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**COUNTY OF MENDOCINO
BOARD OF SUPERVISORS**

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August 29th, 2017

The Honorable Ben Hueso
California State Senate, District 40
State Capitol, Room 4035
Sacramento, CA 95814
VIA FAX: 916-651-4940

Re: Mendocino County Board of Supervisors Opposition to Senate Bill 649

Dear Senator Hueso:

The Mendocino County Board of Supervisors joins over 179 cities (including the City of Ukiah and Point Arena in Mendocino County), 25 other counties, and 69 organizations in respectfully voicing our strong opposition to Senate Bill 649 relating to the permitting of wireless and small cell telecommunications facilities.

We believe this bill will harm rural counties by unnecessarily removing long-standing provisions of California law that allow local governments to reasonably regulate privately-owned facilities placed within public streets and roads for which they are responsible. This bill guts local decision-making authority, shuts out public input, and allows wireless providers unfettered access to public property and rights-of-way to the potential detriment of the welfare of our citizens. Local control protects public health and safety by ensuring that equipment placed within the right-of-way does not cause traffic hazards nor interfere with sight distances necessary to avoid accidents at busy intersections.

There are several aspects of this bill about which we are especially concerned:

- Under the bill, "small cell" structures must be allowed on public property in a city or county without regard to aesthetic and environmental impacts or zoning, resulting in placement in residential neighborhoods. This will result in the loss of protection for neighborhood character and quality of life. SB 649 allows 35 cubic feet of equipment, including associated elements such as electric meters, concealments, telecom demarcation boxes, ground-based enclosures, battery backup power systems, grounding equipment, power transfer switches, cutoff switches, cables, or conduits. Equipment

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may also include noisy cooling fans which may be located on utility poles outside a bedroom window or in a backyard in a residential neighborhood.

- SB 649 would remove the ability to consider alternative designs and stealthing/screening, such as hiding equipment behind existing monument signage or landscaping, or integrated poles where the equipment is hidden inside the pole. While historic districts and coastal zones will be able to negotiate for facility designs to preserve their aesthetics and apply design standards, most of our inland and rural areas will not have this option and are therefore be subject to unsightly and potentially noisy wireless facilities.
- Even these generous size limitations are potentially meaningless because the bill does not address Federal rule “6409” that allows for major changes to cell sites (such as would be allowed under SB 649) as soon as they are built.
- This bill places the burden on local government to prove projected city or county communication needs based on “substantial evidence” in order to reserve space on their own property; otherwise this space must be leased to wireless providers. In addition, requirements for “in-kind” contributions of any kind, such as services or access to fiber, are prohibited.
- SB 649 forces local government to rent space at rates far below fair market value and sets a dangerous precedent for other private industries to seek similar treatment. The formula for calculating these costs is both unfair and uncertain as the capital and operational cost components for these facilities vary widely in both complexity and amount. This formula is virtually certain to result in continual disputes and confusion statewide.

Mendocino County fully supports the expansion of broadband and recognizes the essential link between broadband and economic development. In this regard our county has been proactive, and in 2016 passed a streamlined permitting process for small wireless facilities for the inland areas of our county. Currently we have a similar coastal streamlined permitting process under review by the Coastal Commission. This ordinance limits costs and considers aesthetics, public safety, and the environment. Instead of a legislative hammer to a problem which doesn't currently exist (most jurisdictions have not even processed a single “small cell” permit yet) a better solution would be to use the Mendocino ordinance as a model, and adjust as required for unique jurisdictional needs.

Providers and cities both have much to gain from the deployment of wireless technology as quickly as possible but common sense must be maintained in the process. SB 649 is riddled with loopholes and contradictory language that can easily result in damage to our towns and cities. Public properties are owned by the public, and local government has the responsibility for maintaining the value of these taxpayer-invested properties. SB 649 takes away this local control and is an unfair taxpayer funded subsidy to the wireless industry.

Therefore, we must strongly oppose this bill.

Sincerely,

A handwritten signature in black ink that reads "John McCowen". The signature is fluid and cursive, with a large initial "J" and a long horizontal stroke at the end.

John McCowen, Chair
Mendocino County Board of Supervisors

cc: Assemblymember Jim Woods, District 2
Senator Mike McGuire, District 2
Nidia Bautista, Consultant, Senate Energy, Utilities, and Commerce Committee
Kerry Yoshida, Principal Consultant, Senate Republican Caucus
Rural County Representatives of California (RCRC)
California State Association of Counties (CSAC)