



THE CITY OF SAN DIEGO
REPORT TO THE CITY COUNCIL

DATE ISSUED: July 2, 2012

REPORT NO: 12-064

ATTENTION: Land Use and Housing Committee
Agenda of July 11, 2012

SUBJECT: Proposed Draft Amendments to the Municipal Code relating to Excavating within the Public Right-of- Way and Proposed Amendments to the Excavation Fee.

REFERENCES: Manager's Report No. 96-14, *Ordinance Pertaining to Procedures for Public Utilities' Use of the Public Right of Way*
Manager's Report No. 96-88, *Right of Way Ordinance*
Manager's Report No. 99-182, *Draft Report on Trench Impacts to City Streets*
Manager's Report No. 00-32, *Utility Trenches in City Streets*
Manager's Report No. 01-271, *Utility Trenches in City Streets*
Manger's Report No. 03-089 *Utility Trenches in City Streets*
Manager's Report No. 05-084, *Trench Restoration*
Grand Jury Report, *San Diego City Street Conditions*, filed April 6, 2006
Grand Jury Report, *San Diego City Street Repair, Funding and Reforms*, filed April 26, 2012
Audit Report #10-007, *Performance Audit of the City's Street Maintenance Functions*
Audit Report #11-009, *Street Maintenance: City Needs to Improve Planning, Coordination, and Oversight to Effectively Manage Transportation Assets*

REQUESTED ACTION

Forward to City Council for approval an Ordinance amending the Municipal Code to provide for procedures, limitations and requirements when excavations are made in the public right-of-way (ROW) and related matters.

Forward to City Council for approval a Resolution adjusting the Trench Cut Fee (and renaming it the Street Damage Fee) to recover the costs of providing the maintenance, repair or resurfacing services necessary to fully mitigate the damage and degradation that excavations cause that are reasonably attributable to the impact of an excavation to the public right-of-way.

STAFF RECOMMENDATION

Recommend approval of requested actions.

EXECUTIVE SUMMARY OF ITEM BACKGROUND

The Transportation and Storm Water Department was created in an effort to improve the management, operation and maintenance of our public right-of way. A Task Force of relevant staff met over the course of months to identify improvements to accomplish these goals. The Task Force consisted of representatives of the Transportation & Storm Water Department (street maintenance, underground utilities, right of way coordination) the Public Works Department and the Public Utilities Department, Development Services Department and the City Attorney's Office. A number of improvements were suggested, many which have been implemented. One recommendation from the Task Force was to modify *Chapter 6, Article 2: Public Rights-of-Way and Land Development, Division 12: Excavation Fees*, of the Municipal Code.

Recommendations were made that would make the Ordinance simple to read/implement/enforce, ensure it is in alignment with proper engineering practices, legally defensible and equitable across stakeholders. In addition the ordinance provides clear definitions, minimizes options/exemptions with some allowance for discretion (when documented) and ensures that the City is reimbursed for degradation to the ROW.

This action addresses suggestions that the Task Force recommended related to the procedures, policies and requirements for excavating within the public right-of- way. The existing San Diego Municipal Code, *Chapter 6, Article 2: Public Rights-of-Way and Land Development, Division 12: Excavation Fees*, articulates the requirements for excavating in the public ROW. This action amends and replaces Article 2 with the new Ordinance (Attachment I and II).

The substantive items that will be in the Ordinance are as follows:

- Adds the Transportation and Storm Water Department to the Municipal Code in order to effect the most responsible management of the public right-of -way.
- Continues the requirement for a permit to excavate and to follow quality construction standards.
- Clarifies various definitions that were ambiguous.
- Requires that all Utilities twice per year submit to the City major work anticipated to be completed in the public right-of- way in the upcoming 24 months so that projects can be better coordinated .
- Requires that excavation work begin within 90 calendar days of the permit start date and is completed within one (1) year.
- Increases the length of the existing Moratorium for excavations on slurried/resurfaced streets from 1 year/3 years for slurry/overlay to 3 years/5 years in order to maintain the improved condition of the street for a longer period of time.
- Continues guidelines for granting waivers to the moratorium with the requirement of proper documentation.
- Continues guidelines for the proper resurfacing of excavations, taking into account the "area of influence".
- Assigns liability for an excavation to the facility owner and establishes indemnification and insurance requirements for permits.
- Extends the cost recovery for degradation of the asset resulting from excavations in the public right-of-way to municipal excavators (our Public Utilities Department and our Utilities Undergrounding Program) by charging them the Street Damage Fee.

- Establishes the responsibility to maintain, repair or reconstruct the excavation to the facility owner for the excavation and the surface condition.

In addition, this action would rename the Trench Cut Fee the Street Damage Fee to more accurately reflect the reason it is being collected and adjust the fee (Attachment II & III). The original fee was adopted on September 9, 2003 (Resolution Number R-298358). Since that time, the costs of providing the maintenance, repair or resurfacing services necessary to fully mitigate the damage and degradation that excavations cause have increased. The proposed fee schedule has been adjusted to fully recover these costs.

FISCAL CONSIDERATIONS

The proposed Resolution adjusts the current Trench Cut/Street Damage Fee that is charged to an excavator (except SDG&E because their Franchise Agreement specifically exempts them from this fee). In FY2011 \$63,000 was collected from the issuance of permits to excavate in the public ROW from non-municipal excavators. Year to date for FY12, \$160,000 has been collected. If we were to assume the same approximate number and size of excavations are performed in future years as in FY12, then this annual revenue would increase to approximately \$480,000 per year if this fee adjustment is approved.

In addition to adjusting the fee for non-municipal excavators, the proposed Ordinance will require municipal excavators (Water, Sewer, Underground Program) to pay the Street Damage Fee. Currently Water & Sewer do not pay this fee when they excavate for maintenance purposes or when they excavate as a requirement of a capital improvement project. If the Ordinance is approved, the Water/Sewer Fund will be impacted by the Street Damage fee.

The estimated annual cost to the Water Fund for excavations related to maintenance at the current rate would be \$35,000 to \$50,000. The estimated annual cost to the Water Fund at the adjusted rate would be approximately \$220,000-\$370,000 (1,200 excavations).

The estimated annual cost to the Water Fund for excavations related to future capital improvement projects at the current rate would be \$208,000 (20 miles of pipe replacement). The estimated annual cost to the Water Fund at the adjusted rate would be \$1,320,000.

The estimated annual cost to the Sewer Fund for excavations related to maintenance at the current rate would be \$ 11,000- \$16,000. The estimated cost to the Sewer Fund at the adjusted rate would be \$70,000 -\$125,000 (400 excavations).

The estimated cost to the Sewer Fund for excavations related to future capital improvement projects at the current rate would be \$208,000 (20 miles of pipe replacement). The estimated cost to the Sewer Fund at the adjusted rate would be \$1,320,000.

The Utilities Undergrounding Program would also be assessed the Street Damage Fee. The average annual cost to the program under the existing fee would be \$ 257,000 and \$695,000 under the adjusted fee.

Due to the fact that municipal excavators currently pay no street damage fee, total additional annual revenue attributable to the new Ordinance requiring municipal excavators to pay the fee at the current level would be approximately \$719,000. Total additional annual revenue resulting from the new requirement that non-municipal & municipal excavators (Water, Sewer,

Underground Program) pay the fee at the adjusted rate would be approximately \$3,945,000. These funds would be used to mitigate the damage caused by excavations.

EQUAL OPPORTUNITY CONTRACTING INFORMATION

N/A

PREVIOUS COUNCIL and/or COMMITTEE ACTIONS

On September 22, 2003, Council authorized the addition of *Division 12: Excavation Fees*, *Article 2: Public Rights-of-Way and Land Development* to the Municipal Code by O-19215 N.S.

COMMUNITY PARTICIPATION AND OUTREACH EFFORTS

- Utilities Coordination Committee, December 14, 2011
- Utilities Coordination Committee February 29, 2012
- Utilities Coordination Committee, March 28, 2012
- Utilities Coordination Committee, April 25, 2012
- Utilities Coordination Committee, June 27, 2012
- Sandag, March 21, 2012
- AGC/EGCA/City Liaison Committee, March 21, 2012
- Code Monitoring Team, April 11, 2012

KEY STAKEHOLDERS AND PROJECTED IMPACTS

All who excavate in the public right-of-way, primarily municipal and private utilities, will be required to apply for a permit and adhere to quality construction standards as well as bear the responsibility to maintain, repair or reconstruct the excavation and the surface condition for 15 years. All excavators will pay the Street Damage Fee (unless they are exempt per an agreement). Public and private utilities will be required to submit major planned projects 24 months in advance. Excavators will be required to adhere to a 3 year slurry & 5 year resurface moratorium.

Submitted By:



Garth K. Sturdevan, Director
Transportation & Storm Water Department

Approved By:



Jay M. Goldstone, Chief Operating Officer

Attachments:

1. Strikeout Version of the Ordinance
2. Clean Copy of the Ordinance
3. Existing Trench Cut Fee (1999), Cost per Square Foot
4. Proposed Street Damage Fee (2012), Cost per Square Foot

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck-Out~~NEW LANGUAGE: Double Underline

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AMENDING CHAPTER 1, ARTICLE 1, DIVISION 2 BY AMENDING SECTION 11.0210; AMENDING CHAPTER 1, ARTICLE 3, DIVISION 4 BY AMENDING SECTION 13.0402; AMENDING CHAPTER 6, ARTICLE 2, DIVISION 11 BY AMENDING SECTIONS 62.11, 62.1105, 62.1107, AND 62.1108; AMENDING CHAPTER 6, ARTICLE 2, DIVISION 12 BY AMENDING SECTIONS 62.1201, 62.1202, 62.1203, 62.1204, 62.1205, 62.1206, 62.1207, 62.1208, 62.1209, 62.1210, AND 62.1211; ADDING SECTION 62.1212, 62.1213, 62.1214, 62.1215, 62.1216, 62.1217, AND 62.1218, ALL RELATING TO PUBLIC RIGHTS-OF-WAY AND LAND DEVELOPMENT.

§11.0210 Definitions Applicable to Code Generally

[No change in text.]

“Abatement” to “Council” [No change.]

“Director” means the City Manager or any Department Directors including the following Departments: City Clerk, Planning, Development Services, Engineering, Transportation and Storm Water, General Services, Animal Control, Health, Water Utilities, Park and Recreation, Neighborhood Code Compliance, Environmental Services and the Fire and Police Chiefs, and any of their designated agents or representatives.

“Enforcement Hearing Officer” to “Written” [No change.]

§13.0402 Code Enforcement Civil Penalties Fund

Civil penalties collected pursuant to this Division shall be deposited in the Code Enforcement Civil Penalties Fund except those collected for violations of Chapter 6, Article 2, Division 12 as established by the City Manager for the enhancement of the City's code enforcement efforts and to reimburse City Departments for investigative costs and costs associated with the hearing process that are not paid by the Responsible Person. ~~Civil penalties and those deposited in this fund shall be appropriated and allocated in a manner determined by the City Manager.~~ collected pursuant to this Division for violations of Chapter 6, Article 2, Division 12 shall be deposited in the Street Damage Fund as established by the City Manager for repair and restoration of City streets, along with any interest accrued. The City Auditor shall establish accounting procedures to ensure proper account identification, credit and collection.

§62.1102 Definitions

[No change in text.]

“Blockage Report” through “Decorative Surface” [No changes.]

“Dry Utilities” ~~means all public utilities other than those providing water, gas and sewage services~~ shall mean all Public Utilities including, but not limited to, Public Utilities whose Installations

are for gas, electric, cable, telephones, fiber optic, traffic signals,
street lights, and television .

“Exploratory Excavation” shall mean a limited excavation used to determine the
actual vertical and horizontal location of underground installations or facilities.

“Inspection Fee” [No change.]

~~“Installations” means any type of structure, apparatus, plant,
equipment or other property installed in the public rights of way.~~

“Facility” or “Facilities” shall include, but not be limited to, any and all cables,
cabinets, ducts, conduits, converters, equipment, drains, handholds, manholes,
pipes, pipelines, splice boxes, surface location markers, tracks, tunnels, utilities,
vaults, and other appurtenances or tangible things owned, leased, operated, or
licensed by an owner or person that are located or are proposed to be located in
the public right-of-way.

“Joint Trenches” through “Pavement” [No changes.]

~~“Pothole” means a limited excavation used to determine the actual (vertical and
horizontal) location of underground installations.~~

“Trenching” through “Unimproved Rights-of-Way” [No changes.]

§62.1105 Installations

- (a) ~~All persons wishing to work in the public rights-of-way shall first call for
markout, then pothole, whenever any excavation in the public rights-of-
way makes it necessary to know the exact horizontal and/or vertical
placement of that person’s installations.~~

- (b) All such persons shall give Underground Service Alert a minimum of two (2) working days advance notice before any markout or pothole Exploratory Excavation is commenced.

(c) – (f) [No changes.]

§62.1107 Documents Required for City Engineer Authorization

- (a) All persons placing installations in the Public rights-of-way shall file a Blockage Report with the City Engineer no later than two (2) working days prior to commencing any work. ~~After review of the Blockage Report, the City Engineer may require that person to file a traffic control plan.~~

(b) [No change.]

§62.1108 Inspection Fees; Inspections

(a) – (e) [No changes.]

- (f) ~~The City Engineer may conduct random inspections of any work being done in the public rights-of-way, based on information provided in the Blockage Report. The City Engineer may inspect the work for compliance with all applicable laws, ordinances and construction standards, with emphasis on the following:~~

- ~~(1) Traffic control procedures.~~
- ~~(2) Compliance with City street restoration standards.~~
- ~~(3) Compliance with the pavement cutting procedure.~~

(g) – (j) [No changes.]

§62.1201 Findings and Purpose

~~The City Council finds that Excavations degrade and shorten the life of the Public Rights of Way. It is the purpose and intent of this Division to provide policies and procedures for Excavation in the Public Rights of Way in order to establish cost recovery mechanisms for all costs resulting from Public Utilities= Excavations. In addition, the policies and procedures of this Division are intended to deter and reduce the number of excessive, repeated Excavations in the Public Rights of Way, thereby minimizing damage to the Public Rights of Way, traffic safety concerns as well as inconvenience to the community.~~

This Article shall govern excavation in the public right-of-way within the City of San Diego (City) that is under the jurisdiction and control of the City Engineer.

The City Engineer shall consult with the Asset Owner in order to effect the most responsible management of the public right-of-way.

The City Council finds that excavations degrade and shorten the life of the sidewalks, roads and facilities within the public right-of-way. It is the purpose and intent of this Division to provide policies and procedures for Excavation in the Public Right-of-Way in order to reduce the number of excessive, repeated excavations in the public right-of-way, thereby minimizing damage to the public right-of-way, traffic safety concerns as well as inconvenience to the public. It is the further purpose and intent of this Division to establish cost recovery mechanisms for all costs to the City resulting from excavations in the public right-of-way.

§62.1202 Definitions-Departmental Orders and Regulations.

For purposes of this Article, the following definitions apply

“Arterial Street” means a Public Right of Way that: (1) primarily provides a vehicles and transit to other primary Public Rights of Way and to the network connecting freeway system; (2) carries heavy vehicular movement up to 50,000 Average Daily Trips [ADT]; and (3) typically has a curb to curb width of 102 feet, or a curb to curb width as defined in the current City’s Standard Drawings.

“As-Builts” means plans modified from the original design to reflect the actual product built, the purpose of which is to provide factual information on changes to the work, visible or not visible, to enable future design to proceed with accurately represented existing improvements.

“City Engineer” means the Chief Engineer of the City, or other person designated by the City Council, City Manager, or City Engineer.

“City’s Standard Drawings” means the current version of that document titled “City’s Standard Drawings No. 769332” which includes San Diego area regional standard drawings on file at the Maps and Records Section of the City of San Diego Development Services Department or available through the City Engineer.

“Collector Street” means a Public Right of Way that: (1) primarily provides movement between Residential Streets and larger Public Rights of Way, (2) secondarily provides access to abutting property; (3) carries low to moderate vehicular movement up to 20,000 ADT; and, (4) typically has a curb to curb width of between 36 and 82 feet, or a curb to curb width as defined in the current City’s standard Drawings.

~~“Decorative Surface” means any surface other than unadorned concrete or asphalt on the Public Rights of Way such as ceramic tile, concrete pavers, stamped concrete, or other surface using a unique treatment.~~

~~“Dry Utilities” means all Public Utilities including, but not limited to, Public Utilities whose Installations are for gas, electric, cable, telephones, fiber optic, traffic signals, street lights, and television. It excludes Wet Utilities.~~

~~“Excavation” means any operation in which earth, sand, gravel, rock, or other material in the ground is moved, by using tools for grading, trenching, digging, ditching, scraping, cable or pipe plowing, drawing, brushing, or other similar activity.~~

~~“Excavation Influence Area” means the mandatory minimum areas for Resurfacing and Excavation.~~

~~“Installations” means any legally authorized type of structure, apparatus, plant, equipment, or other property installed in the Public Rights of Way.~~

~~“Major Street” means a Public Right of Way that: (1) primarily provides a network connecting vehicles and transit to other Major Streets, to Arterial Streets, and to the freeway system; (2) secondarily provides access to abutting commercial and industrial property; (3) carries moderate to heavy vehicular movement up to 40,000 ADT; and (4) typically has a curb to curb width of between 78 and 112 feet, or a curb to curb width as defined in the current City’s Standard Drawings.~~

~~“Non-Linear Excavation” means an Excavation which is no larger than five feet by five feet, or an Excavation eighteen inches or less around substructures,~~

~~required to access existing Installations for new service, or maintenance of existing Installations.~~

~~“Notice” means a written notification which is deemed to have been received on the date on which it was faxed, two days after the date on which it was mailed.~~

~~“Pavement” means the fully improved roadway surface of the Public Rights of Way, designed and constructed to support the movement of vehicular traffic. Pavement typically consists of asphaltic concrete or cement concrete and it includes any subgrade Installations.~~

~~“Person” has the same meaning as in Section 11.0210 of this Code.~~

~~“Pothole” means a limited Excavation used to determine the actual vertical and horizontal location of underground Installations.~~

~~“Public Rights of Way” means public easements or public properties that are or may be used for streets, alleys or other public purpose.~~

~~“Public Utility” means Wet Utilities and Dry Utilities which provide service for, or the commodity is delivered to, the public or any portion thereof. It also includes any City department and utilities defined in California Public Utilities Code Section 216. It includes their respective contractors, subcontractors, agents, employees or representatives.~~

~~“Raised Median” means a raised separation made of berms or concrete curbs or other material which separates traffic flowing in opposite directions.~~

~~“Residential Street” means a Public Right of Way that: (1) provides direct access to abutting property; (2) carries up to 2,200 ADT; (3) typically has a curb to curb width of: (i) between 26 to 38 feet on Public Rights of Way where parking is~~

~~allowed on only one side or as defined in the current version of the City's Design Standards; or (ii) typically has a curb to curb width between 30 to 44 feet on Public Rights of Way where parking is allowed on both sides, or as defined in the current City's Standard Drawings.~~

~~“Resurface” or “Resurfacing” means any or all of the following as directed by the City Engineer:~~

- ~~(1) — Any removal and replacement necessary for sub base repairs using either Portland cement concrete, or full depth base asphaltic concrete.~~
- ~~(2) — Cold planing/milling the gutterline, and making horizontal header cuts to a minimum depth of one inch, for a minimum of six feet in width, or if required by the City Engineer, cold planing/milling of the entire street width.~~
- ~~(3) Replacement of any damaged traffic signal detection loops.~~
- ~~(4) — Placement of Pavement reinforcing fabrics, if required by the City Engineer.~~
- ~~(5) — The placement of hot mix asphaltic concrete upon the existing roadbed, in varying thicknesses as directed by the City Engineer and any Decorative Surfaces, as required by the City Engineer.~~
- ~~(6) — The adjustment of any affected City manholes and gate valve covers.~~
- ~~(7) — The permanent layout and installation of Pavement markings. “Slurry” means the placement of a slurry seal coating onto existing Public Rights of Way surfaces. It can be referred to as “Slurrying” or “Slurried.”~~

~~“Trenchless Technology” means methods, material, equipment and techniques that can be used to install, replace, renew or repair underground infrastructure~~

~~with minimal surface disturbance. Trenchless Technology includes drilling, auguring, boring and tunneling.~~

~~“Warranty” means a written agreement elected to be entered into by a Public Utility in lieu of paying the Excavation Fee in which a Public Utility agrees to Resurface the Public Right of Way under this Division.~~

~~“Wet Utilities” means all Public Utilities whose Installations are for water (both main and lateral), reclaimed water, sewer (both main and lateral), storm drains, and fire hydrants. It excludes Dry Utilities.~~

~~In addition to the requirements set forth in this Article, the City Engineer or Asset Owner may adopt such orders or regulations as it deems necessary in order to preserve and maintain the public health, safety, welfare, and utility of the public right-of-way. Each excavation in the public right-of-way pursuant to this Article shall be performed in accordance with the standard plans and specifications of the City of San Diego and City orders or regulations, except where the City Engineer, in his or her discretion, grants prior written approval to deviate from such standard plans and specifications, orders, or regulations. The City Engineer, in consultation with the Asset Owner, shall develop and maintain guidelines to implement the granting of waivers authorized pursuant to this Article and shall document such waivers.~~

§62.1203 ~~Moratorium on Slurried Public Rights-of-Way Definitions~~

~~(a) — Public Utilities shall not Excavate in Public Rights of Way which have been Slurried one year or less prior to the permit application date, or the Excavation date where a permit is not required, unless the Public Utility~~

~~obtains a written determination by the City Engineer prior to Excavation that one of the following is present:~~

~~(1) A bona fide emergency that:~~

~~(A) endangers the health and safety or property of the citizenry; and~~

~~(B) requires Excavation in order to remediate the emergency;~~

~~or~~

~~(2) New service to a specific location cannot be provided:~~

~~(A) through existing conduit;~~

~~(B) or where Trenchless Technology is impractical due to:~~

~~(i) soil conditions;~~

~~(ii) proximity of Installations;~~

~~(iii) where a large conduit package is being installed, or,~~

~~(iv) where Trenchless Technology is economically impractical compared to trenching and Resurfacing performed in accordance with approved standards;~~

~~or~~

~~(C) the Public Utility demonstrates to the City Engineer that the service cannot be provided from another location.~~

~~(3) Installation relocation by non-government owned Public Utilities is~~

~~both:~~

~~(A) required by the City, County, State or Federal Government;~~

~~and~~

~~(B) — not required as a result of an underground utility district established pursuant to Section 61.0501, et seq.~~

~~(4) — Only a Non-Linear Excavation will be made.~~

~~(b) — All Public Utilities who have obtained a written determination from the City that their proposed Excavation meets one or more of the criteria of Section 62.1203(a)(1) (3) shall Resurface as directed by the City by the City Engineer and in accordance with Section 62.1204(d) with the following:~~

~~(A) — Where the Excavation is in the direction of traffic, the Public Utility shall Slurry the entire length of the Excavation area plus the Excavation Influence Area on each end, and the entire width of the Public Right of Way from curb line to curb line, or where a Raised Median is present the Public Utility shall Slurry from the curb line to the Median.~~

~~(B) — Where the Excavation is perpendicular to the direction of traffic, the Public Utility shall Slurry the length of the Excavation from curb line to curb line, or for the length of the Excavation plus the Excavation Influence Area extending on each end of the Excavation, whichever is less. This Slurry also shall include the Excavation area plus the Excavation Influence Area on each side of the Excavation~~

~~(C) — Where a Raised Median is present and the Excavation is perpendicular to the direction of traffic, the Public Utility shall Slurry either from the Raised Median to the curb line, or for the length of the Excavation plus the Excavation Influence Area extending on each end of the Excavation, whichever is less. This Slurry also shall include the Excavation plus the Excavation Influence Area on each side of the Excavation.~~

~~(e) — It is unlawful for any Public Utility to violate any provision or to fail to comply with any requirements of Section 62.1203. Violations of this Division are misdemeanors as prescribed by San Diego Municipal Code section 12.0201.~~

For purposes of this Article, the following terms shall have the following meaning:

“Article” shall mean this Article 2, Public Rights of Way and Land Development.

“Asset Owner” shall mean the Department within the City that has been charged with managing the use of the right-of-way.

“Department” shall mean the Transportation and Stormwater Department within the City of San Diego.

“Excavation Influence Area” shall mean the area that is impacted by the excavation as determined by the City Engineer.

“Excavator” shall mean the person or party excavating within the public right-of-way.

“Facility Owner” shall mean the Public Utility or other Person that owns, controls, or is otherwise responsible for a Facility or Facilities within the public right-of-way.

“Moratorium Street” shall mean any block that has been reconstructed or resurfaced by the City or any other Person in the preceding five (5) year period or slurry sealed by the City or any other Person in the preceding three (3) year period.

“Municipal Excavator” shall mean any agency, board, commission, department, or subdivision of the City that owns, installs, or maintains a facility or facilities in the public right-of-way.

“Non-Linear Excavation” shall mean an excavation eighteen inches (18”) or less around substructures required to access existing installations, such as a manhole or vault, but does not include pipes or conduits for new service or maintenance of existing installations.

“Permit to Excavate” shall mean a right of way permit to perform an excavation as it has been approved, amended or renewed by the City.

“Public Utility” shall mean wet utilities and dry utilities which provide service for, or the commodity is delivered to, the public or any portion thereof. It also includes any City Department and utilities defined in California Public Utilities Code Section 216. It includes their respective contractors, subcontractors, agents, employees or representatives.

“Trenchless technology” shall mean methods, material, equipment and techniques that can be used to install, replace, renew or repair underground infrastructure

with minimal surface disturbance. Trenchless Technology includes drilling, auguring, boring and tunneling.

“Wet Utilities” shall mean all public utilities whose installations are for water (both main and lateral), reclaimed water, sewer (both main and lateral), storm drains, and fire hydrants.

§62.1204 ~~Moratorium on Slurred Public Rights-of-Way~~ Coordination of Excavation

~~(a) — Public Utilities shall not Excavate in Public Rights of Way which have been Resurfaced three years or less prior to the permit application date, or the Excavation date where a permit is not required, unless the Public Utility obtains a written determination by the City Engineer prior to Excavation that one of the following is present:~~

~~(1) — A bona fide emergency that:~~

~~(A) — endangers the health and safety or property of the citizenry; and~~

~~(B) — requires Excavation in order to remediate the emergency; or~~

~~(2) — New service to a specific location cannot be provided:~~

~~(A) — through existing conduit; or~~

~~(B) — where Trenchless Technology is impractical due to one or more of the following:~~

~~(i) — soil conditions; or~~

~~(ii) — proximity of Installations; or~~

~~(iii) — where a large conduit package is being installed; or~~

~~(iv) — where Trenchless Technology is economically impractical compared to trenching and Resurfacing performed in accordance with approved standards;~~

~~or~~

~~(C) — the Public Utility demonstrates to the City Engineer that the service cannot be provided from another location.~~

~~(3) — Installation relocation by non government owned Public Utilities is both:~~

~~(A) — required by the City, County, State or Federal Government; and~~

~~(B) — not required as a result of an underground utility district established pursuant to Section 61.0501, et seq.~~

~~(4) — Only a Non-Linear Excavation will be made.~~

~~(b) — All Public Utilities who have obtained a written determination from the City that their proposed Excavation meets one or more of the criteria of Section 62.1203(a)(1) (3) shall Resurface as directed by the City Engineer and in accordance with the following Section 62.1204(d).~~

~~(c) — Public Utilities may Excavate in Public Rights of Way which have been Slurried greater than one year but less than two years prior to the permit application date, or the Excavation date where a permit is not required, but the Public Utility shall Slurry as directed by the City Engineer and in accordance with Section 62.1204(d).~~

~~(d) Slurrying shall include but is not limited to:~~

~~(1) Where the Excavation is in the direction of traffic, the Public Utility shall Resurface the entire length of the Excavation area plus the Excavation Influence Area on each end, and the entire width of the Public Right of Way from curb line to curb line, or where a Raised Median is present the Public Utility shall Resurface from the curb line to the Median.~~

~~(2) Where the Excavation is perpendicular to the direction of traffic, the Public Utility shall Resurface the length of the Excavation from curb line to curb line, or for the length of the Excavation plus the Excavation Influence Area extending on each end of the Excavation, whichever is less. This Resurface also shall include the Excavation area plus the Excavation Influence Area on each side of the Excavation.~~

~~(3) Where a Raised Median is present and the Excavation is perpendicular to the direction of traffic, the Public Utility shall Resurface either from the Raised Median to the curb line, or for the length of the Excavation plus the Excavation Influence Area extending on each end of the Excavation, whichever is less. This Resurface also shall include the Excavation plus the Excavation Influence Area on each side of the Excavation.~~

Public Utilities and Municipal Excavators shall coordinate infrastructure project plans to minimize the damage to the public right-of-way caused by multiple excavations in the same area.

(a) Two-year Plans.

(1) On the first day of April and October of each year, or the first regular business day immediately thereafter, each Public Utility shall prepare and submit to the Asset Owner a plan, in a format specified by the Asset Owner that shows all major work anticipated to be done in the public right-of-way in the next 24 months. Any Public Utility that does not propose major work in the next 24 months shall submit a plan with a statement that no such major work is anticipated and shall immediately report any major work to the Asset Owner as soon as it becomes reasonably foreseeable.

(2) To the extent permissible by law, including but not limited to the California Public Records Act, the City shall not disclose to third parties proprietary, trade secret, or otherwise confidential information that is provided to the City by the Public Utility for the purposes of coordinating excavations within the public right-of-way beyond what is necessary to facilitate coordination among excavators and to avoid unnecessary excavation of the public right-of-way. Any information provided to the City that is proprietary,

trade secret, or confidential must be clearly marked and identified as such.

§62.1205 Right-of-Way Excavation Fee Permits

~~(a) — All Public Utilities required to obtain a permit to Excavate under this Code, shall pay an Excavation Fee as a condition precedent to obtaining a permit to Excavate a Public Right of Way, unless one or more of the following conditions is met:~~

~~(1) — A Public Utility elects to execute one of the following:~~

~~(A) — a Resurface Agreement under Section 62.1206; or~~

~~(B) — a Warranty under Section 62.1207; or~~

~~(2) — The Pavement within the Public Right of Way has not been Resurfaced or Slurried within the past specified number of years from the date of Excavation. This number shall be determined by the City Council and established by resolution; or~~

~~(3) — The Public Utility needs only to Pothole; or~~

~~(4) — Installation relocation by non government owned Public Utilities is both:~~

~~(A) — required by the City, County, State or Federal Government;~~

~~and~~

~~(B) — not required as a result of an underground utility district pursuant to Section 61.0501, et seq.~~

~~(5) — The Public Utility has an agreement with the City which addresses payment of the Excavation Fee.~~

~~(b) — All Public Utilities that are not required to obtain a permit to Excavate under this Code shall pay an Excavation Fee as a condition precedent to Excavation unless one or more of the conditions described in Section 62.1205(a)(1) (5) is met.~~

~~(c) — The Excavation Fee amount:~~

~~(1) — Shall be established by the City Council by resolution adopted pursuant to this Division and placed on file in the Office of the City Clerk.~~

~~(2) — Shall not exceed an amount reasonably necessary to recover the estimated costs for including, but not limited to all administration, investigation, inspection, monitoring, maintenance, repair, reconstruction, Slurrying and Resurfacing necessary to fully mitigate the damage and degradation caused by Excavations.~~

~~(3) — Shall be the amount in effect on the date of issuance of a City permit to Excavate, or for Public Utilities that are not required to obtain a permit to Excavate, the amount in effect on the date of commencement of Excavation.~~

~~(d) — The City may not issue a permit and it is unlawful to Excavate until:~~

~~(1) — The Excavation Fee has been paid; or~~

~~(2) — One of the conditions in Section 62.1205(a)(1) (4) is met; or The Public Utility has submitted an executed Resurface Agreement or Warranty.~~

~~3) — The Public Utility has submitted an executed Resurface Agreement or Warranty.~~

~~(e) — Public Utilities shall pay the Excavation Fee in addition to any Encroachment permit, administrative fee, or any other fee required by this Code, and is in addition to any inspection, special backfill, compaction, and Pavement replacement, or other requirements imposed by this Code or by any City Department as a condition of a permit.~~

It shall be unlawful to excavate in the public rights-of-way without a valid Right-of-Way Excavation Permit. Right-of-Way Excavation Permits shall be void if the excavation has not begun within ninety (90) calendar days of the start date specified in the permit, if the excavation is not prosecuted diligently to its conclusion, or if the excavation, including restoration, has not been completed within one calendar year from the permit issuance.

§62.1206 ~~Resurface Agreement~~ Moratorium Streets

~~(a) — In lieu of paying the Excavation Fee under Section 62.1205, a Public Utility that is required to obtain a permit to Excavate under this Code may execute a Resurface Agreement prior to City=s issuance of a permit. Submission of a fully executed agreement is a condition precedent to obtaining a permit.~~

~~(b) In lieu of paying the Excavation Fee under Section 62.1205, a Public Utility that is not required to obtain a permit to Excavate under this Code may execute a Resurface Agreement prior to commencement of Excavation. Submission of a fully executed agreement is a condition precedent to Excavation.~~

~~(c) The Resurface Agreement will be prepared by the City and require all of the following including, but not limited to:~~

~~(1) A scope of work describing the nature of Resurfacing required under Section 62.1208; and~~

~~(2) An indemnification provision requiring that the Public Utility defend and indemnify the City; and~~

~~(3) A provision requiring that if a Public Utility has not previously provided to the City Engineer all documents required under Section 62.1107, then the Public Utility shall make available to the City all records described in Section 62.1104(a); and~~

~~(4) A provision requiring the Public Utility to pay liquidated damages due to default; and~~

~~(5) A provision that the Public Utility, shall annually submit a Performance Bond which meets all of the requirements of Section 129.0119(a)(1) (6), and 129.0119(b). In contrast to Section 129.0119(a), this Section applies to all Public Utilities whether or not required to obtain a permit under this Code.~~

~~(d) A Public Utility may elect to execute an annual and continuing Resurface Agreement prepared by the City covering more than one Excavation. All of the requirements of this Section 62.1206 shall also apply to an annual Resurface Agreement.~~

Excavations shall not be permitted in public rights-of-way which have been resurfaced within five (5) years or slurry sealed within three (3) years prior to an excavator's application for a permit to excavate.

§62.1207

Excavation Warranty Moratorium Waivers

~~(a) In lieu of paying the Excavation Fee under Section 62.1205, a Public Utility may elect to execute a Warranty only if all of the following conditions are met:~~

~~(1) The Public Utility has done business in the City of San Diego within the last five years; and~~

~~(2) The Public Utility demonstrates within the past five years that upon Notice they have repaired any failed Excavations to the satisfaction of the City Engineer and the City has not had to repair any Excavation made by the Public Utility; and~~

~~(3) The Public Utility submits an executed Warranty either:~~

~~(A) prior to the City's issuance of a permit to Excavate, where the Public Utility is required to obtain a permit to Execute under this Code; or~~

~~(B) prior to Excavation, where the Public Utility is not required to obtain a permit to Excavate under this Code.~~

~~(b) — The Warranty will be prepared by the City, and require all of the following, including but not limited to:~~

~~(1) — A provision describing the Public Utility's sole responsibility to repair, restore, Slurry and/or Resurface under Section 62.1208, no later than thirty calendar days from Notice by the City Engineer; and~~

~~(2) — An indemnification provision requiring that the Public Utility defend and indemnify the City; and~~

~~(3) — A provision requiring that if a Person has not previously provided to the City Engineer all documents required under Section 62.1106, then the Person shall make available to the City all records described in Section 62.1104(a); and~~

~~(4) — A provision requiring the Public Utility to pay liquidated damages due to default;~~

~~(5) — A Warranty term equivalent to the remaining service life of the Public Right of Way prior to the Excavation, as determined by the City; and~~

~~(6) — A provision that the Public Utility, shall submit a one year Performance Bond which meets all of the requirements of Section 129.0119(a)(1) (6) and 129.0119(b). In contrast to Section 129.0119(a), this Section applies to all Public Utilities whether or not required to obtain a permit under this Code; and~~

~~(c) Any Public Utility that fails to execute a Warranty acceptable to the City shall not be issued a permit, nor be allowed to Excavate where no permit is required, unless the Public Utility pays the Excavation Fee in Section 62.1205.~~

The City Engineer, or their designee, may upon written request grant a excavation moratorium waiver. The City Engineer may place additional conditions on a permit subject to a excavation moratorium waiver. In granting a request for an excavation moratorium waiver the City Engineer shall make a written finding of fact that one of the following grounds are present.

(a) A bona fide emergency that:

(1) endangers the health and safety of property of the citizenry; and

(2) requires excavation in order to remediate the emergency, or

(b) New Service to a specific location cannot be provided:

(1) through existing conduit, or

(2) where Trenchless Technology is impractical due to one or more of the following:

(A) soil conditions; or

(B) proximity of installations; or

(C) where trenchless technology is economically impractical compared to trenching and resurfacing performed in accordance with approved standards ; or

- (3) the public Utility demonstrates to the City Engineer that the service cannot be provided from another location; or
- (c) the installation or relocation of facilities by a non-government owned public utility is both
- (1) required by the City, County, State or Federal Government; and
- (2) not required as a result of an underground utility district established pursuant to San Diego Municipal Code Section 61.0501;
- (d) only a Non-Linear Excavation or Exploratory Excavation will be made. Exploratory Excavations shall not exceed an area three (3) feet by three (3) feet. If determined necessary, the City Engineer may authorize an Exploratory Excavation with an area not to exceed five (5) feet by five (5) feet. Such authorization must be made in writing and signed by the City Engineer or their designee.

§62.1208 ~~Resurfacing Public Rights-of-Way Excavations on Public Rights-of-Way Under a Resurfacing Moratorium~~

- (a) ~~Where a Public Utility is required to or elects to Resurface under this Division, the quality, quantity, and extent to which the Public Utility is required to Resurface will be determined by the City Engineer after consideration of the condition of the Public Right of Way to be Excavated.~~

(b) — ~~Resurfacing shall include the Excavation Influence Area extending the following distances around the perimeter of the Excavation:~~

Street Classification	Wet Utilities	Dry Utilities
Arterial Streets	62 inches	51 inches
Major Streets	71 inches	55 inches
Collector Streets	82 inches	43 inches
Residential Streets	74 inches	46 inches

(c) — ~~Resurfacing shall include but is not limited to:~~

(1) — ~~Where the Excavation is in the direction of traffic, the Public Utility shall Resurface the entire length of the Excavation area plus the Excavation Influence Area on each end, and the entire width of the Excavation area plus the Excavation Influence Area extending from each side of the Excavation area.~~

(2) — ~~Where the Excavation is perpendicular to the direction of traffic, the Public Utility shall Resurface the length of the Excavation from curbline to curb line, or for the length of the Excavation plus the Excavation Influence Area extending on each end of the Excavation, whichever is less. This Resurface also shall include the Excavation area plus the Excavation Influence Area on each side of the Excavation.~~

~~(3) — Where a Raised Median is present and the Excavation is perpendicular to the direction of traffic, the Public Utility shall Resurface either from the Raised Median to the curb-line, or for the length of the Excavation plus the Excavation Influence Area extending on each end of the Excavation, whichever is less. This Resurface also shall include the Excavation plus the Excavation Influence Area on each side of the Excavation.~~

Excavations within moratorium streets that had been resurfaced within five years prior to the permitted excavation shall be resurfaced as directed by the City Engineer in accordance with the following:

Resurfacing shall include but is not limited to:

(a) Where the excavation is in the direction of traffic, the Excavator shall resurface the entire length of the excavation area plus the Excavation Influence Area on each end, and the entire width of the street from curb to curb, or where a raised median is present the Excavator shall resurface from the curb-line to the median.

(b) Where the excavation is perpendicular to the direction of traffic, the Excavator shall resurface the length of the excavation from curb to curb, or for the length of the excavation plus the Excavation Influence Area extending on each end of the excavation, whichever is less. This resurface shall include the excavation area plus the Excavation Influence Area on each side of the excavation.

(c) Where a raised median is present and the excavation is perpendicular to the direction of traffic, the Excavator shall resurface either from the raised median to the curb, or for the length of the excavation plus the Excavation Influence Area extending on each end of the excavation, whichever is less. This resurface shall include the excavation plus the excavation Influence Area on each side of the excavation.

The Excavation Influence Area extends around the perimeter of the excavation as follows:

<u>Street Classification</u>	<u>Wet Utilities</u>	<u>Dry Utilities</u>
<u>Arterial Streets</u>	<u>62 inches</u>	<u>51 inches</u>
<u>Major Streets</u>	<u>71 inches</u>	<u>55 inches</u>
<u>Collector Streets</u>	<u>82 inches</u>	<u>43 inches</u>
<u>Residential Streets</u>	<u>74 inches</u>	<u>46 inches</u>

§62.1209 Repair of City Excavation Excavations on Public Rights-of-Way Under a Slurry Seal Moratorium

~~Upon Notice of failure of an Excavation made by the City, the City department responsible for the work shall repair the Excavation within thirty days.~~

Excavations within moratorium streets that had been slurry sealed within three years of the permitted excavation shall slurry seal as directed by the City Engineer in accordance with the following:

(a) Where the excavation is in the direction of traffic, the Excavator shall slurry seal the entire length of the excavation area plus the Excavation Influence Area on each end, and slurry the entire width of the street from

curb-line to curb-line, or where a raised median is present the Excavator shall resurface from the curb-line to the median.

(b) Where the excavation is perpendicular to the direction of traffic, the Excavator shall slurry the length of the excavation from curb-line to curb-line, or for the length of the excavation plus the Excavation Influence Area extending on each end of the excavation, whichever is less. This slurry shall include the excavation area plus the Excavation Influence Area on each side of the excavation.

(c) Where a raised median is present and the excavation is perpendicular to the direction of traffic, the Excavator shall slurry either from the raised median to the curb-line, or for the length of the excavation plus the Excavation Influence Area extending on each end of the excavation, whichever is less. This slurry seal shall include the excavation plus the excavation Influence Area on each side of the excavation.

The Excavation Influence Area extends around the perimeter of the excavation as follows:

<u>Street Classification</u>	<u>Wet Utilities</u>	<u>Dry Utilities</u>
<u>Arterial Streets</u>	<u>62 inches</u>	<u>51 inches</u>
<u>Major Streets</u>	<u>71 inches</u>	<u>55 inches</u>
<u>Collector Streets</u>	<u>82 inches</u>	<u>43 inches</u>
<u>Residential Streets</u>	<u>74 inches</u>	<u>46 inches</u>

§62.1210 Establishment of Fund Excavations Not Under Moratorium

(a) ~~All Excavation Fees collected pursuant to this Division shall be deposited into a designated fund and utilized only to repair a Pavement problem~~

~~associated with the Excavation Influence Area for which the Excavation Fee was paid. If, after two years, additional restoration work in the Excavation Influence Area has not been necessary then the Excavation Fee collected for that Excavation Influence Area may be expended solely for all administration, investigation, inspection, monitoring, maintenance, repair, reconstruction, Slurrying, or Resurfacing, of the Public Rights of Way.~~

~~(b) All interest earned on the monies that have been deposited into such fund shall be retained in that fund and shall be used solely for the purpose of implementing this Division.~~

(a) Where a Public Utility is required to or elects to resurface under this Division, the quantity, and extent to which the Public Utility is required to resurface will be determined by the City Engineer and the Asset Owner after consideration of the condition of the Public Right-of-Way to be excavated.

(b) Resurfacing shall include the Excavation Influence Area extending the following distances around the perimeter of the Excavation:

<u>Street Classification</u>	<u>Wet Utilities</u>	<u>Dry Utilities</u>
<u>Arterial Streets</u>	<u>62 inches</u>	<u>51 inches</u>
<u>Major Streets</u>	<u>71 inches</u>	<u>55 inches</u>
<u>Collector Streets</u>	<u>82 inches</u>	<u>43 inches</u>
<u>Residential Streets</u>	<u>74 inches</u>	<u>46 inches</u>

(1) Where the Excavation is in the direction of the traffic, the Public Utility shall resurface the entire length of the excavation area plus the Excavation Influence Area on each end, and the entire width of the excavation area plus the Excavation Influence Area extending from each side of the excavation area.

(2) Where the excavation is perpendicular to the direction of traffic, the Public Utility shall resurface the length of the excavation from curb-line to curb-line, or for the length of the excavation plus the Excavation Influence Area extending on each end of the excavation, whichever is less. This resurface also shall include the excavation area plus the Excavation Influence Area on each side of the Excavation.

(3) Where a raised median is present and the excavation is perpendicular to the direction of traffic, the Public Utility shall resurface either from the raised median to the curb-line, or for the length of the excavation plus the Excavation Influence Area extending on each end of the excavation, whichever is less. This resurface also shall include the excavation plus the Excavation Influence Area on each side of the Excavation.

§62.1211 ~~Strict Compliance with Division Required~~ Emergency Excavation

It is unlawful for any Public Utility, Person, firm, or corporation to violate any provision or to fail to comply with any of the requirements of this Division.

Violations of this Division are misdemeanors as prescribed by Section 12.0201.

Nothing contained in this Article shall be construed to prevent any Public Utility from taking any action necessary for the preservation of life or property or for the restoration of essential service provided by a Public Utility when such necessity arises during days or times when City Offices are closed. In the event that any person takes any action to excavate or cause to be excavated the public right-of-way pursuant to this Section, such person shall prior to excavation notify the City's 24 hour Public Works Dispatch Center then apply for an emergency permit no later than fourteen (14) City business days after excavation. The applicant for an emergency right of way permit shall submit a written statement of the basis of the emergency action and describe the excavation performed and any work remaining to be performed. An emergency permit to excavate shall not be deemed complete until a final inspection of the excavation is performed by the City.

§62.1212 Strict Compliance with Division Required Excavation and Trench Liability

It is unlawful for any Public Utility, Person, firm, or corporation to violate any provision or to fail to comply with any of the requirements of this Division. Violations of this Division are misdemeanors as prescribed by Section 12.0201. Each Facility Owner is wholly responsible for the quality of the excavation performed in the public right-of-way and are liable for all consequences of any condition of such excavation and any facilities installed in the public right-of-way. The issuance of any permit, inspection, repair or suggestion, approval or acquiescence of any person affiliated with the Department shall not excuse any owner or agent from such responsibility or liability.

§62.1213 Indemnification of the City

To the extent permissible by federal and state law, the City may require Excavators, their agents, successors, and assigns, to indemnify, defend, protect and hold harmless the City, including, without limitation, each of its commissions, departments, officers, agents and employees (hereinafter in this subsection collectively referred to as "San Diego") from and against any and all actions, claims, costs, damages, demands, expenses, fines, injuries, judgments, liabilities, losses, penalties, or suits including, without limitation, attorney's fees and costs (collectively, "claims") of any kind allegedly arising directly or indirectly from:

(a) Any act by omission or negligence of, Excavator or its agents, contractors, subcontractors, or the officers agents or employees of such entities, while engaged in the performance of the excavation authorized by the permit, or while in or about the property subject to the permit for any reason connected in any way whatsoever with the performance of the excavation authorized by the permit or allegedly resulting directly or indirectly from the maintenance or installation of any equipment, facility or structures authorized under the permit.

(b) Any accident, damage, death or injury to any Excavator or its contractor or subcontractor, or any officer, agent or employee of either of them, while engaged in the performance of the excavation authorized by the permit or while in or about the property for any reason connected with the performance of the excavation authorized by the permit or arising from

liens or claims for services rendered or labor or materials furnished in or for the performance of the excavation authorized by the permit;

(c) Any accident, damage, death or injury to any persons or accident, damage or injury to any real or personal property upon, or in any way allegedly connected with the excavation authorized by the permit from any cause or claims arising at any time, and

(d) Any release or discharge, or threatened release of discharge, of any hazardous material caused or allowed by permittee about, in, on, or under the excavation site subject to the permit or the environment. As used herein, "hazardous material" means any gas, material substance, or waste which, because of its quantity, concentration or physical or chemical characteristics, is deemed by any federal, state or local governmental authority to pose a present or potential hazard to human health or safety to the environment. "Release" when used with respect to hazardous material shall include any actual or imminent disposing, dumping, emitting, emptying, escaping, injecting, leaching, leaking, pumping, pouring or spilling.

§62.1214 Insurance Requirements For Excavations in the Public-Right-of-Way

To the extent permissible by federal and state law, Excavators shall maintain in full force and effect, throughout the term of the permit, an insurance policy or policies issued by an insurance company or companies covering all operations, vehicles, and employees as follows:

- (a) Commercial general liability insurance with limits not less than \$1,000,000 each occurrence combined single limit for bodily injury and property damage, including contractual liability; personal injury; explosion, collapse and underground products; and completed operations;
- (b) Contractors pollution liability insurance, on an occurrence form, with limits not less than \$1,000,000 each occurrence combined single limit for bodily injury and property damage and any deductible not to exceed \$25,000 each occurrence.
- (c) Should any of the required insurance be provided under a claims-made form, the insured owner or its agent shall maintain such coverage continuously throughout the term of the permit, and without lapse, for a period of three years beyond the expiration or termination of the permit, to the effect that should occurrences during the term of the permit give rise to claims made after expiration or termination of the permit, such claims shall be covered by such claims-made policies.
- (d) Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general aggregate limit shall be double the occurrence or claims limits specified above in Subsection (i) and (ii).
- (e) Certificates of insurance, in the form satisfactory to the Department, evidencing all coverages above, shall be furnished to or maintained on

file with the Department before issuance of a permit, with complete copies of policies furnished promptly upon the Department's request.

(f) Where an Excavator is self-insured, and such insurance is no less broad and affords no less protection to the City than the requirements specified above, the Department may accept such insurance as satisfying the requirement of Section 12 of this Division.

§62.1215 **Street Damage Fee**

Each Excavator shall pay to the City a Street Damage Fee to recover the increased repaving and reconstruction cost incurred by the City that are reasonably attributable to the impact of the excavation to the public right-of-way. The amount of the Street Damage Fee shall be established by resolution of the San Diego City Council adopted pursuant to this Division and placed on file in the Office of the City Clerk.

The Street Damage Fee shall not exceed an amount reasonably necessary to recover the estimated costs, including but not limited to all administration, investigation, inspection, monitoring, reconstruction, slurry seal and resurfacing necessary to fully mitigate the damage and degradation caused by the excavations.

The fee shall be the amount in effect on the date of issuance of a City Excavation Permit, or for Municipal Excavators the amount in effect on the date of commencement of the excavation.

§62.1216 **Restoration of the Public Right-of-Way**

In any case in which the sidewalk, street, or other public right-of-way is or is caused to be excavated, the Excavator shall restore or cause to be restored such excavation in the manner prescribed by the order, regulations, and standard plans and specifications of the City. All excavations shall be inspected by the City Engineer or their designee.

§62.1217 **Repair and Maintenance Obligation of Facility Owner**

Facility Owners shall be responsible to maintain, repair or reconstruct the site of any excavation and the surface condition per City Standard Drawings or as specified by the City Engineer for fifteen (15) years after inspection and acceptance by the City.

§62.1218 **Excavation Site Requirements**

It shall be unlawful to excavate in violation of the following requirements:

- (a) Excavators shall have their Right-of-Way Excavation Permit, or a true or legible copy, and any required Traffic Control Permit available for inspection at the site of excavation.
- (b) Excavators shall not excavate without providing proper notice to the Underground Service Alert.
- (c) Excavations shall not exceed the scope of excavation described within the Permit to Excavate without the prior written approval of the City Engineer.

RPK:cfq
1/31/2012

Or.Dept:
Document Number: 313157

DRAFT

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AMENDING CHAPTER 1, ARTICLE 1, DIVISION 2 BY AMENDING SECTION 11.0210; AMENDING CHAPTER 1, ARTICLE 3, DIVISION 4 BY AMENDING SECTION 13.0402; AMENDING CHAPTER 6, ARTICLE 2, DIVISION 11 BY AMENDING SECTIONS 62.11, 62.1105, 62.1107, AND 62.1108; AMENDING CHAPTER 6, ARTICLE 2, DIVISION 12 BY AMENDING SECTIONS 62.1201, 62.1202, 62.1203, 62.1204, 62.1205, 62.1206, 62.1207, 62.1208, 62.1209, 62.1210, AND 62.1211; ADDING SECTION 62.1212, 62.1213, 62.1214, 62.1215, 62.1216, 62.1217, AND 62.1218, ALL RELATING TO PUBLIC RIGHTS-OF-WAY AND LAND DEVELOPMENT.

WHEREAS, [Type Here]; and

WHEREAS, [Type Here]; and

WHEREAS, [Type Here]; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego as follows:

Section 1. That Chapter 1, Article 1, Division 2 of the San Diego Municipal Code is hereby amended by amending section 11.0210, to read as follows:

§11.0210 Definitions Applicable to Code Generally

[No change in text.]

“Abatement” to “Council” [No change.]

“Director” means the City Manager or any Department Directors including the following Departments: City Clerk, Planning, Development Services, Engineering, Transportation and Storm Water, General Services, Animal Control, Health, Water Utilities, Park and Recreation, Neighborhood Code Compliance,

Environmental Services and the Fire and Police Chiefs, and any of their designated agents or representatives.

“Enforcement Hearing Officer” to “Written” [No change.]

Section 2. That Chapter 1, Article 3, Division 4 of the San Diego Municipal Code is hereby amended by amending section 13.0402, to read as follows:

§13.0402 Code Enforcement Civil Penalties Fund

Civil penalties collected pursuant to this Division shall be deposited in the Code Enforcement Civil Penalties Fund except those collected for violations of Chapter 6, Article 2, Division 12 as established by the City Manager for the enhancement of the City’s code enforcement efforts and to reimburse City Departments for investigative costs and costs associated with the hearing process that are not paid by the Responsible Person, and those collected pursuant to this Division for violations of Chapter 6, Article 2, Division 12 shall be deposited in the Street Damage Restoration Fund as established by the City Manager for repair and restoration of City streets, along with any interest accrued. The City Auditor shall establish accounting procedures to ensure proper account identification, credit and collection.

Section 3. That Chapter 6, Article 2, Division 11 of the San Diego Municipal Code is hereby amended by amending sections 62.1102, 62.1105, 62.1107, and 62.1108, to read as follows:

§62.1102 Definitions

[No change in text.]

“Blockage Report” through “Decorative Surface” [No changes.]

“Dry Utilities” shall mean all Public Utilities including, but not limited to, Public Utilities whose Installations are for gas, electric, cable, telephones, fiber optic, traffic signals, street lights, and television .

“Exploratory Excavation” shall mean a limited excavation used to determine the actual vertical and horizontal location of underground installations or facilities.

“Inspection Fee” [No change.]

“Facility” or “Facilities” shall include, but not be limited to, any and all cables, cabinets, ducts, conduits, converters, equipment, drains, handholds, manholes, pipes, pipelines, splice boxes, surface location markers, tracks, tunnels, utilities, vaults, and other appurtenances or tangible things owned, leased, operated, or licensed by an owner or person that are located or are proposed to be located in the public right-of- way.

“Joint Trenches” through “Pavement” [No changes.]

“Trenching” through “Unimproved Rights-of-Way” [No changes.]

§62.1105 Installations

- (a) All persons wishing to work in the public rights-of-way shall first call for markout.

(b) All such persons shall give Underground Service Alert a minimum of two (2) working days advance notice before any markout or Exploratory Excavation is commenced.

(c) – (f) [No changes.]

§62.1107 Documents Required for City Engineer Authorization

(a) All persons placing installations in the Public rights-of-way shall file a Blockage Report with the City Engineer no later than two (2) working days prior to commencing any work.

(b) [No change.]

§62.1108 Inspection Fees; Inspections

(a) – (e) [No changes.]

(f) The City Engineer may conduct inspections of any work being done in the public rights-of-way. The City Engineer may inspect the work for compliance with all applicable laws, ordinances and construction standards.

(g) – (j) [No changes.]

Section 4. That Chapter 6, Article 2, Division 12 of the San Diego Municipal Code is hereby amended by amending sections 62.1201, 62.1202, 62.1203, 62.1204, 62.1205, 62.1206, 62.1207, 62.1208, 62.1209, 62.1210, and 62.1211, to read as follows:

§62.1201 Purpose

This Article shall govern excavation in the public right-of-way within the City of San Diego (City) that is under the jurisdiction and control of the City Engineer.

The City Engineer shall consult with the Asset Owner in order to effect the most responsible management of the public right-of-way.

The City Council finds that excavations degrade and shorten the life of the sidewalks, roads and facilities within the public right-of-way. It is the purpose and intent of this Division to provide policies and procedures for Excavation in the Public Right-of-Way in order to reduce the number of excessive, repeated excavations in the public right-of-way, thereby minimizing damage to the public right-of-way, traffic safety concerns as well as inconvenience to the public. It is the further purpose and intent of this Division to establish cost recovery mechanisms for all costs to the City resulting from excavations in the public right-of-way.

§62.1202 Departmental Orders and Regulations.

In addition to the requirements set forth in this Article, the City Engineer or Asset Owner may adopt such orders or regulations as it deems necessary in order to preserve and maintain the public health, safety, welfare, and utility of the public right-of-way. Each excavation in the public right-of-way pursuant to this Article shall be performed in accordance with the standard plans and specifications of the City of San Diego and City orders or regulations, except where the City Engineer, in his or her discretion, grants prior written approval to deviate from such standard plans and specifications, orders, or regulations. The City Engineer, in consultation with the Asset Owner, shall develop and maintain guidelines to implement the granting of waivers authorized pursuant to this Article and shall document such waivers.

§62.1203 Definitions

For purposes of this Article, the following terms shall have the following meaning:

“Article” shall mean this Article 2, Public Rights of Way and Land Development.

“Asset Owner” shall mean the Department within the City that has been charged with managing the use of the right-of-way.

“Department” shall mean the Transportation and Stormwater Department within the City of San Diego.

“Excavation Influence Area” shall mean the area that is impacted by the excavation as determined by the City Engineer.

“Excavator” shall mean the person or party excavating within the public right-of-way.

“Facility Owner” shall mean the Public Utility or other Person that owns, controls, or is otherwise responsible for a Facility or Facilities within the public right-of-way.

“Moratorium Street” shall mean any block that has been reconstructed or resurfaced by the City or any other Person in the preceding five (5) year period or slurry sealed by the City or any other Person in the preceding three (3) year period.

“Municipal Excavator” shall mean any agency, board, commission, department, or subdivision of the City that owns, installs, or maintains a facility or facilities in the public right-of-way.

“Non-Linear Excavation” shall mean an excavation eighteen inches (18”) or less around substructures required to access existing installations, such as a manhole

or vault, but does not include pipes or conduits for new service or maintenance of existing installations.

“Permit to Excavate” shall mean a right of way permit to perform an excavation as it has been approved, amended or renewed by the City.

“Public Utility” shall mean wet utilities and dry utilities which provide service for, or the commodity is delivered to, the public or any portion thereof. It also includes any City Department and utilities defined in California Public Utilities Code Section 216. It includes their respective contractors, subcontractors, agents, employees or representatives.

“Trenchless technology” shall mean methods, material, equipment and techniques that can be used to install, replace, renew or repair underground infrastructure with minimal surface disturbance. Trenchless Technology includes drilling, auguring, boring and tunneling.

“Wet Utilities” shall mean public utilities whose installations are for water (both main and lateral), reclaimed water, sewer (both main and lateral), storm drains, and fire hydrants.

§62.1204 Coordination of Excavation

Public Utilities and Municipal Excavators shall coordinate infrastructure project plans to minimize the damage to the public right-of-way caused by multiple excavations in the same area.

(a) Two-year Plans.

(1) On the first day of April and October of each year, or the first regular business day immediately thereafter, each Public Utility

shall prepare and submit to the Asset Owner a plan, in a format specified by the Asset Owner that shows all major work anticipated to be done in the public right-of-way in the next 24 months. Any Public Utility that does not propose major work in the next 24 months shall submit a plan with a statement that no such major work is anticipated and shall immediately report any major work to the Asset Owner as soon as it becomes reasonably foreseeable.

- (2) To the extent permissible by law, including but not limited to the California Public Records Act, the City shall not disclose to third parties proprietary, trade secret, or otherwise confidential information that is provided to the City by the Public Utility for the purposes of coordinating excavations within the public right-of-way beyond what is necessary to facilitate coordination among excavators and to avoid unnecessary excavation of the public right-of-way. Any information provided to the City that is proprietary, trade secret, or confidential must be clearly marked and identified as such.

§62.1205 Right-of-Way Excavation Permits

It shall be unlawful to excavate in the public rights-of-way without a valid Right-of-Way Excavation Permit. Right-of-Way Excavation Permits shall be void if the excavation has not begun within ninety (90) calendar days of the start date specified in the permit, if the excavation is not prosecuted diligently to its

conclusion, or if the excavation, including restoration, has not been completed within one calendar year from the permit issuance.

§62.1206 Moratorium Streets

Excavations shall not be permitted in public rights-of-way which have been resurfaced within five (5) years or slurry sealed within three (3) years prior to an excavator's application for a permit to excavate.

§62.1207 Moratorium Waivers

The City Engineer, or their designee, may upon written request grant a waiver of this moratorium for good cause. The City Engineer may place additional conditions on a permit subject to a excavation moratorium waiver. In granting a request for an excavation moratorium waiver the City Engineer shall make a written finding of fact that one of the following grounds are present.

- (a) A bona fide emergency that:
 - (1) endangers the health and safety or property of the citizenry; and
 - (2) requires excavation in order to remediate the emergency, or
- (b) New Service to a specific location cannot be provided:
 - (1) through existing conduit; or
 - (2) where Trenchless Technology is impractical due to one or more of the following:
 - (A) soil conditions; or
 - (B) proximity of installations; or

- (C) where trenchless technology is economically impractical compared to trenching and resurfacing performed in accordance with approved standards ; or
- (3) the public Utility demonstrates to the City Engineer that the service cannot be provided from another location; or
- (c) The installation or relocation of facilities by a non-government owned public utility is both
 - (1) required by the City, County , State or Federal Government; and
 - (2) not required as a result of an underground utility district established pursuant to San Diego Municipal Code Section 61.0501;
- (d) Only a Non-Linear Excavation or Exploratory Excavation will be made. Exploratory Excavations shall not exceed an area three (3) feet by three (3) feet. If determined necessary, the City Engineer may authorize an Exploratory Excavation with an area not to exceed five (5) feet by five (5) feet. Such authorization must be made in writing and signed by the City Engineer or their designee.

§62.1208 Excavations on Public Rights-of-Way Under a Resurfacing Moratorium

Excavations within moratorium streets that had been resurfaced within five years prior to the permitted excavation shall be resurfaced as directed by the City Engineer in accordance with the following:

Resurfacing shall include but is not limited to:

- (a) *Where the excavation is in the direction of traffic*, the Excavator shall resurface the entire length of the excavation area plus the Excavation Influence Area on each end, and the entire width of the street from curb to curb, or where a raised median is present the Excavator shall resurface from the gutter edge to the median.
- (b) *Where the excavation is perpendicular to the direction of traffic*, the Excavator shall resurface the length of the excavation from curb to curb, or for the length of the excavation plus the Excavation Influence Area extending on each end of the excavation, whichever is less. This resurface also shall include the excavation area plus the Excavation Influence Area on each side of the excavation.
- (c) *Where a raised median is present* and the excavation is perpendicular to the direction of traffic, the Excavator shall resurface either from the raised median to the curb, or for the length of the excavation plus the Excavation Influence Area extending on each end of the excavation, whichever is less. This resurface also shall include the excavation plus the excavation Influence Area on each side of the excavation.

The Excavation Influence Area extends around the perimeter of the excavation as follows:

Street Classification	Wet Utilities	Dry Utilities
Arterial Streets	62 inches	51 inches
Major Streets	71 inches	55 inches
Collector Streets	82 inches	43 inches
Residential Streets	74 inches	46 inches

§62.1209 Excavations on Public Rights-of-Way Under a Slurry Seal Moratorium

Excavations within moratorium streets that had been slurry sealed within three years of the permitted excavation shall be resurfaced as directed by the City Engineer in accordance with the following:

- (a) *Where the excavation is in the direction of traffic*, the Excavator shall slurry seal the entire length of the excavation area plus the Excavation Influence Area on each end, and slurry the entire width of the street from curb-line to curb-line, or where a raised median is present the Excavator shall slurry from the curb-line to the median.
- (b) *Where the excavation is perpendicular to the direction of traffic*, the Excavator shall slurry the length of the excavation from curb-line to curb-line, or for the length of the excavation plus the Excavation Influence Area extending on each end of the excavation, whichever is less. This slurry also shall include the excavation area plus the Excavation Influence Area on each side of the excavation.
- (c) *Where a raised median is present* and the excavation is perpendicular to the direction of traffic, the Excavator shall slurry either from the raised median to the curb-line, or for the length of the excavation plus the Excavation Influence Area extending on each end of the excavation, whichever is less. This slurry seal shall include the excavation plus the excavation Influence Area on each side of the excavation.

The Excavation Influence Area extends around the perimeter of the excavation as follows:

Street Classification	Wet Utilities	Dry Utilities
-----------------------	---------------	---------------

Arterial Streets	62 inches	51 inches
Major Streets	71 inches	55 inches
Collector Streets	82 inches	43 inches
Residential Streets	74 inches	46 inches

§62.1210 Excavations Not Under Moratorium

- (a) Where a Public Utility is required to or elects to resurface under this Division, the quantity, and extent to which the Public Utility is required to resurface will be determined by the City Engineer and the Asset Owner after consideration of the condition of the Public Right-of-Way to be excavated.
- (b) Resurfacing shall include the Excavation Influence Area extending the following distances around the perimeter of the Excavation:

Street Classification	Wet Utilities	Dry Utilities
Arterial Streets	62 inches	51 inches
Major Streets	71 inches	55 inches
Collector Streets	82 inches	43 inches
Residential Streets	74 inches	46 inches

- (1) Where the Excavation is in the direction of the traffic, the Public Utility shall resurface the entire length of the excavation area plus the Excavation Influence Area on each end, and the entire width of the excavation area plus the Excavation Influence Area extending from each side of the excavation area.
- (2) Where the excavation is perpendicular to the direction of traffic, the Public Utility shall resurface the length of the excavation from

curb-line to curb-line, or for the length of the excavation plus the Excavation Influence Area extending on each end of the excavation, whichever is less. This resurface also shall include the excavation area plus the Excavation Influence Area on each side of the Excavation.

- (3) Where a raised median is present and the excavation is perpendicular to the direction of traffic, the Public Utility shall resurface either from the raised median to the curb-line, or for the length of the excavation plus the Excavation Influence Area extending on each end of the excavation, whichever is less. This resurface also shall include the excavation plus the Excavation Influence Area on each side of the Excavation.

§62.1211 Emergency Excavation

Nothing contained in this Article shall be construed to prevent any Public Utility from taking any action necessary for the preservation of life or property or for the restoration of essential service provided by a Public Utility when such necessity arises during days or times when City Offices are closed. In the event that any person takes any action to excavate or cause to be excavated the public right-of-way pursuant to this Section, such person shall prior to excavation notify the City's 24 hour Public Works Dispatch Center then apply for an emergency permit no later than fourteen (14) City business days after excavation. The applicant for an emergency right of way permit shall submit a written statement of the basis of the emergency action and describe the excavation performed and any work

remaining to be performed. An emergency permit to excavate shall not be deemed complete until the right-of-way has been repaired and inspection of the excavation and repair of the public right-of-way is performed by the City.

Section 5. That Chapter 6, Article 2, Division 12, of the San Diego Municipal Code is hereby amended by adding sections 62.1212, 62.1213, 62.1214, 62.1215, 62.1216, 62.1217, and 62.1218, and 62.19 to read as follows:

§62.1212 Excavation and Trench Liability

Each Facility Owner is wholly responsible for the quality of the excavation performed in the public right-of-way and are liable for all consequences of any condition of such excavation and any facilities installed in the public right-of-way. The issuance of any permit, inspection, repair or suggestion, approval or acquiescence of any person affiliated with the Department shall not excuse any owner or agent from such responsibility or liability.

§62.1213 Indemnification of the City

To the extent permissible by federal and state law, the City may require Excavators, their agents, successors, and assigns, to indemnify, defend, protect and hold harmless the City, including, without limitation, each of its commissions, departments, officers, agents and employees (hereinafter in this subsection collectively referred to as "San Diego") from and against any and all actions, claims, costs, damages, demands, expenses, fines, injuries, judgments, liabilities, losses, penalties, or suits including, without limitation, attorney's fees and costs (collectively, "claims") of any kind allegedly arising directly or indirectly from:

- (a) Any act by omission or negligence of, Excavator or its agents, contractors, subcontractors, or the officers agents or employees of such entities, while engaged in the performance of the excavation authorized by the permit, or while in or about the property subject to the permit for any reason connected in any way whatsoever with the performance of the excavation authorized by the permit or allegedly resulting directly or indirectly from the maintenance or installation of any equipment, facility or structures authorized under the permit.
- (b) Any accident, damage, death or injury to any Excavator or its contractor or subcontractor, or any officer, agent or employee of either of them, while engaged in the performance of the excavation authorized by the permit or while in or about the property for any reason connected with the performance of the excavation authorized by the permit or arising from liens or claims for services rendered or labor or materials furnished in or for the performance of the excavation authorized by the permit;
- (c) Any accident, damage, death or injury to any persons or accident, damage or injury to any real or personal property upon, or in any way allegedly connected with the excavation authorized by the permit from any cause or claims arising at any time, and
- (d) Any release or discharge, or threatened release of discharge, of any hazardous material caused or allowed by permittee about, in, on, or under the excavation site subject to the permit or the environment. As used herein, "hazardous material" means any gas, material substance, or waste

which, because of its quantity, concentration or physical or chemical characteristics, is deemed by any federal, state or local governmental authority to pose a present or potential hazard to human health or safety to the environment. "Release" when used with respect to hazardous material shall include any actual or imminent disposing, dumping, emitting, emptying, escaping, injecting, leaching, leaking, pumping, pouring or spilling.

§62.1214 Insurance Requirements For Excavations in the Public-Right-of-Way

To the extent permissible by federal and state law, Excavators shall maintain in full force and effect, throughout the term of the permit, an insurance policy or policies issued by an insurance company or companies covering all operations, vehicles, and employees as follows:

- (a) Commercial general liability insurance with limits not less than \$1,000,000 each occurrence combined single limit for bodily injury and property damage, including contractual liability; personal injury; explosion, collapse and underground ;products; and completed operations;
- (b) Contractors pollution liability insurance, on an occurrence form, with limits not less than \$1,000,000 each occurrence combined single limit for bodily injury and property damage and any deductible not to exceed \$25,000 each occurrence.

- (c) Said policy or policies shall include the City and its officers and employees jointly and severally as additional insured, shall apply as primary insurance, shall stipulate that no other insurance effected by the City will be called on to contribute to a loss covered thereunder, and shall provide for severability of interests. Said policy or policies shall provide that an act of omission of one insured, which would void or otherwise reduce coverage, shall not reduce or void the coverage as to any other insured. Said policy or policies shall afford full coverage for any claims based on acts, omissions, injury or damage which occurred or arose, or the onset of which occurred or arose, in whole or in part, during the policy period. Said policy or policies shall be endorsed to provide 30 calendar days advance written notice of cancelation or any material change to the Department.
- (d) Should any of the required insurance be provided under a claims-made form, the insured owner or its agent shall maintain such coverage continuously throughout the term of the permit, and without lapse, for a period of three years beyond the expiration or termination of the permit, to the effect that should occurrences during the term of the permit give rise to claims made after expiration or termination of the permit, such claims shall be covered by such claims-made policies.
- (e) Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general

annual aggregate limit, such general aggregate limit shall be double the occurrence or claims limits specified above in Subsection (i) and (ii).

- (f) Certificates of insurance, in the form satisfactory to the Department, evidencing all coverages above, shall be furnished to or maintained on file with the Department before issuance of a permit, with complete copies of policies furnished promptly upon the Department's request.
- (g) Where an Excavator is self-insured, and such insurance is no less broad and affords no less protection to the City than the requirements specified above, the Department may accept such insurance as satisfying the requirement of Section 12 of this Division.

§62.1215 Street Damage Fee

Each Excavator shall pay to the City a Street Damage Fee to recover the increased repaving and reconstruction cost incurred by the City that are reasonably attributable to the impact of the excavation to the public right-of-way. The amount of the Street Damage Restoration Fee shall be established by the City Council by resolution adopted pursuant to this Division and placed on file in the Office of the City Clerk.

The Street Damage Restoration Fee shall not exceed an amount reasonably necessary to recover the estimated costs, including but not limited to all administration, investigation, inspection, monitoring, reconstruction, slurry seal and resurfacing necessary to fully mitigate the damage and degradation caused by the excavations. The fee shall be the amount in effect on the date of issuance of a

City Excavation Permit, or for Municipal Excavators the amount in effect on the date of commencement of the excavation.

§62.1216 Restoration of the Public Right-of-Way

In any case in which the sidewalk, street, or other public right-of-way is or is caused to be excavated, the Excavator shall restore or cause to be restored such excavation in the manner prescribed by the order, regulations, and standard plans and specifications of the City. All excavations shall be inspected by the City Engineer or their designee.

§62.1217 Repair and Maintenance Obligation of Facility Owner

Facility Owners shall be responsible to maintain, repair or reconstruct the site of any excavation and the surface condition per City Standard Drawings or as specified by the City Engineer for fifteen (15) years after inspection and acceptance by the City.

§62.1218 Excavation Site Requirements

It shall be unlawful to excavate in violation of the following requirements:

- (a) Excavators shall have their Right-of-Way Excavation Permit, or a true or legible copy, and any required Traffic Control Permit available for inspection at the site of excavation.
- (b) Excavators shall not excavate without providing proper notice to the Underground Service Alert.

- (c) Excavations shall not exceed the scope of excavation described within the Permit to Excavate without the prior written approval of the City Engineer.

Section 6. That a full reading of this ordinance is dispensed with prior to its passage, a written or printed copy having been available to the City Council and the public a day prior to its passage.

Section 7. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: JAN I. GOLDSMITH, City Attorney

By _____
 Ryan P. Kohut
 Deputy City Attorney

RPK:cfq
 1/31/2012
 Or.Dept:ECP/
 O-2012-xxx
 Document Number: 313157

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of

ELIZABETH S. MALAND
 City Clerk

By _____
 Deputy City Clerk

Approved: _____
 (date)

 JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

DRAFT

EXISTING TRENCH CUT FEE (1999)
COST PER SQUARE FOOT

STREET CLASS	UTILITY TYPE	Age Group (Years)					
		<=5	>5 & <=10	>10 & <=15	>15 & <=20	>20 & <=25	>25
ARTERIAL	Wet	1.51	1.08	0.65	0.22	0.00	0.00
	Dry	1.05	0.75	0.45	0.15	0.00	0.00
MAJOR	Wet	1.04	0.74	0.40	0.15	0.00	0.00
	Dry	0.52	0.37	0.22	0.07	0.00	0.00
COLLECTOR	Wet	2.12	1.65	1.18	0.71	0.24	0.00
	Dry	0.59	0.46	0.33	0.20	0.07	0.00
RESIDENTIAL	Wet	0.90	0.70	0.50	0.30	0.10	0.00
	Dry	0.72	0.56	0.40	0.24	0.08	0.00

PROPOSED STREET DAMAGE FEE (2012)*
COST PER SQUARE FOOT

STREET CLASS	UTILITY TYPE	Age Group (Years)					
		<=5	>5 & <=10	>10 & <=15	>15 & <=20	>20 & <=25	>25
ARTERIAL	Wet	4.09	2.93	1.76	0.60	0.00	0.00
	Dry	2.85	2.03	1.22	0.41	0.00	0.00
MAJOR	Wet	2.82	2.01	1.08	0.41	0.00	0.00
	Dry	1.41	1.00	0.60	0.19	0.00	0.00
COLLECTOR	Wet	5.75	4.47	3.20	1.92	0.65	0.00
	Dry	1.60	1.25	0.89	0.54	0.19	0.00
RESIDENTIAL	Wet	2.44	1.90	1.36	0.81	0.27	0.00
	Dry	1.95	1.52	1.08	0.65	0.22	0.00

*Includes 10% Administration & Engineering