
17	4067-014	[REDACTED]		[REDACTED]	SAN ANSELMO CA 94960-1415	
18		RESIDENT		1528 20TH ST	SAN FRANCISCO CA 94107-2809	
19	4067-032	[REDACTED]		1530 20TH ST	SAN FRANCISCO CA 94107-2809	
20		RESIDENT		1501 A 20TH ST	SAN FRANCISCO CA 94107-2808	
21		RESIDENT		508 MISSOURI ST	SAN FRANCISCO CA 94107-2808	
22	4100-001	[REDACTED]		1501A 20TH ST	SAN FRANCISCO CA 94107-2808	
23		RESIDENT		510 MISSOURI ST #510	SAN FRANCISCO CA 94107-2837	
24	4100-002	[REDACTED]		510 MISSOURI ST	SAN FRANCISCO CA 94107-2837	
25	4100-003	[REDACTED]		512 MISSOURI ST	SAN FRANCISCO CA 94107-2837	
26		RESIDENT		514 MISSOURI ST	SAN FRANCISCO CA 94107-2837	
27	4100-003C	[REDACTED]		514A MISSOURI ST	SAN FRANCISCO CA 94107-2837	
28		RESIDENT		516 MISSOURI ST	SAN FRANCISCO CA 94107-2872	
29		RESIDENT		516 MISSOURI ST #A	SAN FRANCISCO CA 94107-2872	
30		RESIDENT		516 MISSOURI ST #B	SAN FRANCISCO CA 94107-2872	
31	4100-004	[REDACTED]		516 MISSOURI ST #C	SAN FRANCISCO CA 94107-2872	
32	4100-004A	[REDACTED]		518 MISSOURI ST	SAN FRANCISCO CA 94107-2837	
33	4100-004C	[REDACTED]		550 MISSOURI ST	SAN FRANCISCO CA 94107-2837	
34		RESIDENT		501 CONNECTICUT ST	SAN FRANCISCO CA 94107-2832	
35	4100-030B	TIMBERLY E HUGHES 1999 REVOC T	[REDACTED]	503 CONNECTICUT ST	SAN FRANCISCO CA 94107-2832	
36		RESIDENT		1521 20TH ST #A	SAN FRANCISCO CA 94107-2808	



SAN FRANCISCO - Job #

Group	A	D	E	F	G
	APN	Owner Names	Mail Care Of Name	Mail Address	Mail City/State/ZIP
1	37 4100-032	[REDACTED]		1521 20TH ST	SAN FRANCISCO CA 94107-2808
38	4100-033	[REDACTED]		1505 20TH ST	SAN FRANCISCO CA 94107-2808
39		RESIDENT		1503 20TH ST	SAN FRANCISCO CA 94107-2808
40	4100-034	[REDACTED]		1505 20TH ST	SAN FRANCISCO CA 94107-2808
41	4100-086	[REDACTED]		1527 20TH ST	SAN FRANCISCO CA 94107-2808
42	4100-087	[REDACTED]		1529 20TH ST	SAN FRANCISCO CA 94107-2808
43	4100-088	[REDACTED]		1531 20TH ST	SAN FRANCISCO CA 94107-2808

**Potrero Hill**

TITLE	ORGANIZATION	ADDRESS	CITY	STATE	ZIP
Corrinne Woods	Mission Creek Harbor Association	300 Channel Street, Box 10	San Francisco	CA	94158
Janet Carpinelli	Dogpatch Neighborhood Association	934 Minnesota Street	San Francisco	CA	94107
Joyce Book	Vermont St. Neighborhood Association	740 Vermont Street	San Francisco	CA	94107
Keith Goldstein	Potrero-Dogpatch Merchants Association	800 Kansas Street	San Francisco	CA	94107
Malia Cohen	Board of Supervisors	1 Dr. Carlton B Goodlett Place, Room #244	San Francisco	CA	94102-4689
Mary Ratcliff	SF Bay View Newspaper	4917 Third Street	San Francisco	CA	94124
Rodney Minott	Potrero Hill Neighbors/Save the Hill	1206 Mariposa Street	San Francisco	CA	94107
Sean Quigley	Valencia Corridor Merchant Association	1038 Valencia Street	San Francisco	CA	94110
Tony Kelly	Potrero Boosters Neighborhood Association	1459 - 18th Street, Suite 133	San Francisco	CA	94107

NAME	COMPANY	ADDRESS	CITY	STATE	ZIP
Aaron Peskin		470 Columbus Avenue, Ste. 211	San Francisco	CA	94133
Adrian Simi	Carpenters Local 22	2085 Third Street	San Francisco	CA	94107
Alex Lantsberg	Carpenters Local 22 c/o NCCRC Research	265 Hegenberger Road, Ste. 220	Oakland	CA	94621
Chuck Turner	Community Design Center	5 Thomas Mellon Circle, #128	San Francisco	CA	94134
David Villa-Lobos	Community Leadership Alliance	P.O. Box 642201	San Francisco	CA	94109
Grace Shanahan	Residential Builders Association	1717 17th Street, Ste. 200	San Francisco	CA	94103
Lynn Sousa	AT&T Construction and Engineering	795 Folsom Street, Rm.426	San Francisco	CA	94107-1243
Marsha Garland	Garland Public & Community Relations	535 Green Street	San Francisco	CA	94133
Mary Miles	Coalition for Adequate Review	364 Page Street, #36	San Francisco	CA	94102
Michael Theriault	SF Building and Construction Trades Council	1188 Franklin Street, Ste.203	San Francisco	CA	94109
Sona Trauss	SF Bay Area Association of Renters	1552 7th Street	Oakland	CA	94607
Stephen Williams	Law Office of Stephen M. Williams	1934 Divisadero Street	San Francisco	CA	94115
Sue Hestor		870 Market Street, #1128	San Francisco	CA	94102
Ted Gullicksen	San Francisco Tenants Union	558 Capp Street	San Francisco	CA	94110

04/18/13 BP

Verified 8/2/13ja

Updated: 11/11/13ja

Updated: 02/05/14ja

Exhibit C-4: #13SMF-0408 Public Comment Tracking Worksheet

loc	Street	SMF NO	Hearing Date	Date Received	Form of Objection	Rec'd Note Sent	Sent to AT&T	HO Email Sent	HO Cert Card Rec'd	HO Cert Mail Sent	DD Email Sent	DD Cert Mail Sent	DD Cert Card Rec'd	Name (NB Response)	Address	Zip
501	Missouri	13SMF-0408	5/19/2014	4/14/2014	email	4/15/2014	4/15/2014	5/8/2014	5/8/2014	5/13/2014	6/18/2014	6/23/2014	6/23/2014	Matt Brennan	[REDACTED]	94107
501	Missouri	13SMF-0408	5/19/2014	4/17/2014	email	4/21/2014	4/21/2014	5/8/2014	5/8/2014	5/8/2014	6/18/2014	6/23/2014	6/23/2014	David Fraze	[REDACTED]	94115
501	Missouri	13SMF-0408	5/19/2014	late	objection	notify	only	5/8/2014	5/8/2014	unclaimed	6/18/2014	6/23/2014	6/23/2014	Oliver Fringer	[REDACTED]	94107
501	Missouri	13SMF-0408	5/19/2014	5/15/2014	late	objection	too late	too late	too late	n/a	6/18/2014	6/23/2014	6/23/2014	Lucy Raphael-Pallas	[REDACTED]	94107
501	Missouri	13SMF-0408	5/19/2014	5/16/2014	late	objection	too late	too late	too late	n/a	6/18/2014	6/23/2014	6/23/2014	Reed Kelso	[REDACTED]	94107
501	Missouri	13SMF-0408	5/19/2014	5/16/2014	late	objection	too late	too late	too late	n/a	6/18/2014	6/23/2014	6/23/2014	Laura Mitic	[REDACTED]	94107
501	Missouri	13SMF-0408	5/19/2014	5/16/2014	late	objection	too late	too late	too late	n/a	6/18/2014	6/23/2014	6/23/2014	Kendra Coleman	[REDACTED]	94107
501	Missouri	13SMF-0408	5/19/2014	5/16/2014	late	objection	too late	too late	too late	n/a	6/18/2014	6/23/2014	6/23/2014	Geeta Narlikar	[REDACTED]	94107
501	Missouri	13SMF-0408	5/19/2014	5/16/2014	late	objection	too late	too late	too late	n/a	6/18/2014	6/23/2014	6/23/2014	Graham Ulvestad	[REDACTED]	94107
501	Missouri	13SMF-0408	5/19/2014	5/16/2014	late	objection	too late	too late	too late	n/a	6/18/2014	6/23/2014	6/23/2014	Diana Bowen	[REDACTED]	94107
501	Missouri	13SMF-0408	5/19/2014	5/16/2014	late	objection	too late	too late	too late	n/a	6/18/2014	6/23/2014	6/23/2014	Samantha Luks	[REDACTED]	94107
501	Missouri	13SMF-0408	5/19/2014	5/16/2014	late	objection	too late	too late	too late	n/a	6/18/2014	6/23/2014	6/23/2014	Sean Curtis	[REDACTED]	94107
501	Missouri	13SMF-0408	5/19/2014	5/16/2014	late	objection	too late	too late	too late	n/a	6/18/2014	6/23/2014	6/23/2014	Jennifer Dunlop Fletcher	[REDACTED]	94107
501	Missouri	13SMF-0408	5/19/2014	5/16/2014	late	objection	too late	too late	too late	n/a	6/18/2014	6/23/2014	6/23/2014	Debra Grassgreen	[REDACTED]	94107
501	Missouri	13SMF-0408	5/19/2014	5/16/2014	late	objection	too late	too late	too late	n/a	6/18/2014	6/23/2014	6/23/2014	Ushma Upadhyay	[REDACTED]	94107
501	Missouri	13SMF-0408	5/19/2014	5/16/2014	late	objection	too late	too late	too late	n/a	6/18/2014	6/23/2014	6/23/2014	Art Sandoval	[REDACTED]	94107
501	Missouri	13SMF-0408	5/19/2014	5/16/2014	late	objection	too late	too late	too late	n/a	6/18/2014	6/23/2014	6/23/2014	Cesar Martinez	[REDACTED]	94107
501	Missouri	13SMF-0408	5/19/2014	5/16/2014	late	objection	too late	too late	too late	n/a	6/18/2014	6/23/2014	6/23/2014	Stacey Bartlett	[REDACTED]	94107
501	Missouri	13SMF-0408	5/19/2014	5/16/2014	late	objection	too late	too late	too late	n/a	6/18/2014	6/23/2014	6/23/2014	John and Emily Schmitz	[REDACTED]	94107
501	Missouri	13SMF-0408	5/19/2014	5/16/2014	late	objection	too late	too late	too late	n/a	6/18/2014	6/23/2014	6/23/2014	Leah Hunter	[REDACTED]	94107
501	Missouri	13SMF-0408	5/19/2014	5/16/2014	late	objection	too late	too late	too late	n/a	6/18/2014	6/23/2014	6/23/2014	Katherine Doumani	[REDACTED]	94107
501	Missouri	13SMF-0408	5/19/2014	5/16/2014	late	objection	too late	too late	too late	n/a	6/18/2014	6/23/2014	6/23/2014	Arum Ahn	[REDACTED]	94107
501	Missouri	13SMF-0408	5/19/2014	5/16/2014	late	objection	too late	too late	too late	n/a	6/18/2014	6/23/2014	6/23/2014	Mark Gettys	[REDACTED]	94107
501	Missouri	13SMF-0408	5/19/2014	5/16/2014	late	objection	too late	too late	too late	n/a	6/18/2014	6/23/2014	6/23/2014	Sara O'Neill	[REDACTED]	94107
501	Missouri	13SMF-0408	5/19/2014	5/16/2014	late	objection	too late	too late	too late	n/a	6/18/2014	6/23/2014	6/23/2014	Jenny Sagstorm-Warnes	[REDACTED]	94107
501	Missouri	13SMF-0408	5/19/2014	5/16/2014	late	objection	too late	too late	too late	n/a	6/18/2014	6/23/2014	6/23/2014	Megan Bates	[REDACTED]	94107
501	Missouri	13SMF-0408	5/19/2014	5/16/2014	late	objection	too late	too late	too late	n/a	6/18/2014	6/23/2014	6/23/2014	Julia McIsaac	[REDACTED]	94107
501	Missouri	13SMF-0408	5/19/2014	5/16/2014	late	objection	too late	too late	too late	n/a	6/18/2014	6/23/2014	6/23/2014	Erica Peters	[REDACTED]	94107
501	Missouri	13SMF-0408	5/19/2014	5/16/2014	late	objection	too late	too late	too late	n/a	6/18/2014	6/23/2014	6/23/2014	Zachariah Gursky	[REDACTED]	94107
501	Missouri	13SMF-0408	5/19/2014	5/16/2014	late	objection	too late	too late	too late	n/a	6/18/2014	6/23/2014	6/23/2014	David Grossblatt	[REDACTED]	94107
501	Missouri	13SMF-0408	5/19/2014	5/16/2014	late	objection	too late	too late	too late	n/a	6/18/2014	6/23/2014	6/23/2014	Naomi Schwartz	[REDACTED]	94107
501	Missouri	13SMF-0408	5/19/2014	5/16/2014	late	objection	too late	too late	too late	n/a	6/18/2014	6/23/2014	6/23/2014	Marc Rarden	[REDACTED]	94107
501	Missouri	13SMF-0408	5/19/2014	5/16/2014	late	objection	too late	too late	too late	n/a	6/18/2014	6/23/2014	6/23/2014	Julie Shumate	[REDACTED]	94107
501	Missouri	13SMF-0408	5/19/2014	5/16/2014	late	objection	too late	too late	too late	n/a	6/18/2014	6/23/2014	6/23/2014	Jonathon Kass	[REDACTED]	94107
501	Missouri	13SMF-0408	5/19/2014	5/16/2014	late	objection	too late	too late	too late	n/a	6/18/2014	6/23/2014	6/23/2014	Rosemary Varlese	[REDACTED]	94107
501	Missouri	13SMF-0408	5/19/2014	5/18/2014	late	objection	too late	too late	too late	n/a	6/18/2014	6/23/2014	6/23/2014	Krista Donaldson	[REDACTED]	94107
501	Missouri	13SMF-0408	5/19/2014	5/19/2014	late	objection	too late	too late	too late	n/a	6/18/2014	6/23/2014	6/23/2014	Karl Knight	[REDACTED]	94107



795 Folsom Street, Room 426  
San Francisco CA 94107-1243

**OFFICIAL NOTICE—DO NOT REMOVE DPW Order 175,566**

### IMPORTANT NOTICE CONCERNING YOUR RIGHTS

SF05-515506

8856397

33B-R1

Dear San Francisco Resident:

**April 11, 2014**

AT&T California is filing an application with the San Francisco Department of Public Works (DPW) for a permit to install an **electronics cabinet with attached electric power panel** at the following proposed location: **501 Missouri Street**. A mock-up of the Surface Mounted Facilities (SMF) in the proposed location is shown below. The cabinet dimensions are: 59 inches wide, 48 inches tall, and 26 inches deep.

**This cabinet will provide the latest telecommunications technology offering high-speed internet access and advanced digital television and entertainment services, which will be fed by fiber-optic cable to this new neighborhood hub.**

**All objections to the installation of the SMF must be submitted in writing via:**

<b>E-mail to:</b>	<a href="mailto:smf@sfdpw.org">smf@sfdpw.org</a>	<b>US Mail to:</b>	Department of Public Works
<b>Fax to:</b>	(415) 554-6161		Bureau of Street-Use and Mapping
<b>Refer to Permit Appl #:</b>	13SMF-0408		1155 Market Street, 3 <sup>rd</sup> Floor
<b>Last date to object:</b>	<b>May 2, 2014</b>		San Francisco, CA 94103-1555

**Please reference Permit Application # [13SMF-0408](#) with all correspondence**

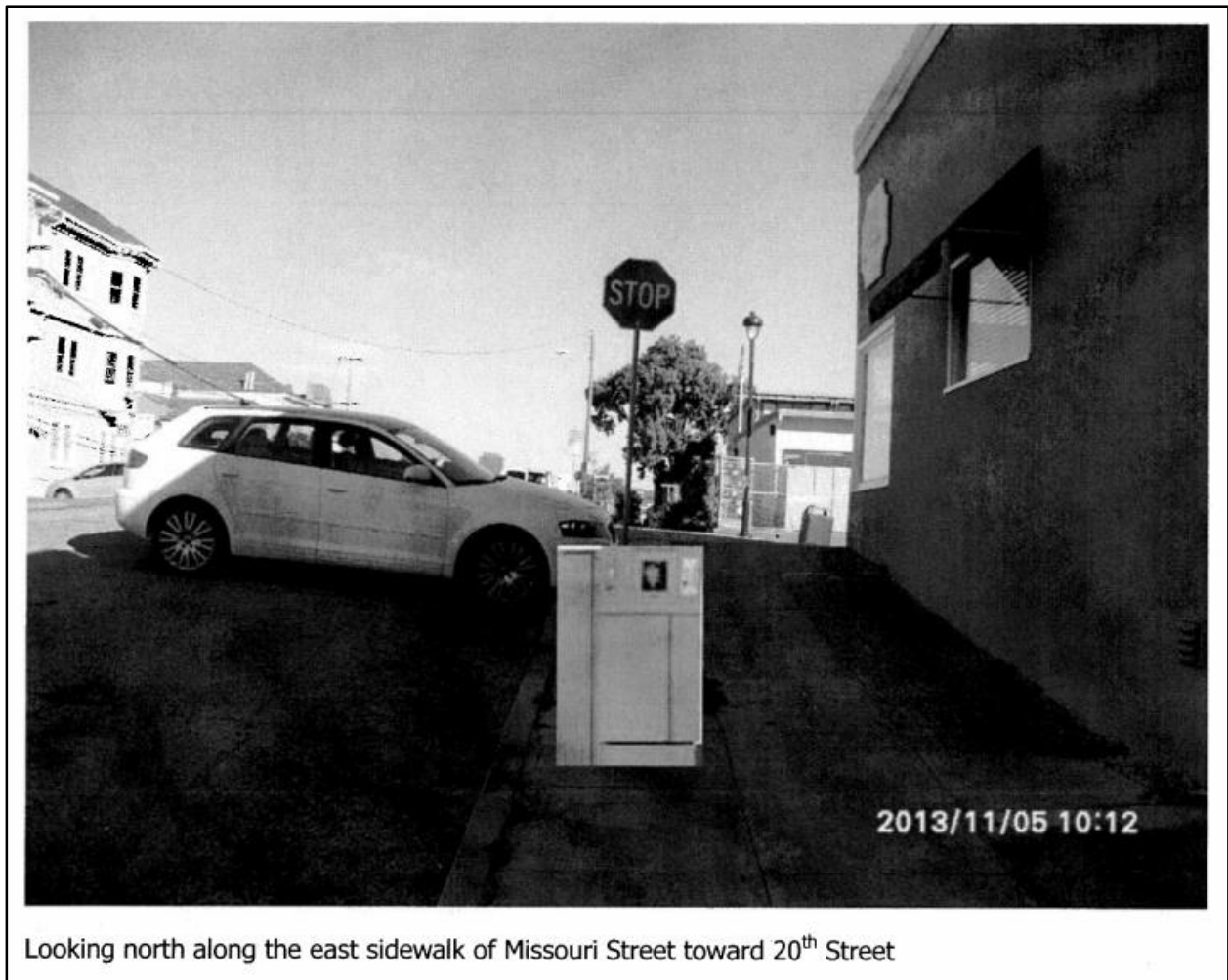
You have **20 days** from the date of this notice to send written notice of your objection to DPW. DPW will not consider any objection unless it is made within this 20-day period.

If you submit an objection, DPW may convene a hearing to determine whether the permit for placement of the SMF should be issued. DPW will commence any such hearing within 40 days after the receipt of any objections. You will have the opportunity to express your concerns about the SMF at the hearing should you choose to attend.



For more information, please visit: [www.att.com/ipnetwork4sf](http://www.att.com/ipnetwork4sf)

Exhibit C-6: #13SMF-0408 Exhibit F-c Site Photo



Looking north along the east sidewalk of Missouri Street toward 20<sup>th</sup> Street

# Exhibit D: Additional Photographs

Exhibit D-1: Photo looking north at SMF installed at 698 Pennsylvania Avenue

Exhibit D-1: Photo looking north at SMF installed at 698 Pennsylvania Avenue



**CITY AND COUNTY OF SAN FRANCISCO  
BOARD OF APPEAL**

**AT&T** ( Appeal Nos.  
**CALIFORNIA,** ( 14-135  
Respondent ( 501 Missouri

**RESPONDENT'S  
BRIEF  
SUBMITTED  
Sept. 4, 2014**

**HEARING  
SCHEDULED:  
Sept. 11, 2014**



**EXHIBITS**

DPW Order No. 182690, Approving AT&T’s SMF Application for 501 Missouri.....Exhibit 1

AT&T’s Nov. 15, 2013 Application .....Exhibit 2

Utility Excavation Permit 14EXC-3764 .....Exhibit 3

Dec. 10, 2013 Ltr. From Marc Blakeman to DPW .....Exhibit 4

Photographs of 501 Missouri .....Exhibit 5

AT&T’s mailing list for 501 Missouri application .....Exhibit 6

## INTRODUCTION

Appellant requests that the Board reverse the Department of Public Work's decision to issue AT&T an excavation permit in the vicinity of 501 Missouri Street. That request should be denied for multiple reasons.

First, DPW specifically found that the proposed installation did not incommode the public right-of-way. Appellant offers no evidence that the proposed installation violates any of the objective criteria set forth in DPW Order. No. 175,566 or the newly enacted SMF Ordinance. Without such a showing no legal basis exists for denying the excavation permit that DPW properly granted.

Second, any jurisdiction that the Board had to consider this appeal expired no later than August 23, 2014. Public Utilities Code section 5885 requires that municipalities approve or deny permit applications by video services franchise holders like AT&T within 60 days. AT&T submitted its SMF application on November 15, 2013. *See* Ex. A. AT&T submitted its excavation permit application on June 25, 2014.<sup>1</sup> Ex. B. Because more than 60 days has passed since these applications were submitted, the Board of Appeals lacks legal authority to act on this appeal. Under no circumstances, does the Public Utilities Code permit the Board to deny a permit previously approved by DPW after the expiration of the 60-day time window mandated by the Digital Infrastructure and Video Competition Act of 2006. *See* Pub. Util. Code § 5800 *et seq.*

Finally, even if the Board had jurisdiction to consider this appeal, Ordinance No. 76-14 does not provide a basis for reversing DPW retroactively. The State of California has granted

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<sup>1</sup> AT&T disputes DPW's prior contention that the 60-day clock runs from the submission of AT&T's excavation permit application rather than from its submission of its original SMF application. That dispute, however, is irrelevant in this appeal: no party can contest that AT&T submitted a completed exaction permit application on June 25, 2014, which DPW subsequently approved on July 1, 2014. *See* Ex. B & C.

AT&T both telephone and video services franchises. Those franchises grant AT&T the right to use the public right-of-way subject only to one condition: that its facilities do not incommode the public right-of-way. It is undisputed that this condition has been met. Neither DPW nor the Board have authority to impose additional obligations on AT&T as a condition of approving its permit applications. Moreover, the new Ordinance itself is void as applied to AT&T. Because the new Ordinance does not apply to all entities in an equivalent fashion, it is an unreasonable application of the City's time, place, and manner discretion pursuant to Public Utilities Code section 7901.1. And to the extent that it imposes conditions in excess of AT&T's franchise rights, the Ordinance is preempted by Public Utilities Code sections 7901 and 5800 et seq.

In short, Appellant provides no sound reason for the Board to reverse a permitting decision approved by the Hearing Officer, the Director, and DPW, after a full hearing on the merits. The Board of Appeals should affirm DPW's decision.

#### **STATEMENT OF FACTS**

**A. DPW Correctly Determines That the Proposed Installation at 501 Missouri Street Satisfies the SMF Order.**

AT&T originally applied for a permit in the vicinity of 502 Missouri street in January, 2013. After the community voiced opposition to this proposed location during the hearing and review process, AT&T withdrew its application.

On November 15, 2013, AT&T filed an application with DPW to install a surface mounted facility in the vicinity of 501 Missouri Street. (*See Ex. A.*) On April 11, 2014, AT&T mailed and posted Notices of Intent to all businesses and residences within a 300-foot radius of the proposed location. *Id.* DPW received only two objections and scheduled a public hearing to consider testimony on that site. *Id.*

At the subsequent hearing, on May 19, 2014, Arianna Urban of DPW testified that

AT&T's application "was in compliance with DPW's technical requirements." Ex. A. No member of the community testified in opposition to the proposed installation at 501 Missouri Street.

After considering the record and testimony at the hearing, the Hearing Officer recommended that the SMF application be approved for the location at 501 Missouri Street. *Id.* The Director's decision (DPW Order No. 182690) adopted the Hearing Officer's recommendation. *Id.* That decision specifically found that "the application complies with the technical requirements of DPW Order No. 756, 566." *Id.*

On June 25, 2014, AT&T applied for an excavation permit. Ex. B. On July 1, 2014, DPW approved and issued Excavation Permit 14EXC-3764 for AT&T's excavation in the vicinity of 501 Missouri Street. Ex. C.

## ARGUMENT

### **I. No Valid Legal Basis Exists For Reversing DPW's Order Because The Proposed SMF Would Not Incommode The Public Right-of-Way.**

As a threshold matter, Appellant provides no valid legal basis on which AT&T's permit application could be denied. The franchise rights afforded by Public Utilities Code Sections 7901 and 5885 allow telephone and video services providers to construct their facilities in the public rights-of-way, subject only to the requirement that construction activities do not "incommode" (i.e., "unreasonably obstruct and interfere with ordinary travel" in) the public rights-of-way. *Pac. Tel. & Tel. Co. v. City & County of S.F.*, 197 Cal.App.2d 133, 146 (1961). There is no evidence that AT&T's planned facilities would "incommode the public use of the road or highway." Cal. Pub. Util. Code § 7901.

On appeal, Appellant asserts that the permit should be denied because "AT&T did not implement an adequate process to develop and evaluate alternative locations" and the approved

location “has several deficiencies relative to other possible locations.” App. Br. 1. Neither of these arguments suggest that the approved SMF will incommode the public right-of-way. Nor does Appellant’s brief show that AT&T’s proposed installation would violate any of the objective guidelines for making this determination provided by DPW Order No. 175,566 or Ordinance No. 76-14. Because—by law—an excavation permit can only be denied on the basis of a finding that the proposed location would incommode the public right-of-way, these arguments are irrelevant and must be disregarded.

Moreover, the administrative record confirms that DPW properly issued the excavation permit. The City’s “time, place, and manner” guidelines are set forth in Exhibit B of the SMF Order. At the May 19, 2014 hearing on the permit application for 501 Missouri, Arianna Urban of DPW stated that AT&T “was in compliance with DPW’s technical requirements.” The Director’s decision approving the permit similarly noted that “the application complies with the technical requirements of DPW Order No. 756, 566. Ex. A. The “technical requirements” in the DPW Order No. 175,566 are substantially the same as the placement criteria in Ordinance No. 76-14. More critically, no evidence was presented at the hearing or in Appellant’s brief that the proposed location would violate these technical requirements. *Id.*

Appellant’s brief ignores the controlling standards provided by Public Utilities Code §§ 7901, 7901.1, and 5885, and instead asks the Board to reverse DPW’s Order for a host of reasons unrelated to the limited discretion afforded to municipalities under California law. That request is improper. Appellant’s suggestion that the Board reverse DPW’s decision on grounds that having nothing to do with the legal standard set forth by the SMF Order and the Public Utilities Code must be disregarded.

Finally, Appellant’s assert that the excavation permit can be denied on the basis of objections alone. App. 7. That assertion is incorrect as a matter of law. “The construction and maintenance of telephone lines in the streets and other places within San Francisco is a matter of state concern and not a municipal affair.” *Pacific Tel. & Tel. Co. v. City and County of San Francisco* (1961) 197 Cal.App.2d 133, 143. In enacting Public Utilities Code sections 7901 and 5885, the Legislature made clear that the installation of utilities in the public right-of-way is not subject to a popular referendum on each particular installation. Because the Legislature wished to encourage the state-wide development of telephone, internet, and video services technology, it granted utilities the right to place their equipment in the public right-of-way subject only to the condition that they do no unreasonably obstruct and interfere with ordinary travel in the public right-of-way. *Id.* at 146.

Objections—by themselves—are not grounds for denying telephone companies access to the public right-of-way under California law. If they were, California would not have telephone lines in the vast majority of the state, much less wireless towers, high speed broadband, or video services equipment. Accordingly, DPW’s decision is lawful and should be affirmed.

## **II. AT&T Met Every Requirement in the MOU and the SMF Order In Seeking A Permit For 501 Missouri.**

DPW Order No. 756,566 (the “SMF Order”) sets forth an elaborate application and review process. The SMF Order not only sets forth specific objective criteria about where an SMF can be placed—it also sets forth specific procedural steps that an applicant must satisfy as part of the community notice, review, and hearing process. As both the Hearing Officer and DPW’s Director correctly found, AT&T complied with all “the technical requirements of DPW Order No. 756,566” during that review process.

In asserting that the review process was “inadequate,” Appellant does not identify any procedural step in the notice and review process set out in the SMF Order that AT&T did not satisfy. Instead, Appellant complains that AT&T failed to take actions that the SMF Order specifically does *not* require.

First, for example, Appellant acknowledges that AT&T mailed letters to private property owners in the vicinity of 501 Missouri seeking an easement. App. Br. 5. He complains, however, that AT&T “made no additional effort [] to contact them again or select alternative private property owners since these owners had not replied to the previous inquiry.” But the SMF Order does not impose any such requirement. Nor can AT&T be denied its state franchise right to place its utilities in the *public* right-of-way on the grounds that AT&T refused to place its utilities on private property.

Appellant similarly complains that “there is no indication that AT&T made any effort beyond a single letter to the [San Francisco Unified School] district office” to secure an easement on private property owned by School District. Again, no such requirement exists in the SMF Order.<sup>2</sup>

Second, Appellant complains that the permit should be denied because a “Department Site Visit was not conducted by DPW.” Whether a site visit is conducted, however, is entirely within the discretion of DPW. *See* SMF Order 3.B.1 (“Where the Department has determined that a site visit is *necessary*, prior to the site visit an Applicant will identify appropriate locations for the Surface Mounted Facility.”) (emphasis added). DPW has chosen not to conduct site visits

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<sup>2</sup> Appellant is correct that two of the five easement letters that AT&T sent were to property owners more than 300 feet from AT&T’s existing SAI cabinet. Those easement letters were sent in conjunction with AT&T’s permit application in the vicinity of 1870 20th Street, and were mistakenly included in the 501 Missouri application. That mistake is irrelevant to this appeal. As Appellant concedes, AT&T sent an additional three letters to private property owners owning property within 300 feet of existing SAI. That is all the SMF Order requires. *See* SMF Order, Ex. A.

for any application. Instead, as permitted by the SMF Order, DPW requires that applicants “provid[e] the Department with sufficient information for the Department to substantiate that a site visit is not required.” SMF Order 3.A.3.

Third, Appellant complains that “the proposed 501 Missouri Street location [application] does not address many of the issues raised in the comments on the 502 Missouri Street Proposal, nor is any additional rationale provided for why the 501 Missouri Street location was selected as compared to other possible locations.” App. 6. But the SMF Order does not require that AT&T explain *why* it has chosen any particular location for the installation of a utility. Nor does Appellant explain how objections to the proposed site at 502 Missouri are relevant to AT&T’s proposal to install a utility cabinet across the street at 501 Missouri. Moreover, as a matter of law, AT&T’s franchise is subject only to the condition that its utilities do not “incommode” the public right-of-way.

Fourth, Appellant objects that the permit should be denied because “[l]ike the 502 Missouri Street location, the proposed 501 Missouri Street location is adjacent to SFUSD’s Daniel Webster Elementary.” App. 7. That is simply incorrect. The Oxford English Dictionary defines “adjacent” as “Next to nor adjoining something else.”<sup>3</sup> 501 Missouri is neither “next to” or “adjoining” the school. The school is located *across* the street from 501 Missouri. *See* Ex. E (photographs of 501 & 502 Missouri). That placement is proper under the “Surface-Mounted Facility Placement Guidelines” (SMF Order, Ex. B). Appellant thus fails to show that the Department erred in approving the permit.

Finally, Appellant alleges that AT&T did not send notices to addresses on the 1400 block of 20th Street. App. 5. That allegation is incorrect. AT&T mailed notices of intent to all

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<sup>3</sup> [http://www.oxforddictionaries.com/us/definition/american\\_english/adjacent](http://www.oxforddictionaries.com/us/definition/american_english/adjacent)



property owners on 20th street whose property is located within 300 linear feet of the existing SAI.<sup>4</sup> See Ex. 6.

Appellant completely fails to offer any evidence or argument suggesting that DPW erred when it determined that AT&T met all “the technical requirements of DPW Order No. 756,566” during that review process. Instead, Appellant essentially complains that AT&T did not satisfy technical requirements of his own choosing. But the Board’s determination is bound by the actual SMF Order—not some different SMF Order that Appellant wishes the City had enacted. Appellant’s arguments in this regard are without merit and should be rejected.

### **III. The New Ordinance Provides No Basis For Retroactively Denying Permits That DPW Properly Approved.**

#### **A. The Board Lacks Jurisdiction To Act On This Appeal.**

California law requires that “[a] local entity shall either approve or deny an application from a holder of a state franchise for an encroachment permit within 60 days of receiving a completed application.” Pub. Util. Code § 5885. It is undisputed that AT&T submitted a completed application for its excavation permit on June 9, 2014. Ex B. Accordingly, the 60-day window for the City to approve or deny AT&T’s permit application closed *no later* than August 8, 2014. DPW approved AT&T’s excavation permit on June 19, 2014. Because the 60-day window for the City to take action on AT&T’s permit application has closed, as a matter of state law, the Board no longer has any legal authority to act on this appeal.

Legislation must be interpreted to “promote rather than defeat [a] statute’s general purpose ... avoiding a construction that would lead to absurd consequences.” *Smith v. Superior Court* (2006) 39 Cal.4th 77, 83. The Legislature’s intent in enacting section 5885 was to provide utilities with certainty regarding a proposed excavation application within a reasonably short

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<sup>4</sup> These addresses were inadvertently omitted from AT&T’s June 19, 2014 application. AT&T has provided its mailing list records for the 501 Missouri permit as part of exhibit 6.

period of time. Section 5885 was intended to prevent municipalities from holding permit applications in limbo for months or years at a time. In no event can the City grant a permit on the 10th day after an application was made then snatch it away on the 79th day. Yet that is precisely the action that Appellant would have the Board take. Because section 5885 forbids such actions, the appeal must be dismissed for lack of jurisdiction.<sup>5</sup>

**B. Public Utilities Code §§ 7901 and 5885 Forbid Municipalities From Denying Telephone Corporations Access To The Public Right-of-Way.**

It is well-established that, “because of the interest of the people throughout the state in the existence of telephone lines in the streets in the city, the right and obligation to construct and maintain telephone lines” is “a matter of state concern.” *Pacific Tel. & Tel. Co. v. City & Cty. of San Francisco* (1959) 51 Cal.2d 766, 774. For just this reason, cities cannot exclude telephone lines from the streets upon the theory that ‘it is a municipal affair.’” *Id.*

As AT&T explained both during community box walks and at the hearing, 110 Burrows Street is the only technically feasible location in the public right-of-way for AT&T to install its Lightspeed cabinet in the Burrows street neighborhood. Because no alternative locations exist, denying AT&T’s permit would deny AT&T all access to the streets in that neighborhood. Such denial is forbidden by Public Utilities Code sections 7901 and 5885.

**C. Ordinance No. 76-14 Cannot Be Retroactively Applied To AT&T.**

The new Ordinance cannot be “retroactively” applied to AT&T to deny the SMF permit. Under California law, AT&T has statutory rights to deploy its facilities in the public rights-of-way. Section 7901 of the Public Utilities Code provides:

Telegraph or telephone corporations may construct lines of telegraph or telephone lines along and upon any public road or

---

<sup>5</sup> AT&T has repeatedly reaffirmed its statutory right to have the City approve or deny permit applications within 60 days as required by state law. *See, e.g.*, Ex. D (Dec. 10, 2013 letter from Marc Blakeman to the Department of Public Works and the Department of Planning).

highway, along or across any of the waters or lands within this State, and may erect poles, posts, piers, or abutments for supporting the insulators, wires, and other necessary fixtures of their lines, in such manner and at such points as not to incommode the public use of the road or highway or interrupt the navigation of the waters.

This same right to use the public rights-of-way was subsequently extended to all state-franchised video providers. *See* Pub. Util. Code § 5885(a). These franchise rights to use the public right-of-way are subject only to the condition that the proposed use does not incommode the public right-of-way.

By contrast, the City’s discretion in limiting the placement of utilities is limited. *See* Pub. Util. Code § 7901.1. While municipalities have “the right to exercise reasonable control as to the time, place, and manner in which roads, highways, and waterways are *accessed*” (Cal. Pub. Util. Code § 7901.1) (emphasis added), that control does not permit cities to deny utilities access to the public right-of-way altogether. Moreover, that “control, to be reasonable, shall, at a minimum, be applied to all entities in an equivalent manner.” Pub. Util. Code, § 7901.1(b).

It is undisputed that AT&T’s proposed SMF does not incommode the public right-of-way. The Director’s decision confirmed that the application met all the technical requirements of the public works code (Ex. A), and no evidence or argument has been presented to the contrary.

To the extent that DPW or Appellant now argues that AT&T’s permit application should be denied because AT&T has not satisfied *other* conditions imposed by the new Ordinance that argument fails. Any conditions imposed in excess of AT&T’s franchise rights are specifically preempted by Public Utilities Code sections 7901 and 5885. *See* Cal. Const. art. XI, § 7 (“A county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations *not* in conflict with general laws.”) (emphasis added).

Moreover, the Ordinance violates Public Utilities Code section 7901.1(b) because, by its plain terms, the Ordinance does not apply to all entities in an equivalent manner. *See, e.g.*, Ordinance No. 76-14 § 2702. Consequently, since it is not a “reasonable” exercise of the City’s time, place, and manner discretion, the entire Ordinance is void and without effect as applied to AT&T.<sup>6</sup>

## CONCLUSION

For the foregoing reasons, the Board of Appeals should affirm DPW’s decision.

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<sup>6</sup> Additionally, Ordinance No. 76-14 suffers from a host of constitutional infirmities as-applied to AT&T. San Francisco’s attempt to impose conditions in excess of AT&T’s franchises with the State of California violates the Contract Clause of both the United States and California Constitutions. *See, e.g., U.S. Trust Co. of New York v. New Jersey* (1977) 431 U.S. 1, 28 (serious impairment of contract by legislation violates Contract Clause). The Ordinance is also void as applied to AT&T because it impermissibly burdens AT&T’s rights to freedom of speech and freedom of the press secured by the First Amendment and the California Constitution. *See, e.g., City of Cincinnati v. Discovery Network, Inc.* (1993) 507 U.S. 410, 418 (“time, place, and manner” regulations of the public right-of-way are void when they impose impermissible burdens on First Amendment rights). Consequently, neither the retroactivity section nor any other section of the new Ordinance may applied against AT&T.

# **EXHIBIT 1**

City and County of San Francisco



Edwin M. Lee, Mayor  
Mohammed Nuru, Director

San Francisco Department of Public Works  
Office of the Deputy Director & City Engineer, Fuad Sweiss  
Bureau of Street-Use & Mapping  
1155 Market Street, 3rd Floor  
San Francisco Ca 94103  
(415) 554-5810 [www.sfdpw.org](http://www.sfdpw.org)



Jerry Sanguinetti, Bureau Manager

## DPW Order No: 182690

DIRECTOR'S DECISION REGARDING AT&T CALIFORNIA'S REQUEST TO INSTALL A SURFACE MOUNTED FACILITY IN THE VICINITY OF **501 Missouri Street (13SMF-0408)**

**APPLICANT:** AT&T CALIFORNIA  
795 Folsom Street, #426  
San Francisco, Ca 94107

**DESCRIPTION OF REQUEST:** Surface Mounted Facility Installation

### BACKGROUND:

1. On **November 15, 2013**, the Applicant (AT&T California) filed an application with the Department of Public Works (DPW) to install a Surface-Mounted Facility (SMF) at **501 Missouri Street**.
2. On **April 11, 2014**, the applicant mailed and posted Notices of Intent (NOI) to all businesses and residences within a 300-foot radius of the subject location.
3. DPW received **two (2)** objection(s) to the application during the 20-day notification period. DPW subsequently scheduled a public hearing to consider testimony received for this site. On May 16, 2014, DPW received a petition with 31 signatures objecting to the proposed surface-mounted facility. The objection(s) and comment(s) included:
  - Will block sidewalk space and detract from neighborhood aesthetics.
  - Request to place on 20<sup>th</sup> Street adjacent to school.
4. On **May 19, 2014**, DPW Hearing Officer **Greg Crump** conducted a hearing on the application to consider testimony regarding the subject SMF.
5. At the hearing, Arianna Urban of DPW presented a summary of the permit applications stating that the Applicant was in compliance with DPW's technical requirements.
6. At the hearing, **Ms. Tedi Vriheas** of AT&T stated that a box walk was conducted on May 8, 2014 and three (3) members of the community attended. During the box walk, AT&T and the attendees located the following potentially feasible alternate locations:
  - Daniel Webster School: have not received a response to an easement request from SFUSD.
  - Original site at 502 Missouri St: Disapproved by Order 181,699.
7. At the hearing, no member of the community testified at the hearing in opposition to the proposed installation of the SMF cabinets in the vicinity of **501 Missouri Street**.



San Francisco Department of Public Works  
Making San Francisco a beautiful, livable, vibrant, and sustainable city.

**RECOMMENDATION:** APPROVE the request by AT&T to locate Surface Mounted Facility **13SMF-0408**, in the vicinity of **501 Missouri Street**.

**FINDINGS:**

1. The Hearing Officer reviewed the application, materials from DPW's files, the objections, additional materials submitted by the applicant and persons protesting the application, and the testimony at the hearing.
2. The Hearing Officer determined that the application complies with the technical requirements of DPW Order No. 756,566.
3. The Director of Public Works has reviewed the Hearing Officer's recommendation. The Director of Public Works hereby adopts the hearing officer's recommendation.

**APPEAL PROCESS:** This decision may be appealed to the Board of Appeals within fifteen (15) calendar days of DPW's approval or denial of an Excavation Permit to install surface mounted facilities **13SMF-0408 in the vicinity of 501 Missouri Street**. The Board of Appeals is located at 1650 Mission Street, Suite 304. To obtain further information regarding the appeal process, you can contact the Board of Appeals at 415-575-6880. You can also visit the Board of Appeals website at: <http://www.sfgov3.org/index.aspx?page=763>

6/17/2014

X 

Short, Carla  
Deputy Manager

6/17/2014

X 

Sweiss, Fuad  
Deputy Director and City Engineer

6/17/2014

X Mohammed Nuru

Nuru, Mohammed  
Director, DPW



# **EXHIBIT 2**





Public Works Coordinator  
AT&T California  
795 Folsom Street, Suite 426  
San Francisco CA 94107-1243

T: 415.644.7043 or  
T: 415.644.7054  
F: 415.957.5973  
www.att.com

November 15, 2013

**EXHIBIT F - a**

René Lopez, Utility Permit Coordinator  
City and County of San Francisco  
Department of Public Works, Bureau of Street-Use and Mapping  
1155 Market Street, 3<sup>rd</sup> Floor  
San Francisco, CA 94103-1555

**Location:** 501 Missouri Street, east side, south of 20<sup>th</sup> Street

DPW File: **13SMF-0408**

**LETTER OF TRANSMITTAL**  
PROPOSED SURFACE MOUNTED FACILITY

Enclosed are:

- Exhibit A Pre-site visit checklist
- Exhibit A-2a Five-year plan documentation for this site  
updated November 8, 2013
- Exhibit A-2b Cabinet size plan (footprint and clearance plans)  
448S photo and specifications
- Exhibit A-2c Private property mailing letter to property owners mailing list
- Exhibit A-2d1 Private property mailing sample letter seeking easements to property owners  
2 property owners notified, & 3 public property sites, mailed 1/13 & 8/13
- Exhibit A-2d2 Private property mailing date verification, date mailed:
- Exhibit A-2e Responses from Property Owners
- Exhibit MOU-1 Mailing list of owners and residents within 300 feet  
Date mailed:
- Exhibits A-2f-B Verification of policy compliance (undergrounding, collocation, etc.)
- Exhibit C-1b Directory of Neighborhood Organizations list
- Exhibit C-1c City Department Notices for special districts  
N/A
- Exhibit E Neighborhood Notice (per sec C-2)
- Exhibit F-b Site Drawing
- Exhibit F-c Photos of site
- Exhibit F-c1 Assessors Parcel Map, Grade Map, and vicinity map
- Exhibit F-d Location of SMF to be removed  
N/A
- Exhibit G Approval or denial of site Notice to Applicant
- Exhibit H Application Deficiency Notice

Comments: Request approval to post and mail public notification (Exhibit E) alternate site  
File: SF05-515506; 8856397; Group: **33B-R1**

EXHIBIT A  
Pre-Site Visit Checklist

City and County of San Francisco

Department of Public Works

Bureau of Street-use and Mapping



**SURFACE-MOUNTED FACILITY  
PRE-SITE VISIT CHECKLIST**

APPLICANT NAME:	AT&T California	ADDRESS:	795 Folsom St., Rm 426
CONTACT NAME:	Paul Lucq	TEL. NO.:	644-7164
DATE:	November 15, 2013	PROPOSED LOCATION:	501 Missouri Street
DPW REF #	13SMF-0408	APPLICANT REF #	SF05-515506, 8856397, 33B-R1

- 1. Five-year plan or letter indicating no additional work is planned for the next five years is on file.
- 2. Verification that cabinet size is consistent with the plans on file.
- 3. Verification of attempts to place Surface-Mounted Facility on private property (at least 3 locations). Please attach the following:
  - a. Copy of letter mailed to property owners
  - b. Copy of mailing list
  - c. Statement verifying date of mailing
  - d. Copy of responses from property owners
  - e. Verification of attempted to enter into an agreement with any interested property owners
- 4. Verification of attempts to place Surface-Mounted Facility underground.
- 5. Verification of attempts to collocate the Surface-Mounted Facility.
- 6. Verification of special requirements that limit the possible locations for the Surface-Mounted Facility.
- 7. Verification that proposed locations conforms to the placement guidelines.
- 8. Verification that an existing Surface-Mounted Facility could/could not be removed.

ITEM NOS. _____ not required.
Request for site visit is accepted AND Site visit is scheduled
for: _____, 2011 with: _____ Tel. No.: _____
<input type="checkbox"/> Request for site visit is denied
<input type="checkbox"/> Site visit not required because : _____
Reviewed By: _____ Tel. No.: _____

Welcome Paul Lucq

At

Projects Events Conflicts Documents Tasks Mailbox

Projects Milestones Opportunities View: LSMF MI 8856397 33B-R1

Modfu Edit

Project Information

**Name:** LSMF MI 8856397 33B-R1  
**Description:** Project Litespeed  
**Id:** 33B-R1  
**Owner:** AT&T - Construction and Engineering  
**Facility Type:** Communication  
**Asset Type:** Communication  
**Group Code:**  
**Contact:** Paul Lucq 415-644-7164

**Paving Type:** Paving - Hot Curb to Curb  
**Status:** Planned  
**Facility Indicator:** Fiber Optic  
**Activity Type:** Installation

Schedule

**Start Date:** 11/14/2014 12:00 AM  
**End Date:** 02/11/2015 11:59 PM  
**Duration:** 90.0 days

Additional Information

Location

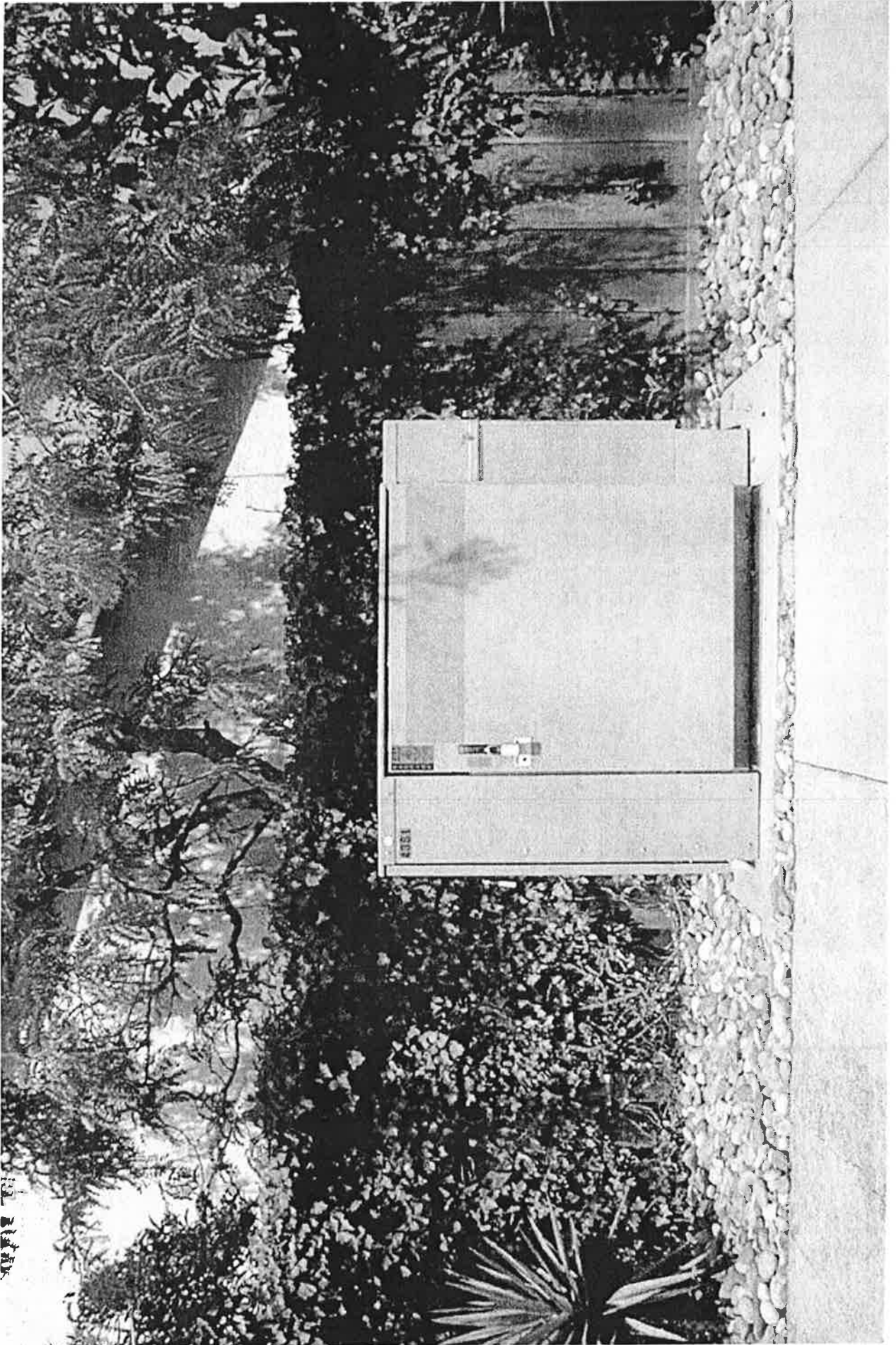
**Location:** Missouri St from 20th St to 516, San Francisco, California, 94107  
**Location Type:** Line  
**Location Size:** 76 ft

Positions

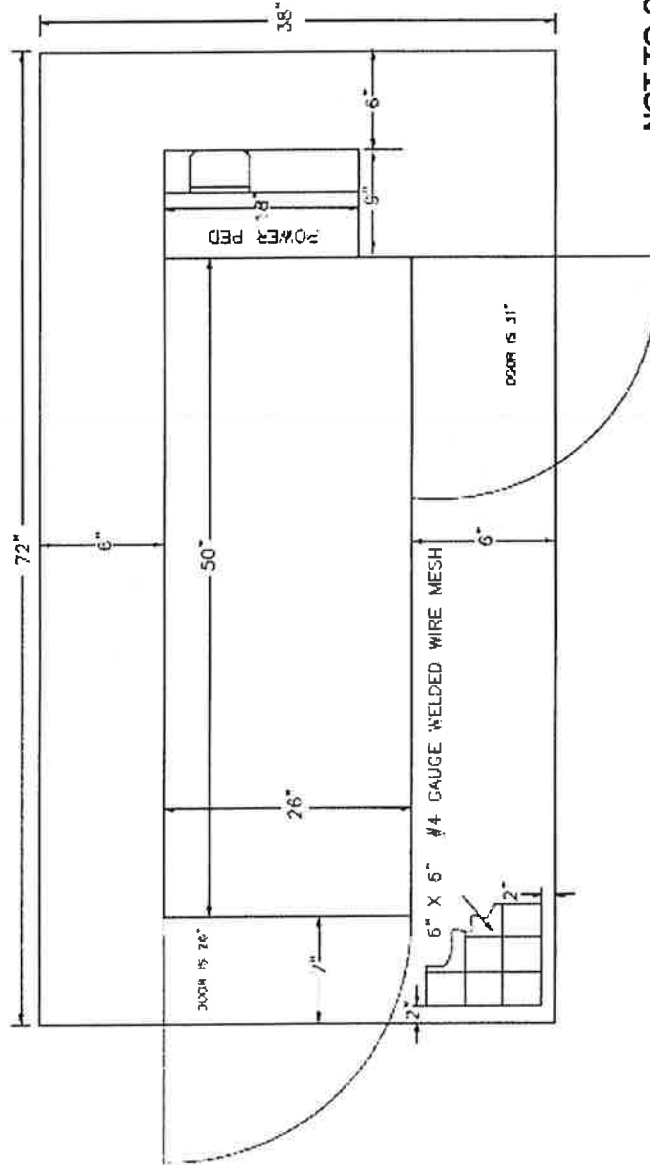
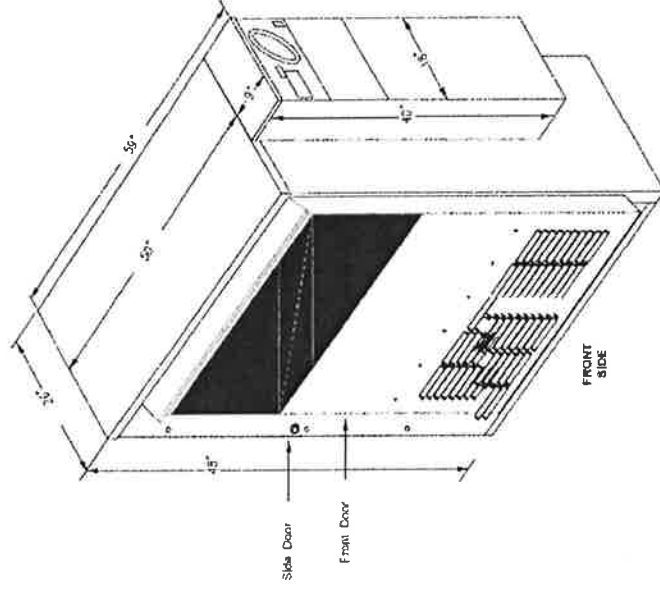


©2013 Envista Corporation, Data - ©2012 NAVTEQ

Conflicts



TYPICAL 448S CABINET WITH POWER PEDESTAL SPECIFICATIONS



NOT TO SCALE

NOTES:

1. CONCRETE TO BE 4000 PSI AT 28 DAYS IN ACCORDANCE WITH ACI STANDARD.
2. PAD TO BE 6" THICK. TOP OF PAD SHOULD BE 2" ABOVE GRADE, UNLESS NOTED ON PERMIT APPLICATION.

448S CABINET DIMENSIONS		POWER PEDESTAL DIMENSIONS	
HEIGHT	48"	HEIGHT	40"
WIDTH	50"	WIDTH	9"
DEPTH	26"	DEPTH	18"



Public Works Coordinator  
AT&T California  
795 Folsom Street, Suite 426  
San Francisco CA 94107-1243

T: 415.644.7054 or  
T: 415.644.7043  
F: 415.957.5973  
www.att.com

«Date\_Mailed»

«First\_Name» «Last\_Name»  
«Company\_Name»  
«Address\_Line\_1»  
«City», «State» «ZIP\_Code»

Dear Property Owner:

AT&T California would like to upgrade the services it provides to our customers in your neighborhood by installing fiber optic cable to a neighborhood hub. To do so, we must install an above ground electronic equipment cabinet with an attached electric power panel.

The City and County of San Francisco prefers that these facilities be placed on private property, instead of on the public sidewalk. We need a place to locate the cabinet, and would like to discuss obtaining an easement on your property at «Property\_Addr», San Francisco. An easement grants a permanent right to use a portion of your land, and attaches to your property land title.

The fiber optic equipment cabinet is 59" wide, 26" deep, and 48" high. The cabinet is weatherproof and intended for outdoor locations. A space about 6 feet by 10 feet is needed to provide clearances to open the cabinet doors.

Access to the equipment by our technicians is required at all times.

If you are not interested in granting AT&T an easement, you do not need to take any action.

If you have an area on your property that is accessible at all times, and are interested in granting a permanent easement, I would appreciate a few moments of your time to discuss this matter.

Please contact me on (415) 644-7164, or by e-mail at [pl8353@att.com](mailto:pl8353@att.com), at your convenience.

Thank you for your time and consideration.

Best regards,

Paul Lucq  
Right of Way Agent

file: «DA\_Job\_Group», «Group»



## **Exhibit A-2f**

### Statements regarding AT&T placing facilities underground

It is not technologically feasible to place AT&T cross-connect boxes (Serving Area Interfaces) underground at this time. No manufacturer has been successful in developing a cross-connect that works underground. An attempt was made in the 1970's to place 3 locations underground in San Francisco. Even though stainless steel components were used, the corrosion that occurred caused the diving-bell type of enclosure to fail. Service issues involving moisture and corrosion at the wire connectors led to the underground facilities being removed and placed above ground. An ongoing attempt by a coalition of major manufacturers and telecom companies to develop an underground cross-connect continue, and AT&T staff is involved in the project. AT&T will use the product in San Francisco at such time that it is approved for use. These issues were discussed at the SMF Committee meetings held in 2004 and 2005.

Cabinets housing electronics used for the conversion of fiber-optic signal to electrical signal have components that cannot be subjected to the moisture and potential flooding of an underground environment.

## **Exhibit A-2g**

### Statement regarding the need to site the facility at this location

This location has been selected because of its proximity to existing AT&T facilities, including conduit and cable, cross-connect cabinets, and its central location within the "Distribution Area" being served. This site will minimize excavation and the resultant disruption to the public, it will also reduce construction impact on City streets and sidewalks.

## **Exhibit A-2h**

### Statement regarding the collocation of AT&T facilities

AT&T is attempting to combine functions of cabinets to optimize their use and minimize the space required to provide the latest technologies to the public. As more compact facilities become available for use, AT&T will deploy them in San Francisco. No other street furniture exists at this site that permits the possibility of collocation.



## **Exhibit A-2i**

### Statements regarding the removal of existing Surface-Mounted Facilities

- This will be a new cross-connect facility, improving the service and installation possibilities for this serving area. No similar facility exists in this serving area, therefore none can be removed.
- The existing cross-connect facility at this location is being upgraded in-place to provide ultimate service capacity for the serving area, and will increase slightly in size to provide for increased capacity and the capability to accept the latest technology improvements when they become available to the neighborhood.
- This facility combines existing facilities and will result in the removal of a cabinet located at: See Exhibit F-d, as well.
- This facility brings new electronic equipment to the serving area. This facility provides the latest fiber-optic served equipment and offers advanced services to serving area residents. No similar facility exists in this neighborhood, therefore none can be removed.
- It is not possible to remove any other SMF with this project.
- 

## **Exhibit B**

### Statement regarding compliance with placement guidelines

This site complies with the DPW placement guidelines for Surface-Mounted Facilities stipulated in Exhibit B of DPW Order 175, 566, dated August 17<sup>th</sup>, 2005.



795 Folsom Street, Room 426  
San Francisco CA 94107-1243

### IMPORTANT NOTICE CONCERNING YOUR RIGHTS

SF05-515506

8856397

33B-R1

Dear San Francisco Resident:

Posting Date

AT&T California is filing an application with the San Francisco Department of Public Works (DPW) for a permit to install an **electronics cabinet with attached electric power panel** at the following proposed location: **501 Missouri Street**. A mock-up of the Surface Mounted Facilities (SMF) in the proposed location is shown below. The cabinet dimensions are: 59 inches wide, 48 inches tall, and 26 inches deep.

**This cabinet will provide the latest telecommunications technology offering high-speed internet access and advanced digital television and entertainment services, which will be fed by fiber-optic cable to this new neighborhood hub.**

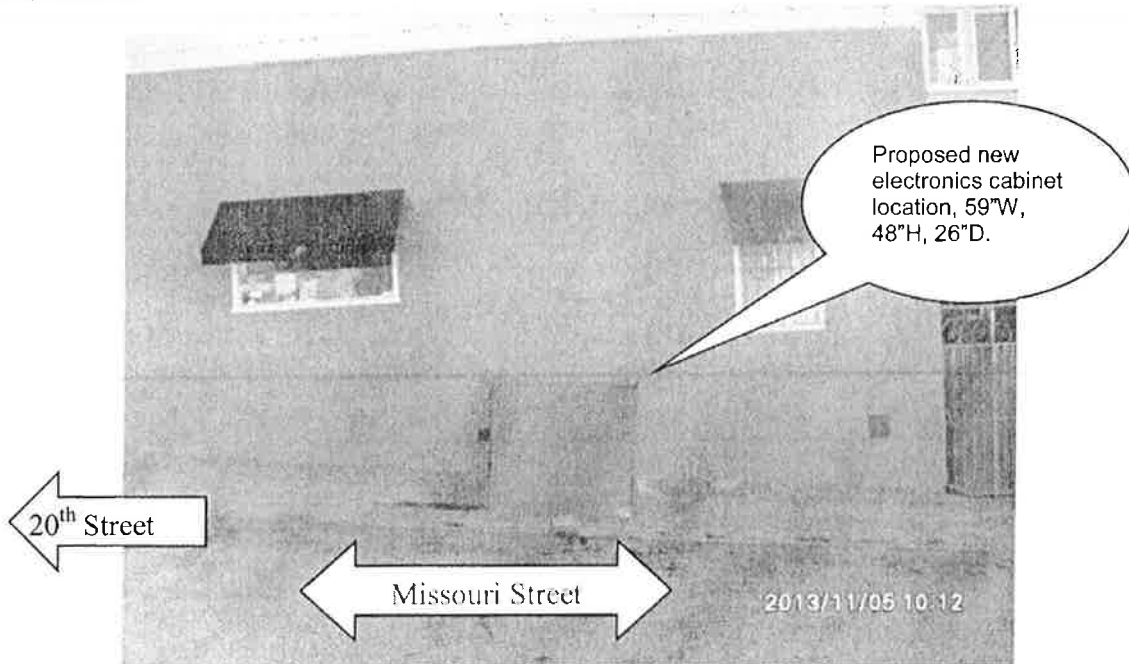
**All objections to the installation of the SMF must be submitted in writing via:**

<b>E-mail to:</b>	<a href="mailto:smf@sfdpw.org">smf@sfdpw.org</a>	<b>US Mail to:</b>	Department of Public Works
<b>Fax to:</b>	(415) 554-6161		Bureau of Street-Use and Mapping
<b>Refer to Permit Appl #:</b>	13SMF-0408		1155 Market Street, 3 <sup>rd</sup> Floor
<b>Last date to object:</b>			San Francisco, CA 94103-1555

**Please reference Permit Application # 13SMF-0408 with all correspondence**

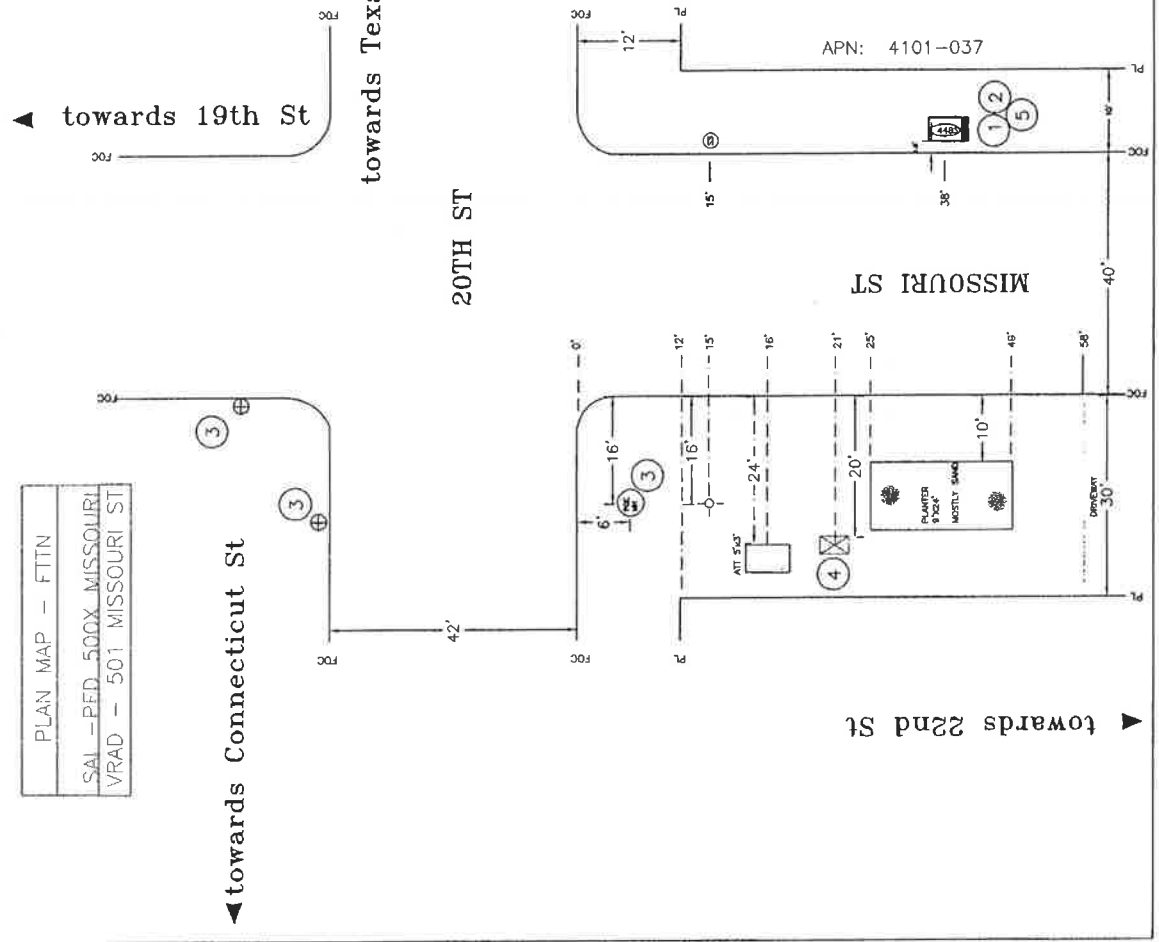
You have **20 days** from the date of this notice to send written notice of your objection to DPW. DPW will not consider any objection unless it is made within this 20-day period.

If you submit an objection, DPW may convene a hearing to determine whether the permit for placement of the SMF should be issued. DPW will commence any such hearing within 40 days after the receipt of any objections. You will have the opportunity to express your concerns about the SMF at the hearing should you choose to attend.



For more information, please visit: [www.att.com/ipnetwork4sf](http://www.att.com/ipnetwork4sf)

PLAN MAP - FTTN  
 SAL - RED, 500X MISSOURI  
 VRAD - 501 MISSOURI ST



**CONSTRUCTION NOTES:**

- POUR IN PLACE 1-72"X38"X6" CONCRETE PAD FOR LOW PROFILE 448S VRAD CABINET (GREEN).
- PLACE LOW PROFILE 448S VRAD CABINET E/W 1-2 SLOT SHELF CABLES FOR (2) SHELVES. PLACE AC POWER PEDESTAL MILBANK SERIES WITH MOUNTING BRACKET KIT, FLUSH MOUNTED ON THE RIGHT SIDE OF THE CABINET.
- POSSIBLE POWER SOURCE.
- EXISTING SAI.
- VRAD CABINET EQUIPPED W/ INTEGRATED AC POWER PEDESTAL SHALL BE GROUNDED AS PER NEC CODE, SECTION 250.

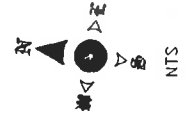
**FIELDERS NOTES**

- Free BPs: FZ 1101-1200, 1701-1800.
- All conduits are full. No Pull Rope. No ID.
- Expand existing SAI with 400x Bolt-On.

**LEGEND**

- = NEW STANCHIONS
- ⊕ = PARKING SIGN
- ⊖ = STOP SIGN
- ⊕ = STREET SIGN
- ⊕ = UTILITY POLE
- ⊕ = GAS GAUGE (8" dia.)
- ⊕ = SFWD (6"X12")
- ⊕ = ATT X-CONNECT BOX
- ⊕ = PROPOSED VRAD
- ⊕ = TREE

CONST. ARC	DATE	COMP.
REG/CO	R4-03	
EXCH	SINECCAD5	
ENGR.	TEL.	
ENGR. ARC		
TYPE OF CONST. DRAWING FOR SF		
RO/EST. NO.	8856397	
PERMIT		
DWG. I	OF	I
DC#		0



▲ towards 22nd St

▲ towards 19th St

▲ towards Texas St

▲ towards Connecticut St

20TH ST

MISSOURI ST

APN: 4101-037

PLANTER  
 8"X24"  
 MOSTLY SAGE

ATT 5x5

30'

40'

30'

12'

15'

38'

6'

16'

12'

15'

16'

24'

21'

25'

46'

50'

42'

42'

42'

42'

42'

42'

42'

42'



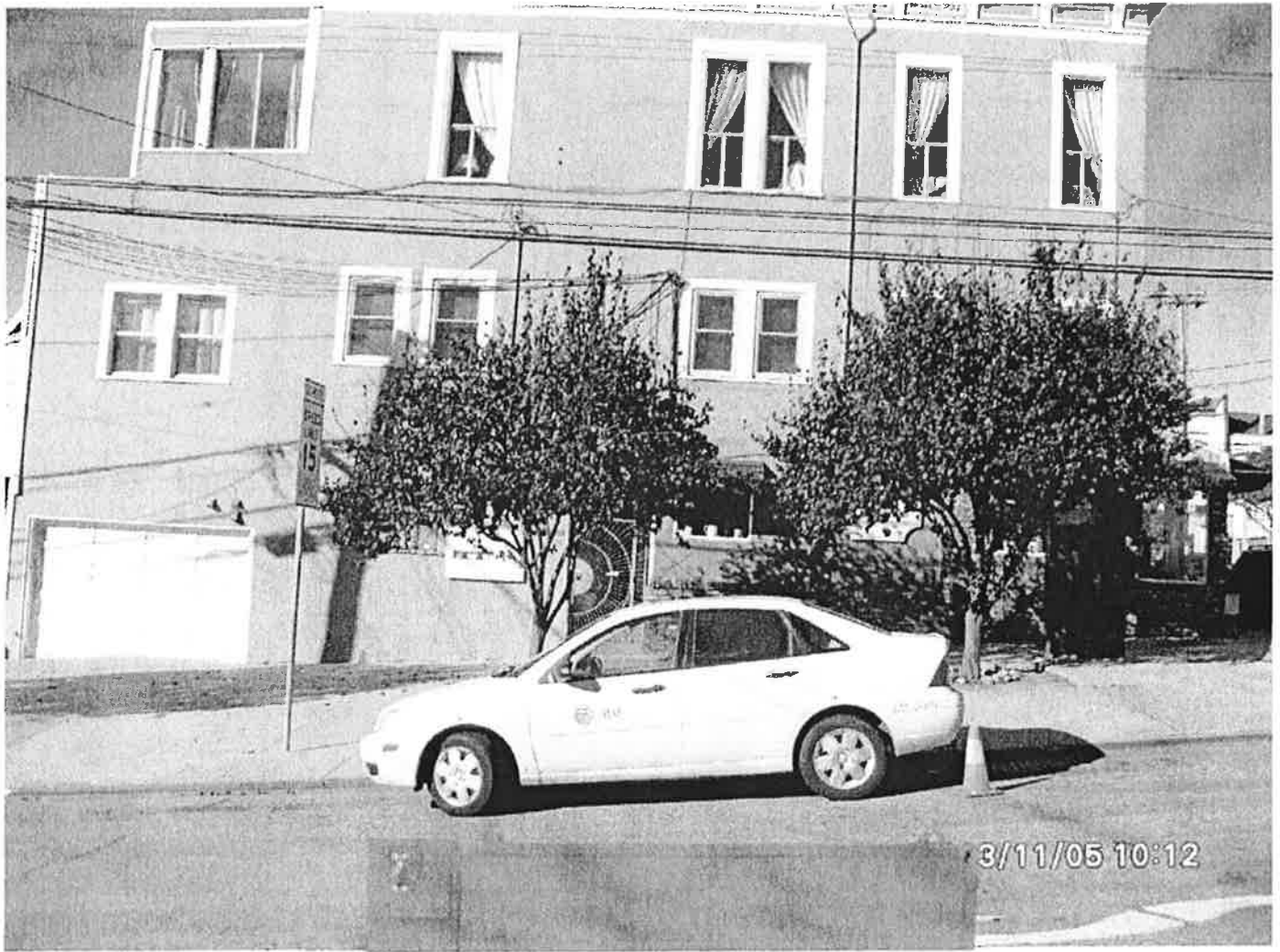
Looking east across Missouri Street, toward the proposed location 20<sup>th</sup> Street is on the left, to the north



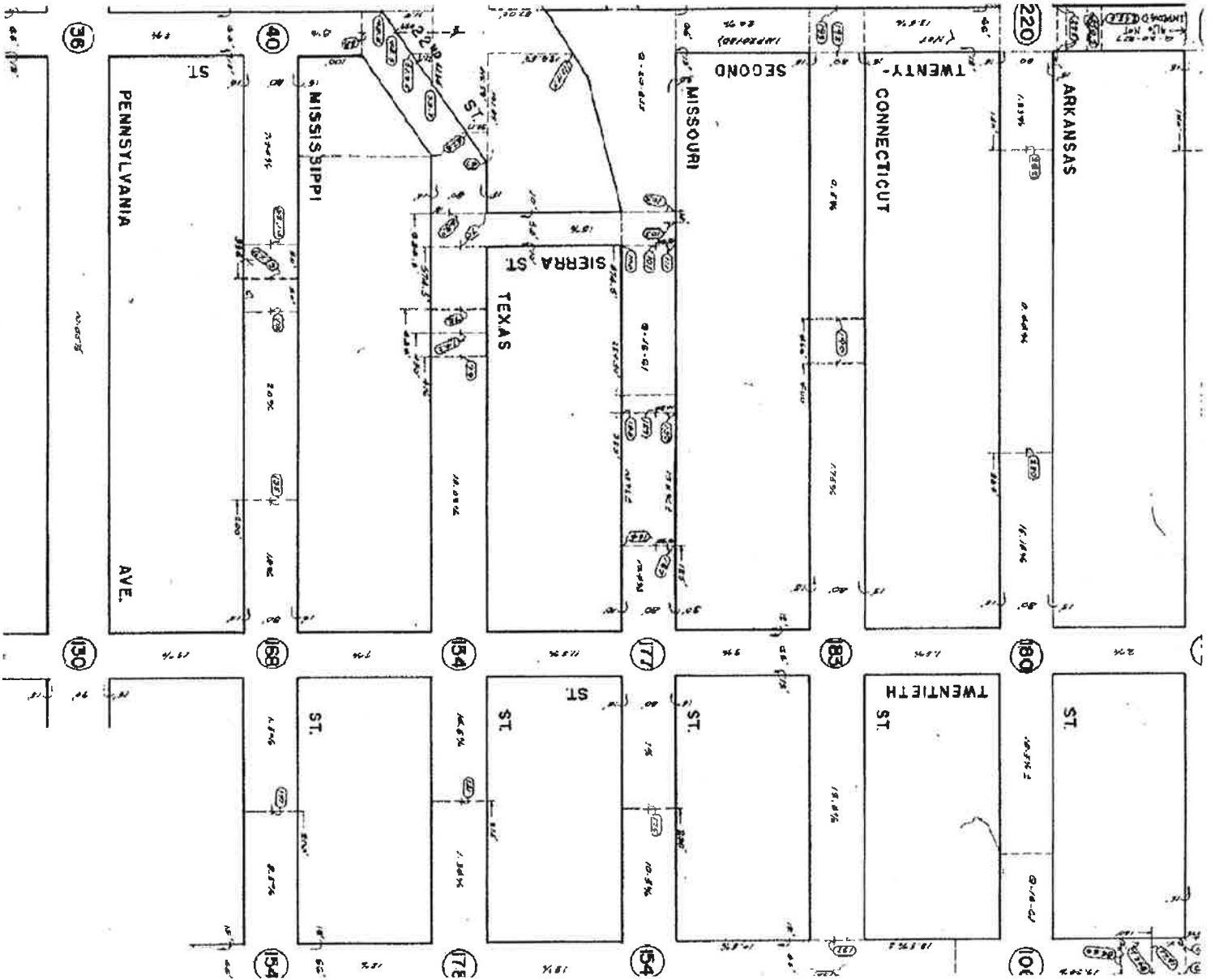
Looking north along the east sidewalk of Missouri Street toward 20<sup>th</sup> Street



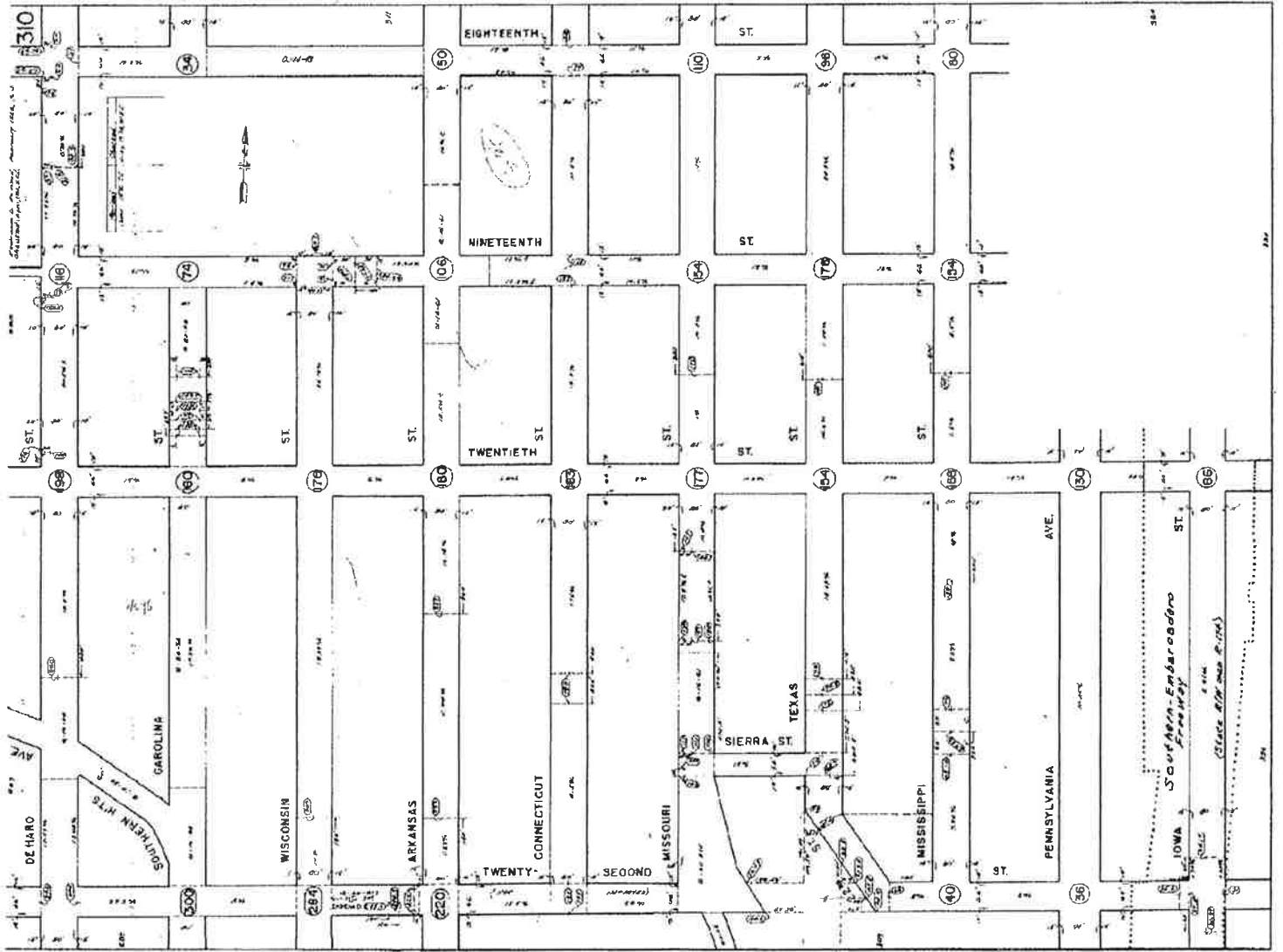
Looking south along the east sidewalk of Missouri Street, toward Sierra Street.



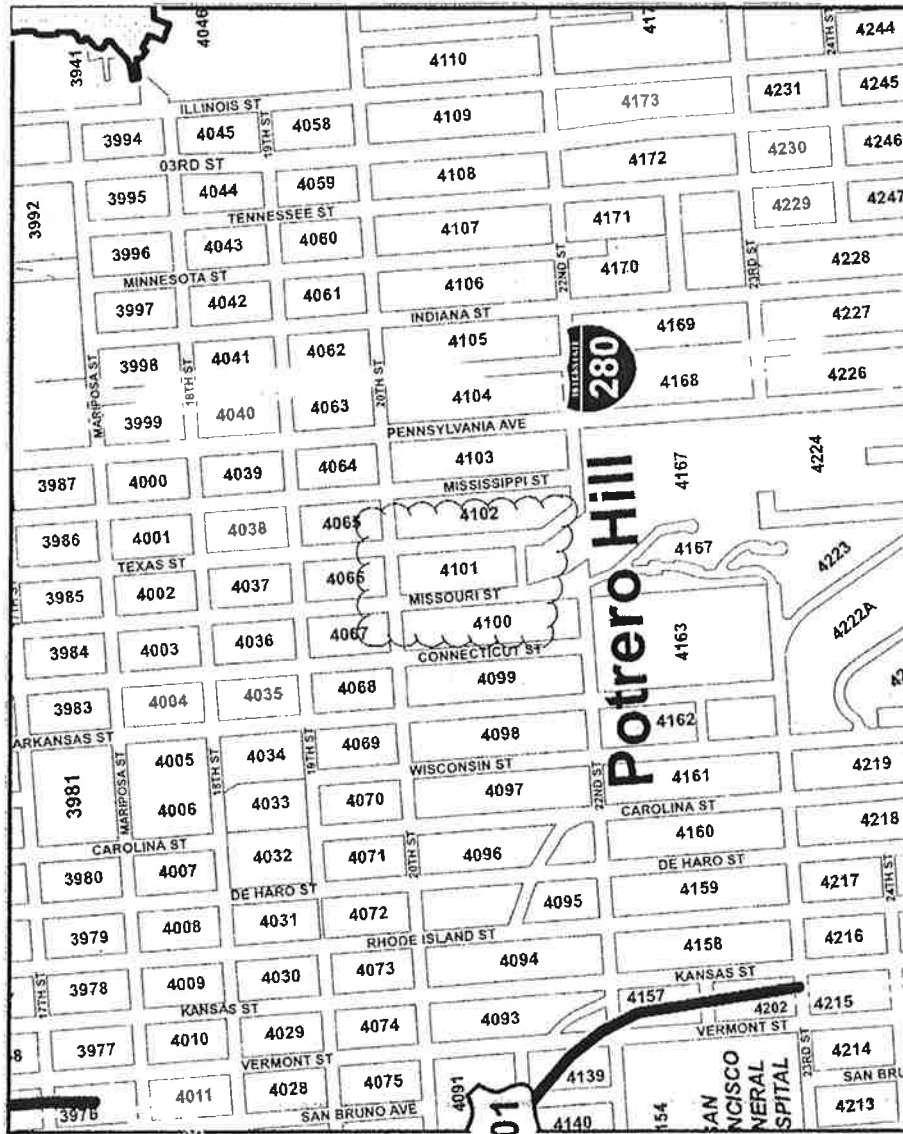
Looking west across Missouri Street from the proposed site. 20<sup>th</sup> Street is on the right, to the north.











City and County of San Francisco



Department of Public Works

Bureau of Street-use and Mapping

Paul Lucq, Public Works Coordinator  
AT&T California  
Construction and Engineering  
795 Folsom Street, Room 426  
San Francisco, CA 94107-1243

**STATUS OF SURFACE MOUNTED FACILITY  
PRE-APPROVAL APPLICATION**

Location: **501 Missouri Street**

Cross Streets: 20<sup>th</sup> Street and Sierra Street

Your file or job number: **SF05-515506, 8856397, 33B-R1**

Your application for pre-approval to construct a surface mounted facility at the location above has been reviewed by the Department, under the terms of DPW Order 175,566.

- Your application is approved, as submitted, with no additional requirements. You may apply for an excavation permit.
- Your application is approved, subject to the following **mitigation requirements**:  
You may apply for an excavation permit.
- Refer to this number in your Excavation Permit application: **13SMF-0408**
- You may **not** apply for a permit at this site, your application is **denied** for the following reason(s):

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

\_\_\_\_\_  
René Lopez  
Utility Permit Coordinator

**EXHIBIT H**  
**Application Deficiency Checklist**

**City and County of San Francisco**

**Department of Public Works**



Bureau of Street-use and Mapping

**SURFACE-MOUNTED FACILITY APPLICATION**  
**DEFICIENCY NOTICE**

Applicant Name: AT&T California Contact Name: Paul Lucq Tel. No: 415 644-7164

Proposed Location: 501 Missouri Street (Group 33B-R1) 13SMF-0408

*The application package is deficient for the reasons indicated below and is returned to:* \_\_\_\_\_

On: \_\_\_\_\_ By: \_\_\_\_\_ Tel No. \_\_\_\_\_

1. **Transmittal letter** is missing the following information:
  - a. Identification of proposed location of Surface Mounted Facility (SMF)
  - b. Type of cabinet (include specification if not on file with the Department of Public Works)
  - c. Date of site visit
  - d. Name, address, telephone number, facsimile number and e-mail address for contact person.
  - e. Other:  
\_\_\_\_\_
  
2. **Detailed Drawing** is missing the following information:
  - a. Street name
  - b. Name of cross streets
  - c. Face of curb (FOC)
  - d. Property lines (PLs)
  - e. Distance from FOC to face of the SMF
  - f. Distance from FOC to PLs
  - g. Distance from FOC to back of the SMF
  - h. Locations 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 SMF.
  - i. Locations of existing underground utility facilities (vaults, manholes, handholds, meters, etc.) and distance from the proposed location of the SMF.
  - j. Distance from nearest cross street to the SMF.
  - k. Other:  
\_\_\_\_\_
  
3. **Photographs of the SMF** in the proposed location is missing the following:
  - a. Front view of the SMF
  - b. Side view of the SMF
  - c. View of the SMF in relation to the nearest building or other structure
  - d. Other:  
\_\_\_\_\_

4. **Location of SMF is incorrect.** Explain:  
\_\_\_\_\_



Public Works Coordinator  
AT&T California  
795 Folsom Street, Suite 426  
San Francisco CA 94107-1243

T: 415.644.7043 or  
T: 415.644.7054  
F: 415.957.5973  
www.att.com

June 19, 2014

René Lopez, Utility Permit Coordinator  
City and County of San Francisco  
Department of Public Works, Bureau of Street-Use and Mapping  
1155 Market Street, 3<sup>rd</sup> Floor  
San Francisco, CA 94103-1555

**EXHIBIT F - a**

**Location:** 501 Missouri Street, east side, south of 20<sup>th</sup> Street  
**DPW File:** **13SMF-0408**

**LETTER OF TRANSMITTAL**  
PROPOSED SURFACE MOUNTED FACILITY

Enclosed are:

- Exhibit A Pre-site visit checklist
- Exhibit A-2a Five-year plan documentation for this site
- Exhibit A-2b Cabinet size plan (footprint and clearance plans)
- Exhibit A-2c Private property mailing letter to property owners mailing list
- Exhibit A-2d1 Private property mailing sample letter seeking easements to property owners
- Exhibit A-2d2 Private property mailing date verification, date mailed:
- Exhibit A-2e Responses from Property Owners  
None were received by AT&T
- Exhibit MOU-1 Mailing list of owners and residents within 300 feet  
Date mailed: April 11, 2014
- Exhibits A-2f-B Verification of policy compliance (undergrounding, collocation, etc.)
- Exhibit C-1b Directory of Neighborhood Organizations list  
Potrero Hill and Citywide were also mailed on April 11, 2014
- Exhibit C-1c City Department Notices for special districts  
N/A
- Exhibit E Neighborhood Notice (per sec C-2)  
Posted and mailed on April 11, 2014
- Exhibit F-b Site Drawing
- Exhibit F-c Photos of site
- Exhibit F-c1 Assessors Parcel Map, Grade Map, and vicinity map
- Exhibit F-d Location of SMF to be removed  
N/A
- Exhibit G Approval or denial of site Notice to Applicant  
Form attached, but we understand that the approval will be online
- Exhibit H Application Deficiency Notice

Comments: Requesting FINAL APPROVAL to apply for an excavation permit per Director's Decision # 182690.  
File: SF05-515506; 8856397; Group: **33B-R1**



795 Folsom Street, Room 426  
San Francisco CA 94107-1243

OFFICIAL NOTICE—DO NOT REMOVE DPW Order 175,566

## IMPORTANT NOTICE CONCERNING YOUR RIGHTS

SF05-515506

8856397

33B-R1

Dear San Francisco Resident:

April 11, 2014

AT&T California is filing an application with the San Francisco Department of Public Works (DPW) for a permit to install an **electronics cabinet with attached electric power panel** at the following proposed location: **501 Missouri Street**. A mock-up of the Surface Mounted Facilities (SMF) in the proposed location is shown below. The cabinet dimensions are: 59 inches wide, 48 inches tall, and 26 inches deep.

**This cabinet will provide the latest telecommunications technology offering high-speed internet access and advanced digital television and entertainment services, which will be fed by fiber-optic cable to this new neighborhood hub.**

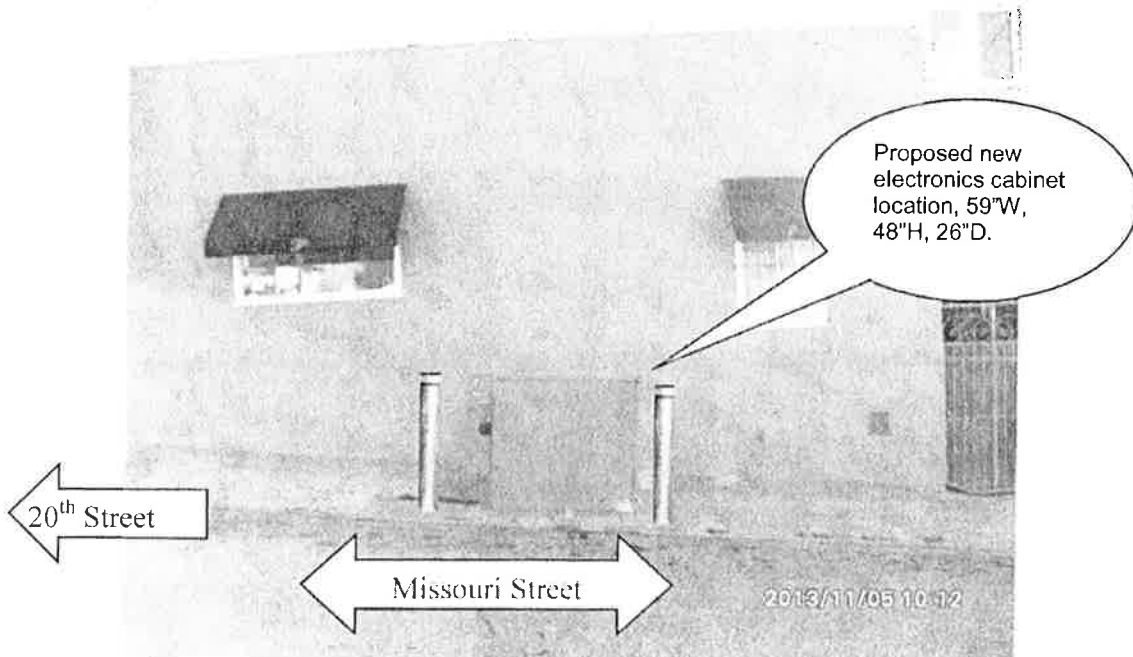
**All objections to the installation of the SMF must be submitted in writing via:**

<b>E-mail to:</b>	<a href="mailto:smf@sfdpw.org">smf@sfdpw.org</a>	<b>US Mail to:</b>	Department of Public Works
<b>Fax to:</b>	(415) 554-6161		Bureau of Street-Use and Mapping
<b>Refer to Permit Appl #:</b>	13SMF-0408		1155 Market Street, 3 <sup>rd</sup> Floor
<b>Last date to object:</b>	May 2, 2014		San Francisco, CA 94103-1555

**Please reference Permit Application # 13SMF-0408 with all correspondence**

You have **20 days** from the date of this notice to send written notice of your objection to DPW. DPW will not consider any objection unless it is made within this 20-day period.

If you submit an objection, DPW may convene a hearing to determine whether the permit for placement of the SMF should be issued. DPW will commence any such hearing within 40 days after the receipt of any objections. You will have the opportunity to express your concerns about the SMF at the hearing should you choose to attend.



For more information, please visit: [www.att.com/ipnetwork4sf](http://www.att.com/ipnetwork4sf)

SAN FRANCISCO - Job #

Group

	A		D		E		F		G	
	APN	Owner Names	Mail Care Of Name	Mail Address	Mail City/State/ZIP					
1		RESIDENT		465 MISSOURI ST	SAN FRANCISCO CA 94107					
2	4066-006	SAN FRANCISCO UNIFIED SCHOOL D		25 VAN NESS AVE #400	SAN FRANCISCO CA 94102-6051					
3	4067-009A	JEFFREY TUCKER		466 MISSOURI ST	SAN FRANCISCO CA 94107-2827					
4		RESIDENT		1500 20TH ST	SAN FRANCISCO CA 94107-2809					
5		RESIDENT		1502 20TH ST	SAN FRANCISCO CA 94107-2809					
6		RESIDENT		1504 20TH ST	SAN FRANCISCO CA 94107-2809					
7		LISA M FIORE-ROCHE	FIORE & CO	510 MISSION ST	SAN FRANCISCO CA 94105-2904					
8	4067-010	RESIDENT		1506 20TH ST	SAN FRANCISCO CA 94107-2809					
9	4067-011	MILIND PARANJPE		1508 20TH ST	SAN FRANCISCO CA 94107-2809					
10		RESIDENT		1512 20TH ST	SAN FRANCISCO CA 94107-2809					
11	4067-012	HUDAHARRAH HOLDINGS		701 CAROLINA ST	SAN FRANCISCO CA 94107-2701					
12		RESIDENT		1518 20TH ST	SAN FRANCISCO CA 94107-2809					
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14		RESIDENT		1524 20TH ST	SAN FRANCISCO CA 94107-2809					
15		RESIDENT		1542 20TH ST	SAN FRANCISCO CA 94107-2809					
16	4067-014	STEVEN M MORECI		6 BROOKSIDE DR	SAN ANSELMO CA 94960-1415					
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18	4067-032	ANNA STERN		1530 20TH ST	SAN FRANCISCO CA 94107-2809					
19		RESIDENT		1501 A 20TH ST	SAN FRANCISCO CA 94107-2808					
20		RESIDENT		508 MISSOURI ST	SAN FRANCISCO CA 94107-2808					
21		RESIDENT		1501A 20TH ST	SAN FRANCISCO CA 94107-2808					
22	4100-001	LI HUAI YU	LING CHU YUEN	510 MISSOURI ST #510	SAN FRANCISCO CA 94107-2837					
23		RESIDENT		510 MISSOURI ST	SAN FRANCISCO CA 94107-2837					
24	4100-002	O T & MARIE TAYLOR		512 MISSOURI ST	SAN FRANCISCO CA 94107-2837					
25	4100-003	PETER WALBRIDGE		514 MISSOURI ST	SAN FRANCISCO CA 94107-2837					
26		RESIDENT		514A MISSOURI ST	SAN FRANCISCO CA 94107-2837					
27	4100-003C	MCWILLIAMS J NELS		516 MISSOURI ST	SAN FRANCISCO CA 94107-2872					
28		RESIDENT		516 MISSOURI ST #A	SAN FRANCISCO CA 94107-2872					
29		RESIDENT		516 MISSOURI ST #B	SAN FRANCISCO CA 94107-2872					
30		RESIDENT		516 MISSOURI ST #C	SAN FRANCISCO CA 94107-2872					
31	4100-004	JOSETTE M MAURY		518 MISSOURI ST	SAN FRANCISCO CA 94107-2837					
32	4100-004A	CHRISTOPHER & ALISA ALVARO SHA		550 MISSOURI ST	SAN FRANCISCO CA 94107-2837					
33	4100-004C	FAMILY & JAMES B GUTHRIE		501 CONNECTICUT ST	SAN FRANCISCO CA 94107-2832					
34		RESIDENT		503 CONNECTICUT ST	SAN FRANCISCO CA 94107-2832					
35	4100-030B	TIMBERLY E HUGHES 1999 REVOC T	HUGHES TIMBERLY E	1521 20TH ST #A	SAN FRANCISCO CA 94107-2808					
36		RESIDENT								



SAN FRANCISCO - Job #

Group

	A	D	E	F	G
	APN	Owner Names	Mail Care Of Name	Mail Address	Mail City/State/ZIP
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38	4100-033	WILLIAM W GEE		1505 20TH ST	SAN FRANCISCO CA 94107-2808
39		RESIDENT		1503 20TH ST	SAN FRANCISCO CA 94107-2808
40	4100-034	WILLIAM W GEE		1505 20TH ST	SAN FRANCISCO CA 94107-2808
41	4100-086	DONALD A & MARLENE SCHMITZ		1527 20TH ST	SAN FRANCISCO CA 94107-2808
42	4100-087	PATRICK MAKUAKANE		1529 20TH ST	SAN FRANCISCO CA 94107-2808
43	4100-088	RINA R WIEDENHOEFT		1531 20TH ST	SAN FRANCISCO CA 94107-2808

Potrero Hill

TITLE	ORGANIZATION	ADDRESS	CITY	STATE	ZIP
Corrinne Woods	Mission Creek Harbor Association	300 Channel Street, Box 10	San Francisco	CA	94158
Janet Carpinelli	Dogpatch Neighborhood Association	934 Minnesota Street	San Francisco	CA	94107
Joyce Book	Vermont St. Neighborhood Association	740 Vermont Street	San Francisco	CA	94107
Keith Goldstein	Potrero-Dogpatch Merchants Association	800 Kansas Street	San Francisco	CA	94107
Malia Cohen	Board of Supervisors	1 Dr. Carlton B Goodlett Place, Room #244	San Francisco	CA	94102-4689
Mary Ratcliff	SF Bay View Newspaper	4917 Third Street	San Francisco	CA	94124
Rodney Minott	Potrero Hill Neighbors/Save the Hill	1206 Mariposa Street	San Francisco	CA	94107
Sean Quigley	Valencia Corridor Merchant Association	1038 Valencia Street	San Francisco	CA	94110
Tony Kelly	Potrero Boosters Neighborhood Association	1459 - 18th Street, Suite 133	San Francisco	CA	94107

NAME	COMPANY	ADDRESS	CITY	STATE	ZIP
Aaron Peskin		470 Columbus Avenue, Ste. 211	San Francisco	CA	94133
Adrian Simi	Carpenters Local 22	2085 Third Street	San Francisco	CA	94107
Alex Lantsberg	Carpenters Local 22 c/o NCCRC Research	265 Hegenberger Road, Ste. 220	Oakland	CA	94621
Chuck Turner	Community Design Center	5 Thomas Mellon Circle, #128	San Francisco	CA	94134
David Villa-Lobos	Community Leadership Alliance	P.O. Box 642201	San Francisco	CA	94109
Grace Shanahan	Residential Builders Association	1717 17th Street, Ste. 200	San Francisco	CA	94103
Lynn Sousa	AT&T Construction and Engineering	795 Folsom Street, Rm.426	San Francisco	CA	94107-1243
Marsha Garland	Garland Public & Community Relations	535 Green Street	San Francisco	CA	94133
Mary Miles	Coalition for Adequate Review	364 Page Street, #36	San Francisco	CA	94102
Michael Theriault	SF Building and Construction Trades Council	1188 Franklin Street, Ste.203	San Francisco	CA	94109
Sona Trauss	SF Bay Area Association of Renters	1552 7th Street	Oakland	CA	94607
Stephen Williams	Law Office of Stephen M. Williams	1934 Divisadero Street	San Francisco	CA	94115
Sue Hestor		870 Market Street, #1128	San Francisco	CA	94102
Ted Gullicksen	San Francisco Tenants Union	558 Capp Street	San Francisco	CA	94110

04/18/13 BP

Verified 8/2/13ja

Updated: 11/11/13ja

Updated: 02/05/14ja

48-51-70110-1452\* 0000058546 :C

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RETURNED TO SENDER  
UNABLE TO FORWARD  
REASON NOT KNOWN

41/51/4029 5001 34 455 NIXIE



US POSTAGE PITNEY BOWES  
ZIP 94577 \$ 000.48<sup>0</sup>  
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0001372535 APR 10 2014

CONSTRUCTION NOTICE

WARREN BYRNE W  
535 MISSOURI ST  
SAN FRANCISCO CA 94107-2836

SF 8856397 33B-R1  
VOKDJSW00

9410732836 0026

City and County of San Francisco

Department of Public Works



Bureau of Street-use and Mapping

Paul Lucq, Public Works Coordinator  
AT&T California  
Construction and Engineering  
795 Folsom Street, Room 426  
San Francisco, CA 94107-1243

**STATUS OF SURFACE MOUNTED FACILITY  
PRE-APPROVAL APPLICATION**

Location: **501 Missouri Street**

Cross Streets: 20<sup>th</sup> Street and Sierra Street

Your file or job number: **SF05-515506, 8856397, 33B-R1**

Your application for pre-approval to construct a surface mounted facility at the location above has been reviewed by the Department, under the terms of DPW Order 175,566.

- Your application is approved, as submitted, with no additional requirements. You may apply for an excavation permit.
- Your application is approved, subject to the following **mitigation requirements**:  
You may apply for an excavation permit.
- Refer to this number in your Excavation Permit application: **13SMF-0408**
- You may **not** apply for a permit at this site, your application is **denied** for the following reason(s):

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

\_\_\_\_\_  
René Lopez  
Utility Permit Coordinator

City and County of San Francisco



Edwin M. Lee, Mayor  
Mohammed Nuru, Director

**San Francisco Department of Public Works**  
Office of the Deputy Director & City Engineer, Fuad Sweiss  
Bureau of Street-Use & Mapping  
1155 Market Street, 3rd Floor  
San Francisco Ca 94103  
(415) 554-5810 • www.sfdpw.org



Jerry Sanguinetti, Bureau Manager

**DPW Order No: 182690**

DIRECTOR'S DECISION REGARDING AT&T CALIFORNIA'S REQUEST TO INSTALL A SURFACE MOUNTED FACILITY IN THE VICINITY OF **501 Missouri Street (13SMF-0408)**

**APPLICANT:** AT&T CALIFORNIA  
795 Folsom Street, #426  
San Francisco, Ca 94107

**DESCRIPTION OF REQUEST:** Surface Mounted Facility Installation

**BACKGROUND:**

1. On **November 15, 2013**, the Applicant (AT&T California) filed an application with the Department of Public Works (DPW) to install a Surface-Mounted Facility (SMF) at **501 Missouri Street**.
2. On **April 11, 2014**, the applicant mailed and posted Notices of Intent (NOI) to all businesses and residences within a 300-foot radius of the subject location.
3. DPW received **two (2)** objection(s) to the application during the 20-day notification period. DPW subsequently scheduled a public hearing to consider testimony received for this site. On May 16, 2014, DPW received a petition with 31 signatures objecting to the proposed surface-mounted facility. The objection(s) and comment(s) included:
  - Will block sidewalk space and detract from neighborhood aesthetics.
  - Request to place on 20<sup>th</sup> Street adjacent to school.
4. On **May 19, 2014**, DPW Hearing Officer **Greg Crump** conducted a hearing on the application to consider testimony regarding the subject SMF.
5. At the hearing, Arianna Urban of DPW presented a summary of the permit applications stating that the Applicant was in compliance with DPW's technical requirements.
6. At the hearing, **Ms. Tedi Vriheas** of AT&T stated that a box walk was conducted on May 8, 2014 and three (3) members of the community attended. During the box walk, AT&T and the attendees located the following potentially feasible alternate locations:
  - Daniel Webster School: have not received a response to an easement request from SFUSD.
  - Original site at 502 Missouri St: Disapproved by Order 181,699.
7. At the hearing, no member of the community testified at the hearing in opposition to the proposed installation of the SMF cabinets in the vicinity of **501 Missouri Street**.



San Francisco Department of Public Works  
Making San Francisco a beautiful, livable, vibrant, and sustainable city.

**RECOMMENDATION: APPROVE** the request by AT&T to locate Surface Mounted Facility **13SMF-0408**, in the vicinity of **501 Missouri Street**.

**FINDINGS:**

1. The Hearing Officer reviewed the application, materials from DPW's files, the objections, additional materials submitted by the applicant and persons protesting the application, and the testimony at the hearing.
2. The Hearing Officer determined that the application complies with the technical requirements of DPW Order No. 756,566.
3. The Director of Public Works has reviewed the Hearing Officer's recommendation. The Director of Public Works hereby adopts the hearing officer's recommendation.

**APPEAL PROCESS:** This decision may be appealed to the Board of Appeals within fifteen (15) calendar days of DPW's approval or denial of an Excavation Permit to install surface mounted facilities **13SMF-0408 in the vicinity of 501 Missouri Street**. The Board of Appeals is located at 1650 Mission Street, Suite 304. To obtain further information regarding the appeal process, you can contact the Board of Appeals at 415-575-6880. You can also visit the Board of Appeals website at: <http://www.sfgov3.org/index.aspx?page=763>

6/17/2014

6/17/2014

X 

Short, Carla  
Deputy Manager

X 

Sweiss, Fuad  
Deputy Director and City Engineer

6/17/2014

X Mohammed Nuru

Nuru, Mohammed  
Director, DPW





Public Works Coordinator  
AT&T California  
795 Folsom Street, Suite 426  
San Francisco CA 94107-1243

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June 19, 2014

René Lopez, Utility Permit Coordinator  
City and County of San Francisco  
Department of Public Works, Bureau of Street-Use and Mapping  
1155 Market Street, 3<sup>rd</sup> Floor  
San Francisco, CA 94103-1555

**EXHIBIT F - a**

**Location:** 501 Missouri Street, east side, south of 20<sup>th</sup> Street  
**DPW File:** **13SMF-0408**

**LETTER OF TRANSMITTAL**  
PROPOSED SURFACE MOUNTED FACILITY

Enclosed are:

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- Exhibit A-2a Five-year plan documentation for this site
- Exhibit A-2b Cabinet size plan (footprint and clearance plans)
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Form attached, but we understand that the approval will be online
- Exhibit H Application Deficiency Notice

Comments: Requesting FINAL APPROVAL to apply for an excavation permit per Director's Decision # 182690.  
File: SF05-515506; 8856397; Group: **33B-R1**





795 Folsom Street, Room 426  
San Francisco CA 94107-1243

**IMPORTANT NOTICE CONCERNING YOUR RIGHTS**

SF05-515506

8856397

33B-R1

Dear San Francisco Resident:

**April 11, 2014**

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**This cabinet will provide the latest telecommunications technology offering high-speed internet access and advanced digital television and entertainment services, which will be fed by fiber-optic cable to this new neighborhood hub.**

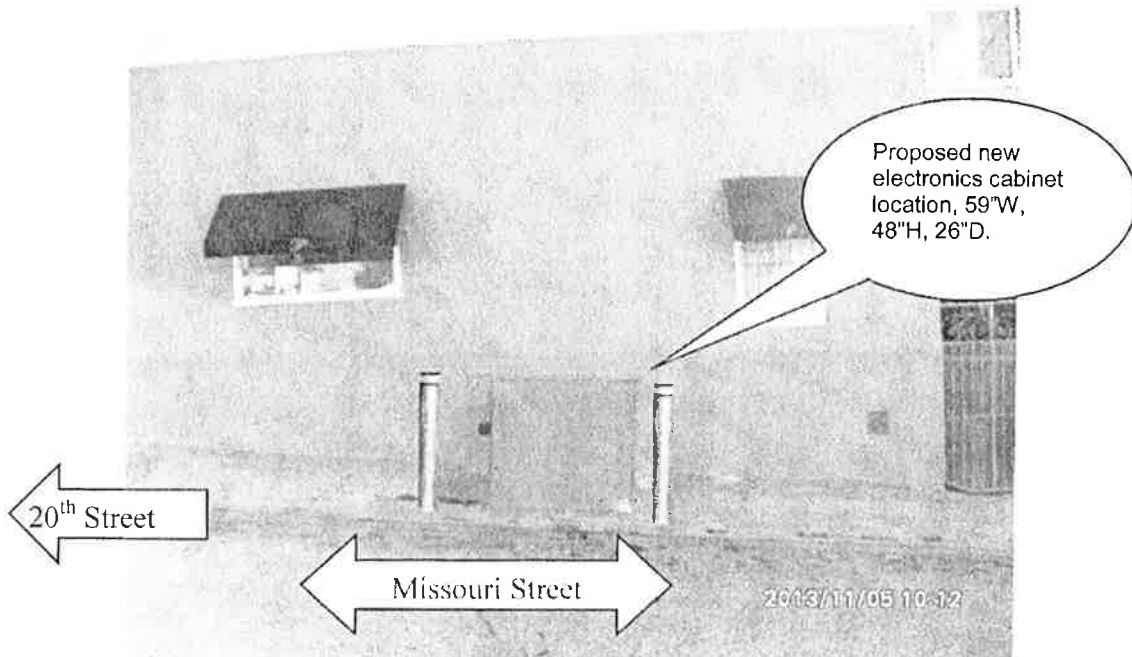
**All objections to the installation of the SMF must be submitted in writing via:**

<b>E-mail to:</b>	<a href="mailto:smf@sfdpw.org">smf@sfdpw.org</a>	<b>US Mail to:</b>	Department of Public Works
<b>Fax to:</b>	(415) 554-6161		Bureau of Street-Use and Mapping
<b>Refer to Permit Appl #:</b>	13SMF-0408		1155 Market Street, 3 <sup>rd</sup> Floor
<b>Last date to object:</b>	<b>May 2, 2014</b>		San Francisco, CA 94103-1555

**Please reference Permit Application # 13SMF-0408 with all correspondence**

You have **20 days** from the date of this notice to send written notice of your objection to DPW. DPW will not consider any objection unless it is made within this 20-day period.

If you submit an objection, DPW may convene a hearing to determine whether the permit for placement of the SMF should be issued. DPW will commence any such hearing within 40 days after the receipt of any objections. You will have the opportunity to express your concerns about the SMF at the hearing should you choose to attend.



For more information, please visit: [www.att.com/ipnetwork4sf](http://www.att.com/ipnetwork4sf)

**SAN FRANCISCO - Job #**

Group

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APN	Owner Names	Mail Care Of Name	Mail Address	Mail City/State/ZIP
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35	TIMBERLY E HUGHES 1999 REVOC T	HUGHES TIMBERLY E	1521 20TH ST #A	SAN FRANCISCO CA 94107-2808
36	RESIDENT			

SAN FRANCISCO - Job #

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39		RESIDENT		1503 20TH ST	SAN FRANCISCO CA 94107-2808
40	4100-034	WILLIAM W GEE		1505 20TH ST	SAN FRANCISCO CA 94107-2808
41	4100-086	DONALD A & MARLENE SCHMITZ		1527 20TH ST	SAN FRANCISCO CA 94107-2808
42	4100-087	PATRICK MAKUAKANE		1529 20TH ST	SAN FRANCISCO CA 94107-2808
43	4100-088	RINA R WIEDENHOEFT		1531 20TH ST	SAN FRANCISCO CA 94107-2808

Potrero Hill

TITLE	ORGANIZATION	ADDRESS	CITY	STATE	ZIP
Corrinne Woods	Mission Creek Harbor Association	300 Channel Street, Box 10	San Francisco	CA	94158
Janet Carpinelli	Dogpatch Neighborhood Association	934 Minnesota Street	San Francisco	CA	94107
Joyce Book	Vermont St. Neighborhood Association	740 Vermont Street	San Francisco	CA	94107
Keith Goldstein	Potrero-Dogpatch Merchants Association	800 Kansas Street	San Francisco	CA	94107
Malia Cohen	Board of Supervisors	1 Dr. Carlton B Goodlett Place, Room #244	San Francisco	CA	94102-4689
Mary Ratcliff	SF Bay View Newspaper	4917 Third Street	San Francisco	CA	94124
Rodney Minott	Potrero Hill Neighbors/Save the Hill	1206 Mariposa Street	San Francisco	CA	94107
Sean Quigley	Valencia Corridor Merchant Association	1038 Valencia Street	San Francisco	CA	94110
Tony Kelly	Potrero Boosters Neighborhood Association	1459 - 18th Street, Suite 133	San Francisco	CA	94107

NAME	COMPANY	ADDRESS	CITY	STATE	ZIP
Aaron Peskin		470 Columbus Avenue, Ste. 211	San Francisco	CA	94133
Adrian Simi	Carpenters Local 22	2085 Third Street	San Francisco	CA	94107
Alex Lantsberg	Carpenters Local 22 c/o NCCRC Research	265 Hegenberger Road, Ste. 220	Oakland	CA	94621
Chuck Turner	Community Design Center	5 Thomas Mellon Circle, #128	San Francisco	CA	94134
David Villa-Lobos	Community Leadership Alliance	P.O. Box 642201	San Francisco	CA	94109
Grace Shanahan	Residential Builders Association	1717 17th Street, Ste. 200	San Francisco	CA	94103
Lynn Sousa	AT&T Construction and Engineering	795 Folsom Street, Rm.426	San Francisco	CA	94107-1243
Marsha Garland	Garland Public & Community Relations	535 Green Street	San Francisco	CA	94133
Mary Miles	Coalition for Adequate Review	364 Page Street, #36	San Francisco	CA	94102
Michael Theriault	SF Building and Construction Trades Council	1188 Franklin Street, Ste.203	San Francisco	CA	94109
Sona Trauss	SF Bay Area Association of Renters	1552 7th Street	Oakland	CA	94607
Stephen Williams	Law Office of Stephen M. Williams	1934 Divisadero Street	San Francisco	CA	94115
Sue Hestor		870 Market Street, #1128	San Francisco	CA	94102
Ted Gullicksen	San Francisco Tenants Union	558 Capp Street	San Francisco	CA	94110

04/18/13 BP

Verified 8/2/13ja

Updated: 11/11/13ja

Updated: 02/05/14ja

7E5T107-15-37 \*2541-01107-15-37 945835000000 0005038546

US POSTAGE >> PITNEY BOWES  
ZIP 94577 \$ 000.48<sup>0</sup>  
02 1W 0001372535 APR 10 2014



RETURNED TO SENDER  
ATTEMPTED - NOT KNOWN  
UNABLE TO FORWARD

PT/ST/PO/CO 5001 21 755 NIXIE

CONSTRUCTION NOTICE

WARREN BYRNE W  
535 MISSOURI ST  
SAN FRANCISCO CA 94107-2836

SF 8856397 338-R1  
VOKDJSW00

9410732836 0026

City and County of San Francisco



Department of Public Works

Bureau of Street-use and Mapping

Paul Lucq, Public Works Coordinator  
AT&T California  
Construction and Engineering  
795 Folsom Street, Room 426  
San Francisco, CA 94107-1243

**STATUS OF SURFACE MOUNTED FACILITY  
PRE-APPROVAL APPLICATION**

Location: **501 Missouri Street**

Cross Streets: 20<sup>th</sup> Street and Sierra Street

Your file or job number: **SF05-515506, 8856397, 33B-R1**

Your application for pre-approval to construct a surface mounted facility at the location above has been reviewed by the Department, under the terms of DPW Order 175,566.

- Your application is approved, as submitted, with no additional requirements. You may apply for an excavation permit.
- Your application is approved, subject to the following **mitigation requirements**:  
You may apply for an excavation permit.
- Refer to this number in your Excavation Permit application: **13SMF-0408**
- You may **not** apply for a permit at this site, your application is **denied** for the following reason(s):

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

\_\_\_\_\_  
René Lopez  
Utility Permit Coordinator

City and County of San Francisco



**Edwin M. Lee, Mayor**  
**Mohammed Nuru, Director**

**San Francisco Department of Public Works**  
Office of the Deputy Director & City Engineer, Fuad Sweiss  
Bureau of Street-Use & Mapping  
1155 Market Street, 3rd Floor  
San Francisco Ca 94103  
(415) 554-5810 • www.sfdpw.org



**Jerry Sanguinetti, Bureau Manager**

**DPW Order No: 182690**

DIRECTOR'S DECISION REGARDING AT&T CALIFORNIA'S REQUEST TO INSTALL A SURFACE MOUNTED FACILITY IN THE VICINITY OF **501 Missouri Street (13SMF-0408)**

**APPLICANT:** AT&T CALIFORNIA  
795 Folsom Street, #426  
San Francisco, Ca 94107

**DESCRIPTION OF REQUEST:** Surface Mounted Facility Installation

**BACKGROUND:**

1. On **November 15, 2013**, the Applicant (AT&T California) filed an application with the Department of Public Works (DPW) to install a Surface-Mounted Facility (SMF) at **501 Missouri Street**.
2. On **April 11, 2014**, the applicant mailed and posted Notices of Intent (NOI) to all businesses and residences within a 300-foot radius of the subject location.
3. DPW received **two (2)** objection(s) to the application during the 20-day notification period. DPW subsequently scheduled a public hearing to consider testimony received for this site. On May 16, 2014, DPW received a petition with 31 signatures objecting to the proposed surface-mounted facility. The objection(s) and comment(s) included:
  - Will block sidewalk space and detract from neighborhood aesthetics.
  - Request to place on 20<sup>th</sup> Street adjacent to school.
4. On **May 19, 2014**, DPW Hearing Officer **Greg Crump** conducted a hearing on the application to consider testimony regarding the subject SMF.
5. At the hearing, Arianna Urban of DPW presented a summary of the permit applications stating that the Applicant was in compliance with DPW's technical requirements.
6. At the hearing, **Ms. Tedi Vriheas** of AT&T stated that a box walk was conducted on May 8, 2014 and three (3) members of the community attended. During the box walk, AT&T and the attendees located the following potentially feasible alternate locations:
  - Daniel Webster School: have not received a response to an easement request from SFUSD.
  - Original site at 502 Missouri St: Disapproved by Order 181,699.
7. At the hearing, no member of the community testified at the hearing in opposition to the proposed installation of the SMF cabinets in the vicinity of **501 Missouri Street**.



San Francisco Department of Public Works  
Making San Francisco a beautiful, livable, vibrant, and sustainable city.



**RECOMMENDATION: APPROVE** the request by AT&T to locate Surface Mounted Facility **13SMF-0408**, in the vicinity of **501 Missouri Street**.

**FINDINGS:**


1. The Hearing Officer reviewed the application, materials from DPW's files, the objections, additional materials submitted by the applicant and persons protesting the application, and the testimony at the hearing.
2. The Hearing Officer determined that the application complies with the technical requirements of DPW Order No. 756,566.
3. The Director of Public Works has reviewed the Hearing Officer's recommendation. The Director of Public Works hereby adopts the hearing officer's recommendation.

**APPEAL PROCESS:** This decision may be appealed to the Board of Appeals within fifteen (15) calendar days of DPW's approval or denial of an Excavation Permit to install surface mounted facilities **13SMF-0408 in the vicinity of 501 Missouri Street**. The Board of Appeals is located at 1650 Mission Street, Suite 304. To obtain further information regarding the appeal process, you can contact the Board of Appeals at 415-575-6880. You can also visit the Board of Appeals website at: <http://www.sfgov3.org/index.aspx?page=763>


6/17/2014

6/17/2014

X

  
Short, Carla  
Deputy Manager

X

  
Sweiss, Fuad  
Deputy Director and City Engineer

6/17/2014

X

Mohammed Nuru

Nuru, Mohammed  
Director, DPW



# **EXHIBIT 3**



(415) 554-5810  
FAX (415) 554-6161  
http://www.sfdpw.org

Department of Public Works  
Bureau of Street-Use and Mapping  
1155 Market St, 3rd Floor  
San Francisco, CA 94103

**14EXC-3764**

**Utility Excavation Permit**

**Address : Multiple Locations**

**Cost: \$1,242.02**

**Block: Lot: Zip:**

Pursuant to Article 2.4 of the Public Works Code in conjunction to DPW Order 178,940 permission, revocable at the will of the Director of Public Works, to excavate and restore the public right-of-way is granted to Permittee.

**Permittee**

**Name:** SBC - Pacific Bell Engineering

**Address:** 795 Folsom Street, Room 426 San Francisco, CA 94107-1243

**Contact:** Doug Yamashita

**Phone:** (925) 823 - 0955

<b>Conditions</b>	
<b>EmergencyConfirmationNumber</b>	
<b>24 Hour / 7 Day Contact:</b>	Judy Jones 415-330-1880 Cell 415-244-9799
<b>Service Address/Project:</b>	501 Missouri Street at 20th Street LSMF MI 8856397 33B-R1 (13SMF-0408)
<b>Start Date</b>	02/23/2015
<b>Permit expires on:</b>	3/8/2015
<b>Purpose</b>	Telephone
<b>Excavation Reason</b>	Install New Cabinet
<b>Excavation Reason Description</b>	
<b>Method:</b>	Open Cut: Sawcut
<b>TrackingNumber1</b>	8856397 R403 4C
<b>TrackingNumber2</b>	13SMF-0408 SF05-515506
<b>Project Size</b>	172
<b>Inspection</b>	

The undersigned Permittee hereby agrees to comply with all requirements and conditions noted on this permit

**Approved Date : 07/01/2014**

**\*\*When drilling/excavating in sidewalk area, entire flag(s) must be replaced.\*\***

\_\_\_\_\_  
Applicant/Permittee

\_\_\_\_\_  
Date

Distribution:  
Inside BSM: Utility Inspection

Printed : 9/4/2014 11:31:16 AM

Plan Checker

Gene Chan

#### STREET EXCAVATION REQUIREMENTS:

1. The permittee shall call Underground Service Alert (U.S.A.), telephone number 1-800-227-2600, 48 hours prior to any excavation.
2. All work including sidewalk and pavement cutting and removal, lagging, excavation, backfill, and sidewalk and pavement restoration shall be done by a licensed paving contractor and in accordance with the requirements of the Standard Specifications of the Bureau of Engineering, Department of Public Works, July 1986 Edition and Department of Public Works Order Nos. 176,707, copy attached.
3.
  - a. DPW Order 181,305, dated 6/17/13, Reinforced Concrete Bus pads, shall be constructed in accordance with SFDPW Standard Plan, File No. 96,607 and SFDPW Standard Specification Section 210 except that the concrete bus pad shall have a minimum compressive strength of 5,000 psi. Concrete bus pads shall be constructed at a minimum thickness of 10 to 12 inches and shall be approximately 10-feet wide.
  - b. DPW Order 181,306 dated 9/26/13, Reinforced concrete sidewalk, shall be constructed in accordance with the SFPDW Standard Plan File No. 96,608 and SFDPW Standard Specification Section 204 with #3 steel reinforced bars at mid-depth of the concrete sidewalk slab.
4. Sidewalk and pavement restoration shall include the replacement of traffic lane and crosswalk striping, parking stall markings, and curb painting that might have been obliterated during street excavation. The permittee shall perform their work under on the following options:
  - a. Have the City forces do the striping and painting work at the permittee's expense. The permittee shall make a deposit with the Department of Parking & Traffic for this purpose in an amount estimated by the Municipal Transportation Agency (MTA) 7th Floor 1 South Van Ness Ave telephone 701-4500, and notify the MTA at least 48 hours in advance of the time the work is to be done.
  - b. Perform the work themselves following instructions available at the Department of Parking & Traffic.
5. The permittee shall submit a non-refundable fee to Bureau of Street-Use and Mapping to pay for City Inspection of the backfill and pavement restoration. At least 48 hours in advance, the permittee shall make arrangements with the Street Improvement Section Inspectors, 554-7149, for an inspection schedule.
6. The permittee shall file and maintain an excavation bond in the sum of \$25,000.00 with the Department of Public Works, to guarantee the maintenance of the pavement in the excavation area for a period of 3 years following the completion of the backfill and pavement restoration pursuant to Article 2.4.40 of the Public Works Code.
7. The permittee shall conduct construction operations in accordance with the requirements of Article 11 of the Traffic Code. The permittee shall contact the MTA 7th Floor 1 South Van Ness Ave telephone 701-4500, for specific restrictions before starting work.
8. The permittee shall obtain the required permits, if any, from regulating agencies of the State of California.
9. The permittee shall verify the locations of any City or public service utility company facilities that may be affected by the work authorized by this permit and shall assume all responsibility for any damage to such facilities. The permittee shall make satisfactory arrangements and payments for any necessary temporary relocation of City or public utility company facilities.
10. The permittee shall pay the required fee for sewer installation permit at the Plumbing Inspection Division, Department of Building Inspection, 1660 Mission Street and arrange for inspection of this work, telephone 558-6054.
11. Concrete form work, planting of trees and pouring of sidewalk and/or curb shall not be performed prior to obtaining a permit from Bureau of Urban Forestry (BUF), telephone: 554-6700.
12. Per DPW Order 178,806, the recycling of Cobble Stones and Granit Curb shall follow as:
  - a. Cobblestones shall be clean of dirt prior to transporting. Extreme care shall be taken during the transporting the cobblestones to minimize damage before delivery to City. The cobblestones shall be neatly and securely placed on pallets so they can be moved about safely after the delivery. The Minimum size of cobblestone shall be 4 inches square (16 square inches). The cobblestones shall be delivered, including off loading, to the lower lot at the Cesar Chavez Street Yard located at 2323 Cesar Chavez Street or at alternative location directed by the Department within the City of San Francisco. Contact the Department forty-eight hours (48 hours) prior to delivery. The Department can be reached at (415) 641-2627.
  - b. Granite Curb shall be neatly and securely placed on pallets so they can be moved about safely after delivery. The Contractor shall exercise care in transporting the granite curb to minimize damage. The length limit of recyclable granite curbs shall be no less than four feet. The granite curb shall be delivered, including off loading, to the back lot at the Griffith Pump Station located at 1105 Thomas Street or at an alternative location directed by the Department within the City of San Francisco. Contact Bureau of Street and Sewer Repair (BSSR) at least forty-eight hours (48 hours) prior to delivery. BSSR can be reached at (415) 695-2087.
13. In consideration of this Permit being issued for the work described in the application, Permittee on its behalf and that of any successor or assign, and on behalf of any lessee, promises and agrees to perform all the terms of this Permit and to comply with all applicable laws, ordinances and regulations.
14. Permittee agrees on its behalf and that of any successor or assign to hold harmless, defend, and indemnify the City and County of San Francisco, including, without limitation, each of its commissions, departments, officers, agents and employees (hereinafter collectively referred to as the "City") from and against any and all losses, liabilities, expenses, claims, demands, injuries, damages, fines, penalties, costs or judgments including, without limitation, attorneys' fees and costs (collectively, "claims") of any kind allegedly arising directly or indirectly from (i) any act by, omission by, or negligence of, Permittee or its subcontractors, or the officers, agents, or employees of either, while engaged in the performance of the work authorized by this Permit, or while in or about the property subject to this Permit for any reason connected in any way whatsoever with the performance of the work authorized by this Permit, or allegedly resulting directly or indirectly from the maintenance or installation of any equipment, facilities or structures authorized under this Permit, (ii) any accident or injury to any contractor or subcontractor, or any officer, agent, or employee of either of them, while engaged in the performance of the work authorized by this Permit, or while in or about the property, for any reason connected with the performance of the work authorized by this Permit, or arising from liens or claims for services rendered or labor or materials furnished in or for the performance of the work authorized by this Permit, (iii) injuries or damages to real or personal property, good will, and persons in, upon or in any way allegedly connected with the work authorized by this Permit from any cause or claims arising at any time, and (iv) any release or discharge, or threatened release or discharge, of any hazardous material caused or allowed by Permittee in, under, on or about the property subject to this Permit or into the environment. As used herein, "hazardous material" means any substance, waste or material which, because of its quantity, concentration of physical or chemical characteristics is deemed by any federal, state, or local governmental authority to pose a present or potential hazard to human health or safety or to the environment.
15. Permittee must hold harmless, indemnify and defend the City regardless of the alleged negligence of the City or any other party, except only for claims resulting directly from the sole negligence or willful misconduct of the City. Permittee specifically acknowledges and agrees that it has an immediate and independent obligation to defend the City from any claim which actually or potentially falls within this indemnity provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Permittee by the City and continues at all times thereafter. Permittee agrees that the indemnification obligations assumed under this Permit shall survive expiration of the Permit or completion of work.
16. Permittee shall obtain and maintain through the terms of this Permit general liability, automobile liability or workers' compensation insurance as the City deems necessary to protect the City against claims for damages for personal injury, accidental death and property damage allegedly arising from any work done under this Permit. Such insurance shall in no way limit Permittee's indemnity hereunder. Certificates of insurance, in form and with insurers satisfactory to the City, evidencing all coverages above shall be furnished to the City before commencing any operations under this Permit, with complete copies of policies furnished promptly upon City request.
17. The permittee and any permitted successor or assign recognize and understand that this permit may create a possessory interest.

# Special Conditions

14EXC-3764

## Conditions

SBC/Pacific Bell

NOTES: Per the Public Works Excavation Code:

- 1) 'T' trench shall be the standard restoration practice for all trenches greater than 18 inches in width. The restoration of the concrete base and pavement will be equal to 1 ft. as measured from the edge of the trench;
- 2) The minimum pavement restoration requirements (mill and fill) for trenches exceeding 25% of the length of the block shall include the restoration of all affected lanes for the entire length of the block. For streets that are not delineated by painted lanes and the width of the excavation is less than thirteen (13) feet, the pavement restoration requirements (mill and fill) shall be for the entire length of the block thirteen (13) feet in width;
- 3) For excavation in the intersection, the restoration shall be to pave all affected quadrants either with the 13 foot rule for streets without delineated traffic lanes unless it is on a Muni route and for streets with multiple delineated traffic lanes in one direction, the restoration shall be limited to the affected lane(s).

Per DPW sign specifications, all projects impacting the length of one (1) block face or more will require the installation of a project information sign, for the duration of the project. The project information sign should be located at either end of the project facing oncoming vehicular traffic. For larger projects that exceed five (5) blocks, the project information sign should be placed at five (5) block intervals in both directions. The signage is intended to keep the public informed of the intent of the project, project schedule, contact information and allow for updates as needed.

If concrete street, gutter or parking strip is excavated, SBC/Pacific Bell shall remove and replace the entire concrete section from construction joint to construction joint. (No new construction joint will be allowed).

When drilling/excavating in the sidewalk area, entire sidewalk flag(s) must be replaced to adjacent score lines.

Placement or installation of any utility facilities within the curb return area is prohibited per DPW Order No. 175,387.

The Department of Public Works approves this permit pursuant to the following special conditions, which the Department of Public Works incorporates into the permit and makes a part thereof.

### SPECIAL PERMIT CONDITIONS:

This permit is approved for 45 day duration under the following conditions:

- 1) All work (excavation to final paving) shall be completed within fourteen (14) calendar days.
  - 2) SBC/Pacific Bell shall comply with Code Section 2.4.50(a), post and maintain notice(s) at the site of the excavation 72 hours prior to start of construction. If the work is anticipated to take longer than fourteen (14) calendar days, SBC/Pacific Bell shall comply with Code Section 2.4.50(b)(i), provide written notice(s) delivered by mail to each property owners on the block(s) affected by the excavation at least thirty (30) days prior to start of construction. SBC/Pacific Bell shall also comply with Code Section 2.4.50(b)(ii) and (b)(iii), post and maintain notice(s) at the site of the excavation and deliver a written notice to each dwelling unit on the block(s) affected by the excavation at least ten (10) days prior to start of construction.
  - 3) SBC/Pacific Bell shall comply with Code Section 2.4.55(b)(i)(ii) and (iii), the 120-Hour Rule.
  - 4) SBC/Pacific Bell shall coordinate all work with other construction projects and events known or unforeseen such as to minimize the impact of construction project on the general public and/or event(s).
  - 5) SBC/Pacific Bell work shall be in accordance with DPT Blue Book or with any DPT approved traffic routing plans or DPT Special Traffic Permit.
  - 6) SBC/Pacific Bell shall replace any existing traffic stripings and markings that are removed or damaged by the work activity with temporary stripings and markings after the restoration of the pavement as specified on Section 6.2 'Pavement Markings' of DPT's 'Blue Book'. Also, SBC/Pacific Bell shall pay to DPT the cost of replacing the permanent pavement markings. For any questions, please call Conrad Magat of DPT at (415) 701-4680.
  - 7) SBC/Pacific Bell shall restore all trenches per the Excavation Code.
  - 8) SBC/Pacific Bell shall remove all temporary pavement markings including USA marking on both the sidewalk and street at the conclusion of the excavation.
  - 9) SBC/Pacific Bell shall construct curb ramps, if applicable, per Standard Curb Ramp Drawing Nos. CR-1 and CR-3, Revision 4 and Drawing Nos. CR-2, CR-4 thru CR-6, Revision 0 on any curb return/angular corner where excavation occurs. All curb ramp installation shall comply with ADA requirements.
- Failure to comply with the above requirements may render this permit void and may subject SBC/Pacific Bell to a fine or citation.

# Permit Addresses

14EXC-3764

\*RW = RockWheel, SMC = Surface Mounted Cabinets, S/W = Sidewalk Work, DB = Directional Boring,  
BP= Reinforced Concrete Bus Pad, UB = Reinforced Concrete for Utility Pull Boxes and Curb Ramps

Number of blocks: 3    Total repair size: 172 sqft    Total Streetspace:    Total Sidewalk: sqft

ID	Street Name	From St	To St	Sides	*Other	Asphalt	Concrete	Street Space Feet	Sidewalk Feet
3	20TH ST	TEXAS ST	MISSOURI ST	South	RW : False SMC : False S/W Only : True DB: False BP: False UB: False	0	52		
<b>Total</b>						<b>0</b>	<b>52</b>		
1	MISSOURI ST	20TH ST	SIERRA ST	Both	RW : False SMC : True S/W Only : False DB: False BP: False UB: True	40	73		
2		20TH ST	Intersection	South	RW : False SMC : False S/W Only : True DB: False BP: False UB: False	0	7		
<b>Total</b>						<b>40</b>	<b>80</b>		

# Exceptions

14EXC-3764

Street Name	From St	To St	Message	Job	Contact	Dates
20TH ST						
	MISSOURI ST	Intersection	Conflict with existing excavation permit. It is mandatory that you coordinate all work for joint paving.	13EXC-5401	Juan Perez (415) 760-8744 - Juan Perez (415) 760-8744	Nov 11 2013-
	TEXAS ST	MISSOURI ST -	Conflict with existing excavation permit. It is mandatory that you coordinate all work for joint paving.	13EXC-5401	Juan Perez (415) 760-8744 - Juan Perez (415) 760-8744	Nov 11 2013-
	MISSOURI ST	Intersection	Proposed Excavation.	AT&T - Construction and Engineering	Paul Lucq -	Nov 14 2014-Feb 11 2015
	TEXAS ST	MISSOURI ST -	Banners are allowed on this street	N/A		
	MISSOURI ST	Intersection	Proposed Paving.	PAVING	Edmund Lee -	Jul 1 2014-Jun 30 2015
	TEXAS ST	MISSOURI ST -	Proposed Paving.	PAVING	Edmund Lee -	Jul 1 2014-Jun 30 2015
	MISSOURI ST	Intersection	Proposed Excavation.	SF MTA SS - Livable Streets	Adam Gubser -	Dec 15 2014-Jun 15 2017
	MISSOURI ST	Intersection	Prior to performing any construction, all CCSF survey monuments shall be referenced by a licensed Land Surveyor on a Corner Record or a Record of Survey, if any construction will take place within 10ft of the monument. For any questions, please call Mapping at #554-5827	Stone or Concrete Monument		
	TEXAS ST	MISSOURI ST -	Prior to performing any construction, all CCSF survey monuments shall be referenced by a licensed Land Surveyor on a Corner Record or a Record of Survey, if any construction will take place within 10ft of the monument. For any questions, please call Mapping at #554-5827	Stone or Concrete Monument		
MISSOURI ST						
	20TH ST	SIERRA ST -	Conflict with existing Street Use Permit.	11IE-0600	Refer to Agent - Refer to Agent	
	20TH ST	SIERRA ST -	Conflict with existing Street Use Permit.	12MSE-0041	Refer to Agent - Refer to Agent	
	20TH ST	Intersection	Conflict with existing excavation permit. It is mandatory that you coordinate all work for joint paving.	13EXC-5401	Juan Perez (415) 760-8744 - Juan Perez (415) 760-8744	Nov 11 2013-
	20TH ST	SIERRA ST -	Conflict with existing excavation permit. It is mandatory that you coordinate all work for joint paving.	13EXC-5401	Juan Perez (415) 760-8744 - Juan Perez (415) 760-8744	Nov 11 2013-
	20TH ST	SIERRA ST -	Conflict with existing Street Use Permit.	13MSE-0324	Refer to Agent - Refer to Agent	

"IMPROVING THE QUALITY OF LIFE IN SAN FRANCISCO" We are dedicated individuals committed to teamwork, customer service and continuous improvement in partnership with the community.

Customer Service

Teamwork

Continuous Improvement

Street Name	From St	To St	Message	Job	Contact	Dates
	20TH ST	SIERRA ST -	Conflict with existing Street Use Permit.	13SMF-0408	Refer to Agent - Refer to Agent	
	20TH ST	SIERRA ST -	Conflict with existing Street Use Permit.	14MFF-0100	Refer to Agent - Refer to Agent	May 19 2014-Mar 15 2015
	20TH ST	Intersection	Proposed Excavation.	AT&T - Construction and Engineering	Paul Lucq -	Nov 14 2014-Feb 11 2015
	20TH ST	SIERRA ST -	Proposed Excavation.	AT&T - Construction and Engineering	Paul Lucq -	Nov 14 2014-Feb 11 2015
	20TH ST	SIERRA ST -	Banners are allowed on this street	N/A		
	20TH ST	Intersection	Proposed Paving.	PAVING	Edmund Lee -	Jul 1 2014-Jun 30 2015
	20TH ST	SIERRA ST -	Proposed Paving.	PAVING	Edmund Lee -	Jul 1 2014-Jun 30 2015
	20TH ST	Intersection	Proposed Excavation.	SF MTA SS - Livable Streets	Adam Gubser -	Dec 15 2014-Jun 15 2017
	20TH ST	SIERRA ST -	Sidewalk Paving to be done by SIRP Process	SIRP Work Order	Empire Engineering & Construction Co. -	
	20TH ST	Intersection	Prior to performing any construction, all CCSF survey monuments shall be referenced by a licensed Land Surveyor on a Corner Record or a Record of Survey, if any construction will take place within 10ft of the monument. For any questions, please call Mapping at #554-5827	Stone or Concrete Monument		

## Curb Ramps

Street	Specification	Direction
20TH ST : MISSOURI ST - Intersection	55,017, Rev.3 (A) - L - Standard	NorthEast
20TH ST : MISSOURI ST - Intersection	55,017, Rev.3 (A) - L - Standard	SouthEast
20TH ST : MISSOURI ST - Intersection	55,017, Rev.3 (A) - R - Standard	SouthEast
20TH ST : MISSOURI ST - Intersection	55,017, Rev.3 (A) - R - Standard	SouthWest



# No Diagram submitted

# **EXHIBIT 4**



Marc D. Blakeman  
*Regional Vice President  
External Affairs*

AT&T California  
525 Market Street  
Room 1906  
San Francisco, CA 94105

T: 415.778.1230  
F: 415.541.9270  
blakeman@att.com  
www.att.com

[Via U.S. First Class mail and e-mail]

December 10, 2013

Mr. John S. Rahaim  
Planning Director  
San Francisco Planning Department  
City and County of San Francisco  
1650 Mission Street, Suite 400  
San Francisco, CA 94103

Mr. Mohammed Nuru  
Director  
San Francisco Department of Public Works  
City and County of San Francisco  
1 Dr. Carlton B. Goodlett Place, Room 348  
San Francisco, CA 94102

Dear Messrs. Rahaim and Nuru:

I am writing on behalf of Pacific Bell Telephone Company d/b/a AT&T California ("AT&T") regarding the Planning Department's proposed review process for AT&T's utility boxes. Although AT&T does not object to Planning Department review that occurs within the timeframe required by law and is otherwise consistent with legal constraints, the specific process recently proposed by Planning cannot feasibly be implemented in a manner that would comply with applicable law.

California law provides that applications by a franchised video provider like AT&T for a permit to place its network facilities in the public rights-of-way must be acted upon within 60 days. Public Utilities Code § 5885(c)(2). The permitting procedures currently being followed by the City, in particular under DPW Order 175,566 (Regulations for Issuing Excavation Permits for the Installation of Surface-Mounted Facilities in the Public Rights-of-Way) ("SMF Order"), already result in a timeline that, in practice, often significantly exceeds that required by section 5885(c)(2). Even without Planning review, the City frequently has taken over 236 days to issue a permit for AT&T's network facilities.

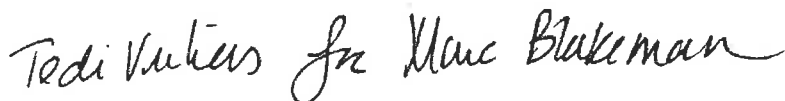
The Planning Department's proposal would cause the City to fall even further out of compliance with section 5885(c)(2). I understand that permits filed with the Department of Public Works ("DPW") now are being referred to Planning for review. As a result of this referral, more than 100 of AT&T's permits currently are awaiting Planning review—some for nearly 90 days. The delay imposed to date indicates that the current approach to Planning review cannot be reconciled with the City's obligations under section 5885(c)(2).

Moreover, the additional procedures proposed by Planning are not necessary. To the extent the Planning Department wishes to review any of AT&T's proposed installations, and propose potential alternatives or mitigation options, it can do so within the process already set forth in the City's regulations, namely the SMF Order. Of course, any Planning Department recommendations would need to be "reasonable time, place, and manner" regulations authorized by Section 7901.1 of the Public Utilities Code, and the entire review process must be completed within the 60 days allowed by section 5885(c)(2).<sup>1</sup>

Finally, the City does not require this same proposed Planning Review of all other users of the rights-of-way. Pursuant to Public Utilities Code section 7901.1, however, the City's control of the time, place, and manner of access to the rights-of-way must "be applied to all entities in an equivalent manner." As a result, even if the Planning Department were to create a reasonable review process to apply to every above-ground installation, it would have to do so through broader regulations, and could not apply them to AT&T alone.

AT&T demands that the Planning Department immediately release back to DPW the over 100 permits it is currently reviewing, and that DPW process those applications expeditiously without any further delay. The City's flawed proposal to add formal Planning review has already caused it to fall further out of compliance with section 5885(c)(2), and the City must act quickly to remedy its noncompliance. We look forward to working with the City to resolve this matter in a timely manner.

Sincerely,



Marc D. Blakeman  
Regional Vice President - External Affairs

cc: Ms. Naomi Kelly, City Administrator, City and County of San Francisco  
Mr. Scott Wiener, Supervisor, District 8, City and County of San Francisco  
Mr. Andres Power, Legislative Aide to Supervisor Scott Wiener

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<sup>1</sup> Many of the "Mitigation Options" set forth in Planning's November 19, 2013 Draft Proposal would exceed the City's authority to impose "reasonable time, place, and manner" restrictions under sections 7901 and 7901.1.

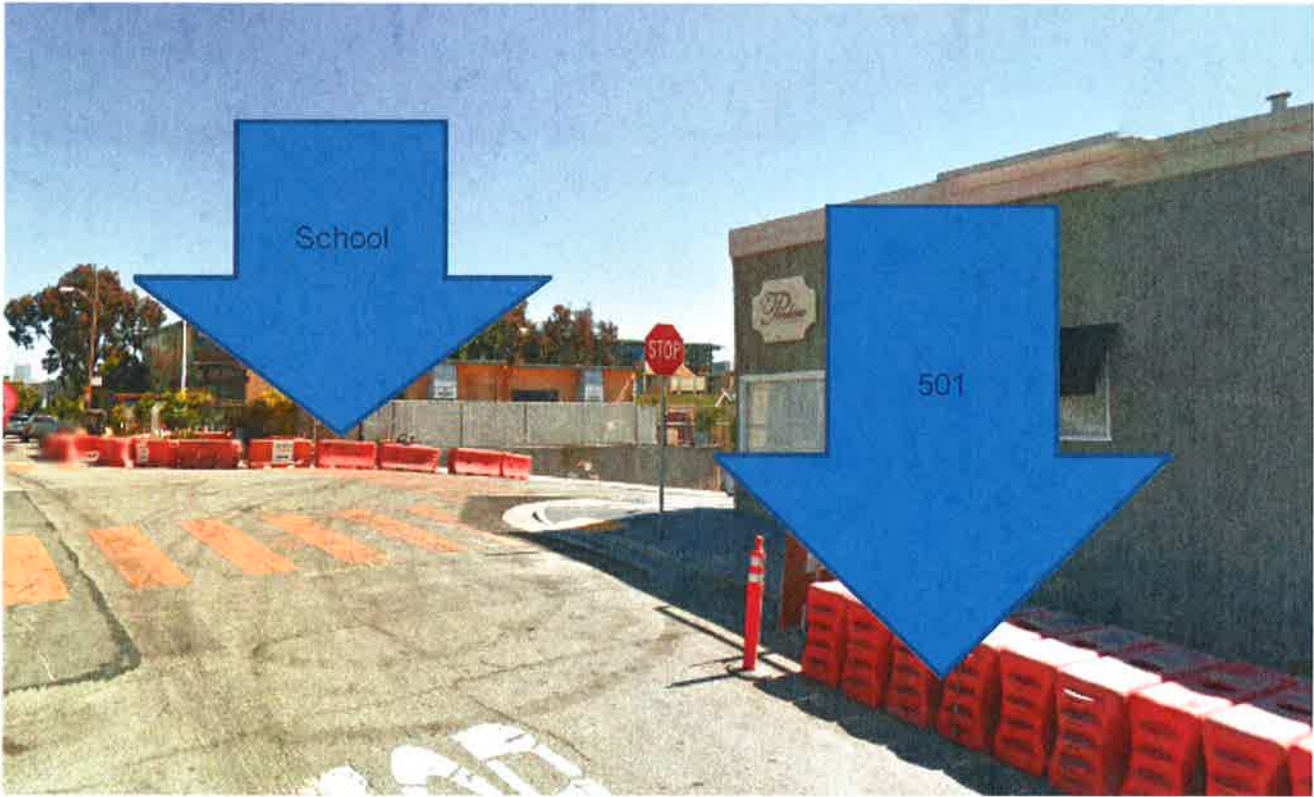
# **EXHIBIT 5**

**501 Missouri:**

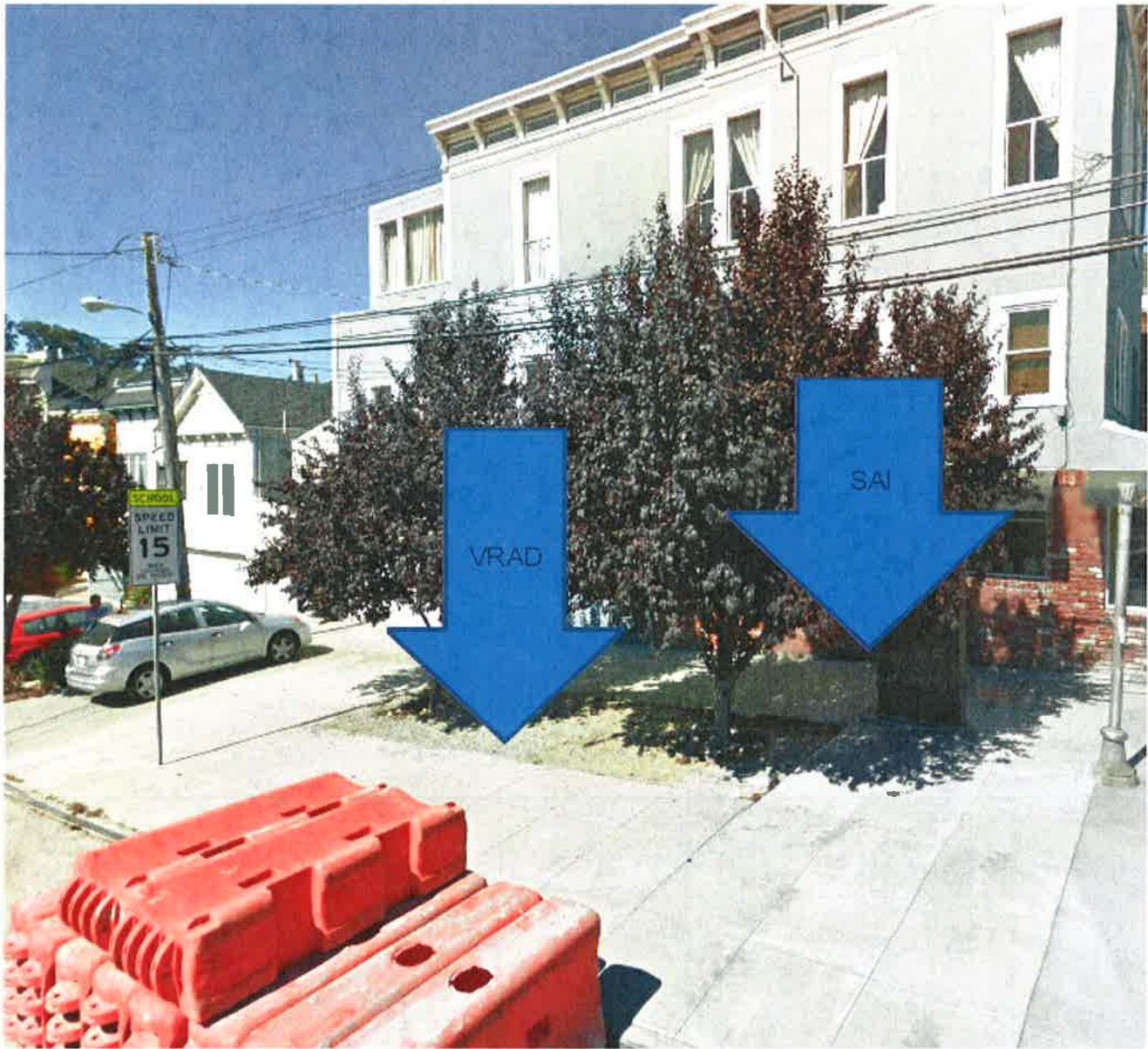


Overall location shot: The school is across the street from the 501 location.





**502 Missouri Street:**





# **EXHIBIT 6**

SAN FRANCISCO - Job #

Group

A	D	E	F	G
APN	Owner Names	Mail Care Of Name	Mail Address	Mail City/State/ZIP
1	RESIDENT		465 MISSOURI ST	SAN FRANCISCO CA 94107
2	SAN FRANCISCO UNIFIED SCHOOL D		25 VAN NESS AVE #400	SAN FRANCISCO CA 94102-6051
3	JEFFREY TUCKER		466 MISSOURI ST	SAN FRANCISCO CA 94107-2827
4	RESIDENT		1500 20TH ST	SAN FRANCISCO CA 94107-2809
5	RESIDENT		1502 20TH ST	SAN FRANCISCO CA 94107-2809
6	RESIDENT		1504 20TH ST	SAN FRANCISCO CA 94107-2809
7	LISA M FIORE-ROCHE	FIORE & CO	510 MISSION ST	SAN FRANCISCO CA 94105-2904
8	RESIDENT		1506 20TH ST	SAN FRANCISCO CA 94107-2809
9	MILIND PARANJIPE		1508 20TH ST	SAN FRANCISCO CA 94107-2809
10	RESIDENT		1512 20TH ST	SAN FRANCISCO CA 94107-2809
11	HUDAHARRAH HOLDINGS		701 CAROLINA ST	SAN FRANCISCO CA 94107-2701
12	RESIDENT		1518 20TH ST	SAN FRANCISCO CA 94107-2809
13	HUDAHARRAH HOLDINGS		701 CAROLINA ST	SAN FRANCISCO CA 94107-2701
14	RESIDENT		1524 20TH ST	SAN FRANCISCO CA 94107-2809
15	RESIDENT		1542 20TH ST	SAN FRANCISCO CA 94107-2809
16	STEVEN M MORECI		6 BROOKSIDE DR	SAN ANSELMO CA 94960-1415
17	RESIDENT		1528 20TH ST	SAN FRANCISCO CA 94107-2809
18	ANNA STERN		1530 20TH ST	SAN FRANCISCO CA 94107-2809
19	RESIDENT		1501 A 20TH ST	SAN FRANCISCO CA 94107-2808
20	RESIDENT		508 MISSOURI ST	SAN FRANCISCO CA 94107-2808
21	LI HUI YU	LING CHU YUEN	1501A 20TH ST	SAN FRANCISCO CA 94107-2808
22	RESIDENT		510 MISSOURI ST #510	SAN FRANCISCO CA 94107-2837
23	O T & MARIE TAYLOR		510 MISSOURI ST	SAN FRANCISCO CA 94107-2837
24	PETER WALBRIDGE		512 MISSOURI ST	SAN FRANCISCO CA 94107-2837
25	RESIDENT		514 MISSOURI ST	SAN FRANCISCO CA 94107-2837
26	MCWILLIAMS J NELS		514A MISSOURI ST	SAN FRANCISCO CA 94107-2837
27	RESIDENT		516 MISSOURI ST	SAN FRANCISCO CA 94107-2872
28	RESIDENT		516 MISSOURI ST #A	SAN FRANCISCO CA 94107-2872
29	RESIDENT		516 MISSOURI ST #B	SAN FRANCISCO CA 94107-2872
30	RESIDENT		516 MISSOURI ST #C	SAN FRANCISCO CA 94107-2872
31	JOSETTE M MAURY		518 MISSOURI ST	SAN FRANCISCO CA 94107-2837
32	CHRISTOPHER & ALISA ALVARO SHA		550 MISSOURI ST	SAN FRANCISCO CA 94107-2837
33	FAMILY & JAMES B GUTHRIE		501 CONNECTICUT ST	SAN FRANCISCO CA 94107-2832
34	RESIDENT		503 CONNECTICUT ST	SAN FRANCISCO CA 94107-2832
35	TIMBERLY E HUGHES 1999 REVOC T	HUGHES TIMBERLY E	1521 20TH ST #A	SAN FRANCISCO CA 94107-2808
36	RESIDENT			

SAN FRANCISCO - Job #

	A	D	E	F	G
	APN	Owner Names	Mail Care Of Name	Mail Address	Mail City/State/ZIP
1					
37	4100-032	MICHAEL G PAGE		1521 20TH ST	SAN FRANCISCO CA 94107-2808
38	4100-033	WILLIAM W GEE		1505 20TH ST	SAN FRANCISCO CA 94107-2808
39		RESIDENT		1503 20TH ST	SAN FRANCISCO CA 94107-2808
40	4100-034	WILLIAM W GEE		1505 20TH ST	SAN FRANCISCO CA 94107-2808
41	4100-086	DONALD A & MARLENE SCHMITZ		1527 20TH ST	SAN FRANCISCO CA 94107-2808
42	4100-087	PATRICK MAKUAKANE		1529 20TH ST	SAN FRANCISCO CA 94107-2808
43	4100-088	RINA R WIEDENHOEFT		1531 20TH ST	SAN FRANCISCO CA 94107-2808

SAN FRANCISCO - Job #8856397

A		D		E		F		G	
APN	Owner Names	Mail Care Of Name	Mail Address	Mail City/State/ZIP					
1									
2	4066-006	SAN FRANCISCO UNIFIED SCHOOL DISTRICT	DIRECTOR OF PROPERTY	25 VAN NESS AVE #400	SAN FRANCISCO CA 94102-6051				
3	4067-006	YANACONE CONSTANCE L		440 MISSOURI ST	SAN FRANCISCO CA 94107-2827				
4		RESIDENT		450 MISSION ST	SAN FRANCISCO CA 94105-2827				
5		RESIDENT		454 MISSION ST	SAN FRANCISCO CA 94105-2827				
6	4067-008	FIORE RICHARD A & JANICE M		510 MISSION ST	SAN FRANCISCO CA 94105-2904				
7	4067-009	GODDARD GREG/MIGUELINA PEREZ		456 MISSOURI ST	SAN FRANCISCO CA 94107-2827				
8	4067-009A	TUCKER JEFFREY/OROURKE BRIDGET		466 MISSOURI ST	SAN FRANCISCO CA 94107-2827				
9		RESIDENT		1500 20TH ST	SAN FRANCISCO CA 94107				
10		RESIDENT		1502 20TH ST	SAN FRANCISCO CA 94107				
11		RESIDENT		1504 20TH ST	SAN FRANCISCO CA 94107				
12	4067-010	FIORE-ROCHE LISA M	FIORE & CO	510 MISSION ST	SAN FRANCISCO CA 94105-2904				
13		RESIDENT		1506 20TH ST	SAN FRANCISCO CA 94107-2809				
14	4067-011	PARANJPE MILIND/PHATAK CHITRA		1508 20TH ST	SAN FRANCISCO CA 94107-2809				
15		RESIDENT		1512 20TH ST	SAN FRANCISCO CA 94107-2809				
16	4067-012	SAMADUROFF VIRGINIA F	DEBRA J DOLCH SPECIAL AD	167 S PARK ST	SAN FRANCISCO CA 94107-1808				
17		RESIDENT		1518 20TH ST	SAN FRANCISCO CA 94107-2809				
18	4067-013	HUDAHARRAH HOLDINGS		701 CAROLINA ST	SAN FRANCISCO CA 94107-2701				
19		RESIDENT		1524 20TH ST	SAN FRANCISCO CA 94107-2809				
20		RESIDENT		1542 20TH ST	SAN FRANCISCO CA 94107-2809				
21	4067-014	MORECI STEVEN M & LEONARD R		6 BROOKSIDE DR	SAN ANSELMO CA 94960-1415				
22		RESIDENT		1528 20TH ST	SAN FRANCISCO CA 94107-2809				
23		RESIDENT		1530 20TH ST	SAN FRANCISCO CA 94107-2809				
24	4067-032	STERN ANNA		1528-1530 20TH ST	SAN FRANCISCO CA 94107-2809				
25		RESIDENT		485 CONNECTICUT ST	SAN FRANCISCO CA 94107-2817				
26	4067-033	STERN ANNA THE		1200 18TH ST	SAN FRANCISCO CA 94107-2920				
27				1532 20TH ST	SAN FRANCISCO CA 94107-2809				
28	4067-035	STERN ANNA THE		1200 18TH ST	SAN FRANCISCO CA 94107-2920				
29		RESIDENT		1536 20TH ST	SAN FRANCISCO CA 94107-2809				
30	4067-036	STERN ANNA THE		1200 18TH ST	SAN FRANCISCO CA 94107-2920				
31		RESIDENT		1538 20TH ST	SAN FRANCISCO CA 94107-2809				
32	4067-037	STERN ANNA THE		1200 18TH ST	SAN FRANCISCO CA 94107-2920				
33		RESIDENT		1540 20TH ST	SAN FRANCISCO CA 94107-2809				
34	4067-038	STERN ANNA THE		1200 18TH ST	SAN FRANCISCO CA 94107-2920				
35		RESIDENT		1542 20TH ST	SAN FRANCISCO CA 94107-2809				
36	4067-039	STERN ANNA THE		1200 18TH ST	SAN FRANCISCO CA 94107-2920				
37		RESIDENT		1501 20TH ST	SAN FRANCISCO CA 94107-2808				
38		RESIDENT		508 MISSOURI ST	SAN FRANCISCO CA 94107-2837				
39	4100-001	LI HUAL YU/LIN CHU YUEN		1501 20TH ST #A	SAN FRANCISCO CA 94107-2808				
40		RESIDENT		510 MISSOURI ST #510	SAN FRANCISCO CA 94107-2837				
41	4100-002	TAYLOR O T & MARIE		510 MISSOURI ST	SAN FRANCISCO CA 94107-2837				
42	4100-003	WALBRIDGE PETER/LA ROBERTSON		512 MISSOURI ST	SAN FRANCISCO CA 94107-2837				

A	D	E	F	G
APN	Owner Names	Mail Care Of Name	Mail Address	Mail City/State/ZIP
1				
43	RESIDENT		514 MISSOURI ST	SAN FRANCISCO CA 94107-2837
44	MC WILLIAMS J NELS		514 MISSOURI ST #A	SAN FRANCISCO CA 94107-2837
45	RESIDENT		516 MISSOURI ST #A	SAN FRANCISCO CA 94107-2872
46	RESIDENT		516 MISSOURI ST #B	SAN FRANCISCO CA 94107-2872
47	MAURY JOSETTE M//TE		516 MISSOURI ST #C	SAN FRANCISCO CA 94107-2872
48	SHADIX CHRISTOPHER & ALISA ALVARO		518 MISSOURI ST	SAN FRANCISCO CA 94107-2837
49	GUTHRIE/GUTHRIE JAMES B		550 MISSOURI ST	SAN FRANCISCO CA 94107-2837
50	RESIDENT		501 CONNECTICUT ST	SAN FRANCISCO CA 94107-2832
51	TIMBERLY E HUGHES RT 1999/	HUGHES TIMBERLY E /TE	503 CONNECTICUT ST	SAN FRANCISCO CA 94107-2832
52	PAGE MICHAEL G		1521 20TH ST	SAN FRANCISCO CA 94107-2808
53	GEE WILLIAM W/YEE HA W		1505 20TH ST	SAN FRANCISCO CA 94107-2808
54	GEE WILLIAM W/YEE HA W		1505 20TH ST	SAN FRANCISCO CA 94107-2808
55	SCHMITZ DONALD A & MARLENE		1527 20TH ST	SAN FRANCISCO CA 94107-2808
56	MAKUAKANE PATRICK		1529 20TH ST	SAN FRANCISCO CA 94107-2808
57	RESIDENT		1531 20TH ST	SAN FRANCISCO CA 94107-2808
58	FOR A STIERE TIZIANA		1609 ALAMO ST	AUSTIN TX 78702-1329
59	RESIDENT		568 MISSOURI ST	SAN FRANCISCO CA 94107-2837
60	FRINGER OLIVER/DONALDSON KRISTA		568 MISSOURI ST #A	SAN FRANCISCO CA 94107-2837
61	TRIER BETH		568 MISSOURI ST #B	SAN FRANCISCO CA 94107-2837
62	RESIDENT		560 MISSOURI ST	SAN FRANCISCO CA 94107-2837
63	KELSO R J & MITIC L L TRUST		560 MISSOURI ST #A	SAN FRANCISCO CA 94107-2837
64	EPHRON DRAKE D/WILLINGHAM JEFFREY		560 MISSOURI ST #B	SAN FRANCISCO CA 94107-2837
65	RESIDENT		572 MISSOURI ST #A	SAN FRANCISCO CA 94107-2837
66	BAKER PAMELA J/FRIEDMAN DOUGLAS J		572 MISSOURI ST #A	SAN FRANCISCO CA 94107-2837
67	HERSH HOWARD/POLISH JOYCE		572 MISSOURI ST #B	SAN FRANCISCO CA 94107-2837
68	RESIDENT		1447 20TH ST	SAN FRANCISCO CA 94107-2821
69	RESIDENT		507 MISSOURI ST	SAN FRANCISCO CA 94107-2836
70	RESIDENT		509 MISSOURI ST	SAN FRANCISCO CA 94107-2836
71	DDK MISSOURI STREET LLC		2421 PIERCE ST	SAN FRANCISCO CA 94115-1131
72	SHIELDS LISA J		1445 20TH ST	SAN FRANCISCO CA 94107-2821
73	RAFFEL DANIEL/J/PAUL SARA R		1431 20TH ST	SAN FRANCISCO CA 94107-2821
74	BAUCOM BRETT & ERIN		1425 20TH ST	SAN FRANCISCO CA 94107-2821
75	ADAMS MEGAN/ROMAGNOLI ANGELA		1419 20TH ST	SAN FRANCISCO CA 94107-2821
76	DAMES RAYMOND		1415 20TH ST	SAN FRANCISCO CA 94107-2821
77	PALMORE HOYT		1409 20TH ST	SAN FRANCISCO CA 94107-2821
78	CHANG ALEXANDER & CHING		1401 20TH ST	SAN FRANCISCO CA 94107-2821



Edwin M. Lee, Mayor  
Mohammed Nuru, Director

Office of the Deputy Director & City Engineer, Fuad Sweiss

Bureau of Street Use and Mapping

1155 Market Street, 3rd Floor

San Francisco, CA 94103

(415) 554-5810 www.sfdpw.org

BOARD OF APPEALS

SEP 04 2014

APPEAL # 14-135



Jerry Sanguinetti, Manager

September 4, 2014

Ann Lazarus, President  
Arcelia Hurtado, Vice President  
Frank Fung, Commissioner  
Darryl Honda, Commissioner  
Board of Appeals  
City and County of San Francisco  
1650 Mission, Room 304  
San Francisco, CA 94103

Re: Appeal No. 14-135

Dear President Lazarus, Vice President Hurtado, and Commissioners Fung,  
and Honda:

The City and County of San Francisco ("City") Department of Public Works ("DPW") submits this response to the appeal of Appellant Matt Brennan to DPW's approval of AT&T's application for an excavation permit to install a surface-mounted facility ("SMF") in the vicinity of 501 Missouri Street. As discussed below, DPW agrees with Appellant that the Board of Appeals ("Board") should grant the appeal, but for different reasons.

## I. INTRODUCTION

This appeal concerns an excavation permit DPW issued to AT&T based on the DPW Director approving the location proposed by AT&T for an SMF in the vicinity of 501 Missouri Street. Under DPW Order No. 175,556 (commonly referred to as the "SMF Order"), before DPW may issue an excavation permit for an SMF the applicant must obtain DPW's approval of the proposed location for the SMF in the public rights-of-way. Part of the SMF siting process is public notice of the proposed location for an



SMF, after which local residents and property owners can object to the proposed location. If objections are submitted, DPW will hold a hearing on the proposed location. At the end of the hearing, the hearing officer will make a recommendation to the DPW Director whether to approve the proposed site and the DPW Director will issue an order.

Objections were submitted to AT&T's proposed location for this SMF. After these objections were filed, DPW held a hearing on AT&T's request to install an SMF in the vicinity of 501 Missouri Street. After the DPW Director issued an order approving the proposed location, DPW granted AT&T's excavation permit application on appeal here.

In this appeal, Appellant asks the Board to grant the appeal and overturn DPW's decision. Appellant argues:

1. The process for developing and evaluating alternative locations was inadequate.
2. The process for issuing the permit was flawed.
3. The proposed location at 501 Missouri Street does not meet the objectives of the SMF Order.

As discussed below, none of these arguments is a lawful basis for the Board to grant the appeal. Nonetheless, DPW asks the Board to grant the appeal, because the Board of Supervisors in Ordinance No. 76-14 has required the Board to do so.

## **II. DPW PROPERLY APPROVED AT&T'S EXCAVATION PERMIT APPLICATION AT 110 BURROWS STREET**

As a telephone corporation and state video provider, AT&T has the right under State law to install utility facilities like its proposed SMF in the public rights-of-way. (See Public Utilities Code §§ 7901, 5885(a).) The City may ensure that AT&T's facilities do not "incommode" the use of the public rights-of-way and exercise "reasonable control as to the time, place, and manner in which roads, highways, and waterways are accessed" by AT&T. (See Public Utilities Code §§ 7901, 7901.1, 5885(a).)



AT&T's proposed location at 501 Missouri Street was approved by the DPW Director in DPW Order No. 182690. (A copy of which is attached hereto as Exhibit A.) At the hearing on the objections to AT&T's proposed location, DPW testified that the proposed location met all of DPW's "technical requirements." These "technical requirements" are contained in Exhibit B to the SMF Order. They are intended to ensure that the installation of an SMF in the public rights-of-way will not interfere with pedestrian use of the sidewalk. DPW made that determination when it reviewed AT&T's proposed SMF location at 501 Missouri Street. DPW continues to believe that this determination was correct.

During the hearing on the protest, there was no opposition to the installation of AT&T's proposed SMF at 501 Missouri Street. Nor was there any discussion of alternate sites that were preferable to the 501 Missouri Street site.<sup>1</sup> For this reason, the Director properly approved AT&T's request to install an SMF in the vicinity of 601 Missouri Street.

### **III. ORDINANCE NO. 76-14 REQUIRES THE BOARD TO GRANT THE APPEAL**

#### **A. In Ordinance No. 76-14, the Board of Supervisors Made Retroactive the Surface-Mounted Facility Permitting Requirements of Article 27 of the Public Works Code Adoptive Therein**

In Ordinance No. 76-14, the Board of Supervisors added Article 27 to the Public Works Code and established a separate Surface-Mounted Facility Site Permit. No longer will SMFs be permitted under Article 2.4 of the Public Works Code, or be subject to the requirements of the SMF Order. In Section 4 of Ordinance No. 76-14, the Board of Supervisors indicated its intent that the permitting requirements contained in Article

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<sup>1</sup> The AT&T representative noted during the hearing that at the "box walk" the attendees mentioned the Daniel Webster School and 502 Missouri Street as potential alternate sites. The record reflects, however, that AT&T did not receive any response to its request for an easement at the Daniel Webster School, and that in Director's Order No. 181699 the Director disapproved the installation of an SMF in the vicinity of 502 Missouri Street.





27 would apply to any permit that was not “final on the effective date” of the ordinance. The Board of Supervisors also determined that a permit was not “final if the permit is subject to a pending appeal before the Board of Appeals.”

The Board of Supervisors had a good reason for making the requirements of Article 27 retroactive. While the substantive requirements for siting SMFs contained in Article 27 are similar to those in the SMF Order, Article 27 contains a permitting process that is very different from the process contained in the SMF Order. It ensures community involvement in the siting process, while making it clear that applicants must identify more than one proposed location for their proposed SMFs. It also requires the Planning Department to review all of the proposed SMF sites.

**B. The Retroactivity Provision Applies to this Appeal**

The Board of Supervisors’ clear direction in Ordinance No. 76-14 requires this Board to uphold the appeal and require AT&T to submit a new application to install its proposed SMF in the vicinity 501 Missouri Street under Article 27.<sup>2</sup> While DPW issued an excavation permit for the 501 Missouri Street site before the effective date of Ordinance No. 76-14, once this appeal was filed there was no longer a valid excavation permit. For this reason, the retroactivity provision applies to AT&T’s excavation permit at 501 Missouri Street.

In order to ensure that AT&T is not prejudiced, the Board should find that the one-year prohibition contained in Section 31 of the Business and Tax Regulations Code for applying for a new permit at this location does not apply.

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<sup>2</sup> DPW is not accepting applications under Article 27 at the present time. DPW must first adopt a Director’s order implementing the requirements of Article 27. The Board of Supervisors required DPW to adopt this order within 60 days of the effective date of the ordinance, which meant DPW had until August 26, 2014. DPW intended to meet that deadline. On August 14, 2014 DPW issued a draft of the order. On August 18, 2014 DPW held a hearing on a draft of the order. Following the hearing, the hearing officer decided to allow stakeholders until September 2, 2014 to submit additional written comments. Due to this delay, DPW expects that the Director will not issue a final order until at earliest sometime during the week of September 8, 2014.



**C. The Board Cannot Refuse to Enforce the Retroactivity Provision of Ordinance No. 76-14 Based on a Claim that It is Preempted by State Law**

AT&T has argued in the past that the Board must deny any appeals of its excavation permits to install SMFs, because by granting these appeals the Board would be denying AT&T certain rights it has under State law to install these types of facilities in the public rights-of-way. (See Public Utilities Code §§ 7901, 7901.1, and 5885.) This argument is not properly before the Board. The Board lacks the power to declare a statute or ordinance unconstitutional or to refuse to enforce a statute or ordinance. (Cal. Const., Art. III, § 3.5; see *Lockyer v. City and County of San Francisco* (2004) 33 Cal.4th 1055; *California State Teachers' Ret. Syst. v. County of Los Angeles* (2013) 216 Cal.App.4th 41, 59, fn.8.)

AT&T's claim here would be that State law preempts the Board from enforcing the retroactivity provision of Ordinance No. 76-14. A preemption claim of this nature raises constitutional issues, because it is based on article XI, section 7 of the California Constitution, which provides that "[a] county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws." (*Action Apartment Ass'n, Inc. v. City of Santa Monica* (2007) 41 Cal.4th 1232, 1242-1243.) "If otherwise valid local legislation conflicts with state law, it is preempted by such law and is void." (*Candid Enterprises, Inc. v. Grossmont Union High School Dist.* (1985) 39 Cal.3d 878, 885.)

Ordinance No. 74-14 is a validly enacted local ordinance. The Board, therefore, cannot refuse to enforce the retroactivity provision of Ordinance No. 74-14 based on a claim that it is preempted by State law.



#### **IV. CONCLUSION**

The Board should find that DPW acted within its authority when it approved AT&T's application for an excavation permit in the vicinity of 501 Missouri Street. Nonetheless, the Board should grant the appeal based the directive of the Board of Supervisors in Ordinance No. 76-14.

Sincerely,



Jerry Sanguinetti  
Bureau Manager  
Bureau of Street-use and Mapping

cc: John diBene (AT&T) (via e-mail)  
Foster Johnson (AT&T) (via e-mail)



Exhibit A

City and County of San Francisco



Edwin M. Lee, Mayor  
Mohammed Nuru, Director

San Francisco Department of Public Works  
Office of the Deputy Director & City Engineer, Fuad Sweiss  
Bureau of Street-Use & Mapping  
1155 Market Street, 3rd Floor  
San Francisco Ca 94103  
(415) 554-5810 ■ www.sfdpw.org



Jerry Sanguinetti, Bureau Manager

**DPW Order No: 182690**

DIRECTOR'S DECISION REGARDING AT&T CALIFORNIA'S REQUEST TO INSTALL A SURFACE MOUNTED FACILITY IN THE VICINITY OF **501 Missouri Street (13SMF-0408)**

**APPLICANT:** AT&T CALIFORNIA  
795 Folsom Street, #426  
San Francisco, Ca 94107

**DESCRIPTION OF REQUEST:** Surface Mounted Facility Installation

**BACKGROUND:**

1. On **November 15, 2013**, the Applicant (AT&T California) filed an application with the Department of Public Works (DPW) to install a Surface-Mounted Facility (SMF) at **501 Missouri Street**.
2. On **April 11, 2014**, the applicant mailed and posted Notices of Intent (NOI) to all businesses and residences within a 300-foot radius of the subject location.
3. DPW received **two (2)** objection(s) to the application during the 20-day notification period. DPW subsequently scheduled a public hearing to consider testimony received for this site. On May 16, 2014, DPW received a petition with 31 signatures objecting to the proposed surface-mounted facility. The objection(s) and comment(s) included:
  - Will block sidewalk space and detract from neighborhood aesthetics.
  - Request to place on 20<sup>th</sup> Street adjacent to school.
4. On **May 19, 2014**, DPW Hearing Officer **Greg Crump** conducted a hearing on the application to consider testimony regarding the subject SMF.
5. At the hearing, Arianna Urban of DPW presented a summary of the permit applications stating that the Applicant was in compliance with DPW's technical requirements.
6. At the hearing, **Ms. Tedi Vriheas** of AT&T stated that a box walk was conducted on May 8, 2014 and three (3) members of the community attended. During the box walk, AT&T and the attendees located the following potentially feasible alternate locations:
  - Daniel Webster School: have not received a response to an easement request from SFUSD.
  - Original site at 502 Missouri St: Disapproved by Order 181,699.
7. At the hearing, no member of the community testified at the hearing in opposition to the proposed installation of the SMF cabinets in the vicinity of **501 Missouri Street**.



San Francisco Department of Public Works  
Making San Francisco a beautiful, livable, vibrant, and sustainable city.

**RECOMMENDATION: APPROVE** the request by AT&T to locate Surface Mounted Facility **13SMF-0408**, in the vicinity of **501 Missouri Street**.

**FINDINGS:**

1. The Hearing Officer reviewed the application, materials from DPW's files, the objections, additional materials submitted by the applicant and persons protesting the application, and the testimony at the hearing.
2. The Hearing Officer determined that the application complies with the technical requirements of DPW Order No. 756,566.
3. The Director of Public Works has reviewed the Hearing Officer's recommendation. The Director of Public Works hereby adopts the hearing officer's recommendation.

**APPEAL PROCESS:** This decision may be appealed to the Board of Appeals within fifteen (15) calendar days of DPW's approval or denial of an Excavation Permit to install surface mounted facilities **13SMF-0408 in the vicinity of 501 Missouri Street**. The Board of Appeals is located at 1650 Mission Street, Suite 304. To obtain further information regarding the appeal process, you can contact the Board of Appeals at 415-575-6880. You can also visit the Board of Appeals website at: <http://www.sfgov3.org/index.aspx?page=763>

6/17/2014

X 

Short, Carla  
Deputy Manager

6/17/2014

X 

Sweiss, Fuad  
Deputy Director and City Engineer

6/17/2014

X Mohammed Nuru

Nuru, Mohammed  
Director, DPW



BOARD OF APPEALS

SEP 03 2014

APPEAL # 14-135

To San Francisco Board of Appeals:

RE : Excavation permit #14EXC-3764 and Appeal #14-135

I would like to state my objection to the installation of the AT and T green box at the south east corner of 20th and Missouri street.

Its an eyesore, blocks driver visibility of kids and kids visibility of drivers, and would take up a ridiculous amount of space on an already small sidewalk.

I cannot understand why it would be denied across the road on the north west corner (where there is way more space) and then permitted on an adjacent corner with less space and presumably all the same arguments that denied its installation on the north west.

Nobody I have spoken to in the immediate area here wants this eyesore / blemish / potentially dangerous health hazard.

Thank you in advance.

Simon Redmond.

Resident and owner of 511 Missouri St. (my wife and 2 children echo these sentiments)

BOARD OF APPEALS

SEP 03 2014

APPEAL # 14-135

Oliver Fringer  
568A Missouri St.  
San Francisco, CA 94107  
(650) 450-1137

August 29, 2014

City and County of San Francisco  
Board of Appeals  
1650 Mission Street, Suite 304  
San Francisco, CA 94103

Re: Excavation permit #14EXC-3764 and Appeal #14-135

To whom it may concern:

I write to strongly object to the installation of the surface mounted facility by AT&T.

On May 8, 2014, I and two neighbors met with Arianna Urban from DPW, Tedi Vriheas from AT&T and Luis Cuadra from Berg Davis. We objected to the original proposed location of the surface mounted facility, which was to be on the southwest corner of 20<sup>th</sup>/Missouri St. Based on that meeting, on May 16, 2014, I sent the following email to [smf@sfdpw.org](mailto:smf@sfdpw.org) to object to the original proposed installation location on the southwest corner of 20<sup>th</sup>/Missouri St.. In that email I also suggested an alternate location that was more suitable to the neighbors:

To whom it may concern:

I write in reference to:

AT&T Surface Mounted Facility in the vicinity of 501 Missouri Street  
(Permit Application #13SMF-0408)

My understanding is that there are three options to place this facility:

- 1) On the southwest side of the 20th/Missouri St. intersection
- 2) On the southeast side of the 20th/Missouri St. intersection
- 3) On the north sidewalk of 20th St., half-way between Missouri and Texas St.

Locations 1 and 2 are not acceptable because they obstruct visibility at a busy pedestrian intersection near a school.

I suggest location 3, which is far removed from the intersection.

Sincerely,  
Oliver Fringer  
568A Missouri St.

It is not clear to me why, despite the above email and our meeting, even though the original proposed location for the cabinet was at location (1), AT&T now proposes

to install it at location (2), which is even worse than location (1). The sidewalk at location (2) is narrower and the cabinet would obstruct visibility even more than it would at location (1).

I request that AT&T conduct a complete and transparent site selection process that evaluates alternatives across a full range of publicly-vetted preferences and mitigates its impacts. My children and those of many in the neighborhood walk through that intersection to get to Daniel Webster Elementary School which is on the northeast corner of the intersection. It is unacceptable for the city to approve the installation of a facility that threatens the safety of its residents, most importantly its children.

Sincerely,  
Oliver Fringer  
568A Missouri St.