



**DEPARTMENT OF PUBLIC WORKS  
POLICY  
FEE FOR USE OF RIGHT OF WAY  
DURING CONSTRUCTION OPERATIONS**

For certain projects, Developers have found it is desirable to utilize a portion of the public right of way during the process of constructing facilities located on private property. Though this practice is typically discouraged by the Public Works Department, in certain situations, the Director of Public Works has found that granting permission to use a portion of the public right of way during construction can significantly reduce construction staging complexity and reduce the overall project schedule. However, this practice results in varying degrees of inconvenience to the public and, further, in a private use of public facilities.

POLICY

- 1) The Public Works Department will charge a fee for the use of public right of way during construction operations of private facilities.
- 2) The fee will be based on the duration of the use, as well as on either the square footage of right of way being requested, or upon the number of parking stalls impacted by the construction operations, whichever is deemed appropriate by the Director of Public Works.
- 3) The Director of Public Works reserves the right to deny the use of the public right of way for private construction operations on a case by case basis. Developers shall not encroach into the right of way for this purpose until such time that they are explicitly granted permission in writing.
- 4) The Developer shall enter into an agreement to indemnify and hold the City harmless for any loss or liability arising out of the Developer's use of the right of way.
- 5) The Director of Public Works reserves the right to revoke the privilege of using the public right of way at his/her sole discretion. The Developer will be refunded any remaining portion of the original fee, prorated according to the time used.
- 6) The Developer shall provide a security in a reasonable amount based on the cost of the City facilities located within the area being utilized. The bond amount will be based on an estimate provided by the Developer and approved by the City Engineer. Required security may include encroachment bonds, faithful performance bonds, labor and material bonds, cash, certificate of deposit, letter of credit or other security deemed acceptable by the City Engineer.

The rate of the fee will be determined based on similar fees imposed by other jurisdictions in the Bay Area and surrounding jurisdictions. As of November 15, 2015, the Public Works Department has established a rate of \$256/parking space/month, or \$1.43/S.F./month

RESPONSIBILITY

It is the responsibility of the Developer to provide any and all information and exhibits necessary for the Public Works Department to determine the location, area, duration and anticipated type of use that is requested, to sign the hold harmless agreement and to pay the fee prior to being permitted to use the public right of way.



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**TIMM BORDEN**  
**DIRECTOR OF PUBLIC WORKS**  
**CUPERTINO, CALIFORNIA**

DATE: 4.20.16