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# MEMORANDUM

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Date: October 31, 2014

To: The Honorable Ally Miller, Member  
Pima County Board of Supervisors

From: C.H. Huckelberry  
County Administrator

A handwritten signature in black ink, appearing to read "CH Huckelberry", is written over the printed name and title of the County Administrator.

Re: **Select Development**

Regarding your October 30, 2014 email (Attachment 1) and a report by the anonymous political blog known as the Arizona Daily Independent (ADI) (Attachment 2), please be advised that Pima County has received no audits or investigation reports from any federal or state agency regarding Select Development. I am confused as to why the blog's report includes quotes attributed to you regarding such an audit by the Federal Highway Administration (FHWA).

The ADI blog also reported that FHWA Division Administrator Karla Petty issued a letter to me regarding a complaint relative to Select Development on several County projects. Please note that I have never received any correspondence from Ms. Petty regarding Select Development.

Further, I am disappointed by your assertion that you learned of concerns regarding Select Development from the media, as well as confused by the ADI report that states "after Miller had raised questions about the situation for some time," I issued a "CYA memo dated October 13." I did not issue a memorandum to the Board on October 13 regarding this subject; however, I have been reporting to the Board on Select since June 2014. Attachment 3 contains three memoranda to the Board dated June 23, July 1 and September 10, 2014.

The ADI blog also reports that I attended an October 10 State Transportation Board meeting in Wickenburg, Arizona; and following that meeting, I met with representatives of ADOT and the FHWA. This additional misinformation also needs to be corrected. On October 10, 2014, I was in Tucson and attended a public meeting of the Bond Advisory Committee; appeared on the Bill Buckmaster radio program, and hosted a meeting with officials of the Los Angeles District of the US Army Corps of Engineers.

Since June 2014 when I initially informed the Board, there have been several meetings and discussions between the Pima County Department of Transportation (PCDOT), the Arizona Department of Transportation (ADOT), the FHWA, the Pima County Procurement Department and the County Attorney's Office regarding the progress of Select Development on three federal aid projects the firm is constructing for PCDOT.

The Honorable Supervisor Ally Miller  
Re: **Select Development**  
October 31, 2014  
Page 2

There were concerns regarding allegations of late and/or nonpayment to subcontractors and suppliers and subcontractors refusing to work on the projects because of the nonpayment issues. When a Disadvantaged Business Enterprise (DBE) subcontractor refuses to work on a project, then the project is in danger of not meeting required DBE goals. There are also concerns of failure to prosecute the work. At my request, PCDOT has provided biweekly reports summarizing the activities on the three Select construction projects.

ADOT and FHWA have been kept apprised of the late and/or nonpayment issues on these projects through regular meetings with PCDOT staff; The FHWA visited PCDOT Field Engineering in mid-October to collect information, and PCDOT continues to provide additional information as requested. If any reports or audits are issued by the FHWA, such will be provided to the Board.

There have also been several confidential internal discussions with the County Attorney's Office regarding Pima County's options to address Select's continuing failure to allocate the necessary resources toward completion of the projects by the scheduled contract completion dates and to address subcontractors and suppliers not being timely paid for work completed.

This serious contract compliance matter continues to be closely monitored by PCDOT and our Procurement Department with guidance from the County Attorney's Office.

We will keep the Board informed of the actions to be taken to complete the three roadway construction contracts with Select Development and the disposition of contract compliance matters with this contractor.

CHH/mjk

#### Attachments

c: The Honorable Chair and Members, Pima County Board of Supervisors  
Chris Straub, Chief Civil Deputy County Attorney  
John Bernal, Deputy County Administrator for Public Works  
Priscilla Cornelio, Transportation Director  
George Widugiris, Procurement Director

# ATTACHMENT 1

## **Maura Kwiatkowski**

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**From:** Ally Miller  
**Sent:** Thursday, October 30, 2014 12:22 PM  
**To:** Priscilla Cornelio; Chuck Huckelberry  
**Cc:** Jeannie Davis; Shirley Lamonna  
**Subject:** Audit of 3 federal aid Projects

Mr. Huckelberry and Ms. Cornelio

First, I want a copy of any audits and/or investigative reports that have been provided to Pima County from federal or state governmental agencies regarding the Select Development projects.

Secondly, this has been an embarrassment to my office to hear about this via the media vs open communication from your office.

We have had several meetings of late Priscilla and I am extremely disappointed you have kept me in the dark on this issue especially considering this in my district!

I have received multiple requests for updates from the public and I want all related information as soon as possible.

I want to be updated on a daily basis on this issue to avoid future communication failures.

Thank you in advance for your prompt response.

Regards,

Ally

Ally Miller, Supervisor

District 1

Pima County Board Of Supervisors

130 W. Congress

11th Floor

Tucson, AZ 85701

(520) 724-2738

Sent from my iPad

# ATTACHMENT 2

# ARIZONA *Daily* INDEP.

HOME NEWS OPINION LIFESTYLE COMICS/PUZZLES EMPLOYMENT YOUR GOVERNMENT

## Feds investigating Pima County's administration of 3 federal-aid projects

October 30, 2014 ADI News Services

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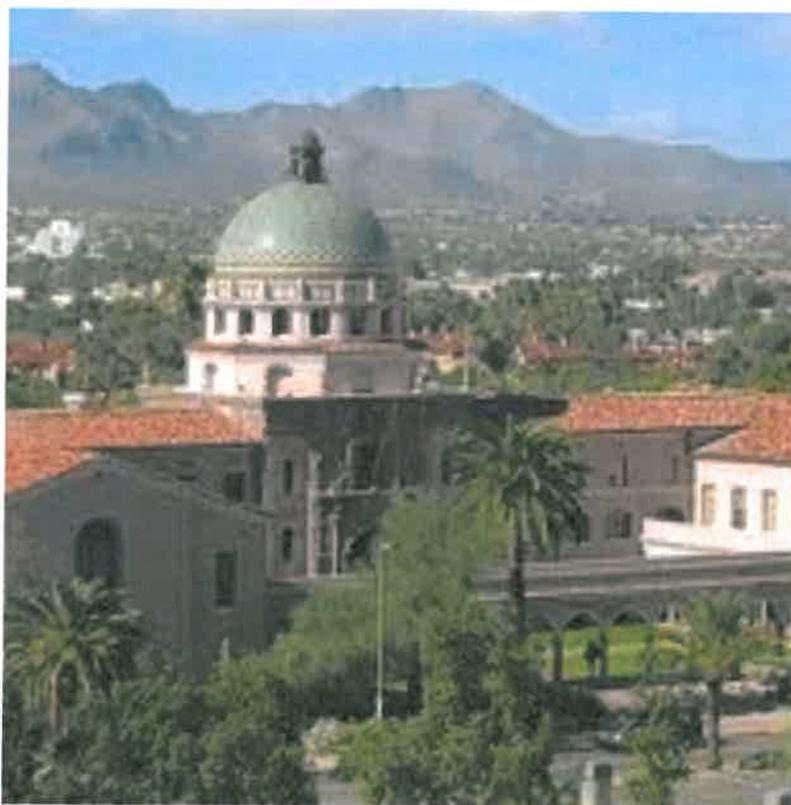
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The Pima County administrator Chuck Huckelberry was sent a letter by US. Department of Transportation informing him of “a DBE Program complaint, dated August 8, 2014, alleging that Select Development and Construction, Inc., has violated the prompt pay requirement of the DBE Program.” In her letter, Karla S. Petty, Division Administrator, advises Huckelberry that the “complaint alleges that the violations occurred on three federal-aid projects being administered by Pima County.”

Petty notes that “both DBE and non-DBE subcontractors have been impacted.”



“The FHWA Office of Civil Rights has asked the Arizona Division Office to conduct a DBE Program investigation into the allegations raised by Jason Orosco, President of Blue Diamond. I have assigned Lisa Neie, Division Civil Rights Specialist, to lead the

investigation of the complaint," the letters reads. "She will be assisted by Sharon Gordon, FHWA Area Engineer for the ADOT's Tucson District and LPA Coordinator. As part of the investigative process, we will need additional documentation, which will be requested shortly. Lisa and Sharon anticipate conducting an on-site investigation in either September or October 2014. We would very much appreciate having ADOT's DBE Liaison Officer, Vivien Lattibeaudiere, available for support in the investigative process.

Petty concludes, "Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records. In the event that we receive such a request, we will seek to protect personal information which, if released, could constitute an unwarranted invasion of privacy."

Pima County Supervisor Ally Miller, who has gained bi-partisan support as the only watch dog member of the Pima County Board of Supervisors has questioned the use of funds by Pima County since taking her seat in 2012. Miller has attempted to ascertain how the County has spent the millions of dollars it receives each year for road development and repair, while a vast majority of the County' road are failing.

In retaliation for her investigations, her fellow supervisors voted to sweep transportation funds from her district into theirs.

Supervisor Ally Miller said, "It is very concerning that Pima County is at serious risk to not only lose Federal funds for road projects but also face the possibility of having to reimburse Federal funds that were already paid." Miller went on to say, "The FHWA audit will certainly help to re-assess the Pima County policies and procedures involved with contractual requirements and allocation of funds -something I have been vocal about on numerous occasions."

After Miller had raised questions about the situation for some time, finally in a CYA memo dated October 13, Huckelberry advised the supervisors that the County has "been experiencing various project delivery and compliance issues with Select Development , Inc." He claims that he has been "proactively and aggressively" questioning Select.

The memo reads:

To date, the most serious issues that both departments have been dealing with consist of the following:

Nonpayment of suppliers and subcontractors, which also includes Disadvantaged Business Enterprise (DBE) qualified firms. This has recently deteriorated to include loss of approved DBE contractors on Magee, which also includes failure to provide replacements in the prescribed timeframe, or suitable justification to request an

exemption.

Failure to prosecute the work. The La Canada project is approximately 3 months behind schedule with approximately 63 days in liquidated damages accrued to date. In addition, the Magee project is approximately only 25% complete, yet approximately 75% of the contract time has been expended. Also, completion of final punch list items on the Homer Davis project have been lingering since the August 6, 2014 substantial completion date.

In his memo, Huckelberry claims that on Friday October 10, describes a ADOT Board meeting in Wickenburg he attended and the actions that resulted from a meeting with Jennifer Toth, ADOT State Engineer, and Rod Lane, District Engineer:

Following the ADOT Board meeting, the three of us prepared to meet at which time I learned that we were going to be joined by other ADOT representatives, as well as representatives from Federal Highway Administration (FHWA), including Karla Petty, Arizona Division Administrator.

Ms. Petty opened the meeting by stating that FHWA was very concerned about Select because of possible civil rights violations. Apparently, one of Select's subcontractors (who is a DBE) had contacted FHWA regarding nonpayment, as well as several other payment related issues.

FHWA responded by initiating an investigation into the allegations raised by this DBE. DOT was notified of this investigation and has met with representatives conducting the investigation. As part of this investigation FHWA send a letter to Select last week requesting information. Although Pima County was not copied on this correspondence, I took this opportunity to request that a copy be emailed to us.

As we continued with the meeting, FHWA notified us that they will be taking the following actions:

1. They will be conducting an audit of Select to verify payment to the subcontractors. I explained we had also performed that investigation in which we had asked to see actual checks to show payment. FHWA said they need to see the actual cashed checks, as written checks were being considered insufficient. Select has been given the deadline of October 22nd at which time they must respond to the various inquiries by FHWA.
2. They will be performing an audit of Pima County in order to verify our oversight and management of the projects, especially as it relates to the use of pre qualifications of contractors. Pima County has no independent authority to

prequalify contractors. A.R.S. Title 34 is an open competition statute that neither authorizes nor even contemplates prequalification of contractors/bidders. It was not until after September 4, 2014, when ADOT confirmed by letter that prequalification of contractors was required as a condition of the grant, that we had clear authority to do so.

3. FHWA may be reviewing our self-certification.

4. Lastly, Ms. Petty stated that effectively immediately, FHWA, is considering suspending all of the federal funds on these projects. In addition, they may also require Pima County to reimburse all federal funds that were paid to Select for the period of time in which Select did not comply with the DBE requirements. The specific dollar amount will be determined in the audit they are conducting next week.

5. ADOT also took this opportunity to express their concerns with the quality of the workmanship and materials used on these projects.

After months of doing little to address the situation, Huckelberry "In summary Select's failures to meet various contractual and federal requirements may cost the Transportation department a significant amount of money, both in terms of lost funding plus reimbursement to the federal government."

Share  Tweet 3  Like 56  +1 0   Email

## Comments



**jdfast says:**

October 30, 2014 at 3:09 pm

Just more of the same poor management of road projects here in the country by our illustrious bureaucrats under the direction of the Huckster. Who in their right mind would give Select another project after they screwed up the La Canada so badly and still aren't done and are paying LD's after the county and the RTA paid them in full. Would like to see Pima County collect the damages for that project after Select got paid in full. On top of all of that as bad as they screwed up the original project they were awarded the McGee Rd

project and they are already behind on that one too. Just more of the same here in Pima County where naked pictures with goats or donkeys are the norm. Screw the taxpayer is what this county does best and is damn proud of it.

**Reply**



**Jane Horton-Leasman says:**  
October 30, 2014 at 3:42 pm

This cannot turn out well...

**Reply**



**Huh says:**  
October 30, 2014 at 3:50 pm

It shouldn't.

**Reply**



**zip says:**  
October 30, 2014 at 5:14 pm

The only good part might be seeing Chuckie and the others behind bars. If we got rid of all of them except Alley it would be worth the \$\$.

**Reply**



**aroy says:**  
October 30, 2014 at 5:21 pm

It's about time those county jackasses were taken to task for their criminal activities.

**Reply**



**Richard hernandez says:**  
October 30, 2014 at 7:16 pm

Croniisum is all way to Washington DC. We will see if anything is actually done other than acknowledgement of this criminal acts.

Only option is recall. It will be a challenge since Brad Nelson, election director works for..... Church Huckleberry.

Politicians are not beyond anything. So I am calling on ppl of pima county, ready to recall? Let me know immediately.

**Reply**



**RL says:**

October 31, 2014 at 8:17 am

I am ready Richard!

ADI knows how to get a hold of me

**Reply**



**JSH says:**

October 30, 2014 at 9:28 pm

How could 75% of the project money be paid out for only 25% of the work? I guess anyone would quit working and go on vacation for a deal like that! Who signed off on the bogus work being completed on the PO? Who ordered the payments be made? And who physically signed those checks? You "trusted" people at Pima County have been there so long you're starting to get very,very sloppy how you hand out "OUR" money. This happens when you're spending OPM and get confused about who gets paid off this week, last week, and next week. It's frustrating but it's still fraud and it's theft and I want to be there when you all get carried away in cuffs.

**Reply**



**Call to Action says:**

October 31, 2014 at 6:32 am

Can you say RECALL !!!!!!!!!!!!!

**Reply**



**What, Again? says:**

October 31, 2014 at 7:15 am

Oh, come on. Don't they know King Chuck, lord of the 7th poorest community in the states, doesn't bow to the feds.

There's only one that get's that 'honor'.

Raul (MEChA) Grijalva.

Tucson and Pima County, the third world country liberals dream about.

# ATTACHMENT 3



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# MEMORANDUM

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Date: June 23, 2014

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

From: C.H. Huckelberry  
County Administrator

A handwritten signature in black ink, appearing to be "CHH", is written over the printed name "C.H. Huckelberry".

Re: **Select Development: Contractor for La Cañada: River to Ina Roads**

This project has been the subject of a number of recent media reports related to nonpayment of subcontractors by Select Development.

Attached is a June 13, 2014 memorandum from the Department of Transportation, as well as a letter previously directed to the contractor.

The project contractor is at the end of their contract time as of July 1; and assuming no additional time is provided as a result of weather delays, the County will begin assessing liquidated damages until the project is complete. Liquidated damages are financial penalties due to delay and inconvenience and additional cost by the contractor to the County for continuing to monitor the construction work, as well as other factors. These liquidated damage penalties will be assessed at a rate of \$2,500 per day.

CHH/anc

Attachment

c: John Bernal, Deputy County Administrator for Public Works  
Priscilla Cornelio, Director, Department of Transportation

*COM*



**MEMORANDUM**

**DATE:** June 13, 2014  
**TO:** C.H. Huckelberry, County Administrator  
**FROM:** Priscilla S. Cornelio, P.E., Director *PC*  
**SUBJECT:** Select Development – La Cañada: River Road to Ina Road

Pima County Transportation (PCDOT) has been monitoring the Select Development (Select) and sub-contractor/suppliers payment issue for several months. Our contract is with Select, and in close coordination with the Procurement Department, we have followed the process for non-payment of sub-contractor by referring the sub-contractor to the Prime Contractor (Select) and then to the bonding company that has posted bond for the Prime. PCDOT has made contact with the Prime to remind them of their responsibility of timely payment of their sub-contractors and suppliers. PCDOT is not able to confirm if the non-payment to the sub-contractor is due to a contractor/sub-contractor contract dispute since we are not privy to that information.

PCDOT has consulted with Procurement and Legal Counsel regularly to review the options to ensure sub-contractors and suppliers are receiving payment. Since our contract is with Select and not the sub-contractors, our options are to continue to notify Select and remind them of their contractual obligation. Attached is a June 5, 2014 letter requesting proof of payment to sub-contractors/suppliers prior to releasing monthly payments to Select.

The Arizona Department of Transportation (ADOT) and Federal Highway Administration (FHWA) are also aware of the issues and have contacted us to confirm our process on this issue since the project is federally funded. On Wednesday, June 11, 2014, we met with FHWA, ADOT and Pima County Procurement to coordinate future efforts. PCDOT will be contacting all sub-contractors and suppliers through a brief questionnaire to inquire if they have received payment and request them to provide us with the last 6 months of payment history on all three Select projects. This letter and questionnaire will be sent on Monday, June 16, 2014.

PCDOT received verification of payment from Select to Blue Diamond for work completed through April for the La Cañada project; therefore, we released the May estimate for that project. We will require proof of payment before releasing the June estimate.

**C.H. Huckelberry, County Administrator**  
**Select Development – La Cañada: River Road to Ina Road**  
**June 13, 2014**  
**Page 2**

PCDOT will continue to work closely with Procurement to ensure resolution as quickly as possible within the limits of our contract with Select.

PSC:AO:dg

**Attachment**

**c: John M. Bernal, Deputy County Administrator**  
**Mark Koskiniemi, Procurement**  
**Ana Olivares, Deputy Director**  
**Rick Ellis, Transportation Engineering Division Manager**  
**Thomas Kilargis, Field Engineering Division Manager**



**DEPARTMENT OF TRANSPORTATION**  
201 NORTH STONE AVENUE, FOURTH FLOOR  
TUCSON, ARIZONA 85701-1287

**PRISCILLA S. CORNELIO, P. E.**  
DIRECTOR

(520) 724-6410  
FAX (520) 724-6438

June 5, 2014

**Select Development & Construction, Inc**  
Brian Neal, President  
5401 S. Arcadia Ave.  
Tucson, AZ 85706

**Subject: PCDOT #MLCRR1: La Cañada ~ River to Ina**  
**Subcontractors/Suppliers Payment**

Dear Brian,

During our telephone conversation today, Thursday, June 5, 2014, you could not tell me when Select Development would be paying past due amounts to Blue Diamond Contracting. You stated that you will contact me later this afternoon with a firm response as to when Select Development will issue payment, even though you stated last week on Thursday, May 29, 2014, that Select Development will have this situation taken care of by the middle of this week. In addition, you had no regards to my directive to have this situation taken care of by Wednesday June 4, 2014 stating, that was my deadline, not yours!

It has been Select Development's contention that issues of nonpayment is between Select Development and their subs and suppliers. Although Pima County's contract is with Select Development, Pima County does have an obligation to assure that subcontractors and suppliers receive payment in a timely manner which goes far beyond referring them to the payment bond. First, the contract between Pima County and Select Development states that failure to make prompt payment to subcontractors or suppliers for material or labor shall constitute default of the contract. Second, the fact that all your contracts are federally funded and the subcontractors receiving late payments are DBE's fall under the federal guideline for prompt payment.

Pima County is giving Select Development notice that as of today, Pima County will not release payments to Select Development until Pima County Field Engineering receives either proof of payment from your subcontractors and suppliers or a letter from Select Development stating the reasons why a subcontractor or supplier has not been paid. This is in accordance with Section 109-2, Scope of Payments, from the Standard Specifications for Public Improvements, 2003, Edition, which states:

**"The contractor shall pay all subcontractors and material suppliers in a timely manner. The right of the contractor to receive payment is conditioned on the contractor furnishing evidence that subcontractors and material suppliers have been paid. The agency may at any time require lien waivers or releases of claims as evidence."**

**It is Pima County's objective to have a good working relationship with all Contractors resulting in a successful completion of a construction project. However, Pima County will not hesitate to exercise its rights within the contract to assure that all companies participating on our projects are paid in a timely manner.**

**Sincerely**



**Anthony V. Schiavone, CPM  
Department of Transportation, Field Engineering  
Contract Administrator**

**Cc: Ana Olivares, PCDOT Deputy Director  
Hal Gilbreath, County Attorney's Office  
Mark Koskiniemi, PC Procurement  
Rick Ellis, PCDOT Design Engineering**



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# MEMORANDUM

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Date: July 1, 2014

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

From: C.H. Huckelberry  
County Administrator 

Re: **Select Development Roadway Construction Project Monitoring**

Given the difficulties with completing the La Cañada Drive project - River to Ina Roads, the Department of Transportation is closely monitoring other roadway projects under contract with Select Development.

Attached is a June 30, 2014 status report on this subject. I have requested these status reports on a biweekly basis and, I will continue to forward them to the Board of Supervisors for your information.

CHH/anc

Attachment

c: John Bernal, Deputy County Administrator for Public Works  
Priscilla Cornelio, Director, Department of Transportation  
George Widugiris, Director, Procurement Department

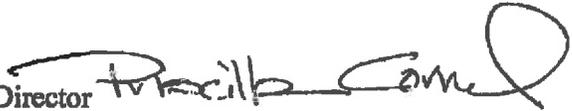


**MEMORANDUM**

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**DATE:** June 30, 2014

**TO:** C.H. Huckelberry, County Administrator

**FROM:** Priscilla S. Cornelio, P.E., Transportation Director 

**SUBJECT:** Update Regarding La Cañada Drive, River Road to Ina Road

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Per your memorandum dated May 19, 2014, attached is the biweekly update report regarding La Cañada Drive: River Road to Ina Road. We have also included the status of two other projects, Magee: La Cañada to Oracle and Homer Davis School which are being constructed by Select Development.

Please let me know if you have any questions.

PSC:dg

Attachment

c: John M. Bernal, Deputy County Administrator for Public Works  
George Widugiris, Director, Procurement  
Ana Olivares, Deputy Director  
Rick Ellis, Division Manager  
Thomas Kilargis, Division Manager

## Select Development Project Progress Updates

June 30, 2014

### 4L CRRI La Cañada, Ina to River

NTP: May 7, 2012

Contract Time: 529 Working Days (1)

Days Remaining: 2 Working Days (as of week ending June 27, 2014)

*Note 1: Original Time was 480 Working Days. Approved time extensions have added 49 days.*

### Progress:

Select continues working on box cuivert 1, just north of Roller Coaster Road, as well as, earthwork, curb and sidewalk at Orange Grove Intersection. Landscape work in progress throughout the project. Paving is on hold due to Select issues with material supplier, CPC. Major work not completed is signals, lighting, and drainage excavation, including slope paving and rip rap, driveway paving, final lift of ARAC and cleanup work.

### PCDOT Actions:

Estimated completion date per Select's schedule is August 2014. DOT staff has at minimum, weekly meetings with Select to discuss schedule and progress. PCDOT sent Select a letter on June 30 requesting new paving dates since they did not start paving today. Monsoon season with potential heavy rains is rapidly approaching and Select must take action to protect the exposed aggregate base (AB). Select was sent a letter on June 30 informing them contract time expires on Tuesday, July 1 and liquidated damages will be assessed for every day after. Select's bonding company, CNA, will receive copy of letter.

### Sub-Contractor Payments:

Sub-contractor Blue Diamond has been the most vocal about non-payment and late payments from Select; however, other sub-contractors have experienced the same issue. Select maintains they have reasons for not paying.

### PCDOT Actions:

DOT continues to request confirmation of sub-contractor payments from Select. Both Blue Diamond and Select have shared several e-mails between them regarding the necessary documentation Select requires prior to releasing payments to Blue Diamond. If the other sub-contractors are having similar correspondence, they did not share it with Pima County. Field Engineering met with FHWA, ADOT and Pima County Procurement to discuss how to proceed in handling this situation. It was decided that we are to contact and question all subcontractors and suppliers, through a brief survey, and obtain a payment history for the last 6 months. This survey was sent on Monday, June 16, 2014. The results of the survey showed several of the sub-contractors and suppliers had not received timely payments. Select was sent a letter on June 25 informing them they are in violation of the contract and must pay all outstanding balances or provide written documentation of reasons for non-payment by end of business day June 27. PCDOT will not release the next monthly progress payment until this information is received and accepted. Select Development did not respond to Pima County's demands to either present proof of payment to all their subcontractors and suppliers or provide reasons why payments are being held, before the given deadline date of Friday June 27, 2014, end of business day. Brandon Neal, Select Development informed Pima County this morning they will respond to the "hold on payment" today.

## Select Development Project Progress Updates

June 30, 2014

### SWPPP:

DOT Erosion Control Coordinator and Contractor counterpart continue to conduct regular inspections, document the inspections and correct any deficiencies that need correction.

### PCDOT Actions:

PCDOT will continue monitoring SWPPP.

### Claim:

Select submitted a Request for Information (RFI) Response Time Delay Claim seeking compensation of \$2,434,909.90. PCDOT denied this claim due to not giving proper notification as outlined in Section 105 of the Standard Specifications. Select does not accept denial and sent a letter on June 17 stating the claim amount has risen to \$3,208,005.14. They have also requested to escalate this issue to the next level.

### PCDOT Actions:

DOT met internally with Procurement and County attorney on June 26 to discuss the next steps. The consensus at the meeting was the Director's office would meet with Select Development to discuss this claim. The Director's office is in the process of scheduling the escalation meeting.

## Select Development Project Progress Updates

June 30, 2014

### 4MRLCO Magee III, La Cañada to Oracle

NTP: October 28, 2013

Contract Time: 300 Working Days (2)

Days Remaining: 134 Working Days (as of week ending June 27, 2014)

*Note 2: Select has requested a 35-day time extension for a Tucson Water issue. DOT staff is reviewing. Select has stated there will be additional costs associated with this issue.*

### Progress:

Select working on Tucson Water dip sections and tie-ins north side of Magee, and pre-cast box installation along with miscellaneous drainage work on the south side of Magee. Select is also working on detours for drainage work and curb installation.

### PCDOT Actions:

Estimated completion date per Select's schedule is January 2014. DOT staff has at minimum, weekly meetings with Select to discuss schedule and progress.

### Sub-Contractor Payments:

Sub-contractor Blue Diamond has been the most vocal about non-payment and late payments from Select; however, other sub-contractors have experienced the same issue. Select maintains they have reasons for not paying.

### PCDOT Actions:

DOT continues to request confirmation of sub-contractor payments from Select. Both Blue Diamond and Select have shared several e-mails between them regarding the necessary documentation Select requires prior to releasing payments to Blue Diamond. If the other sub-contractors are having similar correspondence, they did not share it with Pima County. Field Engineering met with FHWA, ADOT and Pima County Procurement to discuss how to proceed in handling this situation. It was decided that we are to contact and question all subcontractors and suppliers, through a brief survey, and obtain a payment history for the last 6 months. This survey was sent on Monday, June 16, 2014. The results of the survey showed several of the sub-contractors and suppliers had not received timely payments. Select was sent a letter on June 25 informing them they are in violation of the contract and must pay all outstanding balances or provide written documentation of reasons for non-payment by end of business day June 27. PCDOT will not release the next monthly progress payment until this information is received and accepted. Select Development did not respond to Pima County's demands to either present proof of payment to all their subcontractors and suppliers or provide reasons why payments are being held, before the given deadline date of Friday June 27, 2014, end of business day. Brandon Neal, Select Development informed Pima County this morning they will respond to the "hold on payment" today.

### SWPPP:

DOT Erosion Control Coordinator and Contractor counterpart continue to conduct regular inspections, document the inspections and correct any deficiencies that need correction.

## Select Development Project Progress Updates

June 30, 2014

### PCDOT Actions:

PCDOT will continue monitoring SWPPP.

### Sub-Contractor Approvals:

When Select was awarded the contract by the BOS, the Board stipulated that all sub-contractors not shown in the initial sub-contractor list submitted at bid time, be brought to the BOS for approval before starting work. Select is following through with this, though it has been challenging for Select to obtain sub-contractors. They are doing most of their own work. Electrical sub change request was approved by BOS on 6/17.

### PCDOT Actions:

DOT staff is readily available to place request for new sub-contractor on BOS agenda as quickly as possible.

Claim: There are no claims on this project.

## Select Development Project Progress Updates

June 30, 2014

### 4HDBPE Homer Davis School TE

NTP: June 20, 2013

Contract Time: 125 Working Days (3)

Days Remaining: 6 Working Days (as of week ending June 27, 2014)

*Note 3: Throughout the construction duration, several utility conflicts arose which required a number of new design and re-design efforts. Due to the significant reduction in work productivity, working days were not charged. Currently, no contract time is charged pending resolution for deficiencies in asphaltic concrete pavement finish course that was placed on May 7 & 8, 2014.*

### Progress:

Most items of work are complete. Contractor is currently working on installing granite mulch on the shoulder areas east and west sides of Romero Road. Contractor is also planning on installing steps in a concrete drainage junction structure in the middle of the intersection at Romero Road and Wetmore Road. Recently installed final lift of asphalt is in reject due to high voids and no cement in mix. Select plans to begin milling the rejected material July 8, 2014 and be complete by the end of the day on the ninth. Repaving will begin on the first available day following the milling and should take an additional 3 days.

### PCDOT Actions:

PCDOT will continue to work with Select to complete project as quickly as possible.

### Sub-Contractor Payments:

Sub-contractor Blue Diamond has been the most vocal about non-payment and late payments from Select; however, other sub-contractors have experienced the same issue. Select maintains they have reasons for not paying.

### PCDOT Actions:

DOT continues to request confirmation of sub-contractor payments from Select. Both Blue Diamond and Select have shared several e-mails between them regarding the necessary documentation Select requires prior to releasing payments to Blue Diamond. If the other sub-contractors are having similar correspondence, they did not share it with Pima County. Field Engineering met with FHWA, ADOT and Pima County Procurement to discuss how to proceed in handling this situation. It was decided that we are to contact and question all subcontractors and suppliers, through a brief survey, and obtain a payment history for the last 6 months. This survey was sent on Monday, June 16, 2014. The results of the survey showed several of the sub-contractors and suppliers had not received timely payments. Select was sent a letter on June 25 informing them they are in violation of the contract and must pay all outstanding balances or provide written documentation of reasons for non-payment by end of business day June 27. PCDOT will not release the next monthly progress payment until this information is received and accepted. Select Development did not respond to Pima County's demands to either present proof of payment to all their subcontractors and suppliers or provide reasons why payments are being held, before the given deadline date of Friday June 27, 2014, end of business day. Brandon Neal, Select Development informed Pima County this morning they will respond to the "hold on payment" today.

## Select Development Project Progress Updates

June 30, 2014

### SWPPP:

DOT Erosion Control Coordinator and Contractor counterpart continue to conduct regular inspections, document the inspections and correct any deficiencies that need correction.

### PCDOT Actions:

PCDOT will continue monitoring SWPPP.

### Claim:

Select has requested compensation for additional home office and loss of profit based on extended contract time and increase in project scope.

### PCDOT Actions:

DOT responded that all alterations to contract were fairly and equitably adjusted as warranted in 6 change orders and contract time extension is also due to contractor inefficiencies; therefore, request was denied. To date we have received no further response from Select.



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# MEMORANDUM

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Date: September 10, 2014

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

From: C.H. Huckelberry  
County Administrator

A handwritten signature in black ink, appearing to read "C.H. Huckelberry", is written over the typed name and title.

Re: **Select Development Roadway Contract**

Select Development is under contract to Pima County to construct three projects: 1) Homer Davis School Transportation Enhancement project; 2) La Canada: Ina to River; and 3) Magee: La Canada to Oracle. Given the challenges encountered with completing these projects in a timely manner and with a continued expression of concern for prompt delivery by subcontractors on these projects, our Department of Transportation (DOT) staff is closely monitoring required performance under our contracts with this company.

Attached is a September 8, 2014 memorandum from DOT Director Priscilla Cornelio, which is the most recent update on these three projects.

Also attached is a September 9, 2014 memorandum from Ms. Cornelio that documents recent information provided to Supervisor Miller's office. One clarification to this memorandum is that the 529 days allowed for completion of the contract includes the 49 additional days that have already been authorized.

If you would like any additional information regarding this matter, please contact Ms. Cornelio or Deputy County Administrator John Bernal.

CHH/mjk

**Attachments**

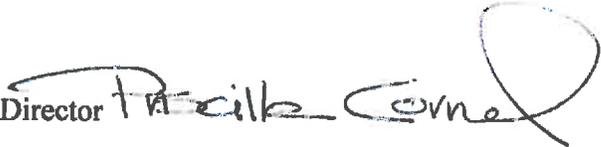
c: John Bernal, Deputy County Administrator for Public Works  
Priscilla Cornelio, Director, Department of Transportation

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**MEMORANDUM**

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**DATE:** September 8, 2014  
**TO:** C.H. Huckelberry, County Administrator  
**FROM:** Priscilla S. Cornelio, P.E., Transportation Director   
**SUBJECT:** Update Regarding La Cañada Drive, River Road to Ina Road

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Per your memorandum dated May 19, 2014, attached is the biweekly update report regarding La Cañada Drive: River Road to Ina Road. We have also included the status of two other projects, Magee: La Cañada to Oracle and Homer Davis School which are being constructed by Select Development.

Please let me know if you have any questions.

PSC:dg

**Attachment**

**c:** John M. Bernal, Deputy County Administrator for Public Works  
George Widugiris, Director, Procurement  
Ana Olivares, Deputy Director  
Rick Ellis, Division Manager  
Thomas Kilargis, Division Manager

# Select Development Project Progress Updates

September 8, 2014

## **4LCRRI La Cañada, Ina to River**

NTP: May 7, 2012

Contract Time: 529 Working Days (1)

Days Remaining: -42 - (-42 days of LDs) Working Days (as of week ending September 5, 2014)

*Note 1: Original Time was 480 Working Days. Approved time extensions have added 49 days.*

### **Progress:**

Select continues working on drainage outlet on box culvert 1 just north of Roller Coaster Road, as well as, earthwork at Orange Grove intersection. Curb work ongoing on medians throughout project. Base paving complete, except for minor corrective work. Landscape subcontractor has returned to work week of July 14, 2014 and is working throughout the project. Noise wall artwork is not complete. Wall subcontractor has not been on project since June 26, 2014. Major work not completed is signals, lighting, and drainage excavation, including slope paving and rip-rap, driveway paving, final lift of ARAC and cleanup work.

### **PCDOT Actions:**

Estimated ARAC paving date per Select's last schedule is September 24, 2014 with striping, signing and cleanup scheduled into November. Contract time expired on Tuesday, July 1, 2014 and liquidated damages continue accumulating. PCDOT staff continues to meet regularly with Select to discuss schedule and overall progress, as well as highlight key areas of emphasis such as rainstorm protection, completion of side streets and driveways and other time critical activities. PCDOT is reviewing the last updated schedule submitted by Select on July 14, 2014.

### **Sub-Contractor Payments:**

PCDOT continues to work through subcontractor/supplier payment issues.

### **PCDOT Actions:**

PCDOT will continue working with both Select and their subcontractors. PCDOT continues to provide updated information to ADOT regarding this issue.

### **SWPPP:**

PCDOT Erosion Control Coordinator and Contractor counterpart continue to conduct regular inspections, document the inspections and correct any deficiencies that need correction.

### **PCDOT Actions:**

PCDOT will continue monitoring SWPPP.

### **Claim:**

Select submitted a Request for Information (RFI) Response Time Delay Claim seeking compensation of \$2,434,909.90. PCDOT denied this claim due to not giving proper notification as outlined in Section 105 of the Standard Specifications. Select does not accept denial and sent a letter on June 17, 2014 stating the claim amount has risen to \$3,208,005.14. The claim was escalated to the Director's level.

## Select Development Project Progress Updates

September 8, 2014

***PCDOT Actions:***

Select's claim for compensation was denied on August 13, 2014. Select responded on September 3, 2014 stating PCDOT is delaying resolution by total denial and has no intention of resolving this matter. Select requested a meeting with ADOT and FHWA to discuss the handling of these issues and the management of the project as a whole. PCDOT responded on September 5, 2014 again stating their claim was denied because it lacks justification and fails to demonstrate which tasks, if delayed, delayed the project as a whole.

In anticipation of legal action by Select, County Attorneys' office has retained specialized legal services to assist PCDOT. PCDOT has conferred with County Attorney's office prior to sending any responses to Select.

## Select Development Project Progress Updates

September 8, 2014

### **4MRLCO Magee III, La Cañada to Oracle**

NTP: October 28, 2013

Contract Time: 300 Working Days (2)

Days Remaining: 89 Working Days (as of week ending September 5, 2014)

*Note 2: Select has requested a 35-day time extension for a Tucson Water issue and a claim for 6 days for a dip section on Northern Ave. The 35-day request remains unresolved as PCDOT waits for additional information from Select. The 6 days has been approved and will be added to the contract time when Select signs the contract amendment adding the days. Select has stated there will be additional costs associated with these issues.*

### **Progress:**

Select working on Tucson Water dip sections and tie-ins north and south side of Magee, and pre-cast box installation along with miscellaneous drainage work on the south side of Magee. Pre-cast box number 3 on the north side of Magee next to Northern Ave has been excavated anticipating the delivery from Jenson Pre-cast. Due to weather, box number 3 has been delayed. Select completed detours for drainage work and curb installation. Select has paved west and central eastbound lanes in preparation for traffic switch to the south.

### **PCDOT Actions:**

Estimated completion date per Select's schedule is January 2015. PCDOT staff has at minimum, weekly meetings with Select to discuss schedule and progress. On July 29, 2014 PCDOT sent a second letter to Select regarding Prosecution and Progress of Work. The letter explained Select had completed 18% of contract work, used 61% of contract time and requested a recovery plan from Select. Select responded on August 5, 2014 stating waterline redesign, subcontractor payment interference and unresolved claims on the other two projects have affected their ability to work on Magee. PCDOT responded August 22, 2014 stating waterline redesign delay has not been resolved since Select has not submitted a schedule showing how the issue affected the critical path. Even if the delay was substantiated, it only accounts for 35 days. The letter reminds Select they chose to bid this project and complete within the time allotted and they have not provided any evidence that PCDOT is hindering their progress. On August 26, 2014 Select submitted an electronic copy of the project schedule.

### **Sub-Contractor Payments:**

PCDOT continues to work through subcontractor/supplier payment issues.

### **PCDOT Actions:**

PCDOT will continue working with both Select and their subcontractors. PCDOT continues to provide updated information to ADOT regarding this issue.

### **SWPPP:**

PCDOT Erosion Control Coordinator and Contractor counterpart continue to conduct regular inspections, document the inspections and correct any deficiencies that need correction.

## Select Development Project Progress Updates

September 8, 2014

### ***Actions:***

PCDOT will continue monitoring SWPPP.

### **Sub-Contractor Approvals:**

When Select was awarded the contract by the BOS, the Board stipulated that all sub-contractors not shown in the initial sub-contractor list submitted at bid time, be brought to the BOS for approval before starting work. Select is following through with this, though it has been challenging for Select to obtain sub-contractors.

Blue Diamond was a DBE subcontractor on this project and was terminated by Select. Select is responsible for providing another DBE subcontractor to meet their DBE goals. After a meeting between PCDOT and Procurement on August 26, 2014 it was decided that Procurement would send a letter to Select reminding them again that they need to identify a substitute DBE since they terminated Blue Diamond and they no longer have a DBE subcontractor to meet their DBE goal. Procurement has been trying to get a response from Select since July 25, 2014. On August 25, 2014 Procurement sent a letter stating Pima County would enforce a sanction on Select until a substitute DBE was identified or Select provided documentation of a good faith effort. On September 4, 2014 Select responded they have been unable to secure a DBE subcontractor to replace Blue Diamond and are now looking at meeting their goal with landscaping or paving. They are in negotiations with Diggum (landscape); however, they have not agreed on scope or price. They requested the sanction be postponed until next pay period.

### ***PCDOT Actions:***

PCDOT staff is readily available to place request for new sub-contractor on BOS agenda as quickly as possible.

Procurement responded on September 8, 2014 that the sanction would be relieved once a contract has been signed with the DBE substitution and approved by ADOT BECO (Business Engagement Compliance Organization). The sanction amount is \$247,280.00, the amount of DBE goal.

### **Claim:**

No claims have been submitted on this project, though the time extension requests could potentially become requests for extended overhead compensation.

## Select Development Project Progress Updates

September 8, 2014

### **4HDBPE Homer Davis School TE**

NTP: June 20, 2013

Contract Time: 125 Working Days (3)

Days Remaining: 1 Working Days (as of week ending September 5, 2014)

*Note 3: Throughout the construction duration, several utility conflicts arose which required a number of new design and re-design efforts. Contract time (working days) was not charged for utility impacts and design changes.*

### **Progress:**

Project items of work are substantially complete. Select working on punchlist items prior to Final Acceptance.

### **PCDOT Actions:**

PCDOT will continue to work with Select to close out project as quickly as possible.

### **Sub-Contractor Payments:**

PCDOT continues to work through subcontractor/supplier payment issues.

### **PCDOT Actions:**

PCDOT will continue working with both Select and their subcontractors. PCDOT continues to provide updated information to ADOT regarding this issue.

### **SWPPP:**

PCDOT Erosion Control Coordinator and Contractor counterpart continue to conduct regular inspections, document the inspections and correct any deficiencies that need correction.

### **PCDOT Actions:**

PCDOT will continue monitoring SWPPP.

### **Claim:**

Select has requested compensation for additional home office and loss of profit based on extended contract time and increase in project scope.

### **PCDOT Actions:**

PCDOT responded that all alterations to contract were fairly and equitably adjusted as warranted in 6 change orders and contract time extension is also due to contractor inefficiencies; therefore, request was denied.

Select responded on August 5, 2014. They do not concur with PCDOT's assessment of the project and has requested this issue be escalated to the Director's level. PCDOT held an internal meeting on August 20, 2014 to discuss the best options for this escalation. Due to recent experiences with escalation meetings with Select, it was determined that a face-to-face meeting with them would not be productive.

## Select Development Project Progress Updates

September 8, 2014

The Director has all the necessary information to determine the request for additional compensation is not warranted. A formal response to Select stating such was sent August 27, 2014. In anticipation of legal action by Select, County Attorney's office has retained specialized legal services to assist PCDOT.



**MEMORANDUM**

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**DATE:** September 9, 2014  
**TO:** John M. Bernal, Deputy County Administrator – Public Works  
**FROM:** Priscilla S. Cornelio, P.E., Director *Priscilla Cornelio*  
**SUBJECT:** Select Development

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Yesterday, Supervisor Miller, District 1, requested the following information from DOT regarding Select Development the contractor on the La Cañada: River to Ina Road and Magee: La Cañada to Oracle Road project. She wanted to know how much the La Cañada Select contract was and if there had been any amendments. She asked about the contract time and how DOT charges liquidated damages. She was informed that the contract was for 529 days and DOT had approved 49 additional days. She asked who had approved those and was informed the Division Manager at Field Engineering approves those.

Supervisor Miller also asked about assessment of liquidated damages. It was explained that DOT does not deduct them on each monthly estimate but it is determined at the end of the contract. For each monthly estimate the contractor is paid for work completed. Supervisor Miller also asked about the subcontractors that are complaining about not being paid. It was explained to her that as we have no contract with the subcontractors, we always refer the subcontractors back to the prime and also provide the name of the payment bond company because that is where they should be going to voice their concerns.

Latest payment information

La Cañada, River to Ina  
Paid through July 25, 2014  
Paid \$14,580,079.65 (they have billed \$15,347,452.26 and we retain 5%)  
To date they are approximately 85 to 90% complete  
There have been 9 contract amendments totaling \$241,821.20

John M. Bernal, Deputy County Administrator – Public Works  
**Select Development**  
September 9, 2014  
Page 2

Magee, La Cañada to Oracle  
Paid through July 25, 2014  
Paid \$1,618,892.89 (they have billed \$1,798,769.88 and we retain 10%)  
To date they are approximately 20 to 25% complete  
There have been zero contract amendments

District 1 also requested copies of the contract documents and the bond information. The Procurement Department explained to District 1 staff how to find the information on econtracts and we understand they have printed out the contracts. The performance and payment bond information is provided at the end of the base contracts. We understood this information addressed all her questions.

Please let me know if you have any questions.

PSC:AO:dg

c: Ana Olivares, Deputy Director for Infrastructure  
Tom Kilargis, Filed Engineering Division Manager