

<b><i>POLICY FOR PLACEMENT OF WIRELESS TELECOMMUNICATION FACILITIES ON VTA REAL ESTATE ASSETS</i></b>	<b>POLICY</b>	
	<b>Document Number:</b>	CMA-RE-PL-0204
	<b>Version Number:</b>	01

### **1.0 Purpose:**

To set forth the VTA policy for placement of wireless telecommunication facilities on VTA real estate assets, thereby generating long-term, stable revenue for VTA while minimizing negative impacts on VTA operations and uses.

### **2.0 Scope:**

This policy applies to all entities which seek to place wireless telecommunication facilities on VTA real estate assets.

### **3.0 Responsibilities:**

The VTA Property Development and Management Department, known as “VTA Real Estate”, will manage all documents relating to the placement of wireless telecommunication facilities on VTA real estate assets, and will coordinate with applicable VTA divisions on the review and processing of the transactions. As applicable, each VTA division will be responsible for reviewing and processing applications, drawings, agreements, permits, construction and payments relating to the wireless telecommunication facilities.

### **4.0 Policy:**

VTA has an extensive portfolio of real estate assets located throughout Santa Clara County, and as a result private telecommunication companies have from time to time sought to place wireless telecommunication facilities on these assets. VTA supports the expansion of wireless telecommunication services for its customers and desires to maximize the economic value of its real estate assets through rental revenue, so long as this is balanced against VTA’s own operational and use needs. Therefore this policy sets forth the guidelines by which VTA will consider proposals for placement of wireless telecommunication facilities on VTA real estate assets.

- 4.1 Initial Application. An applicant shall submit an application and non-refundable fee to VTA Real Estate for initial consideration of a proposal. The fee is currently \$150 and may be adjusted periodically by VTA Real Estate. VTA Real Estate will route the application for internal review to determine whether the application will move forward. If the application receives initial approval to move forward, VTA Real Estate will proceed with the next steps described below.

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- 4.2 Review and Processing Fee. For all applications which move forward, the applicant shall submit a non-refundable fee to VTA for review, coordination and processing of the wireless telecommunication facility proposal. The fee will also apply to any requests for: (i) amendments to existing agreements, (ii) co-locations including sublicensing, (iii) consent to assignment of the license, and (iv) replacements/upgrades/alterations to existing wireless telecommunication facilities. The fee is currently \$2500 and may be adjusted periodically by VTA Real Estate.
- 4.3 Agreement. A written agreement between VTA and the telecommunication facility owner, approved as to form by VTA General Counsel, shall be required prior to any placement of any wireless telecommunication facility on VTA real estate assets. In addition, the VTA Board of Directors will be required to approve any agreements exceeding the maximum amount, or the maximum term, permissible under Section 9-2 (c) of the Administrative Code (which on the date of approval of this policy is an amount of \$100,000 and any term exceeding 3 years). The agreement will include at minimum provisions for the following:
- a) Standardized License Agreement. The basic form of agreement will be a standardized license agreement, as amended from time to time.
  - b) Term. The term of an individual agreement may vary and shall be based upon VTA Real Estate's assessment of the specific real estate asset. In no event may an agreement including all extensions exceed 25 years.
  - c) Co-Location. Any co-location of the applicant's wireless telecommunication facility by a third party must be approved in advance by VTA and subject to a separate agreement with VTA. If the co-location is on a tower and no additional ground space is required, VTA shall receive 50% of applicant's gross revenue for third party use of the tower space. If additional ground space is required, VTA shall receive 100% of the gross revenue for any new ground space licensed to the third party.
  - d) Interference. No wireless telecommunication facility may interfere with VTA's own telecommunication systems or uses, regardless of when the VTA installations occur. For third party uses, interference provisions will be based upon date of installation and recognition of prior use rights.

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- e) Relocation. The agreement will contain a provision for relocating a wireless telecommunication facility at the applicant's sole cost if deemed necessary for VTA's use or needs. The agreement will also contain a waiver of federal and state relocation benefits by the applicant.
- f) Termination. VTA shall have the right to terminate an agreement if deemed necessary for VTA's use or needs, upon 180 days prior written notice, at any time after the end of the first five years of the agreement.
- g) Bond. The applicant must post a bond or other financial security in an amount that equals or exceeds the anticipated cost of removing the wireless telecommunication facility in the event the applicant ceases use of or abandons the facility.
- h) Insurance. The applicant must obtain insurance pursuant to requirements established by the VTA Risk Manager, which requirements may be updated periodically.
- i) Access. Notice, access and security procedures will be set forth in the agreement which balances the applicant's use needs and VTA's operational and security requirements.
- j) Utilities. The applicant will be required to install and pay for the applicant's own utilities, including but not limited to electrical and telecommunication services. A sub-meter will be considered only if it is not possible to install a separate meter and if VTA is reimbursed for the utilities cost. The applicant will be responsible for ensuring that any meter or sub-meter installed for its use are maintained and monitored on a regular basis.
- k) Other Equipment. Generators, temporary cell sites, and other additional equipment may be placed on VTA real estate assets only upon prior written approval by VTA and payment of an additional fee determined by VTA Real Estate.
- l) Drawings. A set of as-built drawings must be provided to VTA Real Estate at the completion of construction, so that VTA may maintain a record of facilities constructed on VTA real estate assets.

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- m) Transfer of Ownership. VTA at its option may require that certain towers or other structures relating to a wireless telecommunication facility be transferred at no cost to VTA's ownership at the expiration or earlier termination of the agreement.
- 4.4 Compensation. VTA will receive fair and reasonable compensation for use of its real estate assets, based on comparable market rates for similar facilities and markets. VTA Real Estate may establish a rate schedule, which will be updated periodically based on current market data.
- 4.5 Permits. One or more permits are required prior to the commencement of any construction of the wireless telecommunication facility.
- a) VTA Permit. For all wireless telecommunication facilities to be placed on VTA real estate assets, the applicant must first receive a Construction Access Permit from VTA Permits & Utilities Locating Services. The Construction Access Permit requires a separate application and fee.
- b) City / County Permit. For certain wireless telecommunication facilities to be placed on VTA real estate assets, a permit must also be received from the City or County having jurisdiction over the site location. VTA Real Estate will assist the applicant in determining whether an additional City or County permit will be needed.
- c) Other Permits. The applicant shall be responsible for acquiring any and all other permits necessary for installation of its telecommunication facility.
- 4.6 Accommodation for VTA Uses. Where practicable, VTA may require that a new wireless telecommunication facility be designed and constructed to accommodate joint use by VTA. This includes aboveground and underground uses as determined by applicable VTA staff.
- 4.7 VTA Real Estate Asset Inventory. VTA Real Estate will prepare a list of VTA real estate assets which are available for installation of wireless telecommunication facilities, and update such list periodically.
- 4.8 Request for Information (RFI) and Request for Proposals (RFP). From time to time, VTA Real Estate may issue an RFI to determine market interest in developing one or more wireless telecommunication facilities on VTA real estate assets such as VTA transit

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centers, park and ride lots, and other properties owned or controlled by VTA. In addition, VTA Real Estate may issue an RFI to determine market interest in utilizing VTA's infrastructure such as its underground conduit or fiber optic cable network. In response to current market conditions and industry interest, VTA Real Estate may further establish a competitive solicitation process via request for proposal (RFP) for a single VTA real estate asset or a pool of VTA real estate assets.

Based upon RFI or RFP responses, as applicable, VTA Real Estate in its sole discretion may choose to issue an RFP to follow up on the RFI, enter into direct negotiations with a party for use of one or more assets, take no further action, or take other action as VTA Real Estate deems appropriate. Notwithstanding the foregoing, VTA Real Estate at all times will retain full discretion to receive and process unsolicited requests to install wireless telecommunication facilities on VTA real estate assets.

- 4.9 Underground Conduits and Fiber Optic Cables. VTA owns existing underground infrastructure consisting of conduits and fiber optic cables located below VTA's light rail network. VTA currently has substantial excess capacity with regards to this underground infrastructure, and is open to exploring ways to monetize these assets through shared, licensed or other use of conduit space or existing fiber optic cables. VTA General Counsel, VTA Technology, VTA Operations and VTA Real Estate will be charged with performing the due diligence necessary to determine the feasibility of utilizing VTA's underground infrastructure for such purposes.

**5.0 Enforcement:**

VTA may enforce this policy by any means available to VTA in its regulatory or proprietary capacity. Furthermore, the VTA Board of Directors may adopt enforcement measures for this policy as needed.

**6.0 Definitions:**

**Administrative Facility:** The term shall have the definition set forth in VTA Ordinance 98.1. As of the approval date of this policy, VTA Ordinance 98.1 defines "administrative facility" as all buildings, structures, parking lots, and property, owned or operated by the VTA, except transit facilities.

**Applicant:** An entity, typically a private telecommunication service provider, which seeks to place a wireless telecommunication facility on one or more VTA real estate

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assets. A public entity seeking to install telecommunication facilities for emergency 911 services or other public services will not be considered an applicant for purposes of this policy. Furthermore, a private entity installing telecommunication facilities solely for VTA uses will not be considered an applicant for purposes of this policy.

**Co-Location:** The sharing of a single wireless telecommunication facility by more than one user. This includes tower space, ground space, or other space leased or licensed to one user which is subsequently shared with one or more additional users.

**License Agreement:** The written agreement by which VTA grants an applicant license to use a VTA real estate asset.

**Real Estate Asset:** Real property which is owned, leased or administered by VTA, through fee ownership or other regulatory, contractual or recorded right. These include but are not limited to any VTA “transit facility” as defined in VTA Ordinance 98.1 and any VTA “administrative facility” as defined in VTA Ordinance 98.1.

**Request for Information (RFI):** An open inquiry sent to potential suppliers for the purpose of gathering general information and understanding, which will be used for future negotiations or preparation of a request for proposal.

**Request for Proposal (RFP):** A request based on business requirements which seeks specific data, offerings and quotations for a defined service or project.

**Transit Facility:** The term shall have the definition set forth in VTA Ordinance 98.1. As of the approval date of this policy, VTA Ordinance 98.1 defines “transit facility” as any and all transit centers, light rail stations, light rail platforms, and parking lots used for transit system access.




**Wireless Telecommunication Facility:** Antennas, support structures and associated equipment and infrastructure installed for the transmission and reception of wireless voice, internet and other data communications. The antennas are typically mounted on buildings, freestanding towers (also known as monopoles), or utility structures, with associated cabinets and equipment located on the ground.

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**6.0 Summary of Changes:**

N/A.

**7.0 Approval Information:**

<i>Prepared by</i>	<i>Reviewed by</i>	<i>Approved by</i>
 Kathy Bradley Manager, Real Estate Projects & Administration	 Bijal Patel Deputy Director	 Nuria I. Fernandez General Manager

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