



PLANNING COMMISSION MEETING STAFF REPORT

DATE OF MEETING: May 14, 2019

NAME OF APPLICANT: Midway City

AGENDA ITEM: Code Text Amendment of Title 16.22: Wireless Communications

ITEM: 3

Midway City is proposing a code text amendment of the Midway City Land Use Code Section 16.22: Wireless Telecommunications. The proposed code will regulate installation, maintenance, operations and use of small wireless facilities and related improvements within the City.

BACKGROUND:

Staff is proposing a code text amendment to Section 16.22: Wireless Communications that will regulate installation, maintenance, operations and use of small wireless facilities and related improvements within the City. The City Council adopted Resolution 2109-09 on April 23, 2019 to allow time to develop the new ordinance. A draft ordinance follows this staff report for the Planning Commission's consideration. Midway is wants to promote the vision, goals and objectives as described in the General Plan. This includes the look and feel of the entire community, especially along Main Street. The design of the small cell facilities could greatly impact the aesthetics and feel of the community so design standards must be carefully considered as the City considers this new ordinance.

During the 2018 session, the Utah State Legislature passed Senate Bill 189 (SB 189) Small Wireless Facilities Deployment Act. The act went into effect as of September 1, 2018. SB 189 was in response to regulatory changes at the federal level with FCC 18-133.

The following are key takeaways from SB189:

- Small wireless facilities are now a permitted use in public right of ways.
- The City has the ability to establish reasonable design standards.
- The supporting equipment to the antennas may be required to be placed underground.
- A statewide fee schedule has been adopted for application fees and leasing fees
- A statewide approval schedule has been adopted.

A more thorough summary of SB 189 is attached in Exhibit 1.

DESIGN

SB 189 does allow the City to have design standards on small cellular site and utility poles. Some examples of utility poles with small wireless facilities have been included in Exhibit 2. If the City feels that the street light poles are the appropriate place for these facilities, the City may need to look at changing the current street light standards.

DEVELOPMENT STANDARDS

In Title 16, the City does require the undergrounding of all utility lines for new development. The antennas of the small wireless facilities cannot be placed underground, but the supporting equipment can be. The City will have to consider the area within the right-of-way and how that might be accomplished.

If facilities are to be placed next to residential areas or local roads, the City can limit new poles.

PROCESS

The current process for telecommunication facilities require a public hearing before the City Council. It is undecided in the draft code if the Planning Commission, City Council, Visual and Architectural Committee, or staff will approve applications. The approval will be administrative in nature, but a decision must be made on which group or person will act as the land use authority for these facilities.

Staff would like some direction regarding the proceeding three items to better refine the proposed code.

POSSIBLE FINDINGS:

- Federal and State requirements require the City to adopt a code if the City wishes to regulate small cell communication facilities
- The General Plan promotes careful consideration of improvements along Main Street and in the entire community
- The City can establish reasonable design standards
- Small cell communications will benefit residents, tourists and businesses in Midway

ALTERNATIVE ACTIONS:

1. Recommendation of Approval. This action can be taken if the Planning Commission feels that the proposed language is an acceptable amendment to the City's Municipal Code.
 - a. Accept staff report
 - b. List accepted findings
2. Continuance. This action can be taken if the Planning Commission would like to continue exploring potential options for the amendment.
 - a. Accept staff report
 - b. List accepted findings
 - c. Reasons for continuance
 - i. Unresolved issues that must be addressed
 - d. Date when the item will be heard again
3. Recommendation of Denial. This action can be taken if the Planning Commission feels that the proposed amendment is not an acceptable revision to the City's Municipal Code.
 - a. Accept staff report
 - b. List accepted findings
 - c. Reasons for denial

Exhibit 1

SB 189 Small Wireless Facilities Deployment Act – EFFECTIVE SEPTEMBER 1, 2018

Background: Federal law already requires that cities allow telecommunications access to the right-of way (ROW). SB 189 creates a uniform state-wide process for facilitating that access and compensating cities. Wireless providers have the right to install small wireless facilities and utility poles within the ROW; and collocate small wireless facilities on non-electric municipal poles. Municipalities are required to recognize small wireless facilities (“SWF”) in the ROW as a permitted use in all zones and districts (this is strictly an administrative process).

Bill Summary:

- A small wireless facility consists of:
 - an antenna of 6 ft³ or less;
 - ground equipment of 28 ft³ or less;
 - and it is collocated or installed on a utility pole no taller than 50 ft.
(potential additional 10ft. for antennae).
- Design/Historic and Underground Districts must allow SWF including utility poles (can have heightened design standards).
- May adopt reasonable, nondiscriminatory design standards.
- May limit new utility poles in ROW that is 60 ft. wide or less and adjacent to residential property.
- May adopt nondiscriminatory police-power-based regulations for management of ROW.
- May deny applications for articulable public safety reasons.
- May require agreement dealing with indemnification, insurance and bonding before ROW work.

Compensation

- Annual ROW Access Rate
 - 3.5% of gross revenue under Municipal Telecommunications License Tax; or the greater of 3.5% of gross revenue or \$250 per small wireless facility.
- Annual Authority Pole Attachment Rate
 - \$50 per collocated small wireless facility per authority pole.
- Application Fees
 - \$100 per collocated small wireless facility.
 - \$250 per utility pole with a small wireless facility.
 - \$1000 per non-permitted use.
- Other applicable permit fees.

Application Limits

- Consolidated application: up to 25 small wireless facilities of substantially the same type.
- Category One Authority: Population of 65,000 or greater
 - Up to 75 small wireless facility (3 consolidated) applications per 30 days.
- Category Two Authority: Population of 64,999 or less.
 - Up to 25 small wireless facility (1 consolidated) applications per 30 days.

Time Periods

- Completion: 30 days
- Collocation: 60 days (including completion review)
- New, modified, or replacement utility pole: 105 days (including completion review)
- One additional extension of 10 business days.
- Deemed complete and/or granted if municipality does not meet deadlines.

Practice Tips:

Review your telecommunications ordinance and your fee schedules and amend them as necessary. We did negotiate the ability to create reasonable design standards for this use so review any current design standards that you may have in your current telecommunications ordinance and update accordingly. Remember the law requires the following process to amend a land use ordinance, the Planning Commission reviews and holds one public hearing (duly noticed as per state law) and then recommends to the City Council. The Legislative Body (City Council) approves any additions or amendments to the ordinance at a public meeting (unless your ordinance mandates a hearing). As this takes effect September 1, 2018 we suggest you make this a priority as the time periods in the statute deems an application complete if you don't meet them.

Additional Resources:

There are many states grappling with this new technology and there are many resources to consider. Please remember that the best ordinances are crafted at the local level and with your community's input.

Here is a link to a good summary produced by Denver last year. Please note in Utah we did negotiate the ability to create reasonable design standards.

<https://www.denvergov.org/content/dam/denvergov/Portals/730/documents/ROWServices/small-cell-infrastructure-2017.pdf>

Here is another resource to give you some ideas produced by the Industry sponsored Small Cell Forum "Making your building 'small cell ready' – the guidelines"

<http://www.scf.io/en/documents/214 - Making buildings small cell ready.php>

Have specific questions on SB 189? Contact ULCT Advisor Roger Tew at rtew@ulct.org

Exhibit 2

SMALL CELL SOLUTIONS

Valmont Structures Provides Small Cell Pole Solutions for All Your Applications and Local Needs



Developing Solutions

Valmont is the World leader in the design and manufacturing of lighting standards for all applications. As a trusted partner to facilitate deployment of small cell solutions, we can help you navigate through the small cell design process.

Largest catalog of poles, arms, bases, & accessories: with a variety of options available Valmont can assist in developing a design to meet local aesthetic requirements.

Detailed knowledge of local municipal needs: with a wide array of knowledge of local standards, Valmont is uniquely capable of developing a solution.

Unmatched Engineering leadership & expertise: Valmont's in house engineers can help you navigate the design process and develop a solution that works for your specific application.

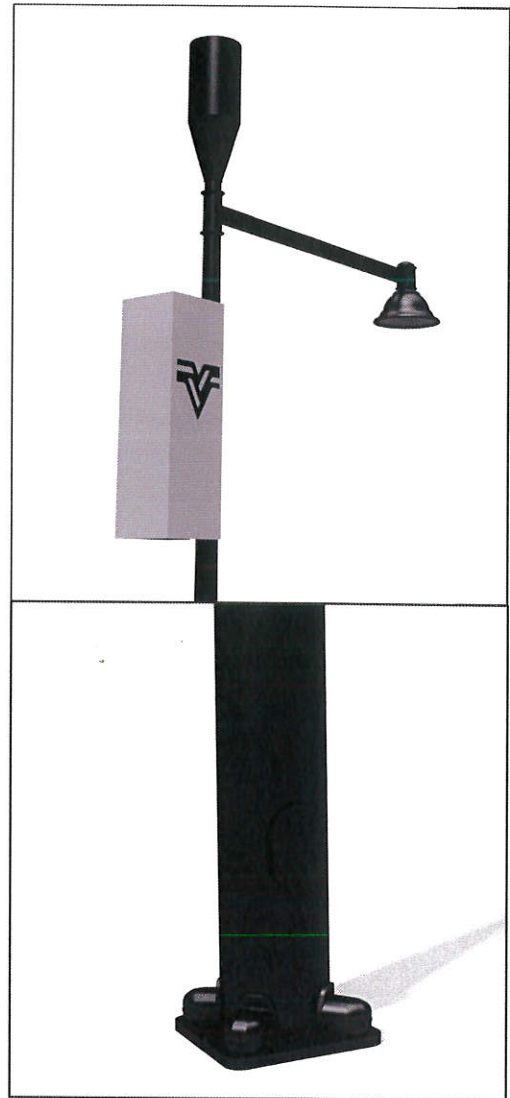
Multiple small cell options developed and deployed: Valmont has developed multiple solutions throughout the marketplace that will support small cell applications.



Around the world, our dedicated employees work together to realize our vision for this company, the industries we support and the communities where we live.

Features:

- Existing Aesthetic
- Internal Pole Division
- Cantenna Mount with Shroud
- Valmont "Banner" Style Enclosure





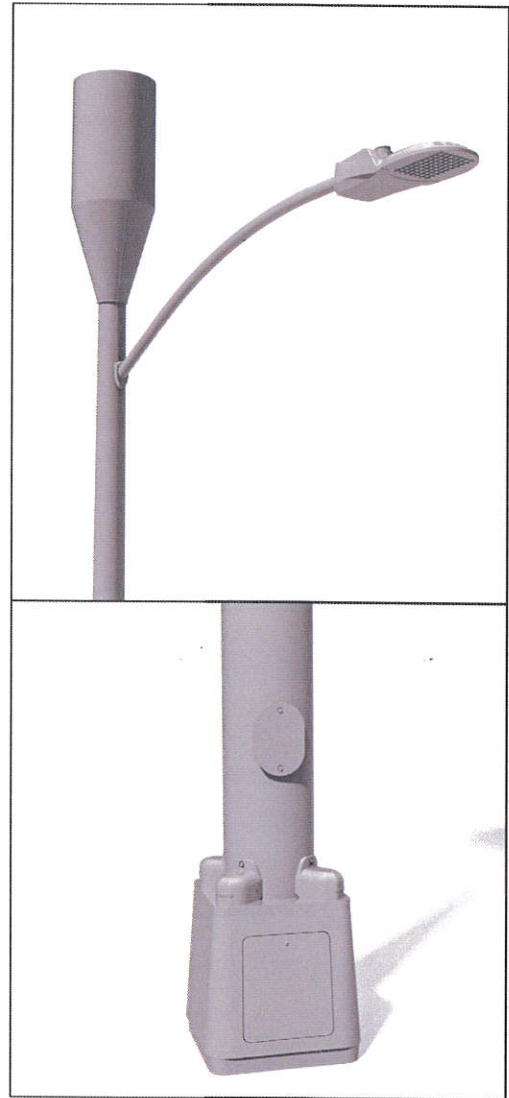
Features:

- Existing Aesthetic
- Internal Pole Division
- Side Antenna Mount with Top Mount Arm
- Side Mounted Equipment Cabinet



Features:

- Breakaway T-Base Design
- Internal Pole Division
- Cantenna Mount and Shroud
- Side Mounted Equipment Cabinet



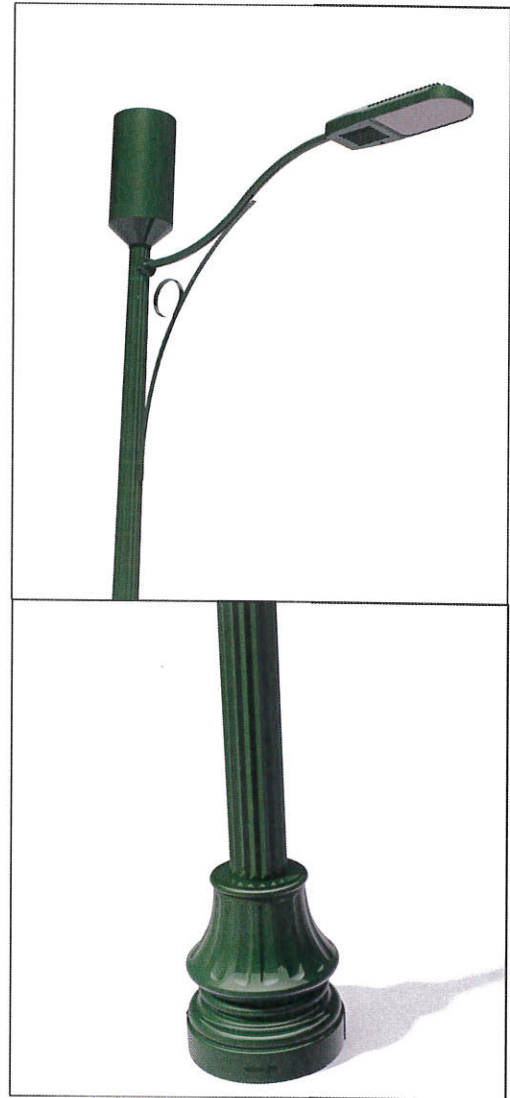
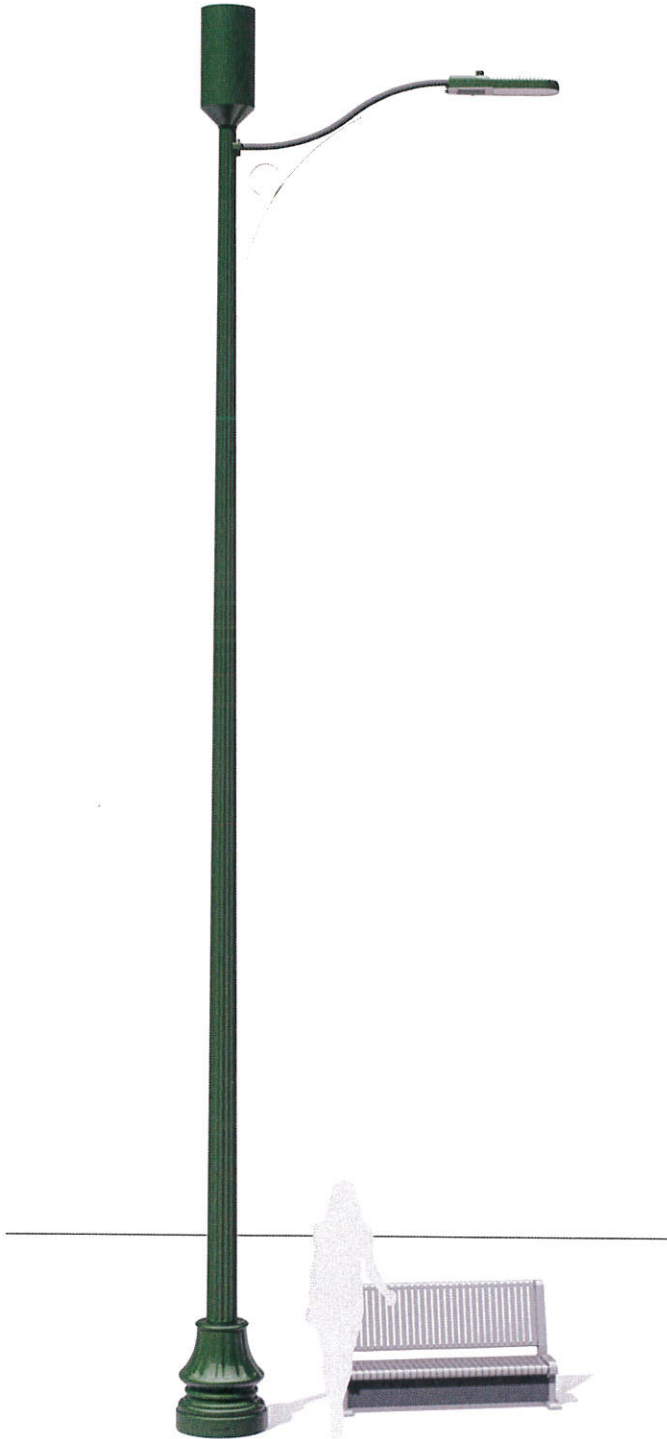
Features:

- Existing Aesthetic
- Internal Pole Division
- Antenna Mount
- Base Cabinet for Equipment



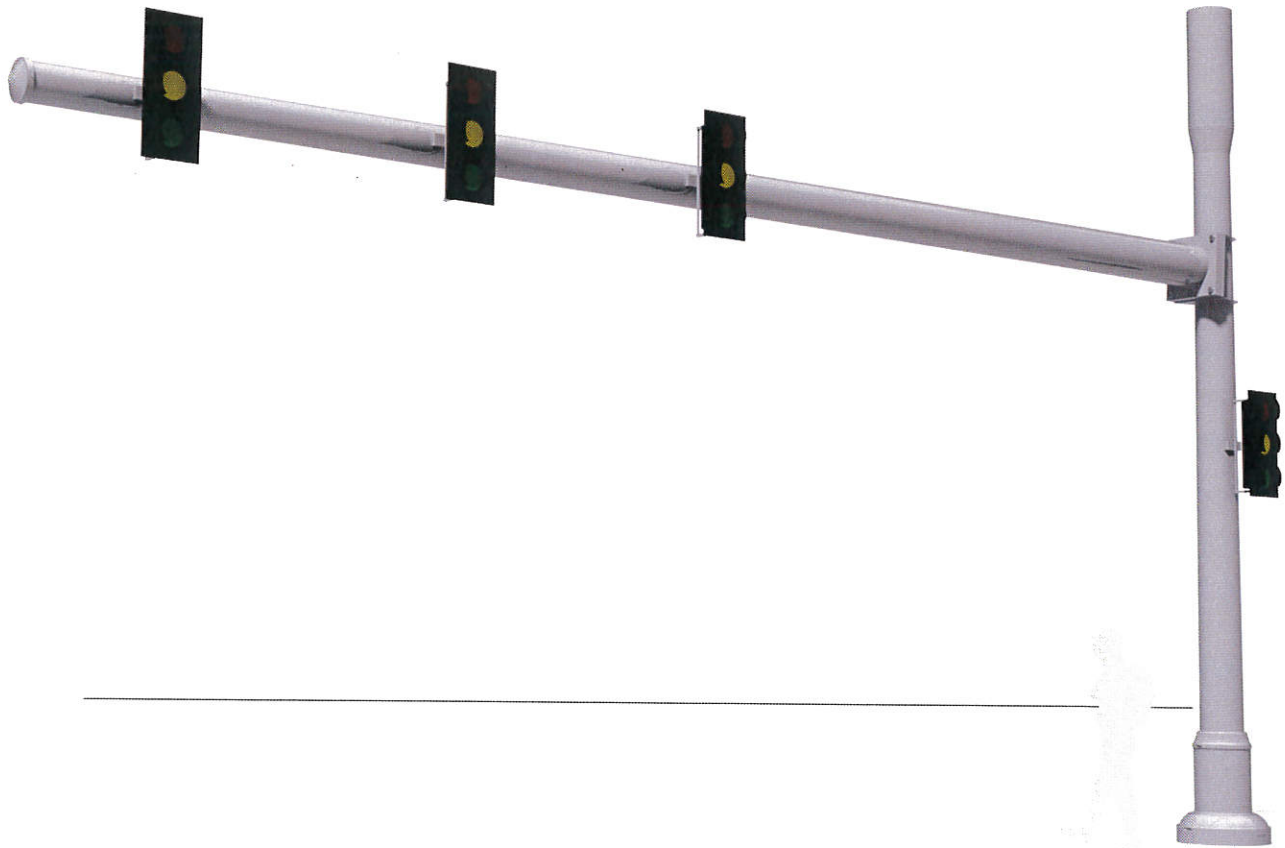
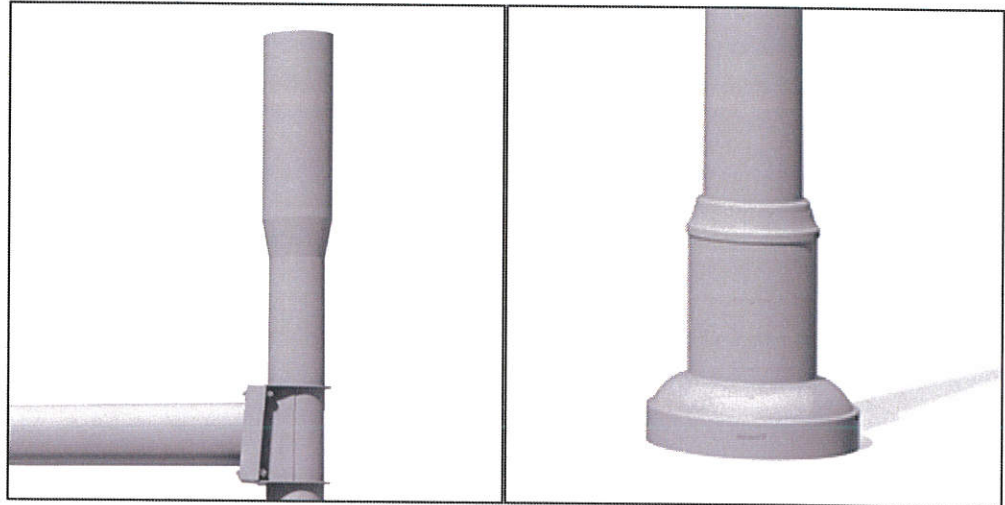
Features:

- Existing Aesthetic
- Internal Pole Division
- Cantenna Mount
- Equipment Hidden in Separate Cabinet



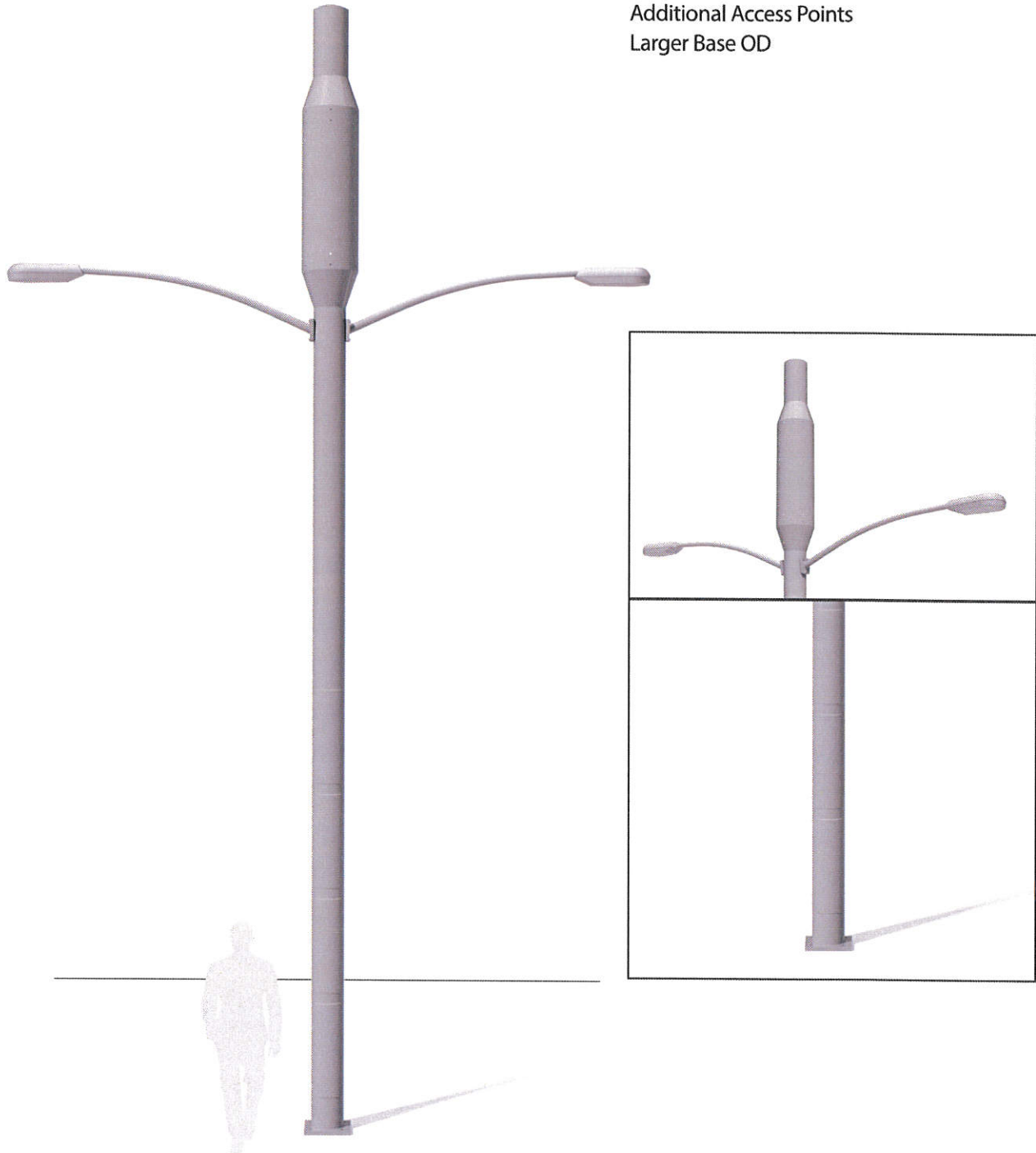
Features:

- Existing Aesthetic
- Internal Pole Division
- Antenna Mount
- Traffic Application



Features:

- Fully Integrated Pole Design
- Internally Mounted Components
- Additional Access Points
- Larger Base OD

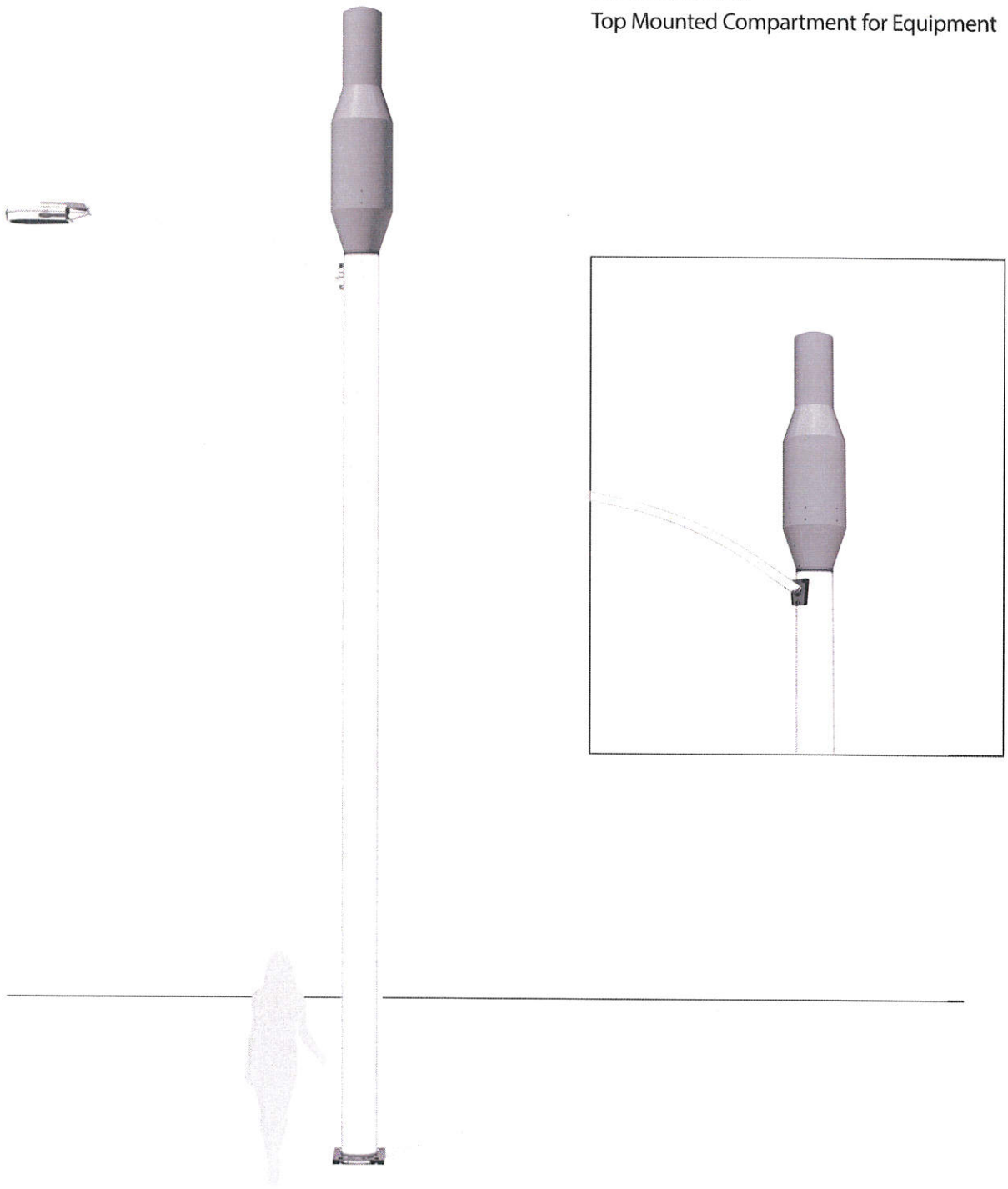


Features:

Existing Pole in Field

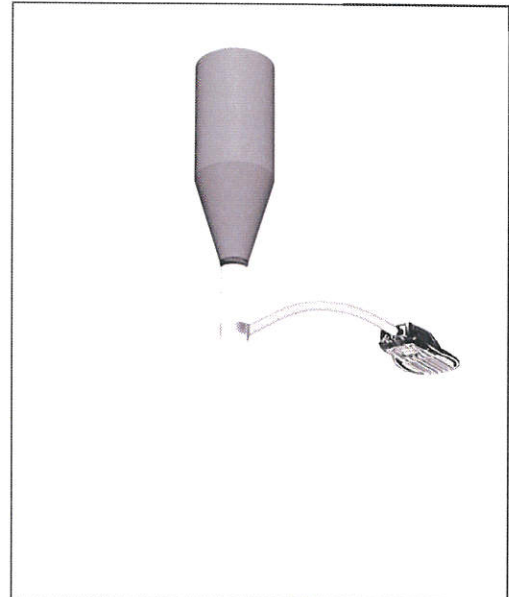
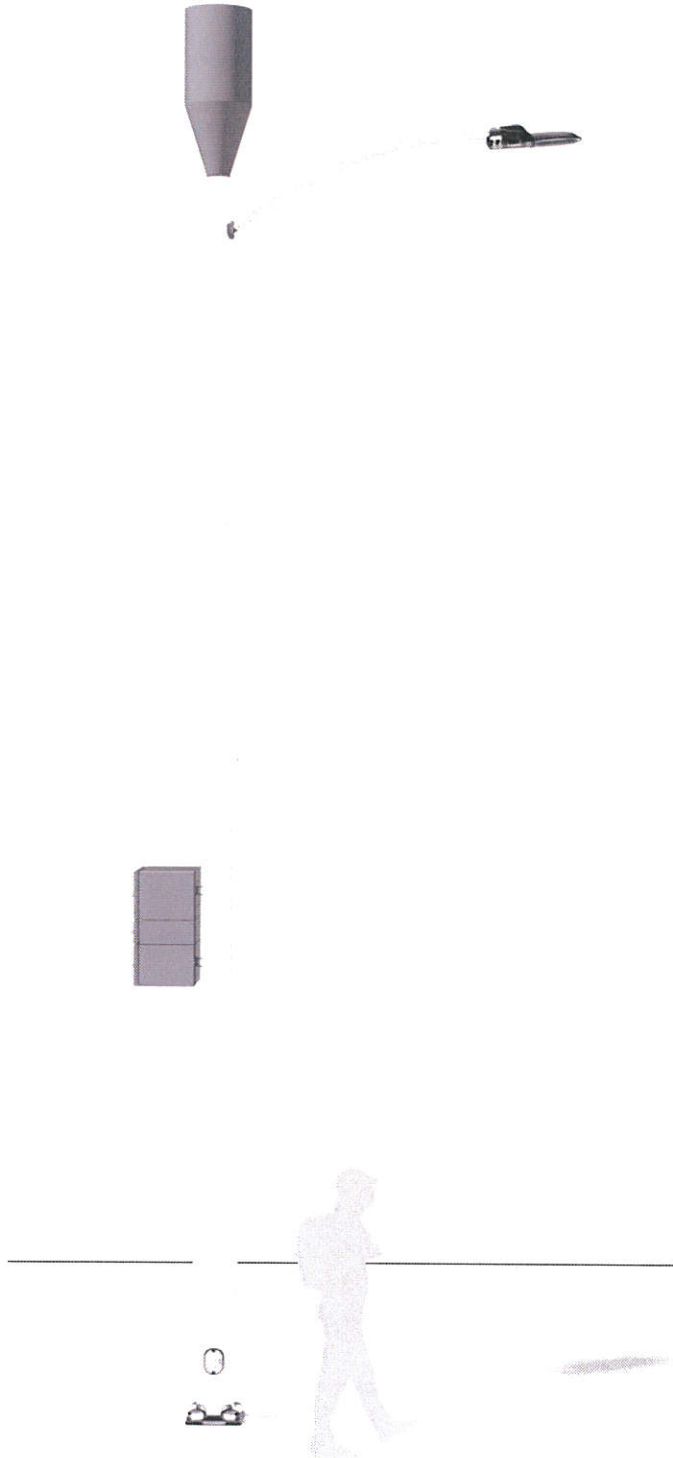
Antenna Mount

Top Mounted Compartment for Equipment



Features:

- Existing Pole in Field
- Antenna Mount and Shroud
- Side Mounted Equipment Cabinet



Cantenna Top Mount:



Tenon
Top

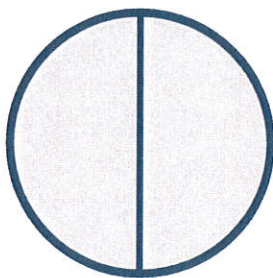


Cantenna
Extension Mount



Shroud for
Mount

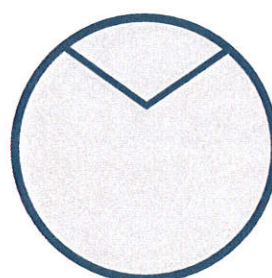
Pole Dividing Options: For cable/wiring separation



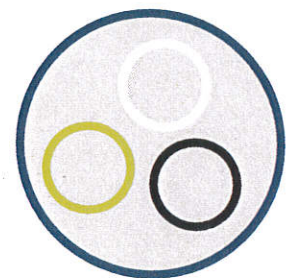
Welded
Channel



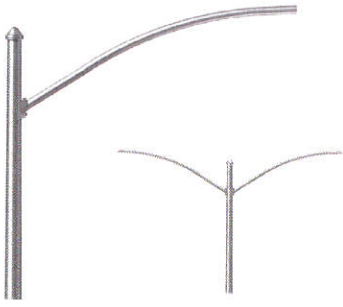

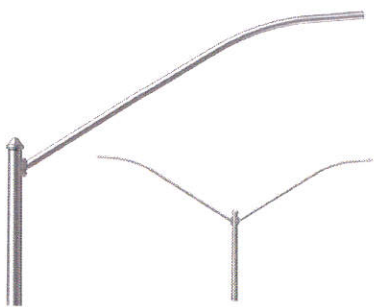
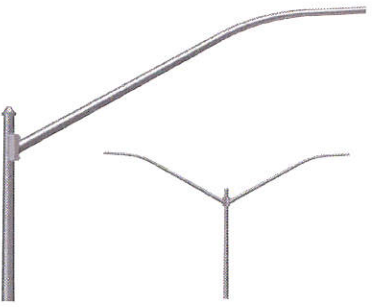
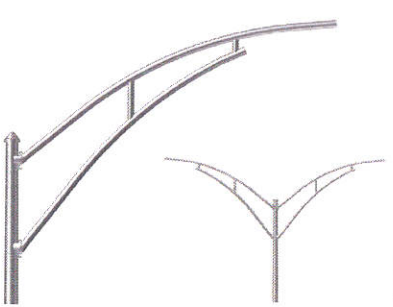

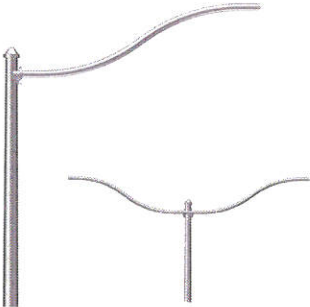
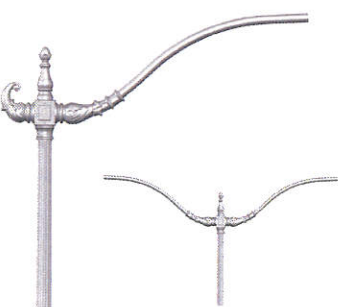
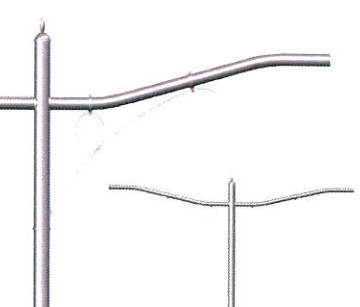

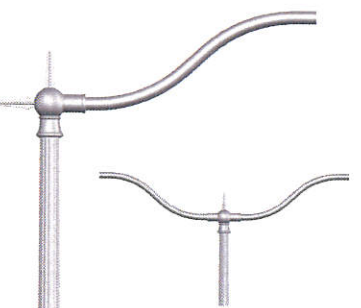
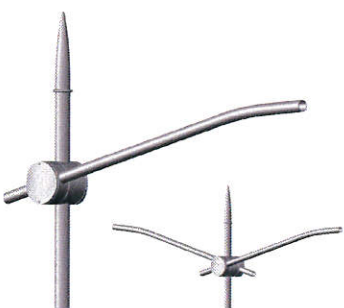
Welded
Channel



Welded
Channel



Rigid or Flex
Conduit

 <p>DS30 Steel Pipe Arm</p>	 <p>DS32 Steel Tapered Arm</p>	 <p>DS50 Steel Pipe Arm</p>
 <p>DS56 Steel Tapered Arm</p>	 <p>DS70 Steel Truss Arm</p>	 <p>DS90 Steel Davit Arm</p>
 <p>Windsor Arm</p>	 <p>Alhambra Arm</p>	 <p>48th Avenue Arm</p>
 <p>60th Avenue Arm</p>	 <p>Paramount Arm</p>	 <p>Vista 2 Arm</p>

DECO BASE EXAMPLES

Additional options & styles are available to meet any aesthetic



Huntington



Washington



Classic High



Renaissance High



Contour



Osceola



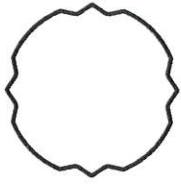
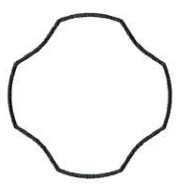
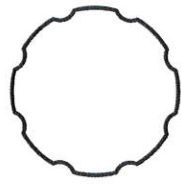
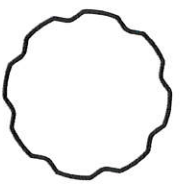
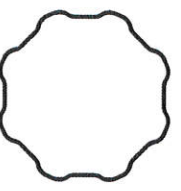
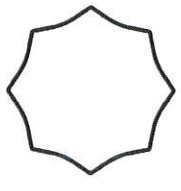
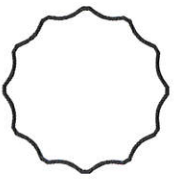
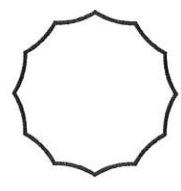
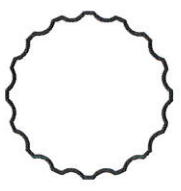
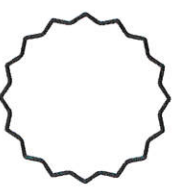
Round Dart



Classic Low



Renaissance Low

				
4W	4 SHARP	8 FLAT	8V	8 GEAR TOOTH
				
8 SHARP	12 FLAT	12 SHARP	16 FLAT	16 SHARP

