

CITY OF TUCSON, ARIZONA
DEPARTMENT OF TRANSPORTATION

ENGINEERING DIVISION
ACTIVE PRACTICE GUIDELINES

PREPARED BY: KENNETH D. DAMGAARD *KDD*

EFFECTIVE: 12/4/97

APPROVED BY: *[Signature]*

City Engineer

DATE: 12/4/97

**SUBJECT: RESPONSE GUIDELINES TO CLAIMS AGAINST THE CITY FOR
DAMAGE TO UTILITY HOOKUPS IN THE RIGHT-OF-WAY**

Historically, all claims of damage to utility hookups caused by construction relating to City activities have been referred to Risk Management. These guidelines are designed to assist Risk Management and to promote the City Engineer's Office and staff response to the Claimant in a pro-active, timely manner. The following steps will represent the Active Practice Guidelines for these responses.

STEP 1. Receipt of Complaint alleging that City construction activities have caused damage to utility hookup and request that City pay for or share the cost of all repairs.

STEP 2. Engineering Division Staff will continue to refer complainant to Risk Management as outlined by Administrative Directive, with the following provisions modifying the response:

A) In the case of damage caused by and discovered during capital project construction, engineering staff will instruct the contractor to repair problem immediately.

B) In cases where claims are made years after capital project construction has been completed (based on discovery that a problem with the utility hookup exists), the Claimant will be informed of the procedure outlined in Step 3.

STEP 3. Once the Claimant files a formal claim, Risk Management will request information from each department involved in construction activities in the area of the claim. Engineering staff will respond to Risk Management with any information from engineering records and with copies of plans or permits as applicable, or will respond to Risk Management that no information exists in engineering files. Risk Management may decide to settle the claim without any further involvement of the City Engineer's staff.

In the event that Risk Management cannot respond in a timely manner to alleged utility disruptions involving public health or safety, the City Engineer's office will offer to enter into an agreement (see Exhibit "A") with the Claimant where the hiring of a contractor will be undertaken by the City. The contractor will be required to evaluate and repair the damage. Costs will be shared by the Claimant and the City, absorbed by the City, or passed on to the Claimant, whichever is determined to be appropriate.

During construction, engineering staff will monitor the repairs and determine if:

- (a) The damage is in fact in the right-of-way and the City is at fault,
- (b) The damage is in the right-of-way, but other entities such as other utility companies or their contractors are at fault or;
- (c) The problem is outside the right-of-way and is the responsibility of the Claimant.

Results being as follows:

- a) If the City is responsible, all contractor's charges for repairs and excavation will be paid by the Engineering Division with the expectation of being reimbursed by Risk Management Department.
- b) If it is determined that the City is not at fault, the Claimant will be responsible for all costs of permit fees, excavation, and repair. In this case, the Claimant will be responsible for recovering damages caused by other entities such as utility companies and their contractors. The City will assist the Claimant by providing the names and phone numbers for contacting the respective utility companies.
- c) If the problem is determined to be solely the responsibility of the Claimant, all costs associated with the work of evaluation and repair are to be borne by the Claimant.



CITY OF TUCSON

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DEPARTMENT OF TRANSPORTATION
ENGINEERING DIVISION
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EXHIBIT "A"

UTILITY SERVICE REPAIR AGREEMENT

NAME: _____

ADDRESS: _____

PROBLEM WITH: _____ HOUSE CONNECTION SEWER _____ OTHER

STATE THE NATURE OF THE PROBLEM: _____

The City of Tucson hereby agrees to pay all costs for excavation, repairs and backfill to repair the aforesaid utility service connection should it be shown to be damaged as the result of work performed the City of Tucson, its workforces or contractors working under contract for the City of Tucson for construction or demolition purposes. The City of Tucson takes no responsibility for any work performed by non-City of Tucson utility companies, their workforces or their contractors doing construction or demolition in City of Tucson Right of Way.

For/By City Engineer

Date

Failure to fully reimburse the City of Tucson upon completion of repairs for damages not caused as a result of work performed by City of Tucson workforces or by contractors working under contract for the City of Tucson will result in the placing of a lien on said property until satisfactory payment is received by the City of Tucson. Should litigation become necessary, Owner will bear all costs of litigation, court costs, attorney's fees, etc. should the City of Tucson prevail in court.

I, _____, am the owner or bona fide agent for the owner, of the property for which address appears on the OWNER line of this form. I hereby agree to reimburse the City of Tucson for all charges stemming from the excavation, repairs and backfill of the above named utility service connection; excepting any charges for excavation, repairs and backfill to repair any damage that has been caused by City of Tucson construction activities by City of Tucson workforces or contractors working under contract to the City of Tucson.

Property Owner/Agent

Date

DISTRIBUTION:
WHITE: ENGINEERING DIVISION FILE
YELLOW: PROPERTY OWNER/AGENT
PINK: RISK MANAGEMENT DEPARTMENT