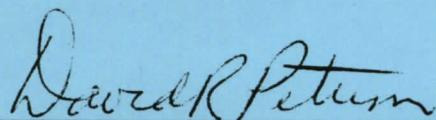


ADMINISTRATIVE PROCEDURE

87-5

**A Policy Concerning the Payment of Certain
Costs Associated with Relocation of Facilities
in the Public Way**

Summary: This policy was adopted by the Board of County Commissioners on January 24, 1989, as Resolution Number 108-89. This policy defines responsibilities for relocation of water and sanitation district facilities on County projects.



David R. Peterson, P.E., Acting Director

April 1, 1989

Date

A Resolution

ESTABLISHING A POLICY CONCERNING THE PAYMENT OF CERTAIN COSTS ASSOCIATED WITH RELOCATION OF FACILITIES IN THE PUBLIC WAY.

WHEREAS, the Board of County Commissioners, County of Arapahoe, Colorado ("the BOARD") wishes to establish a policy concerning the exchange of information and the cost responsibility for the location and relocation of water and sewer facilities of special districts when necessitated by bridge, street, storm sewer, or drainageway improvements ("IMPROVEMENTS") within the unincorporated portion of Arapahoe County ("COUNTY"); and

WHEREAS, adoption of such a policy will aid in the timely execution of both capital and maintenance projects for IMPROVEMENTS within the unincorporated portion of the COUNTY; and

WHEREAS, the common law principle regarding relocation of utility lines places the burden of the relocation costs on the utility company; and

WHEREAS, neither Colorado statutes nor Colorado case law address the issue of relocation costs for water and sewer district facilities; and

WHEREAS, despite the common law principle concerning relocation costs, special districts within the County have limited revenue raising capabilities and are often unable to bear the cost of relocating their facilities without further tax levies; and

WHEREAS, the Board of County Commissioners seeks to minimize the cost to COUNTY residents and property owners for the capital investment, operation and maintenance of IMPROVEMENTS and related water and sewer facility relocations without overburdening special districts or causing additional tax to be levied on special district residents; and

WHEREAS, the Board is concerned that an equitable cost allocation be made for facility relocations given the limitations of special districts; and

WHEREAS, the special districts responsible for providing water and sanitation services within the unincorporated portion of the COUNTY have had an opportunity to participate in the formulation of the policy presented in this resolution;

NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners, County of Arapahoe, that:

SECTION 1. The DISTRICTS and the COUNTY shall, as far in advance as possible when working in public rights of way and drainageways, coordinate each with the other to minimize current and future conflicts between COUNTY IMPROVEMENT projects and DISTRICT facilities. Information sharing and coordination tasks and responsibilities are delineated in Exhibit A of this resolution.

SECTION 2. Project planning and Engineering conducted by the COUNTY and the various DISTRICTS shall consider present and future plans in order to avoid or minimize future alterations in such improvements or facility locations. In cooperation with the DISTRICTS the County Engineer may indicate general location restrictions which avoid future conflicts, but shall not direct locations which are incompatible with the general engineering requirements of the water or sewer systems. Project specific coordination tasks and responsibilities for DISTRICTS and the COUNTY are further delineated in Exhibit B of this resolution.

SECTION 3. Provided that the DISTRICT has cooperated in substantial compliance with Sections 1 and 2, when the facilities of the DISTRICT require relocation due solely to improvements, changes or alterations of COUNTY IMPROVEMENTS, project costs associated with DISTRICT facility relocations and restoration to the equivalent of their pre-improvement condition will be included and considered as part of the total IMPROVEMENT project cost and paid by the COUNTY, unless such DISTRICT facilities were installed contrary to a proper COUNTY location restriction. The COUNTY shall not be responsible for paying consequential increased operating costs of a relocated DISTRICT facility.

SECTION 4. The COUNTY shall also pay reasonable costs of DISTRICT facility relocation design review and/or construction observation services when those services are specifically requested by the County or the County's consulting engineer. The COUNTY shall consider any reasonable DISTRICT request to provide reimbursable design review or construction observation services and to establish COUNTY project budgets for those services. The cost of DISTRICT-supplied construction observation services shall be determined prior to award of the construction contract, as explained in Exhibit B.

SECTION 5. Provided that the COUNTY has cooperated in accordance with Sections 1 and 2 and has given adequate notice to a DISTRICT, costs of adjusting manholes and valve boxes, when such work is necessitated by pavement repair or street resurfacing will be borne by the DISTRICT. The DISTRICT may perform the work itself or may have the COUNTY perform the work at a pre-established unit cost per item. It is the responsibility of the DISTRICT to advise the COUNTY on a timely basis, which work option it chooses.

SECTION 6. Should a DISTRICT elect to perform work in COUNTY rights of way or drainageways without coordinating the project or perform such work without observing proper permit conditions and procedures, as stated in the Subdivision Regulations and published procedure documents, as amended from time to time, the cost of any future relocation, which would not have been required if the coordination or permit conditions and procedures had been observed, will be paid by the DISTRICT.

EXHIBIT A

The following delineate the minimum responsibilities for information exchange by the COUNTY and DISTRICTS pursuant to this Board of Commissioners resolution:

1. DISTRICTS within the unincorporated COUNTY shall provide the following information on an annual basis, generally in late November after the annual Board of Directors meeting, regarding approved or planned DISTRICT projects:
 - a) Project Name/No. (if appropriate)
 - b) Type of project (extension, enlargement, or replacement) indicating the type of facility to be built or replaced.
 - c) Geographic limits of the project.
 - d) Date expected for application for County approval of construction plans.
 - e) Expected construction start date, expected duration of construction.
 - f) Is project phased over several years? If yes, which years?
 - g) Is construction within right-of-way? If yes, describe approximate location in right-of-way.
 - h) Is construction within paved roads or streets?

The DISTRICTS shall also provide the County notice of any significant program additions that result from actions at periodic Board of Directors meetings, other than the annual meeting.
2. The COUNTY shall provide DISTRICTS information on the 5 year Capital Improvement Plan (CIP) on an annual basis. The information provided for each CIP project shall be:
 - a) Project Name/No.
 - b) Description of project scope, including limits
 - c) Projected year of design engineering
 - d) projected year(s) of construction
 - e) description of factor(s) driving the need for the project.
 - f) Any pertinent comments affecting project priority, scope, execution, etc.
3. The COUNTY shall provide DISTRICTS information on the current year's capital improvement projects and resurfacing program by January 31 of each budget year, consisting of the following:
 - a) Project name/no.
 - b) Description of project scope, including geographic limits
 - c) Is project new or a continuation?
 - d) Year of design engineering
 - e) Year of construction
 - f) Description of factor(s) driving the need for the project
 - g) Any pertinent comments regarding the project as it might affect a DISTRICT.

EXHIBIT B

The following delineates the typical project coordination tasks and responsibilities for the COUNTY and DISTRICTS on COUNTY projects:

A. First Project Progress Meeting

COUNTY responsibilities (Staff or Consultant):

1. Invite all affected DISTRICTS (CONSULTANT)
2. Maintains a list of DISTRICT contact names, addresses, phone numbers, etc. for the project (CONSULTANT)
3. Explains the scope of consultant responsibilities re: facility relocations (STAFF)
4. Explains the COUNTY policies and practices re: facility coordination issues (STAFF)
5. DISTRICT representatives are placed on meeting notice and meeting notes mailing list. Standing invitation issued to DISTRICTS for all project progress meetings. (CONSULTANT)

B. Early Design Phase

DISTRICT responsibilities:

1. DISTRICT provides COUNTY consulting engineer with plans and drawings of facilities within project limits.
2. If DISTRICT does not have facility plans/drawings for project area, DISTRICT will identify these deficiencies and provide the COUNTY with other available information, to the best of their ability.
3. Information, plans, and data related to the DISTRICT facilities will be provided to the COUNTY consultant within 21 days of the initial progress meeting.

C. Utility Relocation Design Review

COUNTY consultant responsibilities:

1. Acquires the best available information related to DISTRICT facility locations from public and private utility agencies.
2. Identifies facility relocation potential with alternate project designs. Identifies utility relocation options and communicates these options to affected DISTRICT and the COUNTY early in the design phase.

3. Where DISTRICT facility location information is minimal or non-existent, identifies critical location needs and arranges for potholing.
4. Formally solicits written input, comments, statements of concern from affected DISTRICTS when utility relocations are probable. Provides a reasonable time for DISTRICT review and response.
5. For situations in which COUNTY projects impact on DISTRICT facilities is determined by the consultant to be minimal and a DISTRICT facility relocation improbable, provides the DISTRICT in informational copy transmitting preliminary design and/or final design documents. If the DISTRICT rebuts the COUNTY's finding of "unusual impact" within 30 days, the consultant shall bring the dispute to the attention of the COUNTY's project manager.
6. COUNTY and its consultant shall process a DISTRICT's valid request for design review cost reimbursement in a timely manner. See number under DISTRICT responsibilities, Section C Utility Relocation Design Review.

DISTRICT responsibilities:

1. Responds in a "timely manner" to COUNTY consultant for information requests, and design review and comment requests. "Timely manner" is considered 30 days or less for formal design review requests, and 15 or fewer days for less formal information requests.
2. Upon receiving an information transmittal of the preliminary and/or final design documents for a COUNTY project that omits a specific request for design review and comment, the DISTRICT has 30 days to rebut the implicit finding that the COUNTY project has no more than minimal impact upon DISTRICT facilities.
3. Once the DISTRICT and COUNTY have decided that the scope of COUNTY project will entail design of the facility relocation(s), the DISTRICT shall provide constructive comment and specific alternatives when COUNTY proposed relocation designs are not acceptable to the DISTRICT.
4. DISTRICT requests for COUNTY reimbursement of the actual cost of design review services shall provide documentation indicating the project for which the services were performed, an itemized list of services provided, and written verification that the COUNTY requested the design review services. A reimbursement request providing the aforementioned information is considered valid for the purposes of this policy.

Joint responsibilities:

1. The COUNTY and DISTRICT shall cooperate to achieve mutually acceptable designs of facility relocations.

2. Criteria to be used when choosing among relocation alternatives include:
 - a) First cost differences of facility relocation designs.
 - b) Operation and maintenance cost differences of alternate relocation designs.
 - c) Ease of construction or level of construction risk of the various alternatives.
 - d) Vulnerability of relocated facilities, e.g., too little or too much cover.
 - e) Access to relocated facilities for operation and maintenance.
 - f) Minimizing or avoiding loss of operability or maintainability.
3. In the absence of agreement between the DISTRICT and the COUNTY regarding relocation design, the COUNTY agrees to use the above criteria in making a relocation design decision.
4. The COUNTY and DISTRICT shall come to agreement on the financial responsibility for construction observation service costs before award of construction contract.

D. Construction Phase

COUNTY responsibilities:

1. Conducts preconstruction meeting. All DISTRICT representatives shall be invited. Facility relocation scopes of work are reviewed in general at that time. The roles of DISTRICT and COUNTY construction observers are established at this time.
2. Coordinates the project and, through the contractor, all the DISTRICT facility relocations in a timely manner as approved on the construction plans.
3. Investigates DISTRICT complaints against contractor or claims against contractor for damage to DISTRICT facilities. The COUNTY, through the consulting engineer, investigates DISTRICT complaints and takes appropriate action, including notifying the DISTRICT of the outcome.
4. Provides DISTRICTS a 5-day notice for all acceptance inspections. This includes the substantial completion inspection and the final acceptance inspection. The COUNTY shall include "punch list" items from DISTRICTs when facility relocation work is in the project scope.
5. Provides the DISTRICT the opportunity to sign off on project substantial completion, with the understanding that signoff identifies the specific DISTRICT facility relocation "punch list" items, only.

6. Commits to scheduling utility facility shutdowns to reasonable times, as suggested by the DISTRICT.

DISTRICT responsibilities:

1. Attends and participates actively in the project preconstruction meeting.
2. Normally provides construction observation of utility relocation tasks at their own expense. DISTRICT construction observation costs may be billed to the COUNTY in accordance with agreements reached in the project design phase.
3. Notifies the COUNTY in a timely manner when problems of construction practices are observed by the DISTRICT personnel on COUNTY projects. This notice shall be provided verbally to the COUNTY construction observer on an immediate basis and in writing from DISTRICT management to COUNTY management. The written communication shall clearly define the observed problem or damage caused, etc. and action being requested of the COUNTY.
4. Participates in utility facility acceptance inspections on projects where DISTRICT facilities are constructed, relocated, replaced, or otherwise modified. To provide timely input to the COUNTY regarding deficiencies noted in acceptance inspections. As related to the utility relocation or utility construction aspects, to sign for substantial completion of COUNTY projects conditioned upon completion of items noted on the deficiency list.

Joint responsibilities:

1. To actively cooperate and communicate with counterparts/peers in the other agency related to project activities of mutual interest.
2. DISTRICT and COUNTY shall work together to achieve mutually acceptable resolution of unforeseen construction problems (whether design related or not) in a timely manner.

DRP:ljw