



1. Open Trench Notification Policy and Procedure

1.1. Policy Summary

Pursuant to Chapter 13.40 of the City of South San Francisco’s Municipal Code, the Public Works Department hereby implements the following procedure to notify interested parties when permit applications for excavations in the public right of way (ROW) are received or public works projects involving excavations or similar work in the ROW are tendered. This Open Trench Notification procedure is triggered when a proposed or planned project meets certain criteria. Following notification, interested parties may coordinate colocation of facilities in the excavation with the project lead (the applicant or the Public Works Department, as appropriate). Following completion of the project, any excavations in the affected area in the subsequent five years may be subject to enhanced remediation requirements, as determined by the Public Works Department.

1.2. Notification Trigger

When an encroachment permit application is received for improvements on the Public right-of-way, or when specifications for a public works project are approved for public distribution by the Public Works Director, the project plan will be reviewed to determine if the following criteria are met:

- 1.2.1. The project involves utility infrastructure construction, road construction or resurfacing, or other work that will result in an excavation that could reasonably include, or prepare for, the installation of broadband conduit.
- 1.2.2. It spans 900 feet or three city blocks within the ROW, or involves terrain that is difficult or expensive to traverse (e.g. a bridge), or is an element of a larger project that will require installation or upgrading of utility infrastructure.

When a proposed project meets the above criteria, the Open Trench Notification process is triggered, and notification will proceed.

Note: The Public Works Director/City Engineer generally does not consider utility projects that only include trenching for sanitary sewers, storm drains, gas mains or water main rehabilitations

as reasonable projects to include the installation of broadband conduit and therefore said projects would not generally trigger an Open Trench Notification.

1.3. Notification Procedure

The Public Works Department will maintain a current list of telecommunications/broadband companies (Telecom List) that have a history of installing telecommunications infrastructure in the Public right-of-way, or have the potential for doing so in the future. The initial Telecom List will be based on existing information regarding such parties, to the best of the Department's knowledge and will include contact information for the company's representative.

A link to the adopted Dig Once Ordinance, a summary of this Open Trench Notification Policy, and a current Telecom List will be posted on the Public Works Department's website. The Public Works Department will add or delete parties from the Telecom List upon request or based on independently acquired information. The Telecom List will also include staff designated by the City's Information Technology Department.

Upon establishment of the initial Telecom List, the Public Works Department will send an email to all parties on the Telecom List with a link to the Dig Once webpage on City's website. The email will inform the parties of the adoption of the Dig Once ordinance and how to participate in projects that meet the trigger.

Thereafter, whenever the process is triggered, the Public Works Department will email a copy of the relevant Public Notice to Telecommunications Service Providers and the blank application for a Notice of Intent to Participate (NOIP) in the process to the parties on the list.

Third Party Telecommunications Service Providers, including the Information Technology Department (ITD), will have 30 calendar days to inform the Public Works Department of their interest in collocating facilities in the project area by submitting a completed NOIP and Application Fee by the due date written in the Public Notice to Telecommunications Service Providers. If no competent responses are received in that period, the Open Trench Notification process will be deemed complete.

If received within the 30 calendar day notification period, competent NOIP responses will be forwarded to the applicant/project lead and Third Party applicants by the Public Works Department within 14 calendar days from the due date of the Notice of Intent to Participate. Responses will be deemed competent if the utility company is a telecommunications provider operating under the authority of the California Public Utilities Commission to operate as a full facilities based competitive local exchange carrier. It is the responsibility of the applicant/project lead and Third Party respondents to negotiate the scope and terms of agreement for collocation work in good faith. If a Third Party respondent believes that the applicant/project lead is not negotiating in good faith, then a protest detailing the dispute may be submitted to the Public Works Department.

The Public Works Department will review the status of a notification no less than 30 days after the final response was forwarded to the applicant/project lead or after being informed by the parties that agreement for collocation work has been reached, whichever is soonest. If agreement for collocation work has been reached, then the parties will amend the initial encroachment permit

application as necessary, and the notification process will be deemed complete. If no agreement for collocation work has been reached and no protest has been submitted, then the notification process will also be deemed complete.

If the agreement for collocation work is for improvements to be constructed as part of a City Capital Improvement Project, then the Third Party will be required to provide the City with improvement plans for the telecommunications facilities for public bidding. At the discretion of the Public Works Director, the Public Works Department may also allow for Third Party applicants to construct its proposed collocation improvements with its own forces in advance of a City Capital Improvement Program project.

When a protest regarding collocation work between parties is submitted, the Public Works Department will determine if the information provided by the protestor is, on the balance, sufficient to demonstrate that further negotiation is appropriate. If it is, then the parties may be allowed an additional 30 days to reach an agreement. Subsequent 30 day periods may be allowed by the Public Works Department if subsequent protests are submitted and determined to be sufficient. If the Public Works Department determines that a protest is not sufficient to demonstrate the need for further negotiation, then the notification process will be deemed complete.

1.4. Protests

The procedure for receiving, processing, and reviewing any protests regarding negotiations between the parties for collocation of conduits and telecommunication facilities in the project area is as follows:

All protests must be submitted in writing to the City Engineer within 30 calendar days from the date in which the Applicant/Project lead and Third Party collocation applicant were informed by the City of the competent NOIP response. The City Engineer or his/her designee will review the protest and will decide if further negotiation is warranted within 7 calendar days of receipt of the protest. The review criteria will consider the proposed terms of the agreement between the parties including but not limited to proposed cost sharing amounts and impacts to schedule.

The decision by the City Engineer for determining whether the information provided in support of a protest sufficiently demonstrates that further negotiation is appropriate, and the timeline for such further negotiation if warranted will be final and no appeal will be accepted.

1.5. Sample Notifications

Sample Public Notice to Telecommunications Service Providers (Exhibit A)

Sample Notice of Intent to Participate (Exhibit B)

1.6. Requirement for Encroachment Agreement

In an effort to streamline the permitting process of installing and upgrading telecommunications equipment as part of the City's Dig Once Policy, all parties installing and operating telecommunications facilities in the Public Right-of-Way shall be required to enter into an

Encroachment Agreement with the City. Among other requirements, said Agreements will include provisions for Open Trench Participation with Third Parties and with the City on Capital Improvement Projects. See Appendix for a template for a standard Encroachment Agreement for Telecommunications Companies.

1.7. Completion of Notification Process

If the Open Trench Notification process is triggered by an Encroachment Permit application, then the application cannot be approved until the process is complete. If the Open Trench Notification process is triggered by the implementation of a City Capital Improvement Program (CIP) project, then the Plans and Specifications for the project cannot be approved by the City Engineer until the Open Trench Notification process is complete.

If the process is complete and the Encroachment Permit application or CIP project, as may be amended, is approved and the permitted work commences, then any subsequent excavation work in the project area will be subject to enhanced remediation requirements for five years following the completion or abandonment of the work.

1.8. Enhanced Remediation Requirements

The Public Works Director is responsible for 1. determining the time, place and manner of utility work conducted in the ROW and 2. building and maintaining streets and other public facilities in the ROW. This responsibility include determining reasonable and necessary standards for mitigating damage or degradations to public facilities as a result of any such work.

Consistent with this responsibility, the Public Works Director will establish standards and/or processes that ensure that excavations performed in an area where an Open Trench Notification Process has been completed will include all work necessary to restore the area to its original condition prior to the excavation. These standards and process may be general in nature, or specific to an excavation.

1.9. Waivers

At the discretion of the Public Works Director, this Open Trench Notification policy may be waived or varied, in whole or in part, in the event of an emergency or urgent conditions that require immediate action, or for other good cause relating to the public welfare.