

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



ITEM
3.40
(ID # 2869)

MEETING DATE:

Tuesday, June 20, 2017

FROM : TLMA-TRANSPORTATION:

SUBJECT: TRANSPORTATION AND LAND MANAGEMENT AGENCY/ TRANSPORTATION:
Introduction of Ordinance No. 499.14, Amending Riverside County Ordinance No. 499, Relating to Encroachments in the County of Riverside Highways. (Clerk to Publish Summary) All Districts; [\$0]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Introduce and Waive Further Reading of Ordinance No. 499.14, an Ordinance of the County of Riverside (County) amending Ordinance No. 499, Relating to encroachments in County Highways; and
2. Direct the Clerk of the Board to publish the summary of the proposed Ordinance No. 499.14 and post the full text of the proposed Ordinance No. 499.14 either at the Clerk of the Board office or on the County website at least five (5) days prior to the Board of Supervisors' meeting at which Ordinance No. 499.14 is to be adopted pursuant to Government Code Section 25124.

ACTION: Policy

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Jeffries, seconded by Supervisor Tavaglione and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended and that the above Ordinance is approved as introduced with a waiver of reading.

Ayes: Jeffries, Tavaglione, Washington, Perez and Ashley
Nays: None
Absent: None
Date: June 20, 2017
xc: TLMA-Transp., COB

Kecia Harper-Ihem
Clerk of the Board

By: 
Deputy

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FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 0	\$ 0	\$ 0	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: N/A			Budget Adjustment: N/A	
			For Fiscal Year: N/A	

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

Ordinance No. 499 ("Encroachment Permit Ordinance") is the County ordinance regulating encroachments in County road rights-of-way, also referenced as "County Highways". The Encroachment Permit Ordinance applies to work done within the County rights-of way by utility companies authorized under a valid franchise agreement, special districts, public agencies, and private parties.

The current version of the Encroachment Permit Ordinance, Ordinance No. 499.13, was adopted by the Board of Supervisors ("Board") on May 8, 2012 (Agenda Item 3-22), and primarily addressed adjustments to the fee schedule related to projects involving Solar Power Plants. On February 24, 2009, (Agenda Item 9.7) the Board adopted a revised fee schedule and provide the fee structure related to the encroachment type. The purpose of this amendment is to update and clarify the ordinance language to better address the process for utility companies to perform work with the County's rights-of-way under valid agreements and encroachment permits as well as to better plan, design, construct and protect public works projects. In addition, formatting and editing changes are desired to modernize the ordinance to make it consistent with current ordinance practice.

The proposed changes to Ordinance No. 499 were submitted, formally and informally, to all known utility owners in Riverside County and stakeholders, and meetings have been held with some of the major Utility owners over the past three years. Regular coordination meetings between the County and utility companies will be implemented to strengthen communication and partnerships. Outreach on the proposed changes to the utility owners included:

- Early communications and meetings with Edison, the Gas Company, AT&T (California), and Verizon Communications through the Inland Empire Inter-Utility Coordinating Council (IUCC).
- Formal submission of the draft ordinance changes to all known utility owners operating in Riverside County.
- Review and consideration of all submissions/responses, and revisions of the Ordinance at the request of the utility owners.

Summary of major proposed changes in the Amendment to Ordinance No. 499 are as follows:

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- **Precise Location of Utilities (Potholing):** The County has the right, under case law, to order the precise location of utilities for design purposes and to avoid conflicting utilities if at all possible. The current language to Ordinance No. 499 can be misleading and the proposed language will clarify the County's right to order precise location of utilities.
- **Time Frames for submittals to County:** The proposed language will require utility owners to provide as-built plans, relocation plans, potholing results, and other information within a specified time frame in order to not delay County's public works projects.
- **Utility Services:** The proposed language will clarify that utility service facilities (i.e. water, sewer, gas, electric and telecommunication to residences and businesses) within the County rights-of-way, are the responsibility of the utility owner.
- **Multiple stage relocations:** The proposed language will clarify that the utility owner is responsible for the cost of the relocation of utility facilities, even if multiple-stage relocation is either necessary or chosen by the utility owner provided that the utility owner does not have prior rights.
- **Identification of Underground facilities:** The proposed language will require the utility owners to install new underground facilities in a manner that allows those facilities to be traced.
- **Moratorium on the installation of utilities:** The proposed language will reinforce the practice of the County of Riverside Transportation Department (Transportation Department) to not allow new utility installations within three (3) years of the construction of major road improvements. Emergency repairs and new services will still be allowed, but prohibits new main-line installations on newly constructed roadways of significant scope, so as to preserve the major investment of the County.
- **Relocations for public safety:** The proposed language affirms the right of the County to order the relocation of utility facilities for the purpose of public safety. This mainly applies to above ground objects like a power pole or a fire hydrant that is in close proximity to the edge of travel way.
- **Cost incurred to County due to the presence of permitted utilities:** The proposed language affirms the responsibility of the utility owner for all costs associated with the presence of the utility facility within County rights-of-way. The County should not incur costs for protection of a utility facility installed in County Rights-of-Way under an encroachment permit.

On January 24, 2017 by Agenda Item 3.7, the Board of Supervisors (Board) adopted an order to initiate an Amendment to Ordinance No. 499 to add the language as described above and to provide other administrative revisions for consistency, clarification and direction. It is anticipated that the adoption of Ordinance No. 499.14, amending Riverside County Ordinance No. 499, will occur on the first successive week a Board meeting is held after introduction by this Board of the same.

This Amendment to Ordinance No. 499, Ordinance No. 499.14, has been approved as to form by County Counsel.

Impact on Residents and Businesses


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The County expends a significant amount of time and public funds to construct and maintain road, bridge, drainage and signal improvements throughout the County. The proposed changes will update and clarify the ordinance language; and put in place guidelines for those that install encroachments within County road rights-of-way. The proposed changes will help avoid contract delays and additional costs as well as minimize the detrimental impacts to new roads by untimely utility installations.

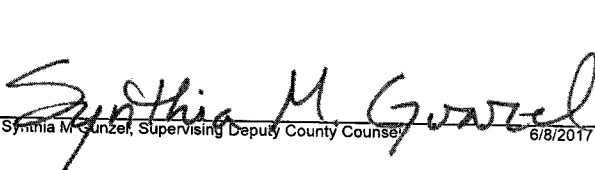
ATTACHMENTS:


Ordinance No. 499.14


Summary of Ordinance No. 499.14


Patricia Romo, Director of Transportation 12/27/2016


Juan C. Reyes, Director of Transportation & Land Management 5/31/2017


Cynthia M. Guenzel, Supervising Deputy County Counsel 6/8/2017


Tina Grande, Principal Management Analyst 6/12/2017


Gregory V. Priarios, Director County Counsel 6/8/2017

SUMMARY OF ORDINANCE NO. 499.14
AN ORDINANCE OF THE COUNTY OF RIVERSIDE AMENDING ORDINANCE NO. 499
RELATING TO ENCROACHMENTS IN COUNTY HIGHWAYS

This summary is presented pursuant to California Government Code Section 25124(b): a certified copy of the full text of Ordinance No. 499.14 may be examined at the Office of the Clerk of the Board of Supervisors of the County of Riverside, located at 4080 Lemon Street, 1st Floor, Riverside, California.

Ordinance No. 499.14 amends Ordinance No. 499 in its entirety to update and clarify the ordinance language to better address the process for utility companies to perform work with the County's rights-of-way under valid agreements and encroachment permits as well as to better plan, design, construct and protect public works projects. In addition, formatting changes and editing are desired that would modernize the ordinance to make it consistent with current ordinance practice. The major proposed changes to the ordinance include clarification to the following topics: precise location of utilities (potholing); time frames for submittal to County of Riverside; utility services; multiple stage relocations; identification of underground facilities; moratorium on the installations of utilities; relocations for public safety; and cost incurred to county due to the presence of permitted utilities.

The purpose of the ordinance is to establish policies, procedures and standards for regulating encroachments in County Highways. The County of Riverside expends a significant amount of time and public funds to construct and maintain road, bridge, drainage and signal improvements throughout the County. The proposed changes will update, clarify the ordinance language; and put in place guidelines for those that install encroachments within County road rights-of-way. The proposed changes will help avoid contract delays and additional costs as well as minimize the detrimental impacts to new roads by untimely utility installations. Ordinance No. 499.14 would take effect 30 days after its adoption.

1 ORDINANCE NO. 499.14

2
3 AN ORDINANCE OF THE COUNTY OF RIVERSIDE
4 AMENDING ORDINANCE NO. 499 RELATING TO
5 ENCROACHMENTS IN COUNTY HIGHWAYS

6
7 The Board of Supervisors of the County of Riverside, State of California, ordains as
8 follows:

9 Section 1. This ordinance amends and replaces Ordinance No. 499.11 and any prior
10 version of Ordinance No, 499 in their entirety with the following:

11 Section 1. AUTHORITY. Subject to the control of the Board of
12 Supervisors, there is hereby delegated to the County Director of Transportation and Land
13 Management Agency (TLMA) the administration of the use of County Highways,
14 including County Roads and Public Right of Ways, for: excavations and encroachments;
15 construction, operation, and maintenance of utility facilities; planting, maintenance, and
16 removal of trees; and the issuance, modification, and revocation of Permits for such uses.
17 This Ordinance is adopted pursuant to the Streets and Highways Code of the State of
18 California. In the event of conflict between the provisions of this Ordinance and State or
19 Federal law, and except for discretion provided to the County of Riverside (County) as
20 the issuing authority of Encroachment Permits (Permits) within its jurisdiction, the
21 provisions of State or Federal Law shall supersede this Ordinance, including, but not
22 limited to, statutory franchise rights or prior rights of a Utility Owner which were
23 established by law or title prior to any ownership or rights of the County.

24 Section 2. DEFINITIONS. The following definitions apply to this
25 Ordinance:

- 26 a. Contractor. Any person, firm, company, corporation, developer,
27 association, public agency, public utility, or organization
28 performing construction of an Encroachment pursuant to a Permit.

1 All obligations, responsibilities, and other requirements of the
2 Permit, shall be binding on the Contractor as the agent of the
3 original Permittee unless otherwise specified in the Permit.

4 b. County Highway. All or any part of the entire width of the right of
5 way of all County roads or Public Right of Ways accepted for
6 public use and accepted into the County Maintained Road System.

7 c. Days. Calendar days.

8 d. Director of Transportation. The appointed manager of the County
9 of Riverside Transportation Department, County Director of
10 Transportation and Land Management Agency (TLMA) or
11 authorized designee. The Director of Transportation is responsible
12 for duties of the Road Commissioner under the Streets and
13 Highways Code.

14 e. Encroachment. Any tower, pole, pole line, pipe, pipeline,
15 driveway, private road, fence, sign, billboard, stand, building, or
16 any other structure or object of any kind or character, which is
17 placed in, under or over any portion of the right of way areas under
18 the authority of this Ordinance.

19 f. Encroachment Permit Engineer. The manager designated by the
20 Director of Transportation to issue and enforce Encroachment
21 Permits.

22 g. Excavation. The movement or removal of earth, rock, pavement or
23 other material in, on or under the ground. The term includes but is
24 not limited to auguring, backfilling, digging, ditching, drilling,
25 grading, plowing-in, ripping, scraping, trenching and tunneling.

26 h. Permittee. Any person, firm, company, corporation, association,
27 public agency, public utility, or organization and the Permittee's
28 successors-in-interest which has been issued a Permit by the

1 County for an Encroachment. All obligations, responsibilities, and
2 other requirements imposed upon the Permittee pursuant to this
3 Ordinance, shall be binding on successors in interest of the original
4 Permittee and subsequent owners of the property benefitted by the
5 Encroachment Permit.

6 i. Public Right of Way or Right of Way. All or any part of the entire
7 width of the right of way of all roads accepted for public use,
8 whether or not such entire area has been accepted into the County
9 Maintained Road System.

10 j. Utility. Any and all water, sewer, irrigation, gas, petroleum, cable
11 TV, electric, communications, and similar facilities that are owned
12 by a Utility Owner.

13 k. Utility Owner. The Permittee or the successor in interest, which is
14 the owner, operator or custodian of Utility facilities governed by
15 this Ordinance. This shall include but not be limited to public
16 utility companies, private utility companies, private persons, public
17 agencies, districts, mutual utility companies, political subdivisions
18 and other forms of companies, organizations or agencies.

19 Section 3. ENCROACHMENTS AND EXCAVATIONS. No person,
20 firm, corporation, public utility company, public agency or district, or political
21 subdivision, shall make any excavation or backfill in, or construct, install, operate or
22 maintain any improvement, structure, or encroachment in, on, over, or under, any County
23 Highway or its right of way without: first obtaining from the Director of Transportation a
24 Permit; and maintaining continuous compliance with the terms and conditions of the
25 Permit. A Permit shall be issued by the Director of Transportation only upon written
26 application and payment of the required fees. A Permit shall be issued only if the
27 applicant is: a public utility company holding a current franchise from the County or a
28 public agency or district, or political subdivision having lawful authority to use the

1 County Highway right of way for purposes specified; the owner of an easement for such
2 purpose within the County Highway right of way; or if the Director of Transportation is
3 satisfied that the use proposed is in the public interest and there will be no substantial
4 injury to the highway or impairment of its use, and that the use is reasonably necessary
5 for the performance of the functions of the applicant.

6 Section 4. PERMIT REQUIREMENTS AND CONDITIONS. Every
7 Permit shall be revocable and the terms, uses and installations thereunder shall be
8 subordinate to the prior right of the County to use the right of way. Every Permit shall be
9 strictly conditional upon the right of the County to require the Permittee to promptly
10 relocate or remove the improvement, structure or encroachment, at the Permittee's
11 expense, to avoid a crossing conflict, or underground interference for any proper public
12 purpose, where in the opinion of the Director of Transportation such action is reasonably
13 necessary for the benefit of any public utility company, public agency or district, political
14 subdivision, or any other person or agency having a right to use the County Highway for
15 the purpose proposed. The acceptance of a Permit shall not be deemed a waiver by the
16 Permittee of any contractual or statutory right against any non-County party for
17 reimbursement of the expense of such removal or relocation. Every Permit shall be
18 subject to such conditions as the Director of Transportation determines are necessary to
19 assure the safety of the traveling public and the restoration of the road, including but not
20 limited to pavement surfaces, ground surfaces, and subsurfaces within County Highway
21 rights of way.

22 The Director of Transportation may require such surety bond or deposit of
23 money as in his/her judgment may be necessary to secure performance of the conditions
24 of the Permit and the replacement or restoration of the road, including but not limited to
25 pavement surfaces, ground surfaces, and subsurfaces within County Highway rights of
26 way, and any survey monuments or other improvements that may have been disturbed.
27 The Director of Transportation may, where convenient to road work he/she has
28 programmed, or for other reasons of County convenience, arrange to do the work of

1 replacement of pavement or other restoration of the roadway and appurtenances at the
2 expense of the Permittee. Permittee shall perform all work to current County standards in
3 accordance with County Ordinance 461 or as specified in the Permit. Permittee shall
4 backfill excavations in accordance with County Ordinance 461 or as specified in the
5 Permit. If required by the Director of Transportation, Permittee shall restore the County
6 Highway or public right of way to its condition prior to any work or excavation. If a
7 Permittee fails to backfill any excavation or to restore the County Highway or public
8 right of way to a safe condition or to its condition prior to the permitted work, the
9 Director of Transportation shall have the right to perform the work required of the
10 Permittee, and then assess and collect the cost of the work from the Permittee. The
11 Director of Transportation may immediately remove and dispose of, or by notice may
12 require the removal of, any un-permitted advertisement sign or other un-permitted
13 appurtenance from a County Highway in accordance with the Streets and Highways
14 Code.

15 Section 5. MORATORIUM DECLARATION. The Director
16 of Transportation is authorized to declare and enforce a moratorium on the issuance of
17 Permits on County Highways to public and private Utility Owners within the limits of
18 construction of major reconstruction, resurfacing and road construction projects under the
19 following circumstances:

- 20 a. A County public works project is significant in scope, as
21 determined by the Director of Transportation; and
- 22 b. The Utility Owner was given written notice by the Director of
23 Transportation that a moratorium on the issuance of Permits will
24 commence upon the completion of construction of the County's
25 public works project.

26 A moratorium on issuance of Permits for utility purposes may be
27 established for a period of up to three years after issuance of the completion notice of the
28 County's public works project, but may be waived under the following scenarios:

1 a. Emergency repairs of existing utility facilities shall be considered
2 exempt from the moratorium, but shall be subject to additional and
3 enhanced road repair requirements as determined by the Director
4 of Transportation. Such repairs shall provide for aesthetic and
5 structural qualities at least equal to the pre-existing condition, and
6 the Utility Owner may be required to include additional pavement
7 improvements as directed by the Director of Transportation.

8 b. The Director of Transportation may allow the installation of new
9 utility facilities, services, emergency work, and other work, upon
10 receipt and evaluation of a request with justification from the
11 Utility Owner. The Director of Transportation may issue a Permit
12 for those new facilities if the Utility Owner mitigates the damage
13 to the County Highway by properly and completely repaving the
14 roadway, or otherwise repairs the County Highway to the same
15 condition as before the utility work was performed, both
16 aesthetically and structurally. Such paving shall be in accordance
17 with the trench backfill and pavement resurfacing requirements
18 approved by the Director of Transportation specifically for that
19 roadway.

20 The Director of Transportation shall require such roadway repair methods
21 on a County Highway subject to a moratorium as are deemed necessary to fully restore
22 the County Highway to the aesthetic and structural condition prior to the utility's
23 construction.

24 Section 6. UTILITY CONSTRUCTION AND MAINTENANCE
25 RESPONSIBILITY. Each Utility Owner shall maintain its improvements, structures,
26 substructures, and other facilities within County Highway rights of way to then-current
27 Utility standards and to then-current applicable standards, whether or not the Permit for
28 the construction or installation was issued to the current owner of the encroachment.

1 When it is determined to be in the best interest of the public and the County, the Director
2 of Transportation may allow a Contractor to obtain a Permit for the construction or
3 installation of facilities for subsequent ownership by a Utility Owner, public agency,
4 district, or political subdivision. In such a case, the Utility Owner shall obtain a Permit
5 for the operation and maintenance of said utility facilities prior to the issuance of the
6 construction or installation Permit. Upon satisfactory construction or installation of the
7 utility facilities including trench backfill and overlying road surfaces, the Utility Owner,
8 not the Contractor, shall operate and maintain said facilities in compliance with all
9 applicable requirements of the Permit. Permits for main or trunk Utility facilities, shall
10 also apply to all lateral and service utility facilities installed within County Highways,
11 and all requirements of this Ordinance shall apply to such lateral and service utility
12 facilities, including utility meters within public rights of way.

13 New underground installations shall be installed in a manner that will
14 provide detection of the installation for the purposes of locating the facility. Tracer wires
15 shall be installed as part of non-metallic conduits and pipes, with the exception of gravity
16 sanitary sewer mains and laterals. Other means may be employed by the Utility Owner to
17 facilitate future detection and location by the Utility Owner or the County. In the event
18 of a conflict between this requirement and the rules of the California Public Utility
19 Commission (CPUC), the rules of the CPUC shall govern.

20 Section 7. REQUIRED RECORDS AND LOCATION
21 INFORMATION. The Utility Owner is responsible for keeping record drawings and/or
22 "as-built" drawings (Drawings) on the installation of the Utility that includes the
23 horizontal and vertical location of the permitted encroachments. For the purpose of the
24 design and/or construction of public works projects within a County Highway, the Utility
25 Owner shall, upon written request by the County, promptly identify and provide the
26 vertical and horizontal location of its existing Utility facilities, based on the Drawings,
27 and promptly provide the County with a set of the Drawings which provides this
28 information. The Drawings shall be submitted to the County within 30 days of the date

1 of the request. Alternatively, within 30 days of the date of the request, the Utility Owner
2 may provide the County with written notice which provides the County with a timeframe
3 in which the Utility Owner will provide the information, not exceeding 90 days from the
4 original request.

5 If precise location information cannot be provided from Utility Owner or
6 other reasonably available records, and if it is determined by the County that there may
7 be conflicts with existing Utility facilities, the Utility Owner shall provide precise
8 location information (vertical and horizontal location) by excavating and exposing its
9 existing Utility facilities. County will provide survey support. The Utility Owner shall
10 be responsible for coordination of the field collection of the information with County, and
11 shall provide at least five business days advance notice to the County Surveyor with
12 written confirmation from the County's survey representative. This work, commonly
13 known as "potholing" and "positive location identification" (identify the vertical and
14 horizontal location), shall be performed and the location information provided to the
15 County within 60 days of issuance of an order by the County's representative. In the
16 event of failure to pothole as ordered by the County, the County may immediately
17 proceed to perform the work itself and shall be reimbursed by the Utility Owner for all
18 costs incurred within 60 days of the work.

19 The Utility Owner shall promptly respond to all requests for right-of-way,
20 survey, or design information, and all other relocation related services and assistance,
21 within a timeframe that will not impact the County's project schedule. County will
22 provide documents and assistance to the Utility Owner as available, and the County
23 reserves the right to require the Utility Owner to pay for County services, documents and
24 information that are the responsibility of the Utility Owner. The Utility Owner shall
25 reimburse the County for delay or other costs incurred as a result of delays in
26 encroachment relocation caused by Utility Owner's failure to timely request services,
27 documents or other information from the County, or fulfill its obligations under this
28 Ordinance. The Utility Owner will not be required to pothole its facility a second time if

1 County was responsible for failure to accurately survey the facility installation, provided
2 that County was provided with adequate notification and the required information from
3 the Utility Owner. The County shall utilize information about existing Utility facilities to
4 attempt to avoid or limit design and construction conflicts, in an effort to keep both
5 construction and relocation costs to a minimum.

6 Section 8. MANDATORY RELOCATION. The Utility Owner shall,
7 upon receipt of a written request from the County, remove or relocate its facilities that are
8 in conflict with a public works project on County Highways, and cause the facilities to be
9 removed or relocated in a prompt and diligent manner so as to avoid any unnecessary
10 delays or costs to the public works project. A Utility Owner which owns poles and
11 conduit systems that provide the use of those facilities to other persons or utility owners
12 shall provide notices to such other utility owners within two days of receipt of the
13 County's notice; and a subsequent notice within two days of completion of relocation
14 work by the Utility Owner. Utility Owner shall be responsible to facilitate complete
15 removal and relocation of conflicting facilities, including attachments by other persons or
16 utility owners, so the project will not be delayed. In the event a Utility Owner chooses,
17 regardless of the reason, to implement a Utility removal or relocation in multiple stages,
18 including relocation to a temporary location and/or alignment and then later to another
19 final location and or alignment, the full cost for all aspects of the multiple stage
20 relocation shall be the sole responsibility of the Utility Owner. For the purpose of this
21 Ordinance, a multiple stage relocation shall be treated the same as any other removal or
22 relocation.

23 The Utility Owner shall reimburse the County, upon receipt of billing, for
24 any delays or costs attributable to the failure of the Utility Owner to remove or relocate
25 conflicting Utility facilities in a timely manner. Upon written request from County and
26 no later than 30 days from the date of the request, the County and Utility Owner decision-
27 making representatives shall meet at a convenient site to "meet and confer" to discuss and
28 address planned, pending or active projects governed by this Ordinance.

1 Section 9. PUBLIC SAFETY RELOCATIONS AND GENERAL
2 RESPONSIBILITY. Permittee shall immediately remove or relocate, at its sole expense,
3 any and all encroachments which are ordered by the Director of Transportation for the
4 purpose of public, pedestrian or traffic safety. The Permittee shall promptly reimburse
5 the County, upon receipt of billing, for any delays or costs attributable to the failure of
6 the Permittee to remove or relocate such encroachments in a timely manner.

7 The Permittee for any encroachment situated within a County Highway
8 shall be responsible for all costs and liability resulting from any damage to public and
9 private property or personal injury caused by the construction, installation, operation,
10 maintenance or failure of its encroachments. The Permittee shall promptly reimburse the
11 County, upon receipt of billing, for all delays or costs incurred by the County in the
12 protection of life or property where required due to failure of its encroachment, or due to
13 any unsafe construction, installation, operation, or maintenance of the encroachment.

14 In the event the County incurs any costs as a result of the presence of the
15 Permittee's encroachment, and which cost would not normally be incurred by the County
16 in the absence of the encroachment, the Permittee shall be fully responsible to promptly
17 reimburse the County for all such costs upon receipt of billing. Reimbursable costs may
18 include, but are not limited to, additional County staff time, legal fees and fines assessed
19 by other governmental agencies. This paragraph shall apply to all matters governed by
20 this Ordinance.

21 Section 10. EXCEPTIONS. The following are exceptions to the Permit
22 requirements of this Ordinance:

- 23 a. Emergency: An excavation or encroachment may be made without
24 first obtaining a Permit for repair or replacement of a facility
25 previously installed only when necessary for the immediate
26 protection or preservation of life or property; provided that a
27 Permit shall be obtained on the first business day thereafter and the
28 excavation or encroachment shall be made in such manner as to

1 give full protection to the County and the users of the County
2 Highway.

3 b. Agricultural Produce: No Permit shall be required for the loading
4 or unloading of agricultural produce or produce containers. All
5 such operations shall, where possible, be conducted off of the
6 paved or traveled part of the County Highway. If any part of the
7 loading or unloading occurs on the paved or traveled part of the
8 County Highway, appropriate visible warnings shall be posted for
9 the protection of traffic approaching from each direction; and if
10 such operation leaves less than one traffic lane available for travel
11 in either direction, a flagman shall be used at the sole risk of the
12 operator. Use of warnings and flagmen shall be in accordance with
13 California Manual on Uniform Traffic Control Devices (MUTCD)
14 or the Work Area Traffic Control Handbook (WATCH).
15 Overnight storage of containers, agricultural products or
16 unlicensed vehicles on the shoulder of any County Highway or
17 within eight feet of the traveled portion of such highway is
18 prohibited. Bulk manure not in containers may be temporarily
19 stored or stockpiled within the right of way of a County Highway
20 only when to be used on the abutting agricultural lands as follows:

- 21 1. On any portion of the right of way obviously not graded,
22 improved or used for vehicle travel, sidewalk or drainage
23 purposes; or
- 24 2. On any unpaved graded shoulder of a paved County
25 Highway, not closer than four feet from the pavement and
26 in such location as will not impede or impair highway
27 drainage; or

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1 3. On the graded shoulder of a County Highway less than four
2 feet from the pavement only if there is no other location
3 available and warning lights and signs are placed and
4 maintained to protect the traveling public during any
5 overnight storage.

6 Section 11. TREE REMOVAL. No person, firm, corporation, public
7 utility company, public agency or district, or political subdivision, shall remove or
8 severely trim any tree planted in the right of way of any County Highway without first
9 obtaining a Permit from the Director of Transportation. The Permit may be issued
10 without fee if the Director of Transportation is satisfied that such removal or trimming is
11 in the public interest, or is necessary for the improvement of the right of way or the
12 construction of improvements on adjacent land. The Director of Transportation may
13 impose such conditions as he/she deems reasonable or necessary, including requirements
14 for the work to be done by a qualified tree surgeon or tree trimmer, and provision for
15 bond, insurance or other security to protect person and property from injury or damage.
16 This shall not apply to any public utility maintaining overhead power or communication
17 lines pursuant to franchise, where necessary to prevent interference of a tree with such
18 installation. A Permit for removal of a tree may be conditioned upon its relocation or
19 replacement by one or more trees of a kind or type to be specified in the Permit.

20 Section 12. APPLICATION. Each application for a Permit under this
21 Ordinance shall be in writing in the name of the person, agency or entity owning the
22 encroachment and controlling the construction of the work; and shall be signed by such
23 person or its agent as authorized in writing. The application shall be submitted on a form
24 supplied by the Director of Transportation and shall contain or be accompanied by such
25 information as he/she may require. Each approved Permit shall be in writing and signed
26 by the Director of Transportation or his/her representative.

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1 Section 13. FEES.

2 Permit Fees: The fees required by this Ordinance may be paid at or after
3 the time application is filed, but in any event before the Permit is issued. Fees are as
4 stated in Appendix A to this Ordinance. Fees are non-refundable after paid.

5 Deposit-Based, Actual-Cost Fees: Project types that require the use of a
6 Deposit-Based fee structure are identified in Appendix A. When it is mutually agreed to
7 by the applicant and the Director of Transportation, any fee required by this Ordinance
8 may be treated and accounted for as a Deposit-Based, Actual-Cost fee in the same
9 manner as is detailed in Ordinance No. 671.

10 Fees collected in excess of the actual cost of providing the specific service
11 shall be refunded. An additional deposit shall be required when the review or inspection
12 costs exceeds the initial estimate. The County may suspend the Permittee's work when
13 the deposit is depleted and will not permit work to resume until an additional deposit has
14 been received.

15 The County will make draws against deposited funds on biweekly
16 intervals based on payroll accounting cycles and at the fully burdened hourly rates for
17 each job classification required to provide a specified service. Hourly rates for services
18 shall be established through the yearly budget process as adopted by the Board of
19 Supervisors.

20 Deposits for applications will be collected upon submittal of the
21 application. Deposits will be monitored and, when 80% depleted, an analysis of the
22 project will be done to determine if the remaining portion of the deposit will cover
23 expected project completion costs. If costs are expected to exceed the remaining deposit,
24 additional deposits will be required to recover the estimated full cost for completion.
25 Additional deposits will be determined based on the estimated cost to complete the
26 specific application work.

27 A full accounting of a Deposit-Based account will be provided at the
28 request of the applicant at any time. A final accounting of the Deposit-Based account

1 will be made within 45 days of the finalization of the Permit and provided to the
2 applicant along with any refund of unused deposits. Remaining deposits will be refunded
3 to the Permittee in accordance with Ordinance 671.

4 When it is mutually agreed to by the applicant and the County, any fee not
5 designated a "Deposit-Based Fee" may be treated and accounted for as a Deposit-Based
6 Fee in the manner described in this Ordinance.

7 Section 14. FEE EXEMPTIONS.

8 Permit Fees: The following shall be exempt from payment of the Permit
9 fee for an excavation or encroachment:

- 10 a. Every public district, public agency or political subdivision having
11 lawful authority to use the County Highway or right of way for the
12 purpose specified in the Permit.
- 13 b. Street improvements under special assessment or improvement
14 district proceedings conducted by the Board of Supervisors.
- 15 c. Public utility and public service facilities installed under contract
16 with and controlled by the County or a County Service Area.
17 Note: If constructed by a private contractor, all Permit and fee
18 requirements as established by this Ordinance are applicable.
- 19 d. Positive Location Identification (potholing) of underground
20 encroachments, if ordered by the County.

21 Inspection Fees: The following shall be exempted from the payment of
22 the inspection fee for an excavation or encroachment:

- 23 a. Street improvements under special assessment or improvement
24 district proceedings conducted by the Board of Supervisors.
- 25 b. Public utility and public service facilities installed under contract
26 with and controlled by the County or a County Service Area.
27 Note: If constructed by a private contractor, all Permit and fee
28 requirements as established by this ordinance are applicable.

1 c. Positive Location Identification (potholing) of underground
2 encroachments, if ordered by the County.

3 d. Subdivision Improvements to be constructed pursuant to
4 Ordinance 461.

5 Section 15. BLANKET PERMITS.

6 The Director of Transportation may issue to an applicant a blanket Permit
7 for a series of excavations or encroachments of the same type or types. This provision
8 shall be broadly applied to reduce administrative costs of both County and Permittee. If
9 the terms or conditions of the blanket Permit are violated, it may be revoked by the
10 Director of Transportation and the Permittee may be required to obtain a separate Permit
11 and pay fees for each excavation or encroachment.

12 Section 16. PENALTIES.

13 Any person who performs any act for which a Permit is required by this
14 Ordinance without first obtaining such Permit, or who, having obtained such a Permit,
15 violates any term or condition thereof and thereby jeopardizes or injures person or
16 property, is guilty of a misdemeanor and shall be punishable by a fine of not more than
17 \$1,000.00, or by imprisonment in the County jail for not more than six months, or by
18 both such fine and imprisonment. Nothing herein shall be deemed to deprive any person
19 of any civil right or remedy he/she may have against a violator of this Ordinance, or to
20 deprive the County of any cause of action which it may have against such violator,
21 regardless of any prosecution or conviction under this section.

22 Section 17. SEVERABILITY.

23 If any provision, clause, sentence, or paragraph of this Ordinance, or the
24 application thereof to any person, entity, or circumstances, shall be held invalid, such
25 invalidity shall not affect the other remaining provisions of this Ordinance which can be
26 given effect without the invalid provision or application; and to this end, the provisions of
27 this Ordinance are hereby declared to be severable.”

28 ///

APPENDIX A

ENCROACHMENT	Permit Fee	Inspection Fee	Unit Inspection Fee	Total Permit Fee
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Minor

Tree planting, trimming or removal / Private Drain	\$ 79.00	\$ 22.00	each		varies
Minor drainage structures (Std 303/309/310)	\$ 79.00	3% cost			varies
Operate and Maintain permits (Utilities)	\$ 79.00	\$ 0.00			\$ 79.00
Seismic refraction survey	\$ 79.00	\$ 210.00			\$ 289.00
Residential Driveway Approach	\$ 79.00	\$ 107.00	each		\$ 186.00
Blanket Permits-utilities					
Case 1 Minor	\$ 79.00	\$ 1,921.00		Annually	\$ 2,000.00
Case 2 Extensive	\$ 79.00	\$ 4,921.00		Annually	\$ 5,000.00
Riders (extensions of time)	\$ 79.00	\$ 0.00			\$ 79.00

Involved

Catch basin 300 (4',7',14',21',28')	\$ 129.00	3% cost			varies
Drop inlet / Overside Drain	\$ 129.00	3% cost			varies
Water / Sewer laterals	\$ 129.00	\$ 210.00	plus	\$ 0.23 lf	varies
Trap fences	\$ 129.00	\$ 210.00	plus	\$ 0.23 lf	varies
Monitoring Wells / Soil Borings	\$ 129.00	\$ 210.00	each		\$ 339.00
Landscape / Irrigation	\$ 129.00	\$ 210.00	plus	\$ 0.23 lf	varies
Commercial Driveway Approach	\$ 129.00	\$ 264.00			\$ 393.00
Grading in Right of Way	\$ 129.00	\$ 210.00	plus	\$ 0.23 lf	varies
Curbs and Gutters	\$ 129.00	\$ 210.00	plus	\$ 0.23 lf	varies
Concrete Sidewalks	\$ 129.00	\$ 210.00	plus	\$ 0.23 lf	varies
Temporary Power Poles	\$ 129.00	\$ 210.00	plus	\$ 0.23 lf	varies
Riders (changes)	\$ 129.00	plus other	appl.	charges	varies
AC Paving	\$ 129.00	\$ 210.00	plus	\$ 0.72 cy	varies
Pedestrian Benches	\$ 129.00	\$ 210.00			\$ 339.00
Utility service connections involving trenching (BH)	\$ 129.00	\$ 210.00	plus	\$ 0.23 lf	varies
Utilize Right of Way	\$ 129.00	\$ 210.00	each		\$ 339.00
Heavy equipment crossings	\$ 129.00	\$ 105.00	per day		varies
Filming	\$ 129.00	\$ 105.00	per day		varies
County required Utility Relocations	\$ 0.00	\$ 0.00			no fee

APPENDIX A

ENCROACHMENT	Permit Fee	Inspection Fee	Unit Inspection Fee	Total Permit Fee
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Extensive

Dry / Wet Utility trenches (less than 1000 feet)	\$ 179.00	\$ 210.00	plus	\$ 0.23 lf	varies
Road Closures	\$ 179.00	\$ 105.00	per day		varies
Street Water, Sewer, Storm drain (IP's Only)	\$ 179.00	\$ 0.00			\$ 179.00
Storm Drains	\$ 179.00	\$ 210.00	plus	\$ 0.23 lf	varies

Deposit Based

Traffic Signal	\$ 129.00	3% cost			varies
Bridges and Drainage Structures	\$ 179.00	3% cost			varies
Permanent Poles / Aerial Cable	\$ 179.00	\$ 210.00	plus	\$ 0.23 lf	varies
Dry / Wet Utility trenches (1000 feet +)	\$ 465.00	\$ 210.00	plus	\$ 0.23 lf	varies
Application for a franchise for a project involving a solar power plant or other use not constituting a public utility use	\$20,000.00				\$20,000.00

Penalties

Work done without benefit of permit (minor)	\$ 500.00		plus	3X fee	varies
Work done without benefit of permit (involved)	\$ 750.00		plus	3X fee	varies
Work done without benefit of permit (extensive)	\$ 1,000.00		plus	2X fee	varies
Illegal cutting pavement (in addition to permit costs)	\$ 1,000.00		plus	0.50 sf	varies
Failure to notify County of work done under blanket permit	\$ 1,000.00			Revoked	\$1,000.00

Miscellaneous

Miscellaneous Plan Review / Field Review	Current DBF hourly labor / equip. usage rates	varies
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I am a citizen of the United States. I am over the age of eighteen years and not a party to or interested in the above entitled matter. I am an authorized representative of THE PRESS-ENTERPRISE, a newspaper in general circulation, printed and published daily in the County of Riverside, and which newspaper has been adjudicated a newspaper of general circulation by the Superior Court of the County of Riverside, State of California, under date of April 25, 1952, Case Number 54446, under date of March 29, 1957, Case Number 65673, under date of August 25, 1995, Case Number 267864, and under date of September 16, 2013, Case Number RIC 1309013; that the notice, of which the annexed is a printed copy, has been published in said newspaper in accordance with the instructions of the person(s) requesting publication, and not in any supplement thereof on the following dates, to wit:

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At: Riverside, California



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NOTICE BEFORE THE BOARD OF SUPERVISORS OF RIVERSIDE COUNTY

NOTICE IS HEREBY GIVEN that the following ordinance will be considered for adoption before the Board of Supervisors of Riverside County, California on its regular meeting on **Tuesday, July 11, 2017 at 9:00 am** or as soon as possible thereafter, to be held at the 1st Floor Board Chambers, County Administrative Center, 4080 Lemon Street, Riverside:

SUMMARY OF ORDINANCE NO. 499.14

AN ORDINANCE OF THE COUNTY OF RIVERSIDE AMENDING ORDINANCE NO. 499 RELATING TO ENCROACHMENTS IN COUNTY HIGHWAYS

This summary is presented pursuant to California Government Code Section 25124(b): a certified copy of the full text of Ordinance No. 499.14 may be examined at the Office of the Clerk of the Board of Supervisors of the County of Riverside, located at 4080 Lemon Street, 1st Floor, Riverside, California.

Ordinance No. 499.14 amends Ordinance No. 499 in its entirety to update and clarify the ordinance language to better address the process for utility companies to perform work with the County's rights-of-way under valid agreements and encroachment permits as well as to better plan, design, construct and protect public works projects. In addition, formatting changes and editing are desired that would modernize the ordinance to make it consistent with current ordinance practice. The major proposed changes to the ordinance include clarification to the following topics: precise location of utilities (potholing); time frames for submittal to County of Riverside; utility services; multiple stage relocations; identification of underground facilities; moratorium on the installations of utilities; relocations for public safety; and cost incurred to county due to the presence of permitted utilities.

The purpose of the ordinance is to establish policies, procedures and standards for regulating encroachments in County Highways. The County of Riverside expends a significant amount of time and public funds to construct and maintain road, bridge, drainage and signal improvements throughout the County. The proposed changes will update, clarify the ordinance language; and put in place guidelines for those that install encroachments within County road rights-of-way. The proposed changes will help avoid contract delays and additional costs as well as minimize the detrimental impacts to new roads by untimely utility installations. Ordinance No. 499.14 would take effect 30 days after its adoption.

Alternative formats available upon request to individuals with disabilities.

Dated: June 28, 2017

KECIA HARPER-IHEM
Clerk of the Board of Supervisors
By: Cecilia Gil, Board Assistant

7/2

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