

Memorandum



CITY OF DALLAS

DATE March 15, 2019

TO Honorable Mayor and Members of the City Council

SUBJECT **Right-of-Way Management: Proposed Process & Code Revisions**

On Wednesday, March 20, 2019, Robert Perez, Interim Director of the Department of Public Works, will brief the City Council on Right-of-Way Management and the proposed revisions to processes, codes, and ordinances governing work in the City's right of way. The briefing materials are attached for your review.

Please feel free to contact me if you have any questions or concerns.

A handwritten signature in blue ink, appearing to read 'Majed A. Al-Ghafry'.

Majed A. Al-Ghafry, P.E.
Assistant City Manager

c: T.C. Broadnax, City Manager
Chris Caso, City Attorney (Interim)
Carol A. Smith, City Auditor (Interim)
Biliera Johnson, City Secretary
Preston Robinson, Administrative Judge
Kimberly Bizer Tolbert, Chief of Staff to the City Manager

Jon Fortune, Assistant City Manager
Joey Zapata, Assistant City Manager
Nadia Chandler Hardy, Assistant City Manager and Chief Resilience Officer
M. Elizabeth Reich, Chief Financial Officer
Laila Alequresh, Chief Innovation Officer
Directors and Assistant Directors

Right-of-Way Management: Proposed Process & Code Revisions

**City Council Briefing
March 20, 2019**

**Robert M. Perez, Interim Director
Department of Public Works
City of Dallas**



Presentation Overview

- Background/History
- Purpose
- Implemented Actions
- Proposed Actions
- Next Steps

Background/History

- Construction in the City's right-of-way (ROW) is governed by:
 - Chapter 43 of the Dallas City Code
 - Pavement Cut and Repair Standards Manual
 - City of Dallas Traffic Barricade Manual
- City Council has raised concerns regarding construction being completed in the right-of-way

Background/History

- There is the need to:
 - Increase oversight of construction in the ROW
 - Implement more-stringent restoration requirements for street cuts in streets with high Pavement Condition Index (PCI) ratings
 - Maintain accessible walkways or pedestrian detours during construction
 - Accelerate traffic barricade removal (max. number of days) when idle or upon project completion
 - Evaluate and recommend revised City Codes on steel plates (noise concerns)

Background/History

- There is the need to (continued):
 - * Evaluate noise ordinance and waiver process
 - * Enhance regulations to reduce utility damage
 - * Coordinate work with other City departments and partners
 - Enhance public notification of construction activities
 - Explore alternative delivery methods for Public Works projects

** Note: Feedback from November 26, 2018 MSIS Committee meeting*

Background/History

- To address the concerns, staff evaluated and proposed revisions to existing processes, Codes, and Ordinances governing construction within the City's ROW
- Staff presented recommendations and sought feedback during briefings to the MSIS Committee on November 26, 2018 and the Mayor and Council on January 2, 2019

Background/History

- Staff also presented the proposed revisions to and sought feedback from contractors and ROW users during a meeting on February 22, 2019

Purpose

- The purpose of this briefing is to present and discuss actions that have been implemented or will be proposed for City Council consideration in the coming months
- Upon completion of this briefing, staff will request any revisions to proposed City Code or process changes before finalizing for City Council action or implementation

Implemented Actions

- Concern – Increased oversight of construction in the ROW:
 - Between August 1, 2018 and March 11, 2019, Public Works issued 314 citations for violations while working within the ROW
 - Through consolidating Public Works ROW positions and Transportation Traffic Coordination staff, (13) staff members are now licensed to issue citations
 - Staff will evaluate escalation of fines for repeat offenders; recommendations will be part of the FY 2020 budget discussions

9

Proposed Actions

- Concern – More stringent restoration requirements for streets with high PCI ratings:
 - Revise Chapter 43, Sec. 43-139 (b) (2) of the Dallas City Code (DCC)
 - PCI of 70 for Concrete Streets requires replacement of the entire concrete panel from joint to joint
 - PCI of 70 or higher for Asphalt Streets requires seal coat treatment for the entire block
 - For PCI streets below 70, restoration required at a level of “as good or better” than before construction

10

Proposed Actions

- Concern – Maintain accessible walkways or pedestrian detours during construction:
 - Revise Chapter 43, Sec. 43-139 (c) (19) of the Dallas City Code (DCC) to require the following on traffic control plans:
 - Necessary pedestrian sidewalk detours and walkways during active work
 - Temporary walkways or scaffolding required when no active work underway on sidewalk or when no danger posed to pedestrians

Proposed Actions

- Concern – Maintain accessible walkways or pedestrian detours during construction (continued): Example



12

Proposed Actions

- Concern – Accelerate traffic barricade removal (max. number of days) upon project completion:
 - Chapter 28, Sec. 28-24 (1) of the Dallas City Code (DCC)
 - Traffic Barricade Manual states that traffic control shall be removed when not in use
 - Public Works will notify the responsible party of traffic control in the ROW and give 24-hours for removal – failure to remove will result in a citation

13

Proposed Actions

- Concern – Evaluate and recommend revised City Codes on steel plates (noise concerns):
 - Revise Chapter 43, Sec. 43-139 (2) (d) of the Dallas City Code (DCC)
 - Add language to make it punishable for steel plates to, “...cause any loud and disturbing noises and vibrations.”

Proposed Actions

- Concern – Evaluate Noise Ordinance and waiver process
 - Chapter 30, Sec. 30-2 (8) of the Dallas City Code (DCC)
 - Establishes work hours for building construction activity adjacent to residential areas between 7:00 AM and 7:00 PM
 - Non-emergency ROW permits are approved by the guidelines above – deviation from the approved hours are evaluated on a case by case basis

15

Proposed Actions

- Concern – Enhance regulations to reduce utility damages:
 - As part of each ROW Permit, the permittee is required to obtain plans and perform field investigations to locate private and public utilities
 - Revise Chapter 43, Sec. 43-141 (5) (h) of the Dallas City Code (DCC)
 - In addition to requiring the ROW Permit be on site, new requirement would include verification of utilities also be on site (811 and COD water/wastewater locating information)

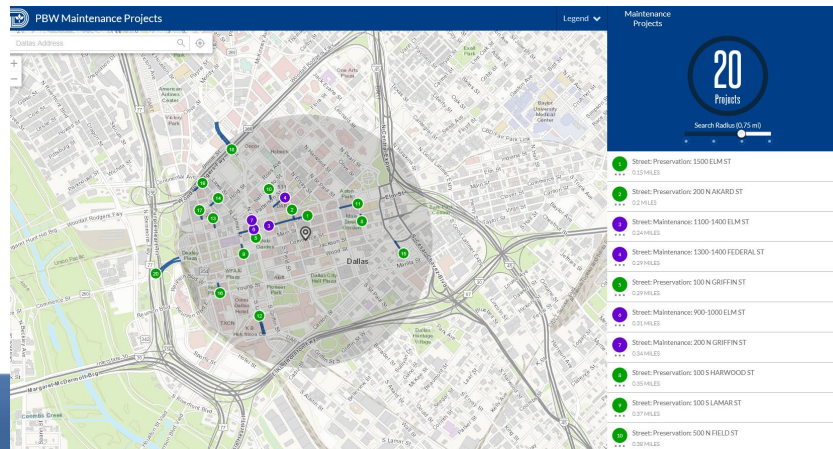
16

Proposed Actions

- Concern – Coordinate work with other City departments and partners:
 - All work is coordinated by Traffic Coordinators as users apply for ROW/lane closure permits
 - Five-Year Infrastructure Management Program (IMP) is being shared with other City departments and partners to better coordinate future work

Map of IMP Projects

<https://gis.dallascityhall.com/srd/index.html>



Proposed Actions

- Concern – Enhanced public notification of construction:
 - Revise Chapter 43, Sec. 43-141 (i) (2) (A-E) of the DCC regarding Notice to the Public:
 - No notification needed if less than 24 hours without excavation and/or lane closure (examples: AT&T vault inspection or utility locates)
 - Notification needed if longer than 24 hours
 - Notification necessary if work involves excavation and/or lane closure

18

Proposed Actions

- Concern – Enhanced public notification of construction:
 - Revise Chapter 43, Sec. 43-141 (i) (2) (A-E) of the DCC to regarding Notice to Public
 - ROW work with excavation and/or a lane closure lasting more than 24 hours requires two separate construction notifications
 - Construction on a thoroughfare, arterial, or a community collector with extended traffic delays requires at least (2) portable Changeable Message Signs (CMS)

19

Proposed Actions

- Concern – Explore alternative project delivery methods:
 - Competitive Bidding (currently used)
 - Competitive Sealed Proposals
 - Construction Manager-Agent
 - Construction Manager-At Risk
 - Design-Build Method

Proposed Actions

- Concern – Explore alternative project delivery methods (continued):
 - Competitive Bidding Method
 - Currently, all Department of Public Works construction projects* are procured utilizing this low bid method
 - Historically, change orders increase project cost up to 25%
 - Awards contract to “lowest responsible bidder”
 - Considers bidder’s skill, qualifications, financial resources, experience, honesty and integrity along with bid price, however, typically awarded to lowest bidder

*Excludes Office of the Bond Program projects

21

Proposed Actions

- Concern – Explore alternative project delivery methods (continued):
 - Competitive Sealed Proposal Method
 - Most similar to Competitive Bid with a weighted selection criteria added to allow for “best value”
 - May only be used on “Civil Works projects” with a cost of \$1.5 million or less
 - Relevant contractor experience and qualifications may be equal or of greater importance than cost

22

Proposed Actions

- Concern – Explore alternative project delivery methods (continued):
 - Construction Manager-Agent Method
 - Evaluation and selection is based on Construction Manager-Agent experience and qualifications
 - Allows one Manager-Agent to manage multiple contracts with various prime contractors

Proposed Actions

- Concern – Explore alternative project delivery methods (continued):
 - Construction Manager-At-Risk Method
 - Evaluation and selection is based on Construction Manager experience and qualifications
 - Successful project delivery is contingent upon collaboration and teamwork
 - Sets a Guaranteed Maximum Price (GMP) proposal

24

Proposed Actions

- Concern – Explore alternative project delivery methods (continued):
 - Design-Build Method
 - One bidder delivers both design and construction
 - Highest ranked firm selected based on evaluation criteria such as design-build experience, qualifications, contractor matrix, etc. leading to contract negotiation
 - Limited to six “Civil Works projects” per municipality (population > 500,000) in any fiscal year
 - City’s standard evaluation can be readily customized and utilized

Proposed Actions

- Procurement methods other cities are utilizing for Public Works projects

| | Competitive Bidding | Competitive Sealed Proposals | Construction Manager-Agent | Construction Manager-At-Risk | Design-Build |
|-------------|---------------------|------------------------------|----------------------------|------------------------------|--------------|
| Dallas* | Yes | No | No | No | No |
| Austin | Yes | Yes | Unknown | No | No |
| San Antonio | Yes | Yes | Unknown | Unknown | Yes |
| San Diego | Yes | Yes | Unknown | Yes | Yes |
| Boston | Yes | Unknown | Unknown | Unknown | Unknown |
| Phoenix | Yes | No | No | Yes | Yes |

*Department of Public Works, excluding Office of the Bond Program, DWU, and Parks

26

Proposed Actions

- Concern – Explore alternative project delivery methods (continued):
 - Use of Contractor Scoring Matrix in bidder evaluations for solicitations for public projects

| Construction Score Matrix Example | | | | |
|---|-----------------------|-----------|-----------|-----------|
| Project Name: PB 17VXXX | Maximum Points 100 | Company 1 | Company 2 | Company 3 |
| A - Experience, Background, and Qualifications for Prime Contractor | 25 | 25 | 23 | 22 |
| <i>B - Contractor Performance and Safety Record</i> | 15 | 14 | 13 | 15 |
| C - Subcontractor Experience | 10 | 10 | 8 | 5 |
| D - Proposed Plan | 20 | 18 | 19 | 20 |
| E - Price Schedule | 15 | 15 | 13 | 12 |
| F - MWBE Participation | 15 | 15 | 15 | 15 |
| TOTAL SCORE | 100 | 97 | 91 | 89 |
| RANK | | 1 | 2 | 3 |

Next Steps

- Finalize code/process changes for future City Council consideration
- Finalize the scoring matrix for awarding future contracts based on “best value” to the City and implement one of each applicable alternative bidding methods this fiscal year
- Continue refining post-construction feedback tools for the public and present recommendations to MSIS Committee in May 2019 as part of the IMP update

28

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