

Chapter 9

Public works that work for your public

Public works such as streets, water/sewer systems and parks are so basic that most people take them for granted. When we turn on the shower, drive down the street, or empty the trash, people rarely think about who provided that service. But let just one utility fail - or one utility bill increase - and public attention is suddenly riveted. Yet it's the existence and the reliability of these basic-but-hardly-noticed services that often bring residents and businesses into cities. These are the services that underpin the economy and quality of life, while protecting the environment.

Sorting through state and federal regulations can be overwhelming, and the costs associated with these systems can be daunting. Even the most highly-trained professionals are challenged to keep up on all the new mandates.

Utility services

Many small cities have utility systems, often including water, sewer, storm and surface water management, and garbage/recycling collection. Some operate natural gas, electricity, cable television, and/or broadband services as city utilities as well.

Utilities operate as enterprise funds. This means the revenues collected from that service (such as hookup fees and user fees), must be accounted for within that fund and cannot be commingled with other funds. See Chapter 6 for more information and resources.

Public works partnerships

Cities can choose to provide utility services themselves or through a partnership or contract. Partnerships often provide innovative services, more effective service delivery, cost savings and/or greater efficiency. Cities can contract with the county, another city, a special purpose district or a private company.

Utility maintenance and infrastructure development

Keeping up with the development and maintenance of utilities can be an overwhelming task, but several state agencies and nonprofit organizations are dedicated to helping smaller cities by providing training, technical assistance and funding. Their services can help with rate setting, capital facilities planning, budgeting, grant writing, and small system management plans.

Setting the right rates for your users

The goal of every public utility is to provide customers with uninterrupted, safe, fairly-priced service while balancing the books at the breakeven point or better. Setting rates is crucial, as is periodic reviews and adjustments to those rates.

Cities have broad authority to establish rules and regulations for the operation of utility systems, including the ability to establish rates and to classify different types of customers (business, residential, etc.) who will be charged different rates. Cities rely heavily on user rates, hookup fees or system development charges as the primary funding sources for utility infrastructure improvements.

City leaders should keep in mind that infrastructure costs are rising faster than inflation. This can have devastating effects on those cities that don't index utility rates to an inflator or raise rates every year. Cities should also establish a reserve account for unforeseen emergencies.

Utility billing and collection

If a city has established utilities, the city must bill and collect for services. There are many potential headaches associated with utility billings and collection practices such as delinquent accounts, utility liens, penalties and interest. These topics and others should be spelled out in the city's policies and communicated clearly to those who use these services. State law regulates many of these processes and procedures.

Streets and transportation

State law requires cities to adopt uniform definitions and design standards for streets. These uniform design standards apply to all new construction on major arterial and secondary arterial streets, and to major reconstruction of old streets (as much as is practical).

The revenues to address street construction, repair and maintenance almost always come from a city's general fund. For major construction projects, there are several state grant and low-interest loan programs. However, to get funding from these programs, a city must have a Pavement Management Program.

Sidewalks

When a city fails to keep its sidewalks in a reasonable state of repair, free of dangerous and unsafe conditions, the result can be costly injury claims. Many cities and towns have ordinances, based on one or more of the statutes listed below, that impose the cost of sidewalk repair upon abutting property owners. If a sidewalk is in need of repair, the city asks the abutting property owner to make the repair. If the repair is not made, the city may make the repair and bill the property owner. While these ordinances provide a way to repair and maintain sidewalks, they do not relieve the city from liability if someone is injured due to a dangerous sidewalk.

City and town sidewalk statute summary

Statute	RCW 35.68	RCW 35.69	RCW 35.70
Applicability	All cities or towns	Code cities, 1st & 2nd class cities, or charter cities of equal population	Code cities or 2nd class cities and towns
Improvement type	Construct, reconstruct & repair sidewalks, curbs and gutters	Sidewalk construction & reconstruction less than one block long	Any form of sidewalk construction
Remarks	City may require improvements to be made or accomplish them through contract	City requires improvements to be made and, if not, then accomplishes them through contract	City requires improvements to be made and, if not, then accomplishes them through contract
<p>All three statutes refer to limitations in RCW 35.69.020;</p> <ul style="list-style-type: none"> • An abutting property owner cannot be charged more than 50% of the valuation of his or her property, exclusive of improvements; • An abutting property owner cannot be charged if action by city caused deterioration or damage to the sidewalk, or if the deterioration or damage was caused by failure of the city to enforce its ordinances. 			

Sidewalks are pedestrian facilities that must meet the requirements of the Americans with Disabilities Act (ADA). When a city constructs new sidewalks or streets with sidewalks, or alters a sidewalk or street with sidewalks (“alter” includes repaving, but not pothole patching) the city must ensure that the sidewalks are built or upgraded to ADA standards including appropriate curb ramps.

Snow and ice removal

Cities have the responsibility for control of snow and ice on city streets and sidewalks. Emergency services and routine travel must remain possible, even in bad weather. Snow and ice control programs must take into account safety, budget, personnel, and environmental factors. These tasks can be done by city employees and equipment, and/or by private contractors or through partnerships or service agreements with other local governments.

The city may decide that when snowfall accumulations are less than two inches, focus will be on traction control measures (such as sanding) for ice on the roadways. Plowing typically occurs when snowfall accumulations exceed two inches on the roadway.

The intent of policies and procedures should be to provide for reasonably safe use and passage of vehicles using the city's public street system, and to ensure that emergency service vehicles can travel on city streets, and provide needed access to city facilities. Of course, such policies assume that motorists will drive in a cautious manner, and in a vehicle that is properly equipped, given the prevailing roadway conditions.

Many cities/towns require that owners of each building or vacant property with adjoining sidewalks will clean the sidewalk of snow or ice by noon (or early afternoon) or within 24 hours after snow stops falling.

Transportation planning

Cities are required to prepare and adopt a six-year comprehensive transportation program. These plans are to be adopted after one or more public hearings, and must be filed with the Secretary of the Washington State Department of Transportation (WSDOT) after adoption. These Transportation Improvement Plans (TIPs) must be consistent with the transportation element of the city's comprehensive plan, if there is one.

The Transportation Improvement Plan (TIP) should include proposed road and bridge construction work, other transportation facilities and programs, and new or improved bicycle or pedestrian facilities that promote non-motorized transit. The plan should also describe how a city will preserve railroad rights-of-way if a railroad ceases to operate in its jurisdiction. In addition, a six-year TIP is to set forth those projects and programs of regional significance for inclusion in the transportation improvement program within that region.

All cities and towns are required by state law to update their six-year TIP's annually. In addition to this requirement, a city may also be required to prepare a comprehensive plan, with a transportation element. For more information on comprehensive planning, see Chapter 10.

Parks and recreation

The quality of life in cities is better when families and friends can enjoy a picnic in the park, a swim in a pool, a softball game or a walk on a trail through open space. City parks and recreation opportunities also may include public auditoriums, art museums, and golf courses.

Cities have several choices as to how they offer parks and recreation services. They can:

- Provide the services themselves;
- Partner with another jurisdiction; or
- Create a park district.

Park districts provide a way to finance park programs. This financing method is often used when the people who will use a city's recreational facilities live both in and outside the city.

Planning requirements

The Growth Management Act (GMA) requires the fastest growing counties and the cities within them to plan extensively in order to be consistent with state goals on open space and recreation. The state requirement includes retaining open space, enhancing recreational opportunities, conserving fish and wildlife habitat, increasing access to natural resource lands and water, and developing parks and recreation facilities. See Chapter 10 for more information on the GMA.



Hunts Point Town Hall

Bidding and purchasing

Although bidding and purchasing requirements may sometimes feel like a bureaucratic step that gets in the way of completing a project easily, they were created for good reason. These policies ensure that public contracts are awarded fairly and performed efficiently, at the least cost to the public. These laws also protect the public from the costs of fraud and cronyism.

Every city should have a purchasing system established by council policy and/or ordinance that is:

- Uniform throughout the city;
- Compliant with public works bid laws;
- Used by all departments;
- Addresses the issue of ethical appearances;
- Meets public advertising requirements; and
- Meets public bid opening requirements.

	Prevailing wages apply	Bid limits apply
Services		
Purchased services	No	No
Personal services	No	No
Professional services	No	No
Ordinary maintenance (by agency forces)	No	No
Public works		
Public works	Yes	Yes
Maintenance when performed by contract	Yes	Yes
<i>RCW 39.04.010 defines a public work project as "all work, construction, alteration, repair or improvement other than ordinary maintenance, executed at the cost of the state or of any municipality..." The implication is that maintenance activities that are not "ordinary" are subject to bid limits, and then, if contracted, to prevailing wages.</i>		

When to go out to bid

It is important to know when a city must have a competitive bidding process on a project and a uniform procurement system. Competitive bidding is determined by a number of factors - including the type of purchase, the city's classification, and in some cases, the city's population. A city doesn't have to use a competitive bid process for everything, but must when it is required by statute, local charter provision or local ordinance.

Consulting services

Competitive bids are generally not required for services, including professional engineers, land surveyors, architects, etc. These services should be selected on the basis of qualifications. A city needs to recruit consultants through:

- An announcement for each project; or
- A consultant roster.

Other services

Services - such as ongoing computer support, landscaping and janitorial contracts - are not public works activities and do not require that a city follow competitive bid laws. This does not mean the city does not need to follow other statutory provisions that may apply to a particular kind of service. For example, even though janitorial contracts are a service, prevailing wages apply to these contracts.

Equipment, materials and supply purchases

This category includes supplies, materials, and equipment that are for general purposes only. Examples include office supplies, equipment and vehicles. Phone system hardware is an example of an equipment purchase, but a telephone system that requires installation of cable, conduits, and other devices may fall within the definition of a public work.

Purchases of supplies, materials, and equipment below a minimum dollar amount of \$7,500 (bid limit or threshold) are subject only to city policies. Above this threshold, a city must either use a vendor list procedure or seek open and competitive bids. Small cities can use a vendor list process to purchase equipment, materials, and supplies that are not for public work or improvement. The vendor list process may be used to secure telephone or written quotes for purchases up to \$15,000. The city must also advertise in the city newspaper at least twice a year that the vendor list exists. If a city uses vendor lists, it must make a list of awarded contracts available to the public at least every two months.

Technology equipment purchases

Cities may use "competitive negotiation" in lieu of a competitive bid process for telecommunications, computer equipment or software. This alternate process requires that the city must:

- Provide procedures for technical evaluation of the proposals, identification of qualified sources, and the selection process for awarding the contract.
- Award the contract to the qualified bidder whose proposal is "most advantageous."

Public works and maintenance

All public works - including maintenance when performed by contract - must comply with bid laws and prevailing wages laws. This includes "work, construction, alteration, repair or improvement other than ordinary maintenance."

What is ordinary maintenance? Within the context of prevailing wages this defined as:

- Work not performed by contract;
- Work performed on a regularly scheduled basis;
- Work to service, check for or replace items as necessary;
- Other work to maintain the asset; and
- Public works.

When maintenance is performed by city staff it is not public works and is therefore not subject to either bid laws or prevailing wages. Contracted ordinary maintenance is considered a public works project and is subject to both bid laws and prevailing wages.

Uniform exemptions for public works and equipment, supplies and material purchases

If a city wants to use these exemptions, council must adopt a resolution at the time of contracting or have written policies outlining the following exemptions:

- Purchases that are clearly and legitimately limited to a single source of supply
- Purchases involving special facilities or market conditions
- Purchases in the event of emergency
- Purchases of insurance or bonds
- Public works contracts in the event of an emergency

If written policies are used to waive competitive bidding requirements, the contract and a factual basis for the exception must be recorded and open to the public as soon as the contract is awarded.

Public works bid limits

When deciding whether a project is under or over bid limits, estimated project costs:

- Must include all construction related work, but not engineering/ architectural design fees;
- Must include all phases of the project;
- Should include applicable sales and use taxes;
- Must not include donated labor, materials, supplies, etc.; and
- Must be based on competitive bid basis.

Legislation approved in 2009 (ESHB 1847) modified public works bid limits thresholds for cities, counties, universities and colleges, sewer and water districts, public hospital districts, fire districts and metropolitan parks districts. For cities, there are now effectively two categories as indicated in the table below.

	Single trade limit	Multiple trade limit
First class cities >150,000 (Seattle, Spokane, Tacoma, Vancouver)	\$45,000	\$90,000
First class cities <150,000 (Aberdeen, Bellingham, Bremerton, Everett, Richland, Yakima)	\$45,000	\$90,000
Code cities >20,000	\$40,000	\$65,000
Code cities <20,000, Second class cities & towns	\$40,000	\$65,000

If the estimated project cost is below these bid limits, the city can choose to construct the project through:

- Use of agency crews;
- Interlocal agreement with another jurisdiction; and
- Contract with private contractor.

	Bid advertisement required	Formal public bid opening required	Bidding open to
Bids: \$300,000 and over	Yes	Yes	All licensed contractors
Informal bids: Bid limits to \$300,000 (if Small Works Roster is used)	No	No	Licensed contractors on Small Works Roster
Quotes: Below bid limits	No	No	Selected licensed contractors

Small works rosters

Small works rosters are a streamlined bid process for public works projects anticipated to cost up to \$300,000. Otherwise, public work projects require a formal competitive bid process, unless the estimated cost is below the bid limits.

A city may create a single general small works roster (SWR), create a small works roster for different specialties or categories of anticipated work, and make distinctions between contractors based upon different geographic areas served by the contractor. The city must first pass a resolution or ordinance authorizing use of the SWR process and establish procedures.

Advantages of a small works roster for a city include:

- Only contractors who meet mandatory bidder criteria are placed on the roster
- More manageable number of bidders
- Greater certainty of interested bidders
- Simpler solicitation
- Possibility for streamlined award and contract administration
- Opportunity to automate

A city needs to advertise at least once a year in an area newspaper for contractors to be included in the small works roster. The advertisement must contain notice of the existence of the roster, solicitation of contractors and note that responsible contractors are to be added at any time that they submit a written request and necessary records.

A city has an option of joining a roster service provider who will maintain their roster. For example, MRSC Rosters is a shared small public works and consultant roster online database for Washington cities to join. MRSC Rosters posts the annual legal notice on behalf of all participating agencies and maintains the roster.

Funding for public works: planning for the long term

Infrastructure projects are expensive, to say the least. A city should think strategically about how to manage infrastructure costs over the long term. To do this, city officials shouldn't hesitate to ask for help and advice from those who have a deep knowledge of laws, best practices, available grants, and success stories from similar cities.

See Chapter 6 for information on grant and low-interest loan opportunities and for long-range financial planning.

Resources

Asset Management Resources for Small Drinking Water Systems,

Environmental Protection Agency (EPA)

epa.gov/dwcapacity/asset-management-resources-small-drinking-water-systems-0

Intergovernmental Cooperation in Public Works topic page, MRSC

mrsc.org/Home/Explore-Topics/Public-Works/Operation-and-Maintenance/Intergovernmental-Cooperation-in-Public-Works.aspx

New City Guide, MRSC

mrsc.org/getmedia/D4B59FB8-1A3C-47F1-A7F1-02CE2CD1B0EE/ncg13.aspx

Setting Small Drinking Water System Rates for a Sustainable Future, EPA

nepis.epa.gov/Exe/ZyNET.exe/2000D2NM.TXT?ZyActionD=ZyDocument&Client=EPA&Index=2000+Thru+2005&Docs=&Query=&Time=&EndTime=&SearchMethod=1&TocRestrict=n&Toc=&TocEntry=&QField=&QFieldYear=&QFieldMonth=&QFieldDay=&IntQFieldOp=0&ExtQFieldOp=0&XmlQuery=&File=D%3A%5Czyfiles%5CIndex%20Data%5C00thru05%5CTxt%5C00000009%5C2000D2NM.txt&User=ANONYMOUS&Password=anonymous&SortMethod=h%7C-&MaximumDocuments=1&FuzzyDegree=0&ImageQuality=r75g8/r75g8/x150y150g16/i425&Display=p%7Cf&DefSeekPage=x&SearchBack=ZyActionL&Back=ZyActionS&BackDesc=Results%20page&MaximumPages=1&ZyEntry=1&SeekPage=x&ZyPURL

Water Utilities topic page, MRSC

mrsc.org/Home/Explore-Topics/Public-Works/General-Utility-Topics/Water-Utilities.aspx

Utility maintenance and infrastructure development

Evergreen Rural Water of Washington

erwow.org

Infrastructure Assistance Coordinating Council (IACC)

infrafunding.wa.gov/

Rural Community Assistance Corporation (RCAC)

infrafunding.wa.gov/

Sewer Utilities topic page, MRSC

mrsc.org/Home/Explore-Topics/Public-Works/General-Utility-Topics/Sewer-Utilities.aspx

Utility Rates Survey, AWC

awcnet.org/DataResources/resourcesbytopic/TaxandUserFeeSurvey.aspx

Washington Department of Health (DOH)

doh.wa.gov

Washington Department of Ecology (ECY)

ecy.wa.gov/

Water Utilities topic page, MRSC

mrsc.org/Home/Explore-Topics/Public-Works/General-Utility-Topics/Water-Utilities.aspx

Streets and transportation

Infrastructure Assistance Coordinating Council (IACC)

infracunding.wa.gov

Local Improvement Districts topic page, MRSC

mrsc.org/Home/Explore-Topics/Public-Works/Finance/Local-Improvement-Districts.aspx

Public Works Board (PWB)

pwb.wa.gov

Small City Arterial Program, Transportation Improvement Board (TIB)

tib.wa.gov/grants/smallcity/SCAP.cfm

Selecting a Preventive Maintenance Treatment for Flexible Pavements,

Washington State Department of Transportation (WSDOT)

wsdot.wa.gov/NR/rdonlyres/F27BCD0A-793C-48EF-A795-6C57136C4437/0/PavementPreservation.pdf

Small City Sidewalk Program, Transportation Improvement Board (TIB)

tib.wa.gov/grants/smallcity/SCSP.cfm

Transportation Improvement Board (TIB)

tib.wa.gov

Updated Revenue Forecasts for Motor Vehicle Appropriations and Marijuana Tax Distributions, MRSC

mrsc.org/Home/Stay-Informed/MRSC-Insight/October-2015/Updated-Revenue-Forecasts-for-Motor-Vehicle-Approp.aspx

Sidewalks, snow and ice removal

Sample Documents, MRSC

mrsc.org/Home/Research-Tools/Sample-Documents.aspx

Sidewalk Use Policies topic page, MRSC

mrsc.org/Home/Explore-Topics/Public-Works/Streets,-Road-and-Sidewalks/Sidewalk-Use-Policies.aspx

Snow and Ice Removal Policies topic page, MRSC

[mrsc.org/Home/Explore-Topics/Public-Works/Streets,-Road-and-Sidewalks/Snow-and-Ice-Removal-\(1\).aspx](http://mrsc.org/Home/Explore-Topics/Public-Works/Streets,-Road-and-Sidewalks/Snow-and-Ice-Removal-(1).aspx)

Transportation planning

Comprehensive Planning/Growth Management, MRSC

mrsc.org/Home/Explore-Topics/Planning/General-Planning-and-Growth-Management/Comprehensive-Planning-Growth-Management.aspx

State and Federal Transportation Grants and Loans topic page, MRSC

mrsc.org/Home/Explore-Topics/Transportation/Transportation-Funding/State-and-Federal-Transportation-Grants-and-Loans.aspx

Transportation Plans and Plan Elements topic page, MRSC

mrsc.org/Home/Explore-Topics/Transportation/Transportation-Planning-and-Policy/Transportation-Plans-and-Plan-Elements.aspx

Parks and recreation

Parks and Recreation topic page, MRSC

mrsc.org/Home/Explore-Topics/Parks-and-Recreation.aspx

Parks, Open Space and Recreation, Department of Commerce

commerce.wa.gov/Services/localgovernment/GrowthManagement/Growth-Management-Planning-Topics/Pages/Parks-Open-Space-and-Recreation.aspx

Washington Recreation and Parks Association (WRPA)

wrpatoday.org

Washington State Recreation and Conservation Office

rco.wa.gov

Funding for public works: planning for the long term

Bidding and Awarding a Public Contract, MRSC

mrsc.org/getdoc/dd1e41fa-b042-4366-b3f6-4d16818433ad/Public-Works-Bidding-and-Award.aspx

City Bidding Book, MRSC

mrsc.org/getmedia/5f218416-8d03-4ab2-b1af-eb86e42b3e87/citybb13.pdf.aspx

Find Your Contracting Requirements, MRSC

mrsc.org/getdoc/34f48990-07dc-4155-970e-2f061f5d4142/Contracting-Requirements.aspx

Purchasing and Bidding Chart for Local Agencies in Washington State, MRSC

mrsc.org/getmedia/907eb48e-8c77-405c-a0ef-e0079279a356/PurchasingChartA.pdf.aspx

Small Works Roster: A Guide for Washington's Local Governments, MRSC

mrsc.org/getmedia/76F26736-17EC-4EF9-A082-64F50FDD7D2C/spwrostermanual.aspx

Know the law

- RCW 35.67 - Sewerage systems - refuse collection and disposal
- RCW 35.91 - Municipal Water & Sewer Facilities Act
- RCW 35.92 - Municipal utilities - water, electricity, natural gas
- RCW 36.94 - Sewerage, water, and drainage systems (counties)
- RCW 57 - Water-sewer districts
- Rules and regulation, DOH
- Local Agency Guidelines (LAG) Manual - wsdot.wa.gov/publications/manuals/fulltext/M36-63/LAG.pdf
- RCW 35.68 - Sidewalks, gutter, curbs and driveways - all cities and towns
- RCW 35.69 - Construction, reconstruction in first and second class cities
- RCW 35.70 - Sidewalks, construction in second class cities and towns
- RCW 35.77.010 - Transportation Improvement Plan
- RCW 36.70A.070(6) - Comprehensive Transportation Plan - Growth Management Act
- RCW 35.21.020 - Power to acquire
- RCW 39.34 - Interlocal Cooperation Act
- RCW 36.70A.020 (9) and RCW 36.70A.070 (8) - Growth Management Act
- RCW 39 - Public contracts & indebtedness
- RCW 39.12 - Prevailing wages
- RCW 39.80 - Selection of professional engineers, land surveyors, architects and landscape architects
- RCW 35.21.156 - Solid waste, contracts with vendors, vendor selection procedures
- RCW 35.23.352 - Bid Law for code cities under 20,000 in population, second class cities and towns.
- RCW 35A.40.210 - Cross reference for code cities bidding requirements
- RCW 39.04.010 - Public works definitions
- RCW 39.04.155 - Small works roster - contract procedures
- RCW 39.04.190 - Vendor list for small city purchases
- RCW 39.04.220 - Bidding requirements for lease with option to purchase
- RCW 39.04.270 - Electronic data processing and telecommunications
- RCW 39.04.280 - Competitive bidding requirements - exemptions
- WAC 296-127-010(7) (b) (iii) - Definitions for WAC 296-127

