

## Sample Dig Once Policy – Draft 1.1

### Recitals

Whereas, the 21st-Century economy is dependent upon affordable, high-speed internet access that encourages competition and enables the entire community to access the internet and compete in the world-market with gigabit fiber infrastructure; and

Whereas, access to modern telecommunications infrastructure is vital for communication, education and economic development; and

Whereas, [Agency] is pursuing potential broadband infrastructure opportunities that advance the economic and community benefits of a robust broadband infrastructure for the community; and

Whereas it is in the interest of [Agency] to streamline and simplify the process of installing and upgrading telecommunications equipment and to encourage improvement and modernization of telecommunications infrastructure; and

Whereas, a dig-once policy is the first pivotal step to help streamline broadband infrastructure improvements when any entity is proposing to open streets and rights-of-way for utility construction, cost efficiencies can be realized because multiple entities can join in the single dig, reducing costs as well as reducing disruption to the road surface; and

Whereas, [Agency] desires to comply with all mandates regarding public utilities as imposed upon it by state and federal law; and

Whereas, it is determined that there is a need for wireless telecommunication facilities in [Agency], and [Agency] chooses to use its police power and land use planning authority to regulate such facilities; and

Whereas, [Agency] has an interest in preserving its streets and roadways for their intended purpose, while minimizing interruptions to the flow of traffic; and

Whereas, [Agency] currently regulates the installation of wireless telecommunication facilities proposed above ground to be placed in the public right of way; and

Whereas, the proposed requirements for excavation of permits and entitlements relative to such projects respond to recent changes in laws concerning regulation of wireless telecommunication facilities and provide mechanisms for [Agency] to maintain an aesthetically pleasing community environment, protect the safety and welfare of residents, minimize degradation of the residential and scenic characters of neighborhoods, streets, and roadways, and require the best available design to eliminate visual impacts while ensure that adequate public services and facilities are constructed to accommodate the needs of residents; and

Whereas, pursuant to the California Environmental Quality Act (“CEQA”), the proposed requirements for wireless telecommunication facilities in the public right of way are exempt per section 15061(b)(3), as there is no potential to cause a significant effect on the environment, and

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Now, therefore be it resolved by [Agency] that the following policy requirements for all underground communications infrastructure within the public right of way are adopted with the purpose of preserving the health, safety, and welfare of residents and public property, as follows:

### 1. Purpose

- 1.1. The purpose of this Resolution shall be to encourage the growth of underground communications infrastructure facilities while preserving the integrity of [Agency] streets.
- 1.2. [Agency] has an obligation to comply with all applicable state and federal authority pertaining to utilities and telecommunications, and intends for this resolution to be interpreted so as to comply with all such authority.
- 1.3. [Agency] has an interest in promoting increased connectivity and emerging technology to its residents and businesses, as well as to businesses seeking growth opportunities within it.

### 2. Definitions

For purposes of this policy, the following definitions shall apply:

“Telecommunications” refers to data, voice, video or to other information transported by wire, fiber optic cable or other electronic, optical or radio technology.

“Telecommunications facility” means any cable, line, fiber, wire, conduit, innerduct, access manhole, handhole, tower, hut, pedestal, pole, box, transmitting equipment, receiving equipment, power equipment or other equipment, system or device that is used to transmit, receive, produce or distribute a signal for telecommunications purposes via wireless, wireline, electronic or optical means.

"Facility", "Facilities" and "Infrastructure" 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, pipes, or other equipment for use in transmitting or processing telecommunications or public utility services or for providing support or connection to such equipment 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.

“Public right-of-way” or “right of way” refer to the area across, along, beneath, in, on, over, under, upon and within the dedicated public alleys, boulevards, courts, lanes, roads, sidewalks, spaces, streets, and ways within [Agency], as they now exist or hereafter will exist, and which are or will be under its permitting jurisdiction.

“Service Provider” refers to any person, company, corporation or political subdivision that has statutory authority to provide telecommunications services, including [Agency], or other entity whose facility or facilities in the public right-of-way are used to provide electricity, gas, information services, sewer,

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drains, telecommunications, traffic controls, transit service, video, water, or other services to [Agency] or to service providers' customers, regardless of whether such service provider is deemed a public utility by the California Public Utilities Commission.

“Excavation” refers to any work in the surface or subsurface of the public right-of-way, including, but not limited to drilling, digging or boring into, or otherwise opening, the right-of-way, for the purpose of installing, servicing, repairing or modifying any facility(ies) in or under the surface or subsurface of the right-of-way, and restoring the surface and subsurface of the right-of-way.

“Conduit” refers to a tube, duct or other device or structure designed for enclosing telecommunications or electrical wires, fibers, or cables.

“Reconstruction” refers to any project which repairs or replaces fifty percent or more of an existing road, street block, highway or rail line.

“Public Utility” refers to electricity, gas, water, sewer, storm drain, information, video, traffic control or transit service delivered to customers of service providers, to [Agency], residents or businesses by a service provider whether or not such service provider is deemed a public utility by the California Public Utilities Commission.

"Incremental cost" shall mean the direct cost associated with adding communications infrastructure to an excavation project, including the cost of the materials needed and any additional labor costs attributable solely to such work, and shall not include allocations of costs that would otherwise be incurred or indirect costs.

### **3. Shadow Conduit in Public Works Projects**

- 3.1. Wherever practical and feasible, [Agency] will install or have installed communications conduit or other device designed for enclosing telecommunications wires, fibers, or cables whenever [Agency] undertakes or authorizes the following types of projects:
  - 3.1.1. New street, road, sidewalk, bike path, trail or other transportation infrastructure construction or reconstruction.
  - 3.1.2. Maintenance, repaving or other significant work on the above infrastructure.
  - 3.1.3. Excavations for the purpose of installing utilities, including but not limited to communications, electrical, gas, water, waste water, storm drainage.
  - 3.1.4. Other excavations, or work on public property on in the public right of way that provide a similar opportunity to install conduit for future use at a low additional cost.
- 3.2. When determining if a particular specification is feasible or practicable, the Director of Public Works or or his/her designee will take into account the added cost, the length of the conduit installed (and therefore its potential future value), the impact on the overall project, and other relevant factors.

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- 3.3. Because communications facilities are needed to monitor, manage, and provide security for public works specifically, and to support public safety and economic development in general, the cost of purchasing, installing, and documenting the conduit may be included in the cost of the overall project. However, other sources of funds may also be used if available.

### **4. Shadow Conduit in Right of Way Excavations**

All construction, reconstruction, repaving or other excavations in [Agency] right of way shall include a provision for the installation of a public utility infrastructure, such as conduit, tube, duct, or other device designed for enclosing telecommunications wires, fibers, or cables, wherever practical and feasible. [Agency] may require that such infrastructure be installed on its own behalf, on an incremental cost basis. All such infrastructure shall be installed in accordance with [Agency] regulations, requirements and specifications, as directed by the Director of Public Works or his/her designee.

### **5. Open Trench Notification**

To the extent feasible, the Director of Public Works or his/her designee shall notify (or require an applicant for such work to notify) all known telecommunications service providers and other interested parties of an impending excavation and afford all such third parties the opportunity to utilize the excavation to install, upgrade, co-locate, repair or improve telecommunications facilities during such an excavation project. Any such notice shall be provided at least 30 days prior to the commencement of construction. All third parties utilizing the same excavation shall be responsible for their proportionate share of the excavation costs, including but not limited to the costs of permitting.

### **6. Excavation Moratorium**

Excavations subject to Shadow Conduit and/or Open Trench Notification requirements shall not take place more than once on a particular [Agency] street within a 5-year period.

### **7. Conduit Capacity**

In order to most efficiently and quickly achieve telecommunication infrastructure build-out throughout [Agency], the [Agency] shall encourage and, when feasible, incentivize telecommunication service providers to size their conduits so as to accommodate multiple cables and/or fibers and to lease said excess conduit capacity to other telecommunication service providers at a reasonable lease price.

### **8. GIS Logging**

Applicants for excavation or encroachment or other permits for broadband, communications and utility infrastructure shall provide drawings of the routes and facilities in question in an ArcGIS-compatible electronic format. Staff processing such applications shall catalogue electronically submitted information into [Agency's] geographic information system (GIS) and provide access to this data to regional organizations.

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### 9. Exemptions

- 9.1. The Director of Public Works or his/her designee may exempt projects from the requirements of this policy where compliance is found to be not practical or feasible. Requests for an exemption shall be made in writing and the decision of the Director or the Director's designee shall be final. An exemption application shall include all information necessary for the Director or the Director's designee to make a decision including, but not limited to, documentation showing factual support for the requested exemption. The Director or Director's designee may approve the exemption application in whole or in part and with or without conditions.
- 9.2. This policy shall not apply to emergency construction projects. The Director of Public Works shall determine whether a given construction project is undertaken on an emergency basis for purposes of this policy.