

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



ITEM: 3.52
(ID # 21765)

MEETING DATE:
Tuesday, May 23, 2023

FROM : TLMA-TRANSPORTATION:

SUBJECT: TRANSPORTATION AND LAND MANAGEMENT AGENCY/TRANSPORTATION:
Adoption of Ordinance 499.16, Amending Riverside County Ordinance No. 499 Relating to Encroachments in the County of Riverside Highways. Not a Project Under CEQA Pursuant to State CEQA Guidelines section 15378 and CEQA Exempt per State CEQA Guidelines section 15061 (b)(3). All Districts. [\$20,000 Total Cost - Gas Tax 100%]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Adopt Ordinance No. 499.16, an Ordinance of the County of Riverside amending Ordinance No. 499 in its entirety relating to Encroachments in the County of Riverside Highways;
2. Direct the Clerk of the Board to publish the summary of the ordinance within 15 days after adoption of the ordinance pursuant to California Government code Section 25124(b); and
3. Direct the Clerk of the Board to file and post the attached Notice of Exemption with the County Clerk within five (5) days after the adoption of Ordinance No. 499.16 and in accordance with the California Environmental Quality Act, Public Resources Code section 21152.

ACTION:Policy


Mark Lancaster, Director of Transportation 5/2/2023

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Spiegel, seconded by Supervisor Washington and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended and Ordinance 499.16 is adopted with waiver of the reading.

Ayes: Jeffries, Spiegel, Washington, Perez, and Gutierrez
Nays: None
Absent: None
Date: May 23, 2023
xc: Trans., Recorder, COBAB/CF

Kimberly A. Rector
Clerk of the Board

By: 
Deputy

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

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 20,000	\$ 0	\$ 20,000	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: Gas Tax 100%. No General Funds will be used on this project.			Budget Adjustment:	N/A
			For Fiscal Year:	22/23

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

Ordinance No. 499 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. 499.15, was adopted by the Board of Supervisors on October 22, 2019 (Agenda Item 19.3).

The proposed amendment updates/modernizes the Ordinance language, adds a moratorium section on work within a newly constructed paved road, provides a section on applicable definitions, and further clarifies intent in various Ordinance sections, including but not limited to, precise location of utilities (potholing) and multi-step relocation. This Ordinance amendment does not include any rate changes to the fee schedule; however, it will be forthcoming in a separate amendment.

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

- Updates and Modernize the Ordinance Language
- Adds a new Moratorium Section
- Provides a Definition
- Clarifies the Intent in Various Sections
- Clarifies Precise Location of Utilities (Potholing) responsibilities

County Council has approved Ordinance No. 499.16 as to form.

Previous Agenda References

May 2, 2023-Initiation of Amendment to Ordinance No. 499 (Agenda Item 3.32)

May 9, 2023-Introduction of Ordinance No.499.16 (Agenda Item 3.35)

CEQA

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

The Board of Supervisors found on May 9, 2023, Agenda Item 3.35, Ordinance No. 499.16 exempt from CEQA pursuant to State CEQA Guidelines section 15061(b)(3). A Notice of Exemption for Ordinance No. 499.16 is attached.

Ordinance No. 499.16 will become effective 30 days from date of adoption.

Impact on Residents and Businesses

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 encroachments within County Road right-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.

Additional Fiscal Information

N/A

Contract History and Price Reasonableness

N/A

ATTACHMENTS:

Ordinance No. 499.16

CEQA Notice of Exemption / journal Voucher



Jason Farin, Principal Management Analyst 5/16/2023



Aaron Gettis, Deputy County Counsel 5/10/2023



Lead Agency: TRANSPORTATION DEPARTMENT
ATTN: JAN BULINSKI
Address: 3525 14TH STREET
RIVERSIDE, CA, 92501

FILED / POSTED

County of Riverside
Peter Aldana
Assessor-County Clerk-Recorder

E-202300565
05/24/2023 04:08 PM Fee: \$ 50.00
Page 1 of 3

Removed: By: Deputy


Project Title

ADOPTION OF ORDINANCE NO. 499.16 TO REFLECT CHANGES IN RIVERSIDE COUNTY ORDINANCE NO. 499 RELATING TO ENCROACHMENTS IN THE COUNTY OF RIVERSIDE HIGHWAYS.

Filing Type

- Environmental Impact Report
- Mitigated/Negative Declaration
- Notice of Exemption
- Other:

Notes



Mark Lancaster, P.E.
Director of Transportation

COUNTY OF RIVERSIDE

TRANSPORTATION AND LAND MANAGEMENT AGENCY

Transportation Department

Mojahed Salama, P.E.
Deputy for Transportation/Capital
Projects

Russell Williams
Deputy for Transportation/Planning and
Development

NOTICE OF EXEMPTION

April 20, 2023

PROJECT TITLE: Adoption of Ordinance No. 499.16 to reflect changes in Riverside County Ordinance No. 499 Relating to Encroachments in the County of Riverside Highways. Work Order #ZTR1100 Task Code #ZADM

PROJECT SPONSOR: County of Riverside Transportation Department

PROJECT LOCATION: Unincorporated Riverside County

SUPERVISORIAL DISTRICT: All

PROJECT DESCRIPTION: Ordinance No. 499 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 Ordinance, Ordinance No. 499.15, was adopted by the Board of Supervisors on October 22, 2019. The proposed amendment updates/modernizes the Ordinance language, adds a moratorium section on work within a newly constructed paved road, provides a section on applicable definitions, and further clarifies intent in various Ordinance sections, including but not limited to, precise location of utilities (potholing) and multi-step relocation. This Ordinance amendment does not include any rate changes to the fee schedule; however, it will be forthcoming in a separate amendment.

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 several years. Regular coordination meetings between the County and utility companies will be implemented to strengthen communication and partnerships. The utility owners which operate within Riverside County are in general agreement with the proposed language changes. Outreach on the proposed changes to the utility owners included:

- Early communication and meetings with SoCal Edison, the SoCal 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 extensive revisions of the Ordinance at the request of the utility owners.

ENVIRONMENTAL ANALYSIS:

The County of Riverside Transportation Department has found that the above-described project is exempt from the provisions of the California Environmental Quality Act (CEQA), based on the following:

Section 15378 – Not a Project - Organizational or administrative activities of government entities, such as the reorganization, formatting, addition of introductory explanation to the ordinance, and changes to administrative processing and application requirements do not constitute a project under CEQA pursuant to State CEQA Guidelines section 15378. The proposed Ordinance 499.16 amendment updates and modernizes the 499 Ordinance language.

Section 15061(b)(3) – Common Sense Exemption – Ordinance No. 499.16 is exempt pursuant to State CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that there is no possibility that the amendment to Ordinance No. 499 may have a significant effect on the environment. The proposed Ordinance 499.16 amendment updates and modernizes the 499 Ordinance language. None of these activities have any significant effect on the environment. As a result, there is no possibility that this amendment to Ordinance No. 499 will cause a significant impact on the environment.

By: David Castro, Associate Transportation Planner

Signed: Jan Bulinski
Jan Bulinski, Environmental Project Manager

ORDINANCE NO. 499.16

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

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

Section 1. This ordinance amends and replaces Ordinance No. 499.15 and any prior version of Ordinance No. 499 in their entirety with the following:

“Section 1. FINDINGS. The Board of Supervisors finds it necessary to monitor and regulate any tower, pole, pole-line, pipe, pipeline, driveway, private road, fence, sign, billboard, stand, building, or any other structure or object of any kind or character, which is placed in, under or over any portion of a County Highway for the care and protection of County Highways and the traveling public.

Section 2. PURPOSE. The purpose of Ordinance No. 499 (“Ordinance”) is to establish reasonable and uniform regulations to protect the integrity of County Highways and the traveling public thereon.

Section 3. AUTHORITY. This Ordinance is adopted pursuant to Division 2, Chapter 5.5 of the California Streets and Highways Code and Chapter 6.2 of Title 5, Division 1, Part 1 of the California Government Code. Subject to the control of the Board of Supervisors, the administration of the use of County Highways is hereby delegated to the County Director of Transportation. In the event of a conflict between the provisions of any state or federal law, rules or regulations (including, without limitation, the provisions of California Public Utilities Code §§6297 and 30631 (each, as amended), including the judicial appellate decisions of the State of California or federal courts interpreting the same), property rights (including easements), or statutory franchise rights pursuant to any franchise agreement between the County and a Utility Owner, or superior rights of a Utility Owner, or prior rights of a Utility Owner, which were established by law

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or title prior to any ownership or rights of the County (collectively, "Legal Rights") and this Ordinance, and except for the discretion provided to the County of Riverside ("County") as the issuing authority of encroachment permits ("Permits") for the care and protection of County Highways within its jurisdiction and Street Vending Permits, the Legal Rights (and any agreement memorializing the same) shall supersede and control over this Ordinance. In furtherance of the foregoing, no provision in this Ordinance shall interfere or conflict with the lawful regulatory jurisdiction of any state or federal agency (for example, the California Public Utilities Commission) over a regulated public utility under any applicable law and any such interfering or conflicting provision shall be null and void with respect to the regulated public utility.

Section 4. EXEMPTIONS. The following are exemptions to the Permit requirements of this Ordinance:

- a. Emergency: An excavation or encroachment may be made without first obtaining a Permit for repair or replacement of a facility previously installed only when acting under the good faith belief that such action is warranted for the protection or preservation of life or property, provided that the County is notified in writing on the first business day thereafter and a Permit shall be applied for on the second business day thereafter. If the emergency work is within the parameters and limits of an issued and active blanket permit, a written notice of work shall be submitted to the Transportation Department pursuant to the blanket permit requirements. Emergency work completed in compliance with a blanket permit will not require an additional Permit when the County is notified five business days after, and the notice of work is submitted to the Transportation Department.

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- b. Agricultural Produce: No Permit shall be required for the loading or unloading of agricultural produce or produce containers. All such operations shall, where possible, be conducted off the paved or traveled part of the County Highway. If any part of the loading or unloading occurs on the paved or traveled part of the County Highway, appropriate visible warnings shall be posted for the protection of traffic approaching from each direction; and if such operation leaves less than one traffic lane available for travel in either direction, a flagman shall be used at the sole risk and cost of the operator. Use of warnings and flagmen shall be in accordance with California Manual on Uniform Traffic Control Devices (MUTCD) or the Work Area Traffic Control Handbook (WATCH). Overnight storage of containers, agricultural products, or unlicensed vehicles on the shoulder of any County Highway or within eight feet of the traveled portion of such highway is prohibited. Bulk manure not in containers may be temporarily stored or stockpiled within the right of way of a County Highway only when to be used on the abutting agricultural lands as follows:
1. On any portion of the County Highway obviously not graded, improved, or used for vehicle travel, sidewalk, or drainage purposes; or
 2. On any unpaved graded shoulder of a paved County Highway, not closer than four feet from the pavement and in such location as will not impede or impair highway drainage; or

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

Section 5. DEFINITIONS. The following definitions apply to this

Ordinance:

- a. Contractor. The term “Contractor” includes any person, firm, company, corporation, developer, association, public agency, public utility, or organization performing construction of an encroachment pursuant to a Permit. All obligations, responsibilities, and other requirements of the Permit shall be binding on the Contractor as the agent of the original Permittee unless otherwise specified in the Permit.
- b. County Highway. As used in this Ordinance, “County Highway” means any highway which is laid out or constructed as such by the County; laid out or constructed by others and dedicated or abandoned to or acquired by the County; made a County Highway in any action for the partition of real property; or made a County Highway pursuant to law. “County Highway” includes all or any part of the entire width of the right of way of a County Highway, whether or not such entire area is actually used for highway purposes.
- c. County-maintained Highway. The term “County-maintained Highway” means a County Highway that has been accepted into the County Road system.
- d. Days. Calendar days.

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- e. Director of Transportation. The appointed Director of the County of Riverside Transportation Department, County Director of Transportation and Land Management Agency (TLMA) or authorized designee. The Director of Transportation is responsible for duties of the Road Commissioner appointed pursuant to Section 2006 the California Streets and Highways Code.
- f. Encroachment. The term “encroachment” includes any tower, pole, pole-line, pipe, pipeline, driveway, private road, fence, sign, billboard, stand, building, or any other structure or object of any kind or character, which is placed in, under or over any portion of a County Highway.
- g. Encroachment Permit Engineer. The manager designated by the Director of Transportation to issue and enforce Permits.
- h. Excavation. “Excavation” includes the movement or removal of earth, rock, pavement, or other material in, on or under the ground. The term includes but is not limited to auguring, backfilling, digging, ditching, drilling, grading, plowing-in, ripping, scraping, trenching, and tunneling.
- i. Permittee. Any person, firm, company, corporation, association, public agency, public utility, or organization and the Permittee’s successors-in-interest which has been issued a Permit by the County for an Encroachment. All obligations, responsibilities, and other requirements imposed upon the Permittee pursuant to this Ordinance, shall be binding on successors in interest of the original Permittee and subsequent owners of the property benefitted by the Permit.

- 1 j. Public agency. "Public agency" includes any city, public
2 corporation, political subdivision, or district.
- 3 k. Utility. The term "Utility" includes any and all water, sewer,
4 irrigation, gas, petroleum, cable TV, electric,
5 communications, and similar facilities that are owned by a
6 Utility Owner.
- 7 l. Utility Owner. The "Utility Owner" is the Permittee or the
8 successor in interest, which is the owner, operator or
9 custodian of Utility facilities governed by this Ordinance.
10 This shall include but not be limited to "public utility
11 companies" (which includes franchised, regulated, investor-
12 owned utilities, and their authorized agents), other private
13 utility companies, private persons, public agencies, districts,
14 mutual utility companies, political subdivisions and other
15 forms of companies, organizations, or agencies.

16 Section 6. ENCROACHMENTS AND EXCAVATIONS. No person,
17 firm, corporation, public utility company, public agency or district, or political subdivision,
18 shall make any excavation or backfill in, or construct, install, operate, or maintain any
19 improvement, structure, or encroachment in, on, over, or under, any County-maintained
20 Highway or County Highway without first obtaining from the Director of Transportation a
21 Permit; and maintaining continuous compliance with the terms and conditions of such
22 Permit. With respect to County Highways, Permits will be issued for only Utility purposes.
23 A Permit shall be issued by the Director of Transportation only upon written application
24 and payment of any required Permit processing and inspection fees when due and payable.

25 A Permit shall be issued only if the applicant is: a public utility company,
26 including public utility companies holding a franchise from the County, or a public agency
27 or district, or political subdivision having lawful authority to use the County Highway right
28 of way for purposes specified; the owner of an easement for such purpose within the

1 County Highway right of way; or if the Director of Transportation is satisfied that the use
2 proposed is in the public interest and there will be no substantial injury to the County
3 Highway or impairment of its use and that the use is reasonably necessary for the
4 performance of the functions of the applicant.

5 Section 7. PERMIT REQUIREMENTS AND CONDITIONS. Every
6 Permit shall be revocable and the terms, uses and installations thereunder shall be
7 subordinate to the prior right of the County to use the right of way. Subject to any and all
8 Legal Rights, every Permit shall be strictly conditional upon the right of the County to
9 require the Permittee to relocate or remove the improvement, structure, or encroachment,
10 as soon as is reasonably practicable under the facts and the circumstances at the time, at
11 the Permittee's expense (unless otherwise required by law). Nothing herein is intended to
12 modify or limit the provisions of California Public Utilities Code §6297 (and as amended)
13 or the judicial appellate decisions of the State of California interpreting California Public
14 Utilities Code §6297 (and as amended).

15 The acceptance of a Permit shall not be deemed a waiver by the Permittee
16 of any contractual or statutory right against any party for reimbursement of the expense of
17 such removal or relocation.

18 Every Permit shall be subject to such conditions as the Director of
19 Transportation determines are necessary to ensure the safety of the traveling public and the
20 restoration of the road to the same condition as before the permitted work was performed,
21 including but not limited to pavement surfaces, ground surfaces, and subsurfaces within
22 County Highway rights of way. Permittee may request to meet and confer with department
23 staff regarding the Permit conditions.

24 The Director of Transportation may require, as authorized by Street and
25 Highways Code Section 1467, such surety bond or deposit of money as in his/her judgment
26 may be necessary to secure performance of the conditions of the Permit and the
27 replacement or restoration of the road, including but not limited to pavement surfaces,
28 ground surfaces, and subsurfaces within County Highway rights of way, and any survey

1 monuments or other improvements that may have been disturbed. No bond or other form
2 of security shall be required of a franchisee under this Ordinance to the extent such
3 franchisee's franchise agreement required the posting of a bond or other form of surety or
4 where such franchise did not require a bond.

5 At the option of the Permittee, the Director of Transportation may, where
6 convenient to road work he/she has programmed, or for other reasons of County
7 convenience, arrange with the Permittee for the County to do the work of replacement of
8 pavement or other restoration of the roadway and appurtenances at the expense of the
9 Permittee; provided, that Permittee's expenses would be limited to only that portion of
10 work necessary for right of way restoration as outlined in the permit.

11 Permittee shall perform all work to current County standards in accordance
12 with County Ordinance No. 461 or as specified in the Permit. Permittee shall backfill
13 excavations in accordance with County Ordinance No. 461 or as specified in the Permit.
14 If required by the Director of Transportation, Permittee shall restore the County Highway
15 to its condition prior to any work or excavation. If a Permittee fails to backfill any
16 excavation or to restore the County Highway to its condition prior to the permitted work,
17 the Director of Transportation shall have the right to perform the road repair work required
18 of the Permittee, to the extent required to ensure public safety including, but not limited to,
19 the laying of metal plates and concrete barriers, and then assess and collect the cost of the
20 work from the Permittee. Except in cases where immediate repairs are required to ensure
21 public safety, the County will provide written notice to the Permittee of the requirement to
22 perform the necessary work ten (10) days before the County begins work.

23 The Director of Transportation may immediately remove and dispose of, or
24 by notice may require the removal of, any un-permitted advertisement sign or other un-
25 permitted appurtenance from a County Highway in accordance with the Streets and
26 Highways Code.

27 Section 8. MORATORIUM DECLARATION. Subject to any Legal
28 Rights, the Director of Transportation is authorized to declare and enforce a moratorium

1 on the issuance of Permits on County Highways to public and private Utility Owners within
2 the limits of construction of County's public works projects (i.e., reconstruction,
3 resurfacing and road construction projects) under the following circumstances:

- 4 a. A County public works project is significant in scope, as
5 determined by the Director of Transportation; and
- 6 b. The Utility Owner was given a minimum of eighteen (18)
7 months advance written notice by the Director of
8 Transportation that a moratorium on the issuance of Permits
9 will commence upon the completion of construction of the
10 County's public works project, which such notice will
11 include the bounded area circumscribing the affected County
12 Highway(s) under such Permit moratorium; and
- 13 c. A moratorium on issuance of Permits for Utility purposes
14 may be established for a period of up to three years after
15 issuance of the completion notice of the County's public
16 works project,
- 17 1. Emergency repairs of existing facilities shall be
18 considered exempt from the moratorium but shall be
19 subject to additional road repair requirements as
20 reasonably determined by the Director of
21 Transportation. Such repairs shall provide for
22 structural qualities at least equal to the pre-existing
23 condition, and the Utility Owner may be required to
24 include additional pavement improvements as
25 directed by the Director of Transportation; and
- 26 2. The Director of Transportation may allow the
27 installation of new utility facilities, services,
28 emergency work, and other work, upon receipt and

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evaluation of a request with justification from the Utility Owner. The Director of Transportation may issue a Permit for those new facilities if the Utility Owner mitigates the damage to the County Highway by repairing the County Highway to the same condition as before the utility work was performed. Such paving shall be in accordance with the trench backfill and pavement resurfacing requirements approved by the Director of Transportation specifically for that roadway. Such trench backfill and pavement resurfacing requirements will be included in the Permit for Utility Owner review. In the event that the Permit is denied following the review of the justification, the Permittee may request a meeting with Department of Transportation staff to meet and confer regarding mutually agreed to Permit terms.

Subject to the provisions of this paragraph and ordinance, the Director of Transportation shall require such roadway repair methods on a County Highway subject to a moratorium as are deemed necessary to fully restore the County Highway to the structural condition prior to the utility's construction. This section does not preclude franchised public utility companies from performing work governed by the California Public Utilities Commission or their respective franchise agreements, subject to full restoration of the County Highway to the same condition as prior to the construction.

Section 9. UTILITY CONSTRUCTION AND MAINTENANCE RESPONSIBILITY. Upon satisfactory construction or installation of Utility facilities and an Utility Owner's acceptance of such facilities into its system, such Utility Owner shall maintain its improvements, structures, substructures, and other facilities within County

1 Highway rights of way to the Utility Owner's and County's standards in place at the time
2 of the installation of those facilities, whether or not the Permit for the construction or
3 installation was issued to the current owner of the encroachment. When it is determined
4 to be in the best interest of the public, the Director of Transportation may allow a
5 Contractor to obtain a Permit for the construction or installation of facilities for subsequent
6 ownership by a Utility Owner, public agency, district, or political subdivision. In such case,
7 the Permittee shall provide proof of certification or acceptance of the utility plans by the
8 Utility purveyor. Such Permit shall not be required of existing County franchised public
9 utility companies or that have another independent right. The Permittee shall be
10 responsible for the installation until proof of acceptance by the Utility Owner to operate
11 and maintain the facility is provided to the Transportation Department.

12 Upon satisfactory construction or installation of the utility facilities and the utilities'
13 acceptance of the facilities into its system, including trench backfill and overlying road
14 surfaces, such non-franchise Utility Owner, not the Contractor, shall operate and maintain
15 said facilities in compliance with all applicable requirements of the Permit, including full
16 and timely cooperation with the Transportation Department when the Utility facilities,
17 including lateral utility lines that are within the right of way, are the cause of damage to
18 the right of way.

19 Permit conditions for main or trunk Utility facilities, shall also apply to all
20 lateral and service utility facilities installed within County Highways, and all requirements
21 of this Ordinance shall apply to such lateral and service utility facilities, including utility
22 meters, within public rights of way. The Utility shall, subject to Legal Rights, upon written
23 request by the County notify the customer of any County demand for relocation or other
24 work commensurate with County requirements.

25 Section 10. REQUIRED RECORDS AND LOCATION
26 INFORMATION. The Utility Owner is responsible for keeping record drawings or "as-
27 built" drawings (collectively, "Drawings") on the installation of the Utility facilities that
28 includes the location of the permitted encroachments. For the purpose of the design and/or

1 construction of public works projects within a County Highway, the Utility Owner shall,
2 upon written request by the County, identify and provide the identity of the owner of the
3 utility conduit and the location of its existing Utility facilities, based on the Drawings, and
4 as soon as is reasonably practicable under the fact and circumstances at the time, provide
5 the County with a set of the Drawings which provides this information; provided, however,
6 that notwithstanding anything herein to the contrary, Utility Owner shall not be obligated
7 to provide such Drawings if doing so could cause Utility Owner to violate or otherwise act
8 in a manner inconsistent with federal or state rules, regulations or other guidance
9 concerning the disclosure of critical energy infrastructure information. The Drawings shall
10 be submitted to the County within 30 days of the date of the request. Alternatively, within
11 30 days of the date of the request, the Utility Owner may provide the County with written
12 notice which provides the County with a timeframe in which the Utility Owner will provide
13 all available drawings and relevant information, within 90 days from the original request.
14 The County takes such information understanding that the location of such utilities
15 indicated in the documents provided is approximated only.

16 If precise location information cannot be provided from Utility Owner or
17 other reasonably available records, and if it is determined by the County that there may be
18 conflicts with existing Utility facilities, and if is in the best interest of the County, the
19 County may opt to arrange or perform the precise utility location (vertical and horizontal)
20 at its own expense. When the County performs the positive location identification, the
21 County will notice the Permittee of its intent to perform the work and request that Permittee
22 make the facility safe for County work and provide the appropriate inspection.

23 The Utility Owner shall, as soon as is reasonably practicable under the facts
24 and circumstances at the time, respond to all written requests for right of way, survey, or
25 design information, and all other relocation related services and assistance within its
26 control, to prevent any material impact to the County's project schedule. County will
27 provide documents and assistance to the Utility Owner as available subject to the County's
28 understanding that the documents or mapping information set forth above is approximate

1 only, the County shall utilize information about existing Utility facilities to attempt to avoid
2 or limit design and construction conflicts to keep both construction and relocation costs to
3 a minimum.

4 Section 11. MANDATORY RELOCATION. The Utility Owner shall,
5 upon receipt of a written request from the County accompanied by 90% complete plans of
6 the subject County public works project, and as soon as is reasonably practicable under the
7 facts and circumstances at the time, remove or relocate its facilities that are in conflict with
8 a County's public works project on County Highways, and cause the facilities to be
9 removed or relocated as soon as is reasonably practicable under the facts and circumstances
10 at the time and in a diligent manner so as to avoid any unnecessary delays or costs to the
11 County's public works project; provided, however, that Permittee shall not be required to
12 bear the expense of any removal or relocation made at the request of the County when
13 acting on behalf of or for the benefit of any private developer or other private third party
14 or pursuant to any Legal Rights that provide otherwise (such as deeded easements), or
15 where cost liability does not rest with Permittee under applicable law. At the request of
16 the County, the Utility Owner shall, as soon as is reasonably practicable under the facts
17 and circumstances at the time, notice the County of conflicting utilities that it is aware of
18 that occupy space on the poles and within its conduit systems.

19 A Utility Owner which owns poles and conduit systems that provide the use
20 of those facilities to other persons or Utility owners shall provide notices to such other
21 Utility Owners, as soon as is reasonably practicable under the facts and circumstances at
22 the time, of completion of relocation work by such Utility Owner. Upon request by the
23 County, a Utility Owner owning such poles or conduit systems shall identify any third-
24 party user. In the event a Utility Owner chooses to implement a Utility removal or
25 relocation in multiple stages, including relocation to a temporary location and/or alignment
26 and then later to another final location and or alignment, the full cost for all aspects of the
27 multiple stage relocation shall be the sole responsibility of the Utility Owner. For the
28 purpose of this Ordinance, a multiple stage relocation shall be treated the same as any other

1 removal or relocation. If the County makes a written request for a phased relocation, the
2 Utility owner will not be responsible for the costs of the requested relocation. The Utility
3 Owner shall reimburse the County, upon receipt of billing, for any delays or costs
4 attributable to the failure of the Utility Owner to remove or relocate conflicting Utility
5 facilities in a timely manner agreed upon by both the Director of Transportation and a
6 representative for the Utility Owner.

7 Upon written request from the County or the Permittee, and no later than 30 days from the
8 date of the request, the County and Utility Owner decision-making representatives shall
9 meet and confer at a convenient site to discuss and address general and specific billing
10 matters, and planned, pending or active projects governed by this Ordinance. If the terms
11 of this section are in conflict with a public utility company's existing County franchise
12 agreement (including any additional fees or remedies), then the franchise agreement will
13 govern.

14 Section 12. PUBLIC SAFETY RELOCATIONS AND GENERAL
15 RESPONSIBILITY. The Permittee for any encroachment situated within a County
16 Highway shall be responsible for all costs and liability resulting from any damage to public
17 and private property or personal injury caused by the construction, installation, operation,
18 maintenance, or failure of its encroachments. The Permittee shall, as soon as is reasonably
19 practicable under the facts and circumstances at the time, reimburse the County, upon
20 receipt of billing, for costs incurred by the County in the protection of life or property
21 where required due to failure of its encroachment, or due to any unsafe construction,
22 installation, operation, or maintenance of the encroachment.

23 In the event the County incurs any costs because of the presence of the
24 Permittee's encroachment, and which cost would not normally be incurred by the County
25 in the absence of the encroachment, the Permittee shall be fully responsible to, as soon as
26 is reasonably practicable under the facts and circumstances at the time, reimburse the
27 County for all such costs upon receipt of billing. This paragraph shall apply to all matters
28 governed by this Ordinance. If the terms of this section are in conflict with a public utility

1 company's existing County franchise agreement (including any additional fees or
2 remedies), then the franchise agreement will govern.

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

18 Section 14. APPLICATION.

19 Each application for a Permit under this Ordinance shall be in writing in the
20 name of the person, agency, entity, or authorized agent owning the encroachment and
21 controlling the construction of the work. The County would require documentation of the
22 Utility Owner's authorization of a third party seeking a Permit on behalf of the Utility
23 Owner. The Utility Owner will be the named party on the Permit.

24 The application shall be submitted on a form supplied by the Director of
25 Transportation and shall contain or be accompanied by such information as he/she may
26 require. Each approved Permit shall be in writing and signed by the Director of
27 Transportation or his/her representative.

28 Section 15. FEES.

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Permit Fees: The fees required by this Ordinance may be paid at or after the time application is filed, but in any event before the Permit is issued. Fees are as stated in Appendix A to this Ordinance. Fees are non-refundable after paid, except in the case of Deposit-Based, Actual-Cost fees or unused inspection fees due to permit cancelation or change of permit scope.

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

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

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

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

A full accounting of a Deposit-Based account will be provided at the request of the applicant at any time. A final accounting of the Deposit-Based account will be made within 45 days of the finalization of the Permit and provided to the applicant along with

1 any refund of unused deposits. Remaining deposits will be refunded to the Permittee in
2 accordance with Ordinance 671.

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

6 Section 16. FEE EXEMPTIONS.

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

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

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

- 25 a. Street improvements under special assessment or
26 improvement district proceedings conducted by the Board of
27 Supervisors.

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- b. Public utility and public service facilities installed under contract, including franchise agreements of a public utility company (including its authorized agents), with, and controlled by the County or a County Service Area. Note: If constructed by a private contractor, all Permit and fee requirements as established by this Ordinance are applicable.
- c. Positive Location Identification of underground encroachments, if ordered by the County.
- d. Subdivision Improvements to be constructed pursuant to Ordinance 461.

Section 17. BLANKET PERMITS.

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

Section 18. PENALTIES.

Pursuant to California Government Code section 25132, any person who performs any act for which a Permit is required by this Ordinance without first obtaining such Permit, or who, having obtained such a Permit, violates any term or condition thereof and thereby jeopardizes or injures person or property, is guilty of a misdemeanor or an infraction, and shall be punishable by a fine of not more than \$1,000.00, or by imprisonment in the County jail for not more than six months, or by both such fine and imprisonment. Nothing herein shall be deemed to deprive any person of any civil right or remedy he/she may have against a violator of this Ordinance, or to deprive the County of any cause of action which it may have against such violator, regardless of any prosecution or conviction under this section.

1 Section 19. SEVERABILITY.

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

7
8 Section 2. EFFECTIVE DATE. This Ordinance shall take effect sixty (60) days after the date
9 of adoption.

10 BOARD OF SUPERVISORS OF THE COUNTY
11 OF RIVERSIDE, STATE OF CALIFORNIA

12 By: 
13 Chairman


14 KEVIN JEFFRIES

13 ATTEST:
14 **KIMBERLY A. RECTOR**
15 CLERK OF THE BOARD:

16 By: 
17 Deputy

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19 (SEAL)

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23 APPROVED AS TO FORM:
24 May 1, 2023

25 By: 
26 Stephanie K. Nelson
27 Deputy County Counsel

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STATE OF CALIFORNIA)
)
COUNTY OF RIVERSIDE) ss

I HEREBY CERTIFY that at a regular meeting of the Board of Supervisors of said county held on May 23, 2023, the foregoing ordinance consisting of 2 Sections was adopted by the following vote:

AYES: Jeffries, Washington, Spiegel, Perez, and Gutierrez
NAYS: None
ABSENT: None

DATE: May 23, 2023

KIMBERLY A. RECTOR
Clerk of the Board
BY: 
Deputy

SEAL

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



**ITEM: 3.35
(ID # 21764)**

MEETING DATE:
Tuesday, May 09, 2023

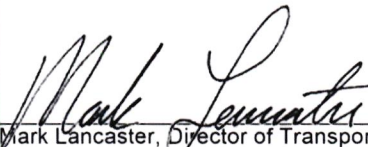
FROM : TLMA-TRANSPORTATION:

SUBJECT: TRANSPORTATION AND LAND MANAGEMENT AGENCY/TRANSPORTATION:
Introduction of Ordinance 499.16, Amending Riverside County Ordinance No. 499 Relating to Encroachments in the County of Riverside Highways. Not a Project Under CEQA pursuant to State CEQA Guidelines Section 15378 and CEQA Exempt per State CEQA Guidelines section 15061 (b)(3). All Districts. [\$20,000 Total Cost - Gas Tax 100%]

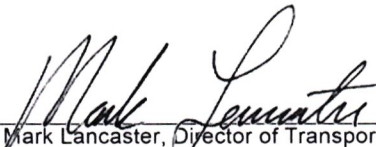
RECOMMENDED MOTION: That the Board of Supervisors:

1. Find that Ordinance No. 499.16 is not a project under the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15378 and is exempt from CEQA pursuant to State CEQA Guidelines section 1506(b)(3);
2. Introduce, Read Title, and Waive Further Reading of, and adopt on successive weeks Ordinance No. 499.16 in its entirety relating to Encroachments in the County of Riverside Highways; and
3. Direct the Clerk of the Board to publish the summary of the ordinance pursuant to California Government Code Section 25124(b).

ACTION:Policy


Mark Lancaster, Director of Transportation

4/20/2023


Mark Lancaster, Director of Transportation

4/27/2023

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Gutierrez, seconded by Supervisor Perez 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, Spiegel, Washington, Perez, and Gutierrez
Nays: None
Absent: None
Date: May 9, 2023
xc: Trans. COB *BS*

Kimberly A. Rector
Clerk of the Board

By: 
Deputy

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

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 20,000	\$ 0	\$ 20,000	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: Gas Tax 100%. No General Funds will be used on this project.			Budget Adjustment:	N/A
			For Fiscal Year:	22/23

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

Summary

Ordinance No. 499 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 Ordinance, Ordinance No. 499.15, was adopted by the Board of Supervisors on October 22, 2019 (Agenda Item 19.3).

The proposed amendment updates modernize the Ordinance language, adds a moratorium section on work within a newly constructed paved road, provides a section on applicable definitions, and further clarifies intent in various Ordinance sections, including but not limited to, precise location of utilities (potholing) and multi-step relocation. This Ordinance amendment does not include any rate changes to the fee schedule; however, it will be forthcoming in a separate amendment at a future date.

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 several years. Regular coordination meetings between the County and utility companies will be implemented to strengthen communication and partnerships. The utility owners which operate within Riverside County are in general agreement with the proposed language changes. Outreach on the proposed changes to the utility owners included:

- Early communication and meetings with SoCal Edison, the SoCal 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 extensive revisions of the Ordinance at the request of the utility owners.

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

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

- Updates and Modernize the Ordinance Language
- Adds a new Moratorium Section
- Provides a Definition
- Clarifies the Intent in Various Sections
- Clarifies Precise Location of Utilities (Potholing) responsibilities

The Transportation Department intends to recommend adoption of Ordinance No. 499.16 at the May 23, 2023 Board of Supervisors meeting.

Previous Agenda References

May 2, 2023-Initiation of Amendment to Ordinance No. 499 (Agenda Item 3.32)

CEQA

Ordinance No. 499.16 is not a project under CEQA pursuant to State CEQA Guidelines Section 15378 and exempt pursuant to State CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that there is no possibility that the amendment to Ordinance No. 499 may have significant effects on the environment.

Impact on Residents and Businesses

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 encroachments within County Road right-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.

Additional Fiscal Information


N/A

Contract History and Price Reasonableness

N/A

ATTACHMENTS:

Ordinance No. 499.16


Jason Farin, Principal Management Analyst

5/4/2023


Aaron Gettis, Deputy County Counsel

5/2/2023

THE PRESS-ENTERPRISE

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pe.com

3512 14 Street
Riverside, California 92501
(951) 368-9229
neller@scng.com

County of Riverside - Clerk of the Board
PO Box 1147
Riverside, California 92502

Account Number: 5209148
Ad Order Number: 0011605480
Customer's Reference/PO Number:
Publication: The Press-Enterprise
Publication Dates: 06/01/2023
Total Amount: \$442.56
Payment Amount: \$0.00
Amount Due: \$442.56
Notice ID: Fvo1kEFTwCcF7kIkHANC
Invoice Text:

BOARD OF SUPERVISORS OF THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA SUMMARY OF ORDINANCE NO. 499.16 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 251224(b): a certified copy of the full text of Ordinance No. 499.16 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. 499.16 amends Ordinance No. 499 in its entirety to update and clarify the ordinance language to better address the process for utility companies authorized under a valid franchise agreement, special districts, public agencies, and private parties 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 updates/modernizes the Ordinance language, adds a new moratorium section on work within newly paved roadways, provides a section on applicable definitions, and further clarifies intent in various Ordinance sections, including but not limited to, precise location of utilities (potholing) and multi-step relocations. This Ordinance amendment does not include any rate changes to fee schedule; however, it will be forthcoming in a separate amendment. The purpose of the ordinance is to establish policies, procedures, and standards for regulating encroachments in County

SUMMARY OF ORDINANCE NO. 499.16
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 251224(b): a certified copy of the full text of Ordinance No. 499.16 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. 499.16 amends Ordinance No. 499 in its entirety to update and clarify the ordinance language to better address the process for utility companies authorized under a valid franchise agreement, special districts, public agencies, and private parties 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 updates/modernizes the Ordinance language, adds a new moratorium section on work within newly paved roadways, provides a section on applicable definitions, and further clarifies intent in various Ordinance sections, including but not limited to, precise location of utilities (potholing) and multi-step relocations. This Ordinance amendment does not include any rate changes to fee schedule; however, it will be forthcoming in a separate amendment.

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. 499.16 would take effect 30 days after its adoption.

K. Jeffries, Chair of the Board

I HEREBY CERTIFY that at a regular meeting of the Board of Supervisors of said County, held on **May 23, 2023**, the foregoing Ordinance was adopted by said Board by the following vote:

AYES: Jeffries, Spiegel, Washington, Perez, and Gutierrez
NAYS: None
ABSENT: None

Kimberly A. Rector, Clerk of the Board
By: Cindy Fernandez, Clerk of the Board Assistant
The Press-Enterprise
Published: 6/1/23

County of Riverside - Clerk of the Board
PO Box 1147
Riverside, California 92502

Publication: The Press-Enterprise

PROOF OF PUBLICATION OF

Ad Desc: 0011605480

FILE NO. 0011605480

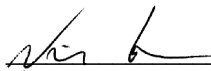
PROOF OF PUBLICATION

I am a citizen of the United States. I am over the age of eighteen years and not party to or interested in the above-entitled matter. I am an authorized representative of THE PRESS-ENTERPRISE, a newspaper of 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:

06/01/2023

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

Date: June 1, 2023.
At: Riverside, California



Signature

From: Kelly Kwong <kelly.kwong@sce.com>
Sent: Monday, May 22, 2023 2:28 PM
To: COB <COB@RIVCO.ORG>
Cc: Mark Rothenberg <mark.a.rothenberg@sce.com>
Subject: RE: Updated: Proposed Ordinance No. 499.16 – An Ordinance of the County of Riverside Amending Ordinance No. 499 Relating to Encroachments in County Highways (May 23, 2023 Agenda Item No. 3.52)

Honorable Board Members,

Attached please find a letter from Mark Rothenberg re the Proposed Ordinance No. 449.16. I inadvertently sent an earlier version of the same letter. You can discard the earlier version.

Thank you.

Kelly Morikawa Kwong

Work: (626) 302 7184 | PAX 27184

E-mail: Kelly.Kwong@sce.com



SOUTHERN CALIFORNIA
EDISON

Energy for What's Ahead™

From: Kelly Kwong
Sent: Monday, May 22, 2023 2:13 PM
To: cob@rivco.org
Cc: Mark Rothenberg <mark.a.rothenberg@sce.com>
Subject: Proposed Ordinance No. 499.16 – An Ordinance of the County of Riverside Amending Ordinance No. 499 Relating to Encroachments in County Highways (May 23, 2023 Agenda Item No. 3.52)

Honorable Board Members,

Please see attached letter from Mark Rothenberg regarding Proposed Ordinance No. 499.16 Relating to Encroachments in County Highways (May 23, 2023 Agenda Item No. 3.52).

Kelly Morikawa Kwong

Legal Administrative Assistant, Senior Support

Law Department – Licensing & Land Use

2244 Walnut Grove Avenue, Rosemead, CA 91770

Work: (626) 302 7184 | PAX 27184

E-mail: Kelly.Kwong@sce.com



SOUTHERN CALIFORNIA
EDISON

Energy for What's Ahead™

5/23/23 3.52

May 22, 2023

VIA US MAIL & EMAIL

Board of Supervisors
County Administrative Center
4080 Lemon Street, 5th Floor
Riverside, CA 92501
Email: cob@rivco.org

Re: **Proposed Ordinance No. 499.16 – An Ordinance of the
County of Riverside Amending Ordinance No. 499
Relating to Encroachments in County Highways
(May 23, 2023 Agenda Item No. 3.52)**

Honorable Board Members:

Southern California Edison (SCE) submits the following comments regarding proposed Ordinance 499.16, Amending Riverside County Ordinance No. 499 Relating to Encroachments in the County of Riverside Highways. As a threshold matter, SCE expresses its gratitude to the Riverside County Transportation Department and County Counsel in drafting the proposed Ordinance. Through the work of the Transportation Department and County Counsel, the proposed Ordinance reflects the outcome of years of engagement by the County, including with numerous stakeholders. The purpose of this letter is to express SCE's understanding of certain aspects of the proposed Ordinance.

As the County knows, SCE is subject to a franchise agreement between it and the County, codified at Ordinance No. 684 in 1981. That franchise agreement governs SCE's relationship with the County, including SCE's rights, responsibilities, and obligations with respect to the County and Edison's presence and work in County Highways. The fact that SCE is subject to a franchise agreement and that the franchise agreement governs SCE's rights, responsibilities, and obligations, is appropriately recognized in numerous provisions of the proposed Ordinance.¹

County staff advised SCE that the Ordinance is now undergoing final approval by the Board of Supervisors. SCE understands that the proposed Ordinance does not alter Edison's rights,

¹ For example, in Section 8, on "MORATORIUM DECLARATION[S]," there is the following statement: "This section does not preclude franchise public utility companies from performing work governed by the California Public Utilities Commission or their respective franchise agreements, subject to full restoration of the County Highway to the same condition as prior to the construction." (Emphasis added.) Similarly, in Section 11, on "MANDATORY RELOCATION," the Proposed Ordinance provides: "If the terms of this section are in conflict with a public utility company's existing County franchise agreement (including any additional fees or remedies), then the franchise agreement will govern."

responsibilities, or obligations with respect to the County governed by the franchise agreement. SCE must of course reserve all rights should the County or anyone else attempt to interpret the proposed Ordinance as modifying SCE's rights, responsibilities, or obligations dictated by its franchise agreement with the County. Moreover, SCE does not consent to an alteration or amendment to its franchise. It remains SCE's position that any conflict between the Ordinance and the franchise will be resolved in accordance with the franchise.²

SCE again expresses its appreciation for the efforts of the County, including the Transportation Department and County Counsel.

Very truly yours,

/s/ Mark Rothenberg

Mark Rothenberg

² SCE's comments should therefore not be taken as an endorsement or acceptance of the ordinance. SCE has previously outlined its concerns regarding the Ordinance to County counsel and incorporates its prior written comments herein for the purpose of preserving its position in the legislative record.