

REVISED LEGISLATIVE DIGEST
(Substituted 9/30/2014)

[Public Works Code - Installation of Communications Infrastructure in Excavation Projects]

Ordinance amending the Public Works Code to require the installation of City-owned communications infrastructure in excavation projects where the City has determined that it is both financially feasible and consistent with the City's long-term goals to develop the City's communications infrastructure.

Existing Law

Article 2.4 of the Public Works Code requires a permit from the Department of Public Works ("DPW") before any City department or private entity can excavate in the public right-of-way ("Excavation Permit").

Amendments to Current Law

The proposed amendments to the Public Works Code would require any person seeking an Excavation Permit from the Department of Public Works ("DPW") to notify the Department of Technology ("DT") prior to filing the permit application. The purpose of the notice is to enable DT to determine whether to participate in the project by installing its own underground communications infrastructure. Under the ordinance, the presumption would be that DT will participate in the project unless DT notifies the applicant to the contrary. The proposed legislation would require DT to pay the incremental costs of installing its communications infrastructure in the trench.

The proposed legislation would also require DT to provide guidance to applicants for Excavation Permits by adopting implementing regulations that would contain: (i) the process for reviewing planned excavation projects to determine if participation is feasible; (ii) the criteria for deciding whether to decline to participate in excavation projects; (iii) specifications for standard City communications infrastructure; (iv) the methodology for determining the incremental costs to install City infrastructure; (v) the process for seeking exemptions from using the City's standard methodology for determining incremental costs; and (vi) alternative methods for determining the City's incremental costs when exemptions are granted.

The substitute ordinance serves the same purpose as the original ordinance. The substitute ordinance, however, contains four major changes from the original ordinance:

- Deletes any reference to the San Francisco Public Utilities Commission using this process to install new electrical facilities;

- Makes DT's participation in an excavation project the default and requires DT to opt out instead;
- Provides that the City's cost for the installation of the City's communications infrastructure will be the excavator's "incremental cost" to install the City's facilities; and
- Authorizes DT to adopt implementing regulations.

Background Information

Each year in San Francisco many private entities and City agencies obtain Excavation Permits to excavate miles of the City's public right-of-ways either to install new facilities or to replace existing facilities used to provide essential services. When these projects are to install underground conduits, they offer the City an efficient and cost-effective opportunity to expand City-owned infrastructure that the City could use to provide communications services. Once a private or City excavator incurs the cost to excavate in the public right-of-way, the City could add its own underground infrastructure to these trenches at a significantly reduced cost.

The City could use this infrastructure either for City projects, including public safety projects, or to provide services to the public. The City's participation in these projects could also benefit persons living in the vicinity of a proposed excavation project, by reducing the likelihood that the City might need to excavate to install its own facilities there at a later date.

For the City to take advantage of these opportunities, it is essential that applicants for Excavation Permits notify DT of their planned excavation projects. This notice must be made sufficiently in advance of DPW issuing the permit to enable DT to evaluate whether participation in the project is financially feasible and consistent with the City's long-term goal to develop the City's communications infrastructure.