

**City of San Angelo  
Engineering Services Policy  
Electric Utility, Cable, Telecommunications and Other Facilities in City Right-of-Way**

**Effective April 4, 2022**

This policy shall be applicable to permits issued for construction work to be performed in the City of San Angelo public rights-of-way by persons other than City employees. The term “Contractor” shall include the permit Applicant/Facility Owner other than City.

**Major Construction Defined**

Major Construction is any construction, installation, maintenance, repair, or other work activities on city property or within the public right-of-way, when the construction work includes: (a) a street cut or break in the concrete, asphalt or similar hard surface of a fabricated road bed; (b) excavation or drilling into the surface of a public right-of-way; (c) full or partial obstruction of a public right-of-way; or, (d) work within city property or a public right-of-way and is anticipated to take longer than one (1) calendar day to complete.

**Construction permit required for Major Construction**

Anyone intending to perform major construction work on city property or within, along or adjacent to a public right-of-way, shall first obtain construction permits to the extent and in the manner required under this policy and applicable city ordinances. This policy shall be deemed to be incorporated into any permit issued for installation, repair, replacement, maintenance or removal of contractor facilities in the public right-of-way or on city property.

**Permit**

Contractor applications for permits to perform major construction in right-of-way, shall be submitted to the City Engineer upon forms to be provided by the city and shall be accompanied by drawings, plans and specifications in sufficient detail to demonstrate:

- (1) That the facilities will be constructed in accordance with all applicable codes, rules and regulations.
- (2) The location and route of all aboveground facilities to be installed, including separate identification of any new poles.
- (3) The location and route of all underground facilities to be installed, including separate identification of any new facilities.
- (4) The location of all existing underground utilities, conduits, ducts, pipes, mains and installations which are within the public rights-of-way along the underground route proposed by the applicant as discovered by use of the One-Call statute.

(5) The construction methods to be employed that will adequately protect existing structures, fixtures, and facilities within or adjacent to the public right-of-way. Only non-permanent marking paint or temporary flagging will be allowed.

(6) Any landscaping that exists on the surface of the area that must be protected during construction or restored after construction.

### **Engineer Certification of Plans**

All permit applications shall be accompanied by the certification of a professional engineer licensed in the state that the drawings, plans and specifications submitted with the application comply with applicable state technical codes, rules and regulations required by state law. Telecommunication applicants are exempt from the Texas Engineering Practice act as related to telephony. The exemption does not exempt plans & specifications not related to telephony; e.g., plans for traffic control and non-standard structural support elements.

### **Traffic-Control Plan**

Unless otherwise approved, a construction permit application which involves work on, in, under, across, or along any public right-of-way shall be accompanied by a traffic-control plan demonstrating the protective measures and devices that will be employed, consistent with the Texas Manual on Uniform Traffic Control Devices, to prevent injury or damage to persons or property and to minimize disruptions to efficient pedestrian and vehicular traffic. If the contractor does not intend to follow the Texas Manual on Uniform Traffic Control Devices or if required by the City Engineer, the construction permit application must include a traffic-control plan, prepared by a professional engineer licensed in the state, demonstrating the protective measures and devices that will be employed and prepared by a professional engineer licensed in the state.

### **Construction Schedule**

The permittee shall submit a written proposed construction schedule to the City Engineer at least five (5) business days or such time as acceptable to the City Engineer before commencing any work in or about the public right-of-way. The permittee shall further notify the City Engineer not less than two (2) business days in advance of any excavation work in the public right-of-way.

### **Compliance with Permit**

All construction practices and activities shall be in accordance with the permit and approved final plans and specifications for the facilities. The City Engineer shall be provided access to inspect the work and such information as he or she may require to ensure compliance with the permit and approved plans.

### **Display of Permit**

The permittee shall maintain a copy of the construction permit and approved plans at the construction site, which shall be displayed and made available to the City Engineer for inspection at all times during construction and until final acceptance of work.

### **Allowable and Prohibited Construction Times**

The permittee shall be allowed to perform construction in the public right-of-way from 7:00AM until 6:00PM Monday – Saturday. The permittee is prohibited from working in the right-of-way outside these allowable hours or on Sunday, unless construction or emergency repair are necessary in the interest of public safety or for other reasons determined by the City Engineer to be necessary for the public health, safety, or welfare. The permittee is prohibited from working during City holidays, City closures and/or delays due to weather conditions, or when the temperature drops below 32-degrees Fahrenheit.

### **Survey of Underground Facilities**

If the construction permit or approved plans specify the location of facilities by depth, line, grade, proximity to other facilities or other standard, the City Engineer may require, on a reasonable suspicion of noncompliance with permit or approved plan, within one hundred eighty (180) days of completion of work, that the permittee provide written verification of the location of such facilities by a registered surveyor. On request of the City Engineer the permittee shall relocate any facilities not located in compliance with approved plans or permit.

### **Materials Testing**

City Engineer or his designee shall approve any required material specifications and required testing. Contractor shall provide testing results from a certified testing laboratory and be responsible for the manner of construction and materials utilized that comply with approved project plans and specifications.

### **Noncomplying Work**

Upon order of the City Engineer, all work and facilities not in compliance with permit, approved plans and specifications, or the requirements under applicable ordinances or state regulations, shall be promptly and diligently brought into compliance by the permittee or removed.

### **Completion of Construction Work**

The permittee shall promptly complete all work activities so as to minimize disruption of the public right-of-way and city property. All construction work authorized by permit within the public right-of-way, including restoration, must be completed no later than one hundred eighty (180) consecutive days after date of issuance of the permit, except as may otherwise be agreed upon by the City Engineer in writing.

### **Landscape Restoration**

All trees, landscaping and grounds removed, damaged or disturbed as a result of the construction, installation, maintenance, repair or replacement of facilities in the public right-of-way or on city property shall be replaced or restored in substantially the same or better a condition as prior to performance of work.

## **Construction and Completion Bond**

For major construction work exceeding an estimated cost of \$50,000, on city property or within, along or adjacent to public right-of-way, a performance installation bond in a form approved by the City, written by a corporate surety acceptable to the city, in a penal sum equal to at least one hundred percent (100%) of the estimated cost of construction of the facilities approved by the City Engineer (excluding cost of plant) shall be deposited with and accepted by the City Risk Manager, 72 West College Avenue, San Angelo, Texas 76903, prior to commencement of any construction work.

- (1) The construction bond shall remain in force for one year (365 days) after the final inspection date and substantial completion of restoration of public rights-of-way and other property affected by the construction, as determined by the City Engineer or his or her designee.
- (2) The construction bond shall guarantee, to the satisfaction of the city completion of work which shall include:
  - (A) Timely completion of construction;
  - (B) Construction in compliance with applicable plans, permits, technical codes and standards;
  - (C) Proper location of the facilities as specified by the city;
  - (D) Restoration of public rights-of-way and other property affected by the construction;
  - (E) The submission as required by and approved by the City Engineer of “as-built” drawings after completion of the work as required by this division;
  - (F) Timely payment and satisfaction of all claims, demands or liens for labor, material or services provided in connection with the work.
- (3) In the event that performance by a contractor of any of its obligations under the terms of the contractor's construction permit or construction bond and/or the construction requirements imposed by this policy or applicable city ordinance shall be interrupted or delayed by an act of God, by acts of war, riot, or civil commotion, by an act of state, by strikes, fire, or flood, or by the occurrence of any other similar event, the contractor shall be excused from such performance for such period of time as is reasonably necessary until such occurrence abates or the effects thereof have dissipated.

## **Use of Public Right-of-Way**

(a) Unreasonable interference with city facilities. Pursuant to the city’s police power to regulate use of public right-of-way for public health and safety, the city maintains the right to allocate location of public facilities among utility and service contractors within, along or adjacent to the public right-of-way. Before a contractor constructs, installs or locates any of its facilities within, along or adjacent to any existing or proposed public right-of-way, the contractor shall contact the City Engineer and verify that the contractor's proposed construction, installation or location of its facilities will not conflict or interfere with any existing utility or service contractor relating to an existing or then planned public right-of-way. If the contractor’s proposed location is anticipated by the City Engineer to potentially interfere with existing utility or service

contractor facilities in the right-of-way, or such facilities then planned to be located within such public right-of-way, the contractor shall take such reasonable precautionary measures in the installation to avoid the detrimental interference; or, in the alternative, the city shall provide the contractor, to the extent deemed available by the City Engineer, a commercially reasonable alternative location.

(b) Minimal interference with public use. The contractor facilities shall be installed and maintained in a manner that does not adversely impact the public or other existing utility's or service contractor's use of the public right-of-way. The contractor shall be responsible for securing whatever agreements are required from private property owners relating to temporary construction areas on private property and other use of private property. The contractor shall comply with all applicable rules, regulations and requirements of the city relating to construction, including, but not limited to regulations relating to: construction permits, construction standards, hours permitted for construction work, traffic control, signage and barricading. The implementation of traffic-control and barricading devices shall be with advance notice and approval of the Traffic Operations Division of the Operations Department of the city, and consistent with the standards and provisions of the Texas Manual on Uniform Traffic Control Devices.

(c) General construction and maintenance requirements. A contractor shall not construct or maintain facilities located within, along or adjacent to the public right-of-way in a manner that:

- (1) obstructs, impedes, or hinders travel on a public right-of-way except pursuant to a plan approved by the City Engineer;
- (2) hinders public safety, health or welfare
- (3) unreasonably interferes with the legal use of a public right-of-way by other utility or service contractors;
- (3) violates nondiscriminatory provisions of applicable local, state and federal codes;
- (4) violates or conflicts with the city's public right-of-way design specifications; or
- (5) violates the federal Americans with Disabilities Act of 1990 as amended, and related federal, state and local regulations (ADA).

(d) Restoration of roadway. All surfaces of any public right-of-way disturbed by a contractor in the construction or maintenance of its facilities, shall be promptly restored at the sole expense of the contractor with the same materials and to the same specifications as the original improved surface, to as good a condition of roadway as before the commencement of the work.

(e) Underground facilities. With the exception of service connections, the contractor shall bury or have buried its underground facilities at least thirty (30) inches below the surface of the public right-of-way and shall place markers at intervals reasonably required to alert the general public of the presence of such underground facilities. In any area of the city where the city currently, or may in the future, require public utilities to place their facilities underground, the contractor shall also place its facilities underground at the sole expense of the contractor.

(f) Joint use of facilities. In order to avoid an undue burden on the infrastructure of the public right-of-way and unnecessary proliferation of utility and service contractor facilities within the public right-of-way, the contractor shall make a good faith effort to accommodate the joint use or co-location of its poles, conduits and facilities located in, along or adjacent to the public right-of-way for such non-discriminatory

fees as may be permissible under applicable local, state or federal regulations.

(g) Relocation of facilities. The contractor shall disconnect, relocate or remove all or any portion of its facilities from within, along or adjacent to the public right-of-way when such is required due to street widening, realignment, relocating, or other street related construction, at the sole cost and expense of the contractor.

(h) Temporary relocation of facilities. Upon reasonable advance notice, the contractor shall temporarily raise or lower its wires, cables or other similar facilities upon request of any person when such is necessary for utilization of the right-of-way for transportation purposes such as oversize vehicles or loads or access of an oversize vehicle or load to private property. The contractor may charge a reasonable, non-discriminatory fee directly related to the costs for such accommodation and may require payment in advance.

### **Location of Contractor Facilities**

All contractor facilities located within, along or adjacent to public rights-of-way or on city property shall be constructed, installed and located in accordance with the following:

- 1) A contractor shall install its cable or line facilities within an existing underground duct or conduit whenever excess capacity exists, subject to applicable construction standards and regulations, or except as approved by the City Engineer.
- 2) When any existing electric utility, cable facility or telecommunications facility is located underground within a public right-of-way, additional electric utility, cable or telecommunications facilities shall be installed underground, absent a sufficient demonstration to the City Engineer that underground installation is not feasible or not commercially reasonable in the specific instance.
- 3) Whenever relocation of contractor facilities is due to street widening or realignment, reinstallation of such facilities shall be underground and at the sole cost and expense of the owner of the facilities.
- 4) In determining whether any requirement under this policy is not feasible or commercially reasonable, the City Engineer shall consider, among other things, whether the requirement would likely subject the contractor to an increased incidence of service interruption, would unreasonable delay construction and service, or would otherwise subject the contractor to a substantial technical or economic disadvantage.

### **Responsibility for Existing Improvements**

(a) Interference with improvements. Contractors shall not interfere with any existing improvements within the city's right-of-way without the written consent of the City Engineer and the person owning or having control over the improvements. Such improvements shall be those owned by the city or state, or any telephone, telecommunications, wireless, electric, or cable company, or city franchisee or other public utility.

(b) Moving or relocating improvements. Improvements owned by the city within the right-of-way shall not be moved or relocated to accommodate the contractor unless first approved, in writing, by the City Engineer, and the cost thereof shall be borne by the contractor. The cost of moving privately owned improvements described in subpart (a) of this section shall be similarly borne by the contractor desiring to move or relocate them, subject to such other agreement as may be reached between the interested parties.

(c) Protection of improvements. A contractor shall protect any improvements within the city's right-of-way which may potentially be adversely affected by the contractor, subject to condition that the contractor has actual notice or should reasonably be on notice, of the existence and approximate location of such improvements as described in subpart (a) of this provision. A contractor will be deemed to have notice of the existence and approximate location of improvements in the following circumstances:

- (1) The improvements and location thereof are shown on any map, plat or drawing on file with the City Engineer;
- (2) The improvement or any related equipment or facility to which the improvement is connected, is located above ground in the immediate vicinity; and
- (3) Where a building, house or other structure is located on property abutting the city right-of-way, a contractor is deemed to have notice of the utilities that can reasonably be expected to service such structures and the usual locations within the right-of-way for such facilities, including gas, water, sewer, cable, telecommunications, wireless, electric and telephone facilities.

(d) Duty of owner of improvements. If the contractor has notice of the approximate location of an improvement, other than improvements owned by the city, but cannot readily determine the exact location thereof, such contractor shall request the owner of such improvements to determine its location, and the owner shall thereupon be responsible for determining and pointing out to such contractor by appropriate means the location of any such improvement.

### **Damage to Property**

A contractor or any person acting on a contractor's behalf shall be responsible for any impairment or damage to city property resulting from the contractor's occupancy within, adjacent to or adjoining public right-of-way.

### **Restoration of Right-of-Way and Use of Barricades**

(a) When a contractor does any work adversely affecting public use of a right-of-way or city property, contractor shall, at its own expense, within seven (7) consecutive days of commencing such work, or such extended period as authorized by the City Engineer, remediate such adverse impact, including removal of obstructions therefrom and restoration of the public right-of-way or city property to as good a condition as existed before the work was undertaken.

(b) When weather or other physical conditions do not permit the complete restoration required by this section, and the public health or safety is in jeopardy, the contractor shall temporarily restore the affected public right-of-way or city property as necessary for continued public use properly addressing immediate public health and safety concerns. Such temporary restoration shall be at the contractor's sole expense. The contractor shall promptly undertake and complete the required permanent restoration when weather or such other physical conditions no longer prevent permanent restoration.

(c) A contractor shall comply with City Code of Ordinances Article 4.07 "Barricading standards and procedures" when undertaking any work in the public right-of-way. Use of barricades, flags, flagmen, lights, flares and other measures as required for the safety of all members of the general public shall comply with the Texas Manual on Uniform Traffic Control Devices.

## Facility maps

(a) Within a reasonable time after completing any new construction of or expansion of existing facilities, but in no case more than sixty (60) days after completion of work, a contractor shall provide the city with one or more maps, which shall be digital if possible, that show each utility facility and that separately illustrate each utility facility for transmission or distribution of the utility's services, that comply with the requirements of Texas Utilities Code, Subtitle C "Telecommunication Utilities, Section 54.258 "Maps", as amended.

(b) Each contractor shall maintain existing maps of all of the contractor's facilities located on city property or within the public right-of-way. As soon as practicable upon request from the city, the contractor shall provide the city local access to any portion of those maps showing the location of the contractor's facilities within the public right-of-way or on city property in any specific geographic area designated by the city. In the event the contractor does not disclose or incorrectly identifies the location of its underground facilities when requested by the city or when such marking of the location is otherwise required by law or regulation, the city shall have no liability for damage to such undisclosed or misidentified facilities. This provision is not intended to and does not alter or expand the indemnity liability of a certificated contractor under chapters 283 or 284 of the Local Government Code or other state statute.

## Types and Amounts of Insurance Required

(a) Contractor shall obtain and continuously maintain in effect at all times during the term of the contractor's franchise or the term of any permit for construction work in City rights-of-way, at Contractor's sole expense, insurance coverage primary to any other insurance and with waiver of subrogation rights against the City of San Angelo, as follows with limits not less than those set forth below:

1. Commercial General Liability. This policy shall be an occurrence-type policy and shall protect Contractor and additional insureds against all claims arising from bodily injury, sickness, disease or death of any person (other than Contractor's employees) and damage to property of City or others arising out of the act or omission of Contractor or its agents and employees. This policy shall also include protection against claims for the contractual liability assumed by Contractor under the paragraph of this Agreement entitled "Indemnification," including completed operations, products liability, contractual coverage, broad form property coverage, explosion, collapse, underground, premises/operations, and independent Vendors (to remain in force for two years after final payment). Coverage limits shall not be less than:

\$2,000,000.00 General Aggregate  
\$1,000,000.00 Products – Completed Operations  
\$1,000,000.00 Personal & Advertising Injury  
\$1,000,000.00 Each Occurrence  
\$ 100,000.00 Fire Damage (any one fire)

2. Business Automobile Liability. This policy shall be written in comprehensive form and shall protect Contractor and the additional insureds against all claims for injuries to members of the public and damage to property of others arising from the use of motor vehicles and shall cover operation on and off the premises of all motor vehicles licensed for highway use, whether they are owned, non-owned or hired. Coverage shall be as follows:

\$ 1,000,000.00 Each Accident Limit

3. Workers' Compensation and Employer's Liability. If Contractor hires any employees, Contractor shall maintain Workers' Compensation and Employer's Liability insurance, which shall protect Contractor against all claims under applicable state workers' compensation laws and employer's liability. The insured shall also be protected against claim for injury, disease or death of employees which for any reason, may not fall within the provisions of a workers' compensation law. Coverage shall not be less than:

<b>Statutory Amount</b>	<b>Workers' Compensation</b>
\$ 500,000.00	Employer's Liability, Each Accident
\$ 500,000.00	Employer's Liability, Disease - Each Employee
\$ 500,000.00	Employer's Liability, Disease - Policy Limit

(b) The liability insurance policies required by this section shall be maintained by the contractor throughout the term of the contractor's franchise or the term of any permit for work in city rights-of-way, and any such other period of time during which the contractor is operating without a franchise or is engaged in the removal of its facilities. **Should contractor receive notice of non-renewal or termination of a liability insurance policy, contractor warrants to city that such notice will be immediately (not later than 24 hours after receipt of such notice) forwarded by registered mail addressed to the City Attorney, 72 West College, Suite 310, San Angelo, Texas 76903.** Within ten (10) days after contractor's receipt of said notice, but in no event later than five (5) days prior to effective date of said non-renewal or cancellation, the contractor shall obtain and furnish to the city certificates of insurance certifying replacement insurance policies meeting the requirements of this section.

(c) With respect to automobile liability insurance coverage, the city will accept certificates of self-insurance issued by the state, which provide the same coverage as required under city policy. The city has the right to require proof of financial stability prior to accepting the proof of self-insurance, provided that defense of the city shall be comparable as provided by an insurance carrier.

(d) The city reserves the right to review the insurance requirements with respect to any contractor, and to reasonably adjust types of insurance coverage and minimum limits required when the city determines that changes in statutory law, court decisions, or the claims history of the industry or the contractor require adjustment of the coverage to protect against perceived additional level of risk.

### **Indemnity**

(a) **APPLICANT AND CONTRACTOR SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS CITY AND ITS OFFICIALS, EMPLOYEES AND AGENTS (COLLECTIVELY REFERRED TO AS "INDEMNITEES") AND EACH OF THEM FROM AND AGAINST ALL LOSS, COSTS, PENALTIES, FINES, DAMAGES, CLAIMS, EXPENSES (INCLUDING REASONABLE ATTORNEY'S FEES) OR LIABILITIES (COLLECTIVELY REFERRED TO AS "LIABILITIES") BY REASON OF ANY INJURY TO OR DEATH OF ANY PERSON OR DAMAGE TO OR DESTRUCTION OR LOSS OF ANY PROPERTY ARISING OUT OF, RESULTING FROM, OR IN CONNECTION WITH (I) THE PERFORMANCE OR NON-PERFORMANCE OF WORK CONTEMPLATED BY THE APPLICATION AND CONSTRUCTION PERMIT BUT ONLY TO THE EXTENT CAUSED BY THE NEGLIGENT ACTS, ERRORS OR OMISSIONS, INTENTIONAL TORTS, INTELLECTUAL PROPERTY INFRINGEMENT, OR A FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER COMMITTED BY CONTRACTOR OR CONTRACTOR'S AGENT, CONSULTANT UNDER CONTRACT, OR ANOTHER ENTITY OVER WHICH CONTRACTOR EXERCISES CONTROL, OR ITS EMPLOYEES, AGENTS OR SUB-PROVIDERS (COLLECTIVELY REFERRED TO AS "CONTRACTOR") (II) THE FAILURE OF CONTRACTOR TO COMPLY WITH ANY APPLICABLE ORDINANCE, POLICY OR**

**OTHER REGULATION OR THE FAILURE OF CONTRACTOR TO CONFORM SERVICES OR WORK TO STATUTES, ORDINANCES, OR OTHER REGULATIONS OR REQUIREMENTS OF ANY GOVERNMENTAL AUTHORITY, FEDERAL, STATE OR LOCAL, IN CONNECTION WITH THE PERFORMANCE OF WORK CONTEMPLATED UNDER THE CONSTRUCTION PERMIT. CONTRACTOR EXPRESSLY AGREES TO INDEMNIFY AND HOLD HARMLESS THE INDEMNITEES, OR ANY OF THEM, FROM AND AGAINST ALL LIABILITIES WHICH MAY BE ASSERTED BY AN EMPLOYEE OR FORMER EMPLOYEE OF CONTRACTOR, OR ANY OF ITS SUB-PROVIDERS, AS HEREIN PROVIDED, FOR WHICH CONTRACTOR'S LIABILITY TO SUCH EMPLOYEE OR FORMER EMPLOYEE WOULD OTHERWISE BE LIMITED TO PAYMENTS UNDER STATE WORKERS' COMPENSATION OR SIMILAR LAW. NOTHING HEREIN SHALL REQUIRE CONTRACTOR TO INDEMNIFY, DEFEND, OR HOLD HARMLESS ANY INDEMNITEE FOR THE INDEMNITEE'S OWN GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. ANY AND ALL INDEMNITY PROVIDED FOR IN THIS AGREEMENT SHALL SURVIVE THE EXPIRATION OF THE SUBJECT CONSTRUCTION PERMIT AND THE DISCHARGE OF ALL OTHER OBLIGATIONS OWED BY THE APPLICANT AND CONTRACTOR TO THE CITY AND SHALL APPLY PROSPECTIVELY NOT ONLY DURING THE TERM OF THIS AGREEMENT BUT THEREAFTER SO LONG AS ANY LIABILITY COULD BE ASSERTED IN REGARD TO ANY ACTS OR OMISSIONS OF CONTRACTOR IN PERFORMING SERVICES CONTEMPLATED UNDER THE CONSTRUCTION PERMIT.**

(b) The contractor warrants that it shall promptly notify the city, in writing, of any known claim or demand against the contractor related to or arising out of the contractor's activities in the public right-of-way.