



MEMORANDUM

Date: October 4, 2013

To: The Honorable Chairman and Members
Pima County Board of Supervisors

From: C.H. Huckelberry
County Administrator *CHH*

Re: **Waterline Claim against the City of Tucson Relative to the Downtown Courts Building**

Attached please find my October 1, 2013 follow-up correspondence to the Tucson City Manager regarding additional information requested relative to the County's waterline claim against the City.

If I have not received a response to my letter from the City by October 10, 2013, I will place this matter on the Board of Supervisors October 15, 2013 Executive Session Agenda for discussion and direction.

CHH/mjk

Attachment

c: Chris Straub, Chief Civil Deputy County Attorney
Regina Nassen, Deputy County Attorney



COUNTY ADMINISTRATOR'S OFFICE

PIMA COUNTY GOVERNMENTAL CENTER
130 W. CONGRESS, FLOOR 10, TUCSON, AZ 85701-1317
(520) 724-8661 FAX (520) 724-8171

C.H. HUCKELBERRY
County Administrator

October 1, 2013

Richard Miranda, City Manager
City of Tucson
P. O. Box 27210
Tucson, Arizona 85726-7210

**Re: My August 23, 2013 Letter Regarding Waterline Claim Against the City of Tucson
Relative to the Downtown Courts Building**

Dear Mr. Miranda:

On August 23, 2013, I directed a letter to you asking for additional information regarding the County's waterline claim against the City of Tucson relative to the Downtown Courts Building. To date, I have not received any information or answers related to the requests made in my letter.

I would appreciate responses to the requests made in that letter by October 10, 2013, as a decision regarding litigation must be made by the County by October 15, 2013.

If you need additional time to provide the information requested, the County would agree to a tolling agreement extending the time for which we can file a lawsuit to recover funds we believe are due the County, as we want to avoid litigation. We would agree to such a tolling agreement if this would allow the City more time to provide the requested information or consider modifying your last offer.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Huckelberry", is written over a large, sweeping flourish that extends to the right and then curves back down to the left.

C.H. Huckelberry
County Administrator

CHH/dph
Enclosure

c: Christopher Straub, Chief Civil Deputy County Attorney
Regina Nassen, Deputy County Attorney



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C.H. HUCKELBERRY
County Administrator

August 23, 2013

Richard Miranda, City Manager
City of Tucson
P. O. Box 27210
Tucson, Arizona 85726-7210

Re: Your August 6, 2013 Letter Regarding the Pima County Justice Courts Complex and the County Claim of \$188,090

Dear Mr. Miranda:

Thank you for your August 6, 2013 letter offering to pay \$40,784.26 toward the County's claim of \$188,090.

Your offer has been discussed with the Pima County Board of Supervisors. Prior to making any final determination on this offer, the County needs the additional information outlined below to be satisfied that the City imposed standard, rather than extraordinary requirements, were imposed on the County in connection with the project and that we were treated similarly to others.

1. As you know from previous correspondence, the County's waterline plans went through at least four separate and distinct reviews by Tucson Water (TW) and City of Tucson staff. At no time were we directed to contact Tucson Department of Transportation (TDOT) staff to discuss the type and necessity of pavement repair and/or patching. Do you or the respective staffs of TW or TDOT have any records indicating the County was directed to make the inquiries you mention on Page Two of your August 6 letter? County staff recollections and documentation do not reflect the receipt of any such direction. Perhaps we have overlooked it. Do you have any written documentation to show such a suggestion was directed to County staff or a consultant? We only learned of this parking requirement when directed by a field inspector from TDOT, who handed our contractor the attached standard dated December 1995.
2. We are having a difficult time finding the requirement for a "Type B" patch in the *City of Tucson/Pima County Standard Specifications and Details* you reference at the bottom of Page 1 of your letter. You stated this type of patch is required on all streets on the Major

Mr. Richard Miranda

Re: Your August 6, 2013 Letter Regarding the Pima County Justice Courts Complex and
the County Claim of \$188,090

August 23, 2013

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Streets and Route Map, but there is no reference as to where this requirement or the construction standard originated. We cannot locate it in TDOT or Tucson Water design and technical details. We understand, based on our review and your February 11, 2013 letter, the applicable standard is SD-216; but this standard clearly requires the use of a concrete base patch where there is an existing concrete base. What is your specific authority for requiring a Type B patch on Toole Avenue?

3. We have been told that Toole Avenue in the area is a "no cut" street; but when we went to your website, it clearly states this portion of Toole is not such a street. We were then told by your staff that the website is not up to date, and they are too busy to update it. Is this correct?

4. There are between 20 and 30 utility trenches that have been patched along Broadway Boulevard in the downtown area where the Modern Streetcar line is being constructed and where the full width of the street is not being reconstructed. As you know, Broadway is identified on the Major Streets and Routes Map as an arterial, rather than merely a collector, road. Have any of these patches been a Type B patch, particularly for the utility cut that crosses the existing pavement and street section that will not be reconstructed?

5. There are a number of new development projects in the downtown area that have occurred contemporaneously with the County's development of the Justice Courts Complex, such as the Tucson Electric Power building; The Cadence student housing project, and Plaza Centro. Were any of these projects, which all require service connections or utility waterline upgrades, required to utilize a concrete Type B pavement patch?

Please provide this information at your earliest convenience so the County can make a timely and appropriate decision regarding your offer.

Sincerely,



C.H. Huckelberry
County Administrator

CHH/dph

Enclosure

c: The Honorable Chairman and Members, Pima County Board of Supervisors
The Honorable Mayor and Council, City of Tucson
Reid Spaulding, Director, Facilities Management
Christopher Straub, Chief Civil Deputy County Attorney
Regina Nassen, Deputy County Attorney

Confidential Settlement Document
Not admissible Under Rule of Evidence 408
Page 1 of 3
August 6, 2013



**CITY OF
TUCSON**

OFFICE OF THE
CITY MANAGER

C. H. Huckelberry, County Administrator
Pima County Governmental Center
130 W. Congress Street
Tucson, Arizona 85701-1317

Re: Pima County Joint Courts Complex

Dear Mr. Huckleberry:

Over the past six months, Tucson Water, Tucson Department of Transportation (TDOT) and Pima County staff have worked together in an attempt to resolve the unanticipated cost overruns for the Pima County Joint Courts Complex project without litigation. Staff reviewed as-builts, invoices and correspondence, discussed the review process and met on multiple occasions.

The ultimate result is outlined in Mr. Spaulding's May 6, 2013 letter (see attached) which broke down the \$188,090 claim in two components: 1) Concrete patch in Toole Avenue and 2) The full replacement of nine (9) service laterals on Toole Avenue. At the most recent meeting on May 30, 2013, Tucson Water offered to compensate Pima County \$40,784.26 which covered the additional work requested by Tucson Water. The two components are discussed in detail below.

1) Concrete patch in Toole Avenue. With regard to the requirement of the concrete (Type B) pavement patch, TDOT requires the installation of a Type B pavement patch on collectors, arterials and storm water carrying streets. Toole Avenue carries a substantial amount of storm water and is listed as a collector on the Major Streets and Routes (MS&R) map, and therefore required the Type B patch.

Tucson Water's authority to control the material and installation requirements terminates at 12-inches above the top of the new pipe. All work above this point, including restoration of the subgrade and pavement was required to be performed "in accordance with the requirements of the authority that has jurisdiction over the right-of-way" (See City of Tucson/Pima County Standard Detail W-105). Given that the location of the work was on Toole Avenue and under TDOT's jurisdiction, this work was performed in accordance with TDOT policies and in accordance with the City of Tucson/Pima County Standard Specifications and Details.

Additionally, Pima County and its consultant had the opportunity during the design phase of the project to discuss alternate methods of pavement replacement with TDOT that may have waived the requirement of a Type B patch. TDOT is not aware of any requests by Pima County and/or its consultant to discuss the options available, or to determine what type of repair was required.

2) Service Line Replacement. Following the commencement of construction and the discovery of unexpected field conditions, Tucson Water requested that the existing service lines be fully replaced with new copper pipe. As such, during a May 30, 2013 meeting between City and Pima County staff, the City offered to compensate Pima County \$40,784.26 for the cost of the additional service lines installed as a result of this request.

This amount was derived by comparing Tucson Water as-built information with the actual cost information provided in Mr. Spaulding's May 6, 2013 letter. Since Pima County would have been responsible for a portion of the service line and concrete patch prior to Tucson Water's request, only the length of additional service line installed was included. The difference in the anticipated quantity of service line installation at the time of plan approval and the actual service line installation from the Tucson Water as-builts was found to be 121 linear feet (see table below). The unit cost of service line was determined by dividing the total cost to replace the nine (9) service renewals (\$101,455.00) provided in Mr. Spaulding's May 6, 2013 letter by the total linear feet installed as shown below (301 ft), yielding \$337.06 per foot.

Plan Sheet	Station	Service Address	Original Length (ft)	Length Installed (ft)	Comments
4	18+10	1 E. Toole Ave	20	57	Revisions required change in length only.
4	18+37	17 E. Toole Ave.	15	16	Lead
4	19+55	240 N. Stone	15	40	Located on Toole Ave.
4	20+22	101 E Toole Ave	41	41	Lead
5	23+42	127 E. Toole Ave	15	43	
5	25+24	174 E. Toole Ave	25	25	Size change only. Original plan required renewal.
5	25+19	103 E. Alameda St	5	5	Lead. Size change only. Original plan required renewal. On Toole Avenue
6	26+60	140 E. Alameda St	24	24	Tie-over changed to renewal, but no change in length or size.
6	27+94	140 E. Alameda St	20	20	No change from original plan. On Toole Avenue.
Totals			180	301	
Additional Service Line Installed				121	ft
Unit Cost of Service Line				\$ 337.06	/ft
Total Cost				\$40,784.26	

In summary, the City maintains its offer to compensate Pima County a total of \$40,784.26 for the full replacement of the service lines in Toole Avenue, but is not responsible for the cost of the Type B patch required over the 12-inch distribution main in Toole Avenue.

If you or your staff have any questions, please contact Alan Forrest at 791-2666 or Daryl Cole at 791-4259.

Sincerely,



Richard Miranda
 City Manager

cc: Albert Elias, Assistant City Manager
 Alan Forrest, Tucson Water
 Daryl Cole, Tucson Department of Transportation