CONDITIONS OF APPROVAL FOR THE INSTALLATION OF LARGE ABOVE-GROUND CABINETS IN THE CITY OF COSTA MESA

April 2007

Although the City's preference is to have all utility lines and appurtenances underground within the public right-of-way, the following conditions shall apply to all permit requests where undergrounding is not possible, and that involve the installation of above-ground boxes greater than twenty-five (25) cubic feet in volume:

1. Prior to issuance of any individual encroachment permit for equipment, and in order to ensure that any required California Environmental Quality Act (CEQA) analysis is completed, the applicant shall submit a complete plan identifying the location and total number of utility cabinets or other above-ground fixtures or equipment, known to be, or expected to be, installed in the general area in the reasonably foreseeable future. To the extent that the proposed encroachment permit involves upgrading of existing cabinets or interfacing/connecting/tying new cabinets with existing cabinets or other hardware, the applicant shall submit a complete plan showing the locations of such existing cabinets/hardware in the City which will be upgraded, connected, or interfaced. The City will then assess what environmental review, if any, is required based on the potential, if any, for individual or significant cumulative effect from installations at multiple locations in the general area. Review by staff shall also include whether installation of individual utility cabinets or hardware may be exempt from CEQA review pursuant to CEQA Guidelines § 15303. Once environmental review is completed (if determined necessary per State law by City staff), and a determination is made that the requested above-ground installation(s) can be made with or without adjustments, the remaining conditions (below) shall apply.

2. Applicant shall notify, in writing and sent registered mail, all owners and tenants of parcels of land (if the Assessor's records show an address for the property owner separate from the parcel itself) within one hundred feet (100') of the proposed cabinet(s), to inform them of the proposal, to obtain input, and to provide them with any pertinent requested information concerning the cabinet(s) and the location. The City shall receive a copy of all notices, along with the addresses that are notified. The notices shall contain the name and number of the applicant's representative, as well as a City contact. City shall not issue a permit less than ten (10) calendar days from the date of mailing/notification to the owners/tenants in the area, or until appropriate contact and resolution is made with any responder(s), whichever time is greater. Applicant shall submit a draft of the notification document to the City for review and comment prior to sending.

3. Plan submittals shall contain adequate dimensions to show that all requirements of the Americans with Disabilities Act (ADA) can be met within the public right-of-way, in the area of any proposed above-ground facilities, prior to issuance of a permit.

4. If a proposed cabinet(s) is visible from the public right-of-way, landscaped screening and parkway irrigation/plantings may be warranted, if space allows, and shall be identified on the plans.

5. In proposed locations where landscaped screening is not possible, and redesign/relocation of the proposed cabinet to a larger area is not possible, the owner of the cabinet shall agree to respond within forty-eight (48) hours upon notification to provide needed maintenance on the cabinet(s). A separate agreement to this effect shall be executed with the City prior to issuance of the encroachment permit. Maintenance shall include proper upkeep of the exterior appearance of the cabinet(s), including removal of graffiti and stickers. **Note**: If the owner of the proposed above-ground facility has an official, written, and adopted company policy in regards to cabinet maintenance, or has a franchise agreement with the City that adequately addresses maintenance and response time, this document may be substituted for the above-required maintenance agreement if, in the opinion of the City Engineer, it meets the intent of the required cabinet maintenance.

Applicant acknowledges that failure to properly maintain any above-ground cabinet(s) within the City, which is visible to the public, may in certain circumstances provide cause for the City to rescind the encroachment permit, in which case the cabinet(s) must be removed and the area restored to its prior condition.

6. The City prefers placement of cabinets on private property (within an appropriate easement), where possible, due to limited parkway widths throughout the City. If a cabinet(s) located on private property is visible from the public right-of-way, landscaped/irrigated screening shall be provided within the easement where possible.

7. Where cabinets are proposed on two-lane residential streets, or on collector streets within residential areas, the maximum cabinet dimensions shall be forty-eight inches (48") high by forty-five inches (45") long by twenty-four inches (24") wide. On arterial street locations, if there is sufficient room, and if the City Engineer has determined that no visual and/or aesthetic impacts will exist due to the presence of the cabinet, or due to adequately proposed screening, the height of the cabinet may be increased to a maximum of sixty-three inches (63"). Increased length and width may also be approved if its impacts are deemed negligible for the location by the City Engineer. The only exceptions to the height/size restrictions listed in this condition are as follows:

- Any new cabinet not providing, and not capable of providing, direct video services to the public, and for which written information has been received and approved by the City verifying the technical requirement and necessity to utilize cabinets larger than the maximum dimensions listed above; or

- The application is for in-kind replacement of an existing cabinet where a permit was issued by the City prior to January 1, 2007.

8. If an electrical service/meter is required as part of any new above-ground cabinet(s) application, it shall be installed integrally with the cabinet it is proposed to serve. Also, no separate pedestal for the electrical service shall be allowed for any existing cabinet(s) being refurbished or replaced, unless shown in writing and approved by the City to be technically infeasible.

9. Applicant agrees that any issuance of an encroachment permit shall not constitute a franchise under local, State, or federal law. **No video services** may be provided by the permit holder anywhere in the City unless, and until, either a City-issued franchise or State-issued franchise has been secured by applicant in full compliance with local, State, and/or federal law.