



BOARD OF SUPERVISORS AGENDA ITEM REPORT

Requested Board Meeting Date: August 1, 2017

Amendment to Resolution 2013-100 - City of South Tucson Fees and Interest owed for Incarceration of
Title: Municipal Prisoners

Introduction/Background:

Resolution 2013-100 was approved to settle the City of South Tucson's delinquent account for payment of fees for the incarceration of municipal prisoners at the Pima County Adult Detention Center. The settlement agreement required that the City pay the County delinquent fees in the amount of \$1,134,566.22 which was to be paid as a \$150,000 payment at the time of execution of the agreement and 10 equal annual payments of \$106,760.63. The City of South Tucson paid the initial \$150,000 payment, made additional payments of \$249,396.99, and because of late payments has incurred an additional \$14,768.49 of interest charges bringing their current balance to \$749,937.72.

Discussion:

The City of South Tucson in their efforts to achieve fiscal sustainability has requested that Pima County extend the repayment of their outstanding amount of \$749,937.72 over 20 annual payments rather than the original 10 year period. The City has requested that the repayment period be increased to 20 years commencing on 6/30/17. The City should be able to more readily make the smaller annual payment of \$43,553.46 rather than the larger payment of \$106,760.63. The County will collect an additional \$40,309.29 in interest with less risk of additional default.

Conclusion:

Because the County is more likely to receive the scheduled payments from City as planned and the County will receive an additional \$40,308.29 in interest, the County should approve this resolution and amend the settlement agreement with the City.

Recommendation:

Approve this Resolution and Amendment to the Settlement Agreement with the City of South Tucson for fees and interest owed for the incarceration of municipal prisoners.

Fiscal Impact:

Pima County will be repaid over 20 annual payments rather than the remaining 8 annual payments of the original agreement. Pima County will collect an additional \$40,309.29 in interest.

Board of Supervisor District:

- 1 2 3 4 5 All

Department: FINANCE AND RISK MANAGEMENT Telephone: 520.724.8496

Department Director Signature/Date: [Signature] 7/19/17

Deputy County Administrator Signature/Date: [Signature] 7/19/2017

County Administrator Signature/Date: [Signature] 7/19/2017

RESOLUTION 2017 - ____

RESOLUTION OF THE PIMA COUNTY BOARD OF SUPERVISORS AUTHORIZING AND APPROVING THE FIRST AMENDMENT TO THE SETTLEMENT AGREEMENT WITH THE CITY OF SOUTH TUCSON FOR FEES AND INTEREST OWED FOR THE INCARCERATION OF MUNICIPAL PRISONERS

The Board of Supervisors of Pima County, Arizona finds:

1. On October 15, 2013, through Resolution 2013-100, the Board of Supervisors authorized and approved a Settlement Agreement (the "Agreement") with the City of South Tucson (the "City") regarding certain amounts owed by the City to the County for the cost of incarcerating of municipal prisoners.
2. In the Agreement, the County agreed to forgive a portion of the principle amount owing at that time, and accumulated interest charges. The City agreed to make an initial payment of \$150,000 and then pay the remainder of the agreed-upon settlement amount, plus interest on that amount at the rate of 1.5%, over a ten-year period.
3. The City has made the initial payment and the first two installment payments, and has also paid \$35,875.73 in incarceration fees for services rendered between May 2013 and July 2013, which amount was not accounted for in the original settlement. Additional interest charges have also accrued, however. The next installment payment is due on October 15, 2017. The current outstanding principal balance of the settlement amount is \$749,937.72.
4. As part of its on-going efforts to achieve fiscal sustainability, the City has asked Pima County to revise the Agreement and extend repayment of the remaining settlement amount, plus interest at the rate of 1.5%, over a 20-year period.
5. The Pima County Board of Supervisors finds that it is in the public's best interest to so amend the Settlement Agreement.

NOW, THEREFORE, BE IT RESOLVED that the Pima County Board of Supervisors:

1. Authorizes and approves the First Amendment to the Settlement Agreement between Pima County and the City of South Tucson (the "Amendment"), in the form attached to this Resolution.
2. Authorizes and directs the Chair of the Board of Supervisors to execute the Amendment on behalf of Pima County.
3. Authorizes and directs the County Administrator and his designees to take any actions necessary and appropriate to implement the Settlement Agreement as amended.

Passed, adopted and approved, this first day of August, 2017.

Sharon Bronson, Chair, Pima County Board of Supervisors

ATTEST:

Julie Castaneda, Clerk of the Board

APPROVED AS TO FORM



Deputy County Attorney
REGINA NASSEN

FIRST AMENDMENT TO SETTLEMENT AGREEMENT

1. **Parties.** This First Amendment to Settlement Agreement (the "Amendment") is made and entered into by and between Pima County, a body politic and corporate ("County"), and the City of South Tucson, an Arizona municipal corporation ("City"). County and City are jointly referred to in this Amendment as the "Parties."
2. **Background and Purpose.**
 - a. The Parties previously entered into a Settlement Agreement, which was approved by the County Board of Supervisors on October 15, 2013 (the "Agreement"), regarding certain amounts owed by the City to the County for the cost of incarcerating of municipal prisoners.
 - b. In the Agreement, the County agreed to forgive a portion of the principle amount owed at that time, and accumulated interest charges. The City agreed to make an initial payment of \$150,000 and then pay the remainder of the agreed-upon settlement amount, plus interest on that amount at the rate of 1.5% beginning November 1, 2013, over a ten-year period.
 - c. The City made the initial payment and the first two installment payments, but, because of late payments, owes additional interest in the amount of \$14,768.49. The next installment payment is due on October 15, 2017. The current outstanding principal balance of the settlement amount is \$749,937.72.
 - d. The City has also paid \$35,875.73 in incarceration fees for services rendered between May 2013 and July 2013, which amount was not accounted for in the original settlement.
 - e. As part of its on-going efforts to achieve fiscal sustainability, the City has asked Pima County to revise the Agreement and extend repayment of the remaining settlement amount, plus interest at the rate of 1.5%, over a 20-year period.
 - f. The Pima County Board of Supervisors has determined that it is in the public's best interest to so amend the Settlement Agreement.
3. **Revised Repayment Schedule.** Instead of the payments as set forth in the Agreement, the City will repay the current outstanding principal balance owed under the Settlement Agreement, as set forth above, plus interest thereon at the rate of 1.5% per annum, in equal annual installments over a period of 20 years. The new repayment schedule is attached to this Amendment as Exhibit A.

4. Remaining Terms. All other terms and conditions of the Agreement not specifically modified by this Amendment remain in effect and are binding upon the Parties.

PIMA COUNTY

Sharon Bronson, Chair, Pima County Board of Supervisors

Date: _____

ATTEST:

Julie Castaneda, Clerk of the Board

APPROVED AS TO FORM



Deputy County Attorney

REGINA NASSEN

CITY OF SOUTH TUCSON

Mayor

Date: _____

ATTEST:

City Clerk

APPROVED AS TO FORM

City Attorney

Loan amount	\$ 749,937.72
Annual interest rate	1.500%
Loan period in years	20
Start date of loan	6/30/2017

No.	Payment Date	Payment	Principal	Interest	Ending Balance
1	6/30/2017	\$ 45,770.29	\$ 34,521.22	\$ 11,249.07	\$ 715,416.50
2	6/30/2018	\$ 43,553.46	\$ 32,822.21	\$ 10,731.25	\$ 682,594.28
3	6/30/2019	\$ 43,553.46	\$ 33,314.55	\$ 10,238.91	\$ 649,279.74
4	6/30/2020	\$ 43,553.46	\$ 33,814.26	\$ 9,739.20	\$ 615,465.47
5	6/30/2021	\$ 43,553.46	\$ 34,321.48	\$ 9,231.98	\$ 581,144.00
6	6/30/2022	\$ 43,553.46	\$ 34,836.30	\$ 8,717.16	\$ 546,307.70
7	6/30/2023	\$ 43,553.46	\$ 35,358.84	\$ 8,194.62	\$ 510,948.85
8	6/30/2024	\$ 43,553.46	\$ 35,889.23	\$ 7,664.23	\$ 475,059.62
9	6/30/2025	\$ 43,553.46	\$ 36,427.57	\$ 7,125.89	\$ 438,632.06
10	6/30/2026	\$ 43,553.46	\$ 36,973.98	\$ 6,579.48	\$ 401,658.08
11	6/30/2027	\$ 43,553.46	\$ 37,528.59	\$ 6,024.87	\$ 364,129.49
12	6/30/2028	\$ 43,553.46	\$ 38,091.52	\$ 5,461.94	\$ 326,037.97
13	6/30/2029	\$ 43,553.46	\$ 38,662.89	\$ 4,890.57	\$ 287,375.08
14	6/30/2030	\$ 43,553.46	\$ 39,242.83	\$ 4,310.63	\$ 248,132.25
15	6/30/2031	\$ 43,553.46	\$ 39,831.48	\$ 3,721.98	\$ 208,300.77
16	6/30/2032	\$ 43,553.46	\$ 40,428.95	\$ 3,124.51	\$ 167,871.82
17	6/30/2033	\$ 43,553.46	\$ 41,035.38	\$ 2,518.08	\$ 126,836.44
18	6/30/2034	\$ 43,553.46	\$ 41,650.91	\$ 1,902.55	\$ 85,185.53
19	6/30/2035	\$ 43,553.46	\$ 42,275.68	\$ 1,277.78	\$ 42,909.85
20	6/30/2036	\$ 43,553.50	\$ 42,909.85	\$ 643.65	\$ (0.00)



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

May 12, 2017

Sixto O. Molina, City Manager
City of South Tucson
1601 S. Sixth Avenue
South Tucson, Arizona 85713

Re: **Your May 10, 2017 Letter Regarding Jail Settlement Agreement**

Dear Mr. Molina:

Thank you for your letter of May 10, 2017. After reviewing our records, I am amenable to reducing the interest rate on the proposal you have made to 1.5 percent. While we do anticipate interest rates rising over the period, we also understand the difficulty faced by the City of South Tucson in meeting your financial obligations. Therefore, we are willing to accept our original offered interest rate of 1.5 percent over 20 years.

In consideration of our concession regarding the interest rate, we request acknowledgment that the City of South Tucson will work cooperatively and proactively with Pima County on economic development opportunities related to the Sixth Avenue and Interstate 10 corridor. This includes, but is not limited to, land acquisitions through condemnation proceedings, if necessary, and financed by others to create an economic development activity node at this location.

Please respond to this request at your earliest convenience.

Sincerely,

A handwritten signature in cursive script that reads "C.H. Huckelberry". The signature is written in black ink and is positioned above the printed name and title of the County Administrator.

C.H. Huckelberry
County Administrator

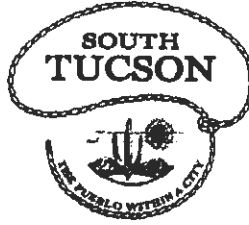
Enclosure

c: Tom Burke, Deputy County Administrator for Administration
Keith Dommer, Director, Finance and Risk Management

MAYOR
ILDEFONSO GREEN

VICE MAYOR
VANESSA MENDOZA

COUNCIL MEMBERS
RUFINO CANTU
ROBERT LARRIBAS
OSCAR PATINO
ANITA ROMERO
CARLOS ROMO



1601 SOUTH SIXTH AVENUE
SOUTH TUCSON, AZ 85713
(520) 792-2424
FAX (520) 628-9619

CITY MANAGER
SIXTO O. MOLINA

May 10, 2017

Mr. Huckelberry, County Administrator
Pima County
130 W. Congress Street, 10th Floor
Tucson, AZ 85701-1317

Subject: Jail Settlement Agreement

Dear Mr. Huckelberry,

I have had the opportunity of becoming acquainted with the negotiations/transactions that have recently taken place between the City of South Tucson and Pima County. After reviewing all correspondence and documentation, it is evident that both the sale of the library and jail settlement renegotiation have been crucial to the City's continued effort towards financial sustainability. Thank you and the Board of Supervisors for helping make this possible.

Despite the challenges facing the City of South Tucson next fiscal year, significant financial improvement has been made in the current year. To continue this path, the City must approach all financial matters (short and long term) in a consistent and conservative manner.

I am aware that both City and County finance have been working together on the jail settlement renegotiation. The due dates and outstanding balance are in line with the original agreement, however, the interest rate is not. In referencing the attached correspondence between then Interim City Manager Moreno and yourself, I see that agreement "Option 2" had been accepted with an interest rate of 1.50% over twenty years. However, the rate being offered at this time is now 2.25%. I kindly ask that you please reconsider honoring your original acceptance. In return, the City of South Tucson can make its first payment by June 30th. Please feel free to contact me so we can further discuss the next step.

Sincerely,

A handwritten signature in black ink that reads "Sixto O. Molina". The signature is written in a cursive, flowing style.

Sixto O. Molina, City Manager
City of South Tucson

c: Tom Burke, Deputy County Administrator for Administration
Lourdes Aguirre, Finance Director



Board of Supervisors Memorandum

October 15, 2013

Settlement Agreement with the City of South Tucson Regarding Payment of Delinquent Fees for Incarceration of Prisoners

Introduction

Attached please find a proposed resolution and Settlement Agreement recommend be approved by the Board of Supervisors to settle the delinquent account of the City of South Tucson related to incarceration of prisoners at the Pima County Adult Detention Center. I believe this Settlement Agreement is superior to litigation.

The total debt, including interest, is \$1,940,718.71. Through negotiations with the South Tucson City Manager, an agreement has been reached for payment of most of this debt.

Under the terms of the Settlement Agreement, the County would waive the delinquent interest computed at the statutory interest rate, which is significantly higher than the interest rate available in the market today. The County would also waive delinquent fees in the amount of \$200,000. The balance of the amount due, \$1,134,566.22, would be payable, including the amount due for May 2013 through July 2013.

The City of South Tucson would make an initial down payment of \$150,000 upon execution of the Settlement Agreement and would pay the balance due the County of \$988,566.22 over 10 years in 10 equal installments with an interest rate of 1.5 percent. Please note the current interest rate on long-term investments in the local government investment pool yields the County approximately same interest rate.

Recommendation

I recommend the Board of Supervisors approve the attached Resolution 2013-____ and Settlement Agreement in settlement of the delinquent account of the City of South Tucson for prisoner incarceration.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "C. Huckelberry".

C.H. Huckelberry
County Administrator

CHH/mjk – REVISED October 11, 2013
Attachments

c: The Honorable Clarence Dupnik, Pima County Sheriff
Chris Straub, Chief Civil Deputy County Attorney

RESOLUTION NO. 2013- 100
PIMA COUNTY

RESOLUTION AUTHORIZING SETTLEMENT IN LIEU OF LITIGATION OF
DELINQUENT FEES AND INTEREST OWED BY THE CITY OF SOUTH TUCSON FOR
INCARCERATION OF PRISONERS AND APPROVAL OF SETTLEMENT AGREEMENT

WHEREAS, in accordance with the provisions of A.R.S. §31-121 *et. seq.*, the Board of Supervisors has, since FY 1998-1999 entered into an annual Intergovernmental Agreement (IGA) with City of South Tucson, Arizona, pursuant to which Pima County has housed prisoners arrested by and convicted in the municipal court system of City of South Tucson, and

WHEREAS, City of South Tucson pursuant to A.R.S. §31-121.D is, and under the terms of the IGA has agreed to be, responsible for the first day's and succeeding days' costs per prisoner at a cost established in the IGA, for each of its prisoners housed in the Pima County Adult Detention Center, and

WHEREAS, City of South Tucson has, over the years of these IGAs, been unable to keep current with the payments to Pima County for the housing of its arrestees and convicts, and as of July 31, 2013, owed Pima County \$1,940,721.71 in principal and interest, of which amount \$146,434.25 is principal delinquent for more than three years, and \$606,152.49 is accumulated interest on the delinquent debt, totaling \$752,586.74 in delinquent fees more than three years old plus interest, and

WHEREAS, attempts have been made by Pima County to collect the total amount owed from the City of South Tucson, and it appearing that the City of South Tucson is currently unable to pay the entire amount of delinquent fees and interest owed, and

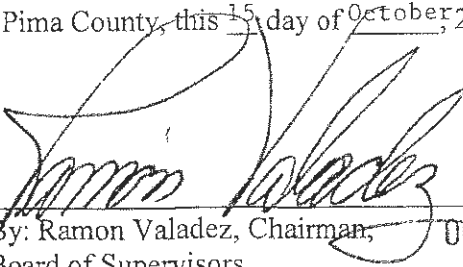
WHEREAS, in lieu of litigation, Pima County and the City of South Tucson desire to enter into a Settlement Agreement where the City of South Tucson will pay Pima County portions of the amounts due in full settlement of the delinquent fees and interest,

NOW, THEREFORE, BE IT RESOLVED, that \$806,152.49 of the debt be written off by the Board of Supervisors as uncollectible, contingent upon the City of South Tucson entering into, and fully performing under the terms of, a written settlement with Pima County providing for payment of the remaining delinquent fees in the amount of \$1,134,566.22 on or before October 30, 2013, and

BE IT FURTHER RESOLVED, that in the event the City of South Tucson fails to enter into a written agreement for the settlement of the remaining collectible debt on terms agreeable to Pima County, on or before October 30, 2013, then this Resolution shall be null and void retroactive to the date of its passage,

BE IT FURTHER RESOLVED, that the Chairman of the Pima County Board of Supervisors is authorized and directed to sign the Settlement Agreement between Pima County and the City of South Tucson, and staff directed to take the requisite actions to implement it.

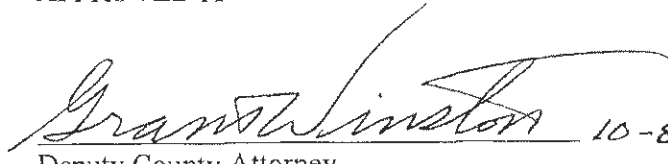
Passed by the Board of Supervisors of Pima County, this 15 day of October, 2013.



By: Ramon Valadez, Chairman, **OCT 15 2013**
Board of Supervisors

ATTEST:

APPROVED AS TO FORM:


Clerk of the Board
Deputy County Attorney 10-8-13

SETTLEMENT AGREEMENT
Pima County and the City of South Tucson

- 1. Parties:** This settlement agreement ("Agreement") is made by and between Pima County, a body politic and political subdivision of the State of Arizona ("County") and City of South Tucson ("City") an Arizona municipal corporation.
- 2. Recitals:**
 - 2.1** The parties have since, Fiscal Year 1998-1999, pursuant to A.R.S. § 31-121 and A.R.S. § 11-952, entered into annual Intergovernmental Agreements ("IGAs") whereby County would house City's prisoners for a cost agreed upon by and between the parties.
 - 2.2** The City has, over the years, fallen into arrears on the payments pursuant to the IGAs.
 - 2.3** As of July 31, 2013, City had not paid a total of \$1,334,569.22 of fees for services ("Fees") for the following time periods:
 - June 1999 – June 2000 balance: \$146,434.25
 - May 2007 – December 2011 balance: \$1,152,256.23
 - May – July, 2013 balance: \$35,875.74In addition to these amounts, the City has interest charges ("Interest Charges") in the amount of \$606,152.49, for a total amount of Fees and Interest Charges of \$1,940,721.71.
 - 2.4** City agrees to a payment plan of \$1,134,566.22 (the "Settlement Amount") for full payment of all Fees.
 - 2.5** City agrees to make an initial payment of \$150,000, immediately upon execution of this agreement by City and County.
 - 2.6** City agrees to pay the \$984,566.22 balance of the Settlement Amount, over a 10 year period, in 10 equal installments of \$106,760.63, as shown on Exhibit 1 to this Settlement Agreement, each installment being due and payable on or before October 31 of each year until fully paid.
 - 2.7** City agrees to pay interest at the rate of 1.5% per annum, accruing beginning November 1, 2013, on the outstanding Settlement Amount until paid in full.
 - 2.8** In consideration of the City's payment in full of the Settlement Amount, County agrees to write-off \$200,000.00 of the Fees and to waive the accumulated \$606,152.49 Interest Charges due (totaling \$806,152.49). This waiver and write-off by the County are revocable at any time the City fails to make the required payment, and such failure is not remedied within 10 business days of written notice.
 - 2.9** The parties agree that the write-off and waivers by the County are contingent upon City making its payment obligations recited herein. If City fails to make payment in full as stated above, the

entire amount of the Fees and Interest Charges as set forth in Section 2.3 (less any payments already made) plus continually accruing interest shall become due and owing at the election of County, and County may take all steps necessary for collection.

- 3. Entire Agreement:** This Agreement contains all the terms and conditions of and express the complete and only agreement among the Parties with respect to its subject matter. This Agreement shall not be modified or amended except through a writing signed by the Parties. No supplement, modification, or waiver of this Agreement or any of its provisions shall be implied by the conduct of the Parties, or by custom, trade, or usage.
- 4. Full and Complete Performance:** The failure of County to insist on one or more instances upon the full and complete performance with any of the terms or conditions of this Agreement, or to take any action permitted as a result thereof, shall not be construed as a waiver or relinquishment of the right to insist upon full and complete performance of the same, or any other, covenant or condition, either in the past or in the future. The acceptance by the County of sums less than may be due and owing at any time shall not be construed as an accord and satisfaction.
- 5. Counterparts:** This Agreement may be executed in counterparts, and each such counterpart shall constitute an original, but all counterparts shall constitute one and the same instrument.
- 6. Effective Date:** This Agreement shall be effective on the date that all parties have executed and approved and adopted the Agreement.

IN WITNESS WHEREOF, the Parties have duly executed this Agreement on the date and year as set forth below.

FOR PIMA COUNTY:

the day of 2013.
Ramon Valadez, Chairman
Pima County Board of Supervisors

ATTEST:

the day of 2013.
Clerk of the Pima County
Board of Supervisors

APPROVED AS TO FORM:

Grant Livingston
Deputy Pima County Attorney

the 11th day of October, 2013.

FOR CITY OF SOUTH TUCSON:

Paul Diaz
Paul Diaz, Mayor

the 9th day of October, 2013

ATTEST:

Jamie W. ...
City Clerk

the 9th day of October, 2013

APPROVED AS TO FORM:

ACT
City Attorney

the 9th day of October, 2013

[Faint circular stamp]

EXHIBIT 1

City of South Tucson
 Calculation of Annual Financing Costs
 \$984,566.22 Balance Due Pima County

Loan Amount:	\$984,566.22	0	Scheduled Payment Amount:	\$106,760.63
Interest Rate (%):	1.50%	0	Total No. Payments:	10
Number of Years:	10	0	Total Payment Amount:	\$1,067,606.29
Number of Payments Per Year:	1	0	Total Interest Paid:	\$83,040.07
Start Date (optional):	15-Oct-2014	0	Date of Last Payment:	15-Oct-2024

Payment No.	Date	Start Balance	Payment Amount	Capital Paid	Interest Paid	Remaining Balance
1	15-Oct-2015	\$984,566.22	\$106,760.63	\$91,992.14	\$14,768.49	\$892,574.08
2	15-Oct-2016	\$892,574.08	\$106,760.63	\$93,372.02	\$13,388.61	\$799,202.07
3	15-Oct-2017	\$799,202.07	\$106,760.63	\$94,772.60	\$11,988.03	\$704,429.47
4	15-Oct-2018	\$704,429.47	\$106,760.63	\$96,194.19	\$10,566.44	\$608,235.28
5	15-Oct-2019	\$608,235.28	\$106,760.63	\$97,637.10	\$9,123.53	\$510,598.18
6	15-Oct-2020	\$510,598.18	\$106,760.63	\$99,101.66	\$7,658.97	\$411,496.53
7	15-Oct-2021	\$411,496.53	\$106,760.63	\$100,588.18	\$6,172.45	\$310,908.35
8	15-Oct-2022	\$310,908.35	\$106,760.63	\$102,097.00	\$4,663.63	\$208,811.34
9	15-Oct-2023	\$208,811.34	\$106,760.63	\$103,628.46	\$3,132.17	\$105,182.89
10	15-Oct-2024	\$105,182.89	\$106,760.63	\$105,182.89	\$1,577.74	\$0.00