



## **Subcontracting in Small Cell Deployment: Who's Doing the Work in Our Streets?**

Multi-layered contracting arrangements can make it difficult for a city to hold companies accountable and ensure safe conditions for workers and the public. Companies dig under sidewalks and roads to lay fiber, requiring coordination with gas, water and other utilities. Unfortunately, many providers are building wireless networks using a web of out-of-state, subcontracted labor instead of locally-based direct employees, and often these subcontractors are non-union.

### **Explosions and Utility Hits**

When installation work goes wrong in the right-of-way, there are serious consequences.

- In January 2012, a Verizon subcontractor in West Haverstraw, New York struck a natural gas main while doing excavation work in preparation to install fiber optic cable conduit. As a result of the explosion, a townhouse was destroyed and four people— two firefighters and two gas utility employees —were seriously injured.<sup>i</sup>
- In February 2013, a Time Warner Cable subcontractor was hired to install fiber optic cables in Kansas City, Missouri when it breached a natural gas line. The explosion killed one person, destroyed a restaurant, and injured more than a dozen others.<sup>ii</sup>
- In April 2016, a Verizon Wireless subcontractor in Omaha, Nebraska ruptured a natural gas pipeline while installing a fiber optic cable, which severely damaged a historic building.<sup>iii</sup>
- In July 2018, a Verizon subcontractor in Wisconsin hit a gas line and caused an explosion that leveled half a city block, killing a volunteer firefighter and critically injuring another.<sup>iv</sup>
- In November 2018, Comcast subcontractors in Aurora, Colorado struck a gas line while boring underground to lay fiber optic lines causing an explosion at a retirement facility. The explosion killed one person and injured three others, including one firefighter.<sup>v</sup>
- In February 2019, a Verizon subcontractor in San Francisco hit a gas line and caused an explosion. The three-alarm blaze, with over 50 foot flames, burned for hours and caused substantial property damage.<sup>vi</sup>

- In April 2019, a subcontractor for Crown Castle in North Carolina hit a gas line and caused an explosion that killed two people, injured another twenty-five, destroyed a building including two businesses, and damaged nearby properties.<sup>vii</sup>

These companies often engage in many layers of subcontracting. The company contracts the work to a firm, that then contracts to a second firm that contracts to yet a third firm. These arrangements pose clear accountability challenges. In North Carolina, only the top-level firm was listed on the permit, not the company that was directly responsible for the work on the ground.<sup>viii</sup> In the Wisconsin explosion, the subcontractor company was delinquent in its registrations to work in the state.<sup>ix</sup> In San Francisco, the subcontractor didn't have a required license.<sup>x</sup>

Contractors can also cause costly utility disruptions. In Sacramento, between May 2018 and January 2019, Verizon contractors caused at least 41 utility hits, costing the city thousands of dollars and hundreds of employee hours. The City of Tampa is suing Verizon and Frontier, alleging the companies caused nearly \$100,000 in damages to underground wastewater lines.

### **Ensuring Accountability**

As a basic standard, cities should ensure transparency and accountability for subcontractors. Often, when dangerous incidents happen, it is not even immediately obvious which company employs the workers operating on public property. Basic information sharing requirements as to subcontractors, licenses, and work conditions are a first step to ensure that low-road subcontracting doesn't endanger public safety or city property.

Many cities require insurance, bonding, and workers' compensation terms. Cities should make sure that any requirements they place on providers will carry down even in a multi-level contracting relationship. If a contracted company will be doing the work in the rights-of-way, requirements should apply to contracted companies as well.

CWA has worked with cities on subcontracting issues and can provide resources and model language. CWA seeks to work with cities and localities to promote small cell deployment in the public interest.

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<sup>i</sup> Skriloff, D. 2012, May 24. Justice Served for January Gas Blast in West Haverstraw. <https://www.rocklandtimes.com/2012/05/24/justice-served-for-january-gas-blast-in-west-haverstraw/>; CBS New York. 2012, January 15. Firefighter Injured in West Haverstraw Gas Explosion Released from Hospital <https://newyork.cbslocal.com/2012/01/17/firefighter-injured-in-west-haverstraw-gas-explosion-released-from-hospital/>

<sup>ii</sup> Frankel, D. 2015, August 28. TWC ordered to pay nearly \$6M for Kansas City restaurant explosion. <https://www.fiercevideo.com/cable/twc-ordered-to-pay-nearly-6m-for-kansas-city-restaurant-explosion>

<sup>iii</sup> Wheeler, T. 2016, April 15. Companies Sued Over Omaha Gas Line Blast. <https://www.courthousenews.com/companies-sued-over-omaha-gas-line-blast/>

<sup>iv</sup> Jessica Arp, Channel 3000 News, "City of Sun Prairie releases construction permits for downtown area near explosion," July 17, 2018, available at <https://www.channel3000.com/news/city-of-sun-prairie-releases-construction-permits-for-downtown-area-near-explosion/769418541>; Bridgit Bowden, WPR, "OSHA cites 2 contractors in Sun Prairie Explosion," January 10, 2019, available at <https://www.wpr.org/osha-cites-2-contractors-sun-prairie-explosion>; City of Sun Prairie, "Downtown Investigation Update," December 20, 2018, available at <https://www.cityofsunprairie.com/1017/Downtown-Investigation-Update-122018>.

<sup>v</sup> Tabachnik, S. 2019, November 15. No charges brought against cable contractors who caused fatal explosion at Aurora retirement facility last year. <https://www.denverpost.com/2019/11/15/heather-gardens-explosion-gas-line-investigation/>

<sup>vi</sup> KTVU, "Contractor identified in massive, fiery San Francisco gas rupture," February 7, 2019, available at <http://www.ktvu.com/news/contractor-identified-in-massive-fiery-san-francisco-gas-rupture>; Ted Goldberg, KQED, "Contractor Tied to San Francisco Pipeline Explosion Didn't Have a License," February 15, 2019, available at <https://www.kqed.org/news/11725622/contractor-tied-to-san-francisco-pipeline-explosion-didnt-have-a-license>; National Transportation Safety Board, "Preliminary Report PLD19MR001", February 27, 2019, available at <https://ntsb.gov/investigations/AccidentReports/Pages/PLD19MR001-Preliminary.aspx>.

<sup>vii</sup> Joe Johnson and Anna Johnson, "Deadly Durham gas explosion ruled accident, report says," The News & Observer, August 9, 2019, available at <https://www.newsobserver.com/news/local/counties/durham-county/article233713942.html>

<sup>viii</sup> City of Durham Fire Department, 115 North Duke Street: Fatal Natural Gas Explosion, Origin and Cause Investigation Report, Incident No. 19-1909574, August 2, 2019, available at <https://www.newsobserver.com/news/local/counties/durham-county/article233713942.html>.

<sup>ix</sup> Wisconsin Department of Financial Institutions, Corporate records for VC Technologies, LLC, available at <https://www.wdfi.org/apps/CorpSearch/Details.aspx?entityID=V026292&hash=646382736&searchFunctionID=bcfaece0-316d-4297-82f0-9646dbc3ad9f&type=Simple&q=vc+tech>.

<sup>x</sup> Ted Goldberg, KQED, "Contractor Tied to San Francisco Pipeline Explosion Didn't Have a License," February 15, 2019, available at <https://www.kqed.org/news/11725622/contractor-tied-to-san-francisco-pipeline-explosion-didnt-have-a-license>.