



DATE: January 8, 2019

TO: Mayor and City Council

FROM: City Manager

SUBJECT: Introduction of an Ordinance of the City of Hayward, Amending Chapter 7 of the Hayward Municipal Code by Amending Sections 7-2.00, 7-2.10 and 7-2.15 and Adding Sections 7-2.46 and 7-2.47 to Establish a “Dig-Once” Policy of Installing Underground Conduits and Adoption of a Resolution Amending the Master Fee Schedule for Related Program Fees.

RECOMMENDATION

That the City Council review, comment on, and adopt the proposed Dig-Once Ordinance and associated policy, and Master Fee Schedule amendment resolution.

SUMMARY

The City Council adopted a Fiber Master Plan in July 2017. This plan directs the City to adopt a Dig Once Policy. Dig Once policies generally require the coordination of excavation projects between a municipality and a telecommunication or utility provider and mandate the installation of City owned telecommunication infrastructure such as conduit and fiber for broadband internet.

This item provides a Dig Once Ordinance (Attachment II) and Dig Once Policy (Attachment III) for adoption by the Council, in accordance with the City’s Fiber Master Plan. This item also includes a Resolution amending the Master Fee Schedule for related program fees.

BACKGROUND

In July 2017, the City Council adopted a Fiber Master Plan (Attachment V) to set the overarching goals and objectives for deploying a fiber-optic network throughout the Industrial Corridor. Specifically, this plan recommends that the City take the following actions:

- Consider a dark fiber business model
- *Adopt a dig-once policy*
- Audit its infrastructure and records
- Implement a records management system
- Construct a fiber segment to connect an internet pop
- Expand FTTP to select Industrial Corridor areas

- Signal to the private sector through a procurement process
- Lease dark fiber strands to select industrial corridor customers.

In June 2018, the City entered into an agreement with Magellan Advisors following a competitive request for proposals process, to develop and update the City's wireless telecommunications regulations, right of way ordinance, and master license agreements with telecommunication companies, including developing a "dig once" policy and ordinance.

The Council Technology Application Committee (CTAC) reviewed and commented on the proposed "dig once" ordinance and policy at its September 14, 2018 meeting. Comments from the CTAC meeting are outlined in the Discussion section below.

Representatives from Magellan Advisors will be present at this meeting to answer any questions the Council may have.

DISCUSSION

Dig-Once Policies are a current best practice for municipalities entering the fiber infrastructure space. These policies encourage cooperation and coordination between cities and a variety of utility providers and telecommunication companies. Their implicit goals are to:

- Protect newly and recently paved roads and sidewalks;
- Ensure efficient, non-duplicative placement of infrastructure in the Public Right of Way (PROW);
- Minimize the impact of construction on residential and commercial communities;
- Reduce overall costs of all underground work in the PROW by capitalizing on significant economies of scale;
- Enhance the uniformity of construction; and
- Leverage construction for the deployment of a public communications network.

These policies leverage public and private projects to expand the City's conduit and fiber network in an efficient manner.

The technology surrounding the internet and its physical plant is changing rapidly. It is for this consideration that the proposed dig-once ordinance is broken into two components. The individual ordinance mandates higher-level dig-once requirements and references a "Dig-Once Policy" that provides more technical, minimum standards at an administrative level. This structure will afford the Public Works Department the ability to adjust regulations as this technology changes.

Ordinance Overview

This ordinance applies to any applicant who applies for an excavation permit within the PROW.

Noticing Requirements

The City will be responsible for or may require an applicant to notify all telecommunications service providers of an impending excavation and afford those entities the opportunity to utilize the excavation to install, upgrade, co-locate, repair, or improve their telecommunications facilities during the excavation project. This notice must be provided at least thirty (30) days prior to the start of the excavation. Permits will be issued following this period. Those entities participating in the joint trench are responsible for their proportionate share of costs including but not limited to the costs of permitting.

Moratorium

Excavations under this ordinance shall not take place more than once on a particular City street segment within a five-year period. The Public Works Director may waive this moratorium for a fee of \$5,000 as described in Attachment IV at his/her discretion, as requested by the CTAC. The applicant in these scenarios will be responsible for repairing the roadway to its original, pre-excavation standard or better.

Project Applicability

All construction, reconstruction, and repaving of PROW shall include a provision for the installation of a public utility infrastructure, such as conduit, tube, duct, or other device designed for enclosing telecommunications wires, fibers, or cables, wherever practical and feasible. Such infrastructure shall be installed in accordance with City regulations, requirements and specifications, including but not limited to the Hayward Municipal Code, as directed by the Director of Public Works or his/her designee. Such excavation shall not take place more than once on a particular City street segment within a five-year period.

Policy Maintenance and Exemptions

The Department of Public Works will be responsible for the enforcement and maintenance of this policy. Furthermore, the Director of Public Works or his/her designee may exempt a project from the requirements of this ordinance in cases where it is not practical or feasible. Cost cannot be a determining factor for project feasibility or practicality. These determinations may be appealed to the City Manager.

Incremental Costs

The Department of Public Works shall be responsible for determining the incremental costs of installing City communications infrastructure. These incremental costs are the costs associated with adding City communications infrastructure to any excavation project, including the cost of the materials needed by the City and any additional labor costs.

Micro-Trench

Per CTAC feedback, given its detrimental effects on pavement, micro-trenching is clearly defined in the ordinance and will not be permitted without the prior express written permission from the Public Works Director.

Policy Overview

De-Minimis Excavation Standard

Under the current draft, the Dig Once Policy requirements are applicable to all excavation projects that have a minimum length of 300 feet. For reference, C Street between Watkins Street and Mission Blvd. is approximately 355 linear feet.

All excavations that meet this standard will be required to include the installation of two 3-inch diameter conduits that meet the material and design specifics as determined by the Dig Once Policy. As requested by the CTAC, the Public Works Director will have the authority to apply these standards to projects less than 300 feet where it may be strategic to install conduits. Likewise, the Public Works Director may exempt projects from these requirements if they determine it is not practical, feasible, or for any other consideration.

Design Standards

The Dig Once Policy provides design standards for the installation of conduit and fiber. Conduits referenced above must be:

- Made of PVC Schedule 40 material
- Laid to a depth of not less than 18 inches below grade in concrete sidewalk areas, and not less than 24 inches below finished grade in all other areas when feasible, or the maximum feasible depth otherwise
- Install a minimum of 3-foot radius sweeps and bends,
- Contain tracer wire and external warning ribbon tape a minimum of 3-inches above the conduit.

Ownership and Documentation of Infrastructure

All conduits installed under this policy will be owned by the City. All conduits installed will be documented in the City's Geographic Information System (GIS) whenever feasible.

Interagency Cooperation

The PROW permittee should make a documented effort to work with other utility agencies to co-locate infrastructure in the same trench whenever feasible. Additionally, each agency/utility shall participate in periodic coordination meetings as requested by the City for

the purpose of coordinating activity between public works projects and utility projects in the PROW.

The full draft dig-once ordinance and policy can be found in Attachments II and III respectively.

ECONOMIC IMPACT

Improved broadband connectivity within the City will help to support business attraction efforts. While the existence of fiber is only one of many site selection factors (such as lease rents, building configuration, traffic patterns, etc.), being able to market Hayward's broadband connectivity to the business community at-large not only helps satisfy a site selection criterion, it will also strengthen the City's reputation as a center for innovation and growth.

FISCAL IMPACT

There is no immediate fiscal impact associated with implementing this policy. However, given its requirements, it may increase the cost of certain roadway improvement projects marginally due to the added required installation of conduit and fiber. These increases may be reduced through the sharing of associated costs with other telecommunication providers who utilize the same trench. Additionally, this increase in costs may be offset through revenue associated with the wireless telecommunication facility ordinance update.

Attachment IV is a resolution amending the Master Fee Schedule for this program's fees. The Engineering Plan Review required for the Excavation Permit is based on the existing rate, billed on a time and material basis, and requires a deposit of \$2,500. The Moratorium Override Request is billed at the same time and materials rate as the Engineering Plan Review but requires a \$5,000 deposit due to the more involved review.

STRATEGIC INITIATIVES

This agenda item supports the Complete Communities Strategic Initiative. The purpose of the Complete Communities Strategic Initiative is to create and support structures, services, and amenities to provide inclusive and equitable access with the goal of becoming a thriving and promising place to live, work, and play for all.

Goal 1: Improve quality of life for residents, business owners, and community members in all Hayward neighborhoods.

Objective 4: Create resilient and sustainable neighborhoods.

Goal 3: Develop a regulatory toolkit for policy makers

Objective 1: Update, streamline, and modernize zoning & codes.

NEXT STEPS

The second reading of this item is scheduled for the January 15, 2019 City Council meeting. Should the Council adopt the ordinance and resolution, staff will begin to establish the Dig-Once policies and procedures for future excavation projects in the public right of way.

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