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September 2, 2025

Town of Hamilton
Planning Board
c/o Mark Connors
Planning Director
Patton Homestead
650 Asbury Street
Hamilton, MA 01982

Re: Application of New Cingular Wireless PCS, LLC d/b/a AT&T ("AT&T") for a Special Permit to Install a Small Wireless Facility on an Existing Utility Pole # 7 1/2 (the "Pole") in the Public Right-of-Way Near 15 Walnut Road, South Hamilton, MA 01982 (the "Site") (CRAN_RCTB_00073_665) Pursuant to Section 7.3 of the Town of Hamilton Zoning Bylaws (the "Bylaws")

Dear Honorable Members of the Town of Hamilton Planning Board:

On behalf of AT&T, while reserving all rights, we are pleased to submit this correspondence to the Town of Hamilton Planning Board (the "Board") in support of AT&T's Special Permit application (the "Application") for a small cell wireless facility on an existing utility pole within the public right-of-way near the Site. AT&T is licensed by the Federal Communications Commission (the "FCC") to provide wireless communications services in the Town of Hamilton and throughout the Commonwealth of Massachusetts. The following narrative provides background information regarding the small cell wireless facility and addresses each applicable section of the Bylaws.

BACKGROUND

The Site is located within the public right-of-way. AT&T proposes to use an existing utility pole owned by National Grid. AT&T will install a mounting bracket and one (1) small cell top-mounted wireless antenna to a total height of 30' 6" above ground level ("AGL"), together with related wires, conduit, fiber and other associated equipment located on the Pole (the "Facility"), all as depicted on the plans submitted with the Application (the "Plans"). The Facility has no ground equipment. An equipment cabinet 48" long by 24" wide by 20" deep (13.33 cubic feet in volume) will be mounted on the Pole at approximately 11'6" AGL with a disconnect switch and electrical meter at approximately 8' AGL. The antenna measures 24" in length with a 16" diameter (2.34 cubic feet in volume). Grounding rods will be installed in the ground at the base of the Pole. National Grid provided the attached letter of authorization

allowing AT&T to submit this Application. AT&T has a master license agreement with National Grid, which will provide electrical power to the Pole in order to operate the Facility.

The Application is filed pursuant to Section 7.3 of the Bylaws, the federal Telecommunications Act of 1996 (the "TCA"), the Declaratory Ruling and Third Report and Order 18-133 (the "Order") issued and adopted by the FCC in September 2018 https://docs.fcc.gov/public/attachments/FCC-18-133A1_Rcd.pdf and Massachusetts General Laws Chapter 166, Sections 21, 22 and 25A for telecommunication wires and wireless attachments and appurtenances attached to utility poles in the public right-of-way.

AT&T operates a nationwide wireless communications system that offers enhanced features such as caller ID, voice mail, e-mail, superior call clarity, and high-speed data services. AT&T is in the process of building out a national network as required and authorized by license issued by the FCC, including the FirstNet network for our first responders. AT&T's existing macro cell sites are not providing adequate coverage and capacity in this area of the Town of Hamilton. This Facility will provide coverage and allow for increased data capacity and speed within the immediate vicinity of the Site and will help offload traffic on AT&T's macro sites, allowing better coverage and speed to those areas as well. The use of these low power, low impact small cell facilities on existing infrastructure in the public rights-of-way minimizes the visual impact of wireless facilities on the Town of Hamilton while providing critical wireless coverage and capacity. The Facility will aid in reaching AT&T's goal of providing reliable wireless communications services in and around the Town of Hamilton and to all of Massachusetts.

A reliable communications system depends on a grid of antennas arranged in a geographical pattern, similar to a honeycomb. Each "cell" is created by an antenna and serves as a link between the customer and the network, while that customer is within proximity to the cell site. Each cell can handle a finite number of connections. As the number of customers increase, more cell sites must be added to handle the increased volume. If the additional offload of network traffic is not accomplished, calls and connections are dropped or blocked or the speed for the user is slower.

AT&T submits that the Site is well suited for the Facility and that the Facility satisfies the intent and purposes of the Bylaws, Massachusetts law, the TCA and the Order. As will be demonstrated through the Application materials and the evidence presented at the public hearing(s) in connection with the Application, the Facility meets with all applicable requirements of the Bylaws, Massachusetts law, the TCA and the Order. The Facility will not adversely impact adjacent properties and neighborhoods as the Facility will be located on an existing wood utility Pole, thereby not introducing a new visual element for the necessary infrastructure to support the Facility. The location of the Facility will protect, to the extent practicable, the aesthetic qualities of the Town of Hamilton by utilizing an existing utility pole that is especially suited for the proposed use, and which minimizes impacts to the interests protected by the Bylaws. The installation of the Facility will not be a threat to public health, safety, and welfare. In fact, AT&T

submits that the Facility will aid in public safety by continuing to provide and improve wireless communications services to the residents, businesses, commuters, and emergency personnel utilizing wireless communications in the immediate vicinity and along the nearby roads. These services further the public interest of health and safety as they will maintain and enhance wireless 911 services to the community and communication services for the public. According to published reports, approximately eighty percent (80%) of calls received by the 911 centers nationwide are made annually from mobile devices in the United States. Today, wireless infrastructure is required to assist with public safety needs.

This Facility also aligns with the objectives of FirstNet's mission to create a nationwide broadband network for America's public safety first responders. AT&T's network provides dedicated and preemptive services on its network for first responders. FirstNet is a federal agency with a mandate to create a nationwide, interoperable public safety broadband network for first responders. First responders across the country have relied on more than 10,000 separate radio networks which oftentimes do not interoperate with one another. By deploying a nationwide broadband public safety network built specifically to meet the communications needs of first responders, the FirstNet network provides a solution to the decades-long interoperability and communications challenges first responders have experienced. These issues were highlighted in the 9/11 Commission's Final Report. Using a combination of new and existing wireless facilities, AT&T provides prioritized, preemptive wireless services for first responders across Massachusetts and nationwide. FirstNet requires a highly reliable network that offers priority to first responders with a trusted and resilient network.

The Facility will function as a wireless communications facility within a local, regional, and national communications system. This system operates under license from the FCC and AT&T is mandated and authorized to provide adequate communication services throughout the Town of Hamilton. The Facility will not generate any objectionable noise, odor, fumes, glare, smoke, or dust or require additional lighting or signage. The Facility has no cooling fans and uses passive cooling. The Facility will have no negative impact on property values in the area. No significant increase in traffic or hindrance to pedestrian movements will result from the Facility. This is an unmanned facility and will have minimal negative effect on the adjoining lots. This Facility does not require police or fire protection because the installation is monitored at AT&T's state-of-the-art Network Operations Center, twenty-four hours a day, 365 days a year which can detect malfunction and/or tampering. The Facility will comply with all required codes and regulations, including all applicable requirements of the FCC with respect to radio frequency emissions. As evidenced in the emissions report submitted as part of the Application, the worst-case level of emissions will be only 12.8% of the maximum limit allowed by the FCC. The small cell facility will be installed using standard, commercially accepted methods in accordance with all applicable federal, state and local laws, regulations and orders.

AT&T proposes this low-power small cell wireless facility in the Town of Hamilton in order to deal with the rapidly increasing demands on AT&T's wireless network. This small wireless facility will work in conjunction with the existing macro sites installed on rooftops, towers and other structures in and around the Town of Hamilton.

AT&T's radio frequency engineers targeted the proposed location due to the high traffic and data demands on AT&T's network in the area near the Site. Please see the enclosed coverage maps submitted as part of the Application. AT&T's existing macro cell sites are not providing adequate data capacity in these areas due to population, network usage, vehicular and foot traffic, multiple wireless devices used by customers and other contributing factors. This small wireless facility will also work to offload the demands on AT&T's existing macro sites and allow for increased data capacity and speed within the immediate vicinity of those macro sites.

We note that the Facility at this Site is sought to address the concerns of neighbors and residents in the area of the proposed Facility near 18 Walnut Road. If this Facility is approved by the Board, AT&T will withdraw its pending application for a small cell wireless facility located near 18 Walnut Road.

COMPLIANCE WITH THE HAMILTON ZONING BYLAWS

While reserving all rights under state and federal law, AT&T acknowledges the provisions of Section 7.3 of the Bylaws and to demonstrate compliance, hereby responds to the specific provisions of the Bylaws, including the Cover Sheet.

7.3 SMALL WIRELESS FACILITIES: A BYLAW RELATIVE TO SMALL WIRELESS FACILITIES IN PUBLIC RIGHTS-OF-WAY, PRIVATE RIGHTS OF WAY, PUBLIC PROPERTY AND PRIVATE PROPERTY

7.3.1 Purpose and Intent. The Town finds that it is necessary and beneficial for the health, safety, and welfare of the community to regulate the development of small wireless facilities (SWF) while accommodating the communication needs of residents and businesses. SWF's shall be so designed and installed so as to minimize adverse visual effects through careful design and siting with an intent to preserve property values and the aesthetic character of Hamilton. To that end, this Bylaw section seeks to maximize the use of existing towers, poles, and buildings to accommodate new SWF. This section applies to the placement and operation of small wireless facilities within the public rights-of-way, private rights of way, public and private property without regard to the type or owner of any structure to which they are affixed or attached. The requirements of this section 7.3 are in addition to all other applicable federal, state, and local laws.

AT&T has designed the small wireless facility to minimize any adverse visual effects. AT&T's Facility will use an existing utility pole owned by National Grid. The Pole is located in the public right of way adjacent to a commercial shopping center and across Walnut Road from a gas station. The Facility will not adversely impact adjacent properties and neighborhoods as the Facility will be located on an existing wood utility Pole, thereby not introducing a new visual element for the necessary infrastructure to support the Facility. The Pole is not located in front of a residence and is screened to a great extent. The location was selected to address the concerns of

neighbors and abutters near the prior location near 18 Walnut Road. The location of the Facility will protect, to the extent practicable, the aesthetic qualities of the Town of Hamilton by utilizing an existing utility pole that is especially suited for the proposed use, and which minimizes impacts to the interests protected by the Bylaws. The installation of the Facility will not be a threat to public health, safety, and welfare. In fact, AT&T submits that the Facility will aid in public safety by continuing to provide and improve wireless communications services to the residents, businesses, commuters, and emergency personnel utilizing wireless communications in the immediate vicinity and along the nearby roads. The Facility will not generate any objectionable noise, odor, fumes, glare, smoke, or dust or require additional lighting or signage. The Facility uses passive cooling and does not have cooling fans. The Facility will have no negative impact on property values in the area. No significant increase in traffic or hindrance to pedestrian movements will result from the installation of the Facility. This is an unmanned facility and will have minimal negative effect on the adjoining lots. This Facility does not require police or fire protection because the installation is monitored at AT&T's state-of-the-art Network Operations Center, twenty-four hours a day, 365 days a year which can detect malfunction and/or tampering. The Facility will comply with all required codes and regulations, including all applicable requirements of the FCC with respect to radio frequency emissions. As evidenced in the emissions report submitted as part of the Application, the worst-case level of emissions will be only 12.8% of the maximum limit allowed by the FCC. The small cell facility will be installed using standard, commercially accepted methods in accordance with all applicable federal, state and local laws, regulations and orders.

7.3.1(a) Definitions

No response by AT&T is required.

7.3.1(b) Development Standards

1. Only small wireless facilities are permitted to be installed within a State or Town right-of-way on new or existing utility poles or wireless support structures. All small wireless facilities eligible for a Special Permit under this section shall not exceed the size dimensions of the small wireless facility definitions and shall be designed as concealed facilities and shall be subject to applicable development standards and procedures as required by local, state and federal laws.

The Pole is located in the public right-of-way and satisfies the FCC definitions of a small cell facility under the Order (see the Plans).

2. New utility poles or wireless support structures shall be designed to match the design parameters established by the SPGA by regulation or in the absence of such design guidance, match the size, girth and design of any existing utility poles or other vertical structures located in the surrounding area.

AT&T proposes to use an existing utility pole.

3. The applicant shall include with its application sufficient evidence, consistent with industry standards, to justify its requested placement.

Please see the Plans, Coverage Maps, Emissions Report and Site Selection Analysis/Pole Feasibility Assessment submitted with the Application.

4. Small wireless facilities must be placed in a right-of-way with residential or commercial uses on the opposite side of the right-of-way from such uses whenever possible. All small wireless facilities shall be located in such a way that they do not interfere with views from residential structures.

AT&T's Facility will be attached to an existing utility pole owned by National Grid. The Facility will not adversely impact adjacent properties and neighborhoods as the Facility will be located on an existing wood utility Pole, thereby not introducing a new visual element for the necessary infrastructure to support the Facility. The Pole is not located directly in front of a residence and is screened to a great extent. The Pole is adjacent to a commercial shopping center and across Walnut Road from a gas station. The location of the Facility will protect, to the extent practicable, the aesthetic qualities of the Town of Hamilton by utilizing an existing utility pole that is especially suited for the proposed use, and which minimizes impacts to the interests protected by the Bylaws.

5. All small wireless facilities shall be located so as to minimize adverse visual effects on the landscape.

AT&T's Facility will be attached to an existing utility pole owned by National Grid. The Facility will not adversely impact adjacent properties and neighborhoods as the Facility will be located on an existing wood utility Pole, thereby not introducing a new visual element for the necessary infrastructure to support the Facility. The Pole is not located directly in front of a residence and is screened to a great extent. The Pole is adjacent to a commercial shopping center and across Walnut Road from a gas station. The location of the Facility will protect, to the extent practicable, the aesthetic qualities of the Town of Hamilton by utilizing an existing utility pole that is especially suited for the proposed use, and which minimizes impacts to the interests protected by the Bylaws.

6. All small wireless facilities either independently sited or mounted on or to existing buildings and structures shall be camouflaged.

AT&T is using an existing utility pole for the Facility. AT&T will work cooperatively with the Board to determine the best color of the Facility, understanding the color of utility poles fades over time. AT&T generally recommends a light gray color, but brown and black are also available.

7. When a small wireless facility extends above the roof height of a building on which it is mounted every effort shall be made to conceal every component within or behind existing architectural features to limit its visibility from public view.

AT&T's Facility will be attached to an existing utility pole, not on the roof of a building. The cannister antenna is only 24" in length and AT&T will work cooperatively with the Board on the best color for the antenna and equipment cabinet.

8. All small wireless facility components mounted on a roof shall be stepped back from the front façade in order to limit its impact on the building silhouette and the public view.

AT&T's Facility will be attached to an existing utility pole, not on the roof of a building.

9. The Planning Board shall determine if sufficient area exists immediate to the proposed small wireless facility so that landscape improvements would be aesthetically beneficial it shall request a landscape plan from the applicant. Said plan will seek to screen or buffer the public view of the proposed small wireless facility.

The Facility does not include any ground equipment.

10. Any small wireless facility shall be painted so as to visually blend into nearby vegetation or a light gray or light blue hue that blends with sky and clouds.

AT&T will work cooperatively with the Board to determine the best color of the Facility, understanding the color of utility poles fades over time. AT&T generally recommends a light gray color, but brown and black are also available.

11. The Planning Board may adopt other and further objective aesthetic and location criteria applicable to all applications submitted under this Section 7.3.

To the extent not preempted by the TCA or the Order, no response is required from AT&T.

7.3.1(c) Contents of Application and Application Process

1. Each application must include the following:

a. The application fee.

The $500 application fee is submitted with this Application.

b. A completed application cover sheet on the form available from the Hamilton Planning Department.

The completed application cover sheet is submitted with this Application.

c. Applicant's name, address, telephone number and email address.

New Cingular Wireless PCS, LLC (d/b/a "AT&T"), 492 Old Connecticut Path, Suite 210, Framingham, MA 01701; 508-596-9245; RD1090@att.com (Rich Detch)

d. Names, addresses, telephone numbers, and email addresses of anyone acting on behalf of the Applicant with respect to the application.

Vincent Paquette, 750 West Center Street, Suite 301, West Bridgewater, MA 02379; 617-905-8575; vpaquette@clinellc.com

Edward D. Pare, Jr., Brown Rudnick LLP, One Financial Center, Boston, MA 02111; 401.481.6574; epare@brownrudnick.com

e. Detailed construction drawings and descriptions of the equipment to be installed, whether mounted on poles or on the ground, or otherwise, including:

i. Type of equipment
Please see the attached Plans submitted with this Application and the narrative above for details.

ii. Specifications of equipment (including but not limited to dimensions and weight)
Please see the attached Plans submitted with this Application and the narrative above for details.

iii. Equipment mount type and material
Please see the attached Plans submitted with this Application for details.

iv. Power source or sources for equipment, including necessary wires, cables, and conduit
Please see the attached Plans submitted with this Application for details. AT&T anticipates electrical power and fiber to be brought to the Pole overhead which is to be coordinated with the utility providers if the Facility is approved.

v. Expected life of equipment
The expected life of the proposed equipment is estimated to be approximately 15-20 years.

vi. Coverage area of equipment, including:
Please see the Coverage Maps submitted with this Application.

1. **Amount of antennas**
One (1) canister antenna as depicted on the enclosed Plans.
2. **Antenna model**
Galtronics Model GQ24180-B6941 (or equal).
3. **Antenna length**
Antenna length is 24".
4. **RRU count and power**
Two (2) RRUs operating on standard electrical power.
5. **Antenna height**
The top height of the antenna is approximately 30' 6" above ground level; please see the Plans submitted with the Application for details.
6. **Typical coverage area radius**
Coverage varies depending on terrain, obstructions and usage but generally 1/4 to 1/3 of a mile radius. Also, please see enclosed coverage plots prepared by AT&T.

vii. Call capacity of equipment, including:

1. **Total RRUs**
One (1) 4490 RRU and one (1) 4890 RRU for a total of two (2) RRUs.
2. **Max bandwidth per RRU**
The 4490 RRU is capable of three (3) 20 MHz channels with a theoretical throughput of 600 megabits per second (Mbps). The 4890 RRU is capable of one (1) 20 MHz channel with theoretical throughput of 390 Mbps.
3. **MIMO per RRU**
The 4490 RRU is 2x2 MIMO and the 4890 RRU is 4x4 MIMO.
4. **Backhaul rate per RRU**
10 gigabits per second.

viii. Hardening, including:
No hardening is proposed.

1. **If there is battery backup**
No battery backup is proposed.

2. **If there is generator backup**
No generator backup is proposed.

3. **If there are multiple fiber paths to switch**
AT&T will likely maintain more than one fiber path to its network switch.

ix. Rendering and elevation of equipment
Please see enclosed Plans and Photosimulations.

f. Detailed map with locations of the poles or other facility on which equipment is to be located, including specific pole identification number, if applicable, and the areas it will service.
Please see the Plans submitted with this Application.

g. Detailed map showing existing and proposed small cell installations within 500 feet of the application site.
AT&T has no existing or proposed small cell installations within 500 feet of the Site. If this Facility is approved, AT&T will withdraw the pending request for a small cell wireless facility near 18 Walnut Road which is currently pending before the Board.

h. Certification by a registered professional engineer that the pole/or location will safely support the proposed equipment.
Please see the Structural Analysis Report submitted with this Application.

i. Written consent of the pole or facility owner to the installation.
Please see the Letter of Authorization from National Grid. AT&T has a master license agreement with National Grid to use their infrastructure in the public rights-of-way.

j. Affidavit from a Radio Frequency Engineer outlining the network/network service requirements in Hamilton and how the installations address that need. Such affidavit should characterize the current level of coverage and how the desired installations will change the current level of coverage, through or with coverage maps, including current and proposed coverage, including a breakdown of "excellent" "good and "poor" reception areas.
Please see the Report of Radio Frequency Engineer and associated Coverage Maps submitted with this Application.

k. Insurance certificate.
Please see the attached certificate of insurance submitted with this Application.

l. Description as to why the desired location is superior to other similar locations, from a community perspective, including:

i. Visual aspects

ii. Proximity to single family residences.

Please see the Site Selection Analysis/Pole Feasibility Assessment submitted with this Application. This is the only suitable utility pole in the area which will address AT&T coverage and capacity needs and address the concerns of the neighbors and abutters to the proposed location near 18 Walnut Road. The Pole is adjacent to a commercial shopping center and across Walnut Road from a gas station.

m. Description of efforts to co-locate the equipment on existing structures, poles, or towers which currently exist or are under construction. A good faith effort to co-locate is required and evidence of such efforts must be included within the application.

AT&T is using an existing utility pole in the public right-of-way.

n. An affidavit from the applicant which certifies that it will maintain the installations in good repair and according to FCC standards and will remove any installation not in such good repair, or not in use, within 60 days of being no longer in good repair or no longer in use.

Please see enclosed commitment signed by AT&T.

2. No applications will be accepted by email. Applications delivered other than by hand will be deemed filed when they are received by the Planning Department.

AT&T acknowledges this provision of this section of the Bylaws.

3. All submitted drawings require a wet stamp or wet signature from the design professional.

Please see the attached Plans submitted with this Application.

4. The applicant must pay for legal notices of the Public Hearing to local newspapers and abutters, as applicable. The applicant is responsible for submitting the abutters list for each location with the application.

AT&T acknowledges this provision of this section of the Bylaws and has requested the certified abutters list from the Hamilton Assessors Office.

5. Twelve (12) hard copies of the application and 1 (one) electronic copy of the application must be submitted to the Planning Department.

AT&T acknowledges this provision of this section of the Bylaws.

6. Upon receipt, the Planning Director shall:

No response from AT&T is necessary.

7. The Planning Department shall circulate a copy of the application to the following departments for comment and review: Building; DPW; Health; and any other department the Planning Director, in his, or her, sole discretion, determines.

No response from AT&T is necessary.

8. Written comments from the departments shall be submitted to the Planning Department within 20 days of circulation of the application.

No response from AT&T is necessary.

9. Once the application is deemed complete, and all comments have been received, the Planning Board will schedule and hold a Public Hearing to consider the application.

No response from AT&T is necessary.

10. Any material changes to an application, as determined by the SPGA in its sole discretion, shall constitute a new application for the purposes of the time standards. Where a changed or new application is submitted, the prior application shall be deemed withdrawn.

No response from AT&T is necessary.

7.3.1(d) Approval Process

No response from AT&T is necessary.

7.3.1(e) Application Submittal Requirements. Applicants for small wireless facilities shall submit all information and material as detailed within this Bylaw as part of a Special Permit Application.

AT&T acknowledges this provision of this section of the Bylaws and has submitted all information and materials detailed in the Bylaws to the extent possible.

7.3.1(f) Small Wireless Facilities in the Historic District.

AT&T's Facility is not located in the Historic District.

7.3.1(g) Interference with Public Safety Communications.

AT&T's Facility will comply with all applicable requirement so of the FCC and will not cause interference with frequency used by the Town, Commonwealth or any other public safety agency as noted in the Report of Radio Frequency Engineer. In the event any interference is caused by the Facility, AT&T will resolve such interference in accordance with applicable FCC rules and regulations. AT&T utilizes 700, 850, 1900, 2100, 2300 and 3800 MHz and 39 GHz frequencies.

As noted above, the proposed Facility is monitored at AT&T's state-of-the-art Network Operations Center, twenty-four hours a day, 365 days a year and information for contacting AT&T's Network Operations Center will be at the Site and will be provided to the Town of Hamilton, including the Fire Chief.

7.3.1(h) Application Fees; Supplemental Review. An application for small wireless facilities shall be accompanied by the following fees payable to the Town:

The fee of $500 for the Application was submitted with this Application in accordance with the Bylaws and the Order. In light of the Order, AT&T respectfully asserts that a fee for a third-party review is not required in this instance.

7.3.1(i) Rates for Small Wireless Facilities within the Right-of-Way. An applicant who places a small wireless facility on a Town utility pole or any other structure within a right-of-way or upon any Town property in accordance with this section shall (a) execute a license agreement with the Town and (b) pay to the Town an annual recurring rate of $270.00 per year per facility, or any such higher rate permitted under FCC rules or federal law and as set forth in the license agreement, for the use of such utility pole, right-of-way, or structure.

AT&T acknowledges this provision of this section of the Bylaws.

7.3.1(j) Required Permit Provisions. Each permit issued by the Planning Board and each license agreement for small wireless facilities shall be made upon the condition that the applicant agrees to the following conditions:

1. Indemnification. To the fullest extent allowed by law, both the wireless infrastructure provider and wireless services provider (for this paragraph, collectively referred to as "provider") constructing, installing, operating, repairing, maintaining and using a small wireless facility shall indemnify, defend and hold harmless the city, and its officials, agents, and employees from and against all suits, actions or claims of any character brought because of any injury or damage received or sustained by any person, persons or property arising out of, or resulting from, said provider's breach of any provision of law, or any asserted negligent act, error or omission of the provider, or its agents or employees, arising from or relating to its small wireless facility. The indemnifications required hereunder shall not be limited by reason of the specification of any particular insurance coverage for any permit. The provider's obligations under this provision shall not terminate with the expiration or termination of its permit but shall survive it.

2. Dispute Resolution. A court of competent jurisdiction located in Essex County; Massachusetts shall have exclusive jurisdiction to resolve all disputes arising under this section applying the laws of the Commonwealth of Massachusetts. Pending resolution of a dispute concerning rates for collocation of small wireless facilities on municipal utility poles within the right-of-way or upon Town property, the Town shall allow the collocating party

to collocate on its poles at annual rates of no more than $270.00 per year per facility, with rates to be determined upon final resolution of the dispute.

To the extent not preempted by federal or Massachusetts state law, AT&T acknowledges this provision of this section of the Bylaws.

7.3.1(k) Exceptions to Applicability. Nothing in this section authorizes a party to locate small wireless facilities on: property owned by a private party, property that is not located within the rights-of-way, or a privately owned utility pole or wireless support structure within a right-of-way without the consent of the property owner;

1. property owned, leased, or controlled by any department or agency of the Town used for public park, recreation or conservation purposes without the consent of the affected department or agency, excluding the placement of facilities on rights-of-way located in an affected department or agency's property; or

2. property owned by a rail carrier registered under federal law, MBTA Commuter Rail or any other public commuter rail service, or a utility, without the consent of the rail carrier, public commuter rail service, or utility. For the purposes of this subsection, "utility" has the meaning given to that term in M.G.L. c. 166, § 25A. Nothing in this section shall be construed to relieve any person from any requirement (a) to obtain a franchise or a commonwealth-issued authorization to offer cable service or video service or (b) to obtain any required permission to install, place, maintain, or operate communications facilities, other than small wireless facilities subject to this section.

AT&T acknowledges this provision of this section of the Bylaws.

7.3.1(j) Duration of Special Permit.

(a) Special Permits issued under this Section 7.3 expire within one (1) year of issuance unless the Planning Board issues a certificate of renewal of the Special Permit. The certificate shall be issued after the equipment owner submits an affidavit which shall list, by location, all SWFs it owns within the Town of Hamilton and shall certify:

(1) each such installation remains in use;
(2) each such installation remains covered by insurance; and
(3) each such installation remains unchanged in dimension and RF frequency from the year before.

(b) The equipment owner shall pay an annual re-certification fee of $100 per facility for each facility that remains in use.

(c) Any SWF that is abandoned shall be removed by the owner within sixty (60) days of abandonment at owner's expense. Failure to do so will cause the Planning Board to refuse to issue a certificate of renewal to the equipment owner.

To the extent not preempted by federal law, AT&T acknowledges this provision of this section of the Bylaws.

THE TELECOMMUNICATIONS ACT OF 1996

Without the installation, AT&T would be unable to provide its specifically established coverage and capacity objectives. The Site is located within the limited geographic area whereby AT&T's radio frequency engineers determined that a wireless facility is required. The TCA imposes substantial restrictions affecting the standard for granting the requested relief. The TCA provides that: no laws or actions by any local government or planning or zoning board may prohibit, or have the effect of prohibiting, the placement, construction, or modification of communications towers, antennas, or other wireless facilities in any particular geographic area, see 47 U.S.C. §332(c)(7)(B)(i)(II); local government or planning or zoning boards may not unreasonably discriminate among providers of functionally equivalent services, see 47 U.S.C. §332(c)(7)(B)(i)(I); health concerns may not be considered so long as the emissions comply with the applicable standards of the FCC, see 47 U.S.C. §332(c)(7)(B)(iv); and, decisions must be rendered within a reasonable period of time, see 47 U.S.C. §332(c)(7)(B)(ii) and the Order commonly referred to as the applicable "shot clocks". In this instance, the shot clock is sixty (60) days from the date of the filing of the Application.

We also note that the Order redefined "effective prohibition" to mean that state and local governments cannot impose requirements that materially limit or inhibit a provider's ability to engage in activities related to the provision of wireless service. This standard applies to efforts to introduce new or enhance coverage, capacity or service capabilities and notes that regulations that cause a financial burden or competitive disparity can be an effective prohibition. Additionally, these services mean any covered service a provider wishes to provide incorporating the abilities and performance characteristics it wishes to employ, such as providing services more robustly or at a higher level of quality by filling coverage gaps, improving network densification or other improvements.

CONCLUSION

As evidenced by the materials submitted with the Application and as will be further demonstrated by AT&T through evidence submitted to the Board at the public hearing(s) in connection herewith, in light of the TCA, Massachusetts law and the Order, the Facility satisfies the intent and objectives of the Bylaws. AT&T respectfully requests that the Board grant all necessary relief to install, operate and maintain the Facility. For the foregoing reasons, as well as to satisfy the mandate of the Federal Government to facilitate competition in the telecommunications industry as set forth in the TCA, AT&T respectfully requests that the Board grant the foregoing Special Permit.

We respectfully submit that the standards for relief as set forth in the Bylaws as well as Massachusetts law relating to zoning must be interpreted and applied such that the decision issued by the Board is in conformance with the TCA and the Order. Accordingly, a denial of the foregoing petition would effectively prohibit AT&T from providing adequate service to the Town of Hamilton and thus would be contrary to the purpose and intent of the TCA.

We respectfully assert that AT&T's proposed Facility is reasonable and reasonably complies with the requirements of the Town of Hamilton and the Bylaws in light of the TCA, Massachusetts law and the Order. AT&T is willing to work cooperatively with the Town of Hamilton with respect to the deployment of its small wireless facilities and we look forward to presenting the Application to the Board. We note that the Facility at this Site is proposed in response concerns of neighbors and residents in the area of the proposed Facility near 18 Walnut Road. If this Facility is approved by the Board, AT&T will withdraw the pending application for a small cell wireless facility located near 18 Walnut Road.

If you have any questions, please do not hesitate to contact me.

Sincerely,

BROWN RUDNICK LLP

/s/Edward D. Pare, Jr.____
Edward D. Pare, Jr., Esq.

ATTACHMENTS

Cover Sheet
Plans
FCC Licenses
Letter of Authorization from National Grid
Photo Simulations
Site Selection Analysis/Pole Feasibility Assessment
Emissions Report Demonstrating Compliance
Report of Radio Frequency Engineer
Coverage Maps
Structural Analysis Report
Maintenance and Removal Commitment
Certificate of Insurance

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