

CHAPTER 23 – STREETS, SIDEWALKS AND PUBLIC IMPROVEMENTS

Sec. 23-103. Telecommunications; relocation of facilities.

(a) The city shall not bear any cost of relocation of existing facilities, irrespective of the function served, where the city facilities or other facilities occupying the rights-of-way under authority of a city permit, license, revocable permit or franchise which must be relocated, are already located in the rights-of-way and the conflict between the provider's potential facilities and existing facilities can only be resolved expeditiously as determined by the city by the movement of the existing city or other approved facilities.

(b) If provider's relocation effort so delays construction of a public project causing the city to be liable for delay damages, the provider shall reimburse the city for those damages attributable to the delay created by the provider. If the event the provider should dispute the amount of damages attributable to the provider, the matter shall be referred to the dispute resolution board. The dispute resolution board shall consist of one member selected by the city, one member selected by the provider, and a third person agreed upon by both parties. The person agreed upon by both parties shall be chairperson of the dispute resolution board. Expenses for the dispute resolution board shall be shared equally by the city and the provider. The board will hear the dispute promptly, and render an opinion as soon as possible, but in no case later than sixty days after notification by the city of provider's allocated share of damages suffered by the city. All decisions of the dispute resolution board are non-binding on either the city or the provider, however, the findings of the dispute resolution board shall be admissible in any legal action. The city and the provider shall accept or reject findings of the dispute resolution board within thirty (30) days after receipt of the findings. If damages are assessed by the dispute resolution board, the provider shall pay the city within thirty (30) days. Late charges of five percent and interest charges of one and one-half percent per month shall be added for late payment.

(c) Except as otherwise provided in a license, franchise or permit or by other provision of law, the entire cost of relocation shall be borne by the city if the provider is required by the city to relocate facilities which are located in private easements obtained by the provider prior to the dedication of the public street or easement from which the facilities must be relocated. These prior rights of the provide would also be unaffected by any subsequent relocation. A prior rights as used in this subsection, means private easement rights obtained by the provider prior to the dedication of the streets or public ways from which the facilities are requested by the city to be relocated. In the case of a facility that serves multiple purposes, the prior rights must extend to all uses for this exception to application.

(Ord. No. 97-115, 12/9/97, enacted)

(Ord. No. 99-12, 3/16/99, renumbered from Section 23-100)(SUPP. 1999-1)