ORDINANCE NUMBER 2015-___

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF PIMA COUNTY ARIZONA AMENDING THE PIMA COUNTY CODE CHAPTER 3.06, BONDING DISCLOSURE, ACCOUNTABILITY AND IMPLEMENTATION.

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA:

Chapter 3.06 of the Pima County Code is hereby amended to read as follows:

Chapter 3.06 BONDING DISCLOSURE, ACCOUNTABILITY AND IMPLEMENTATION

3.06.010 Intent.

The board of supervisors is authorized by Arizona Revised Statutes § 35-452 to call special elections for the purpose of seeking voter authorization to incur bonded indebtedness. The board of supervisors desires to provide voters with complete information on projects, along with their estimated costs, that will be constructed from proceeds of bonded indebtedness, as well as provide voters, to the maximum extent practicable, firm assurances that these projects will be constructed within the estimated costs and time tables established by the board of supervisors. Because it is not practicable to list on a ballot question all of the projects and estimated costs that would be constructed from the sale of authorized bonded indebtedness, the board of supervisors establishes this chapter setting forth requirements for presenting general obligation and revenue bond packages to the electorate for approval and for monitoring utilization of the proceeds from authorized bonds.

3.06.020 Bond implementation plan.

Prior to the start of early voting for a special election called by the board of supervisors pursuant to A.R.S. § 35-452, the board of supervisors shall adopt by ordinance a "bond implementation plan," which shall be adopted for each bond election and question ordered by the board of supervisors pursuant to A.R.S. § 35-452. The title of the ordinance shall contain the date of the special bond election. After adoption, the ordinance shall govern the development or construction of all listed projects, including the approximate project cost and the proposed construction schedule, unless the ordinance is amended pursuant to Section 3.06.070. The ordinance shall contain the following information:

A. A complete list of all projects to be constructed or acquired by proceeds from the sale of authorized bonds. The project list shall identify each project by name and location and provide a short narrative project description.
   1. For capital construction projects, the following information shall also be provided for each project:
      a. A project scope of work containing a description of the facility to be constructed, including the size or capacity and whether construction is for a new facility or an expansion, rehabilitation or reconstruction of an existing facility, and whether the project is phased and if so which phases are being funded.
      b. The purpose and specific benefits to be achieved by construction of the project.
      c. A project schedule by major task (i.e. land acquisition, planning/design, construction), as well as the implementation periods projected for starting and completing the project. Implementation periods are blocks of two fiscal years each.

d. The agency responsible for future operations and maintenance of the facility, and the estimated future operating and maintenance costs and source of funding for those costs if the implementing agency is a governmental entity.
e. The agency responsible for managing project design and construction.

2. For each land acquisition project related to open space, trails or historic/cultural preservation, the following information shall be provided:
   a. An estimate of the number of acres to be acquired.
   b. The desirable location of the property by section, township, and range, assessor parcel number, or reference to a map that is readily accessible to the public.
   c. The benefits to be achieved by the acquisition.
   d. The estimated future management and security costs, and identification of the management agency if other than the county.

B. The total estimated cost of each project or acquisition, total estimated costs by major task, a discussion of how estimated costs were derived, and analysis of the potential for actual costs to increase or decrease from estimated costs.

C. The total estimated amount and source (federal or state aid, local governments, other county revenues, private sources) of any other revenues that may be obtained for the project or revenues that are required as cost sharing from other governmental entities or private parties, including an assessment of the certainty or uncertainty that other sources will be secured and options that would be available if the other sources are not secured.

D. A detailed strategy for managing the sale of bonds, including discussion of the factors upon which the county will base decisions on the timing, size, and terms of bond sales.

E. For general obligation bonds, discussion of commitments to manage the sale of bonds within limits on secondary property tax rates and analysis of how approval and sale of general obligation bonds could impact actual property taxes paid for debt service.

F. For revenue bonds, a discussion of sources of revenues that will be used to service bond debt and whether fees will be raised, and by how much, if revenue bonds are approved and sold.

3.06.030 Advance publication of bond implementation plan.

A bond implementation plan adopted pursuant to this chapter shall be published at least once in a newspaper of general circulation in the county prior to the start of early voting for the special bond election. The publication shall set forth the ordinance containing the bond implementation plan adopted by the board of supervisors. Upon adoption, the board of supervisors shall also publish the bond implementation plan on the county's web site prior to the start of early voting for the special bond election.

3.06.040 Pima County bond advisory committee: Capital planning, program and implementation review.

A. The bond advisory committee shall have a total of 25 members, appointed as follows:
   1. 15 members, 3 appointed by each member of the board of supervisors;
   2. 5 members, 1 appointed by each of the incorporated cities and towns within the county (if additional cities or towns are incorporated, the number of committee members will be increased as necessary to permit each incorporated city or town to have a representative);
   3. 2 members, 1 appointed by the Tohono O'odham Nation and 1 appointed by the Pascua Yaqui Tribe; and
   4. 3 members appointed by the county administrator.

B. The Pima County bond advisory committee members shall be appointed to a term of six years. Upon resignation of any member, the appointing authority shall appoint another member to begin a new six-year term.
C. The committee will meet as often as it deems necessary but in any event no less frequently than semi-annually.
D. Under direction of the county administrator, county staff shall prepare progress reports and otherwise brief the committee on the status of implementation of the bond implementation plan, with special attention paid to major issues impacting implementation of the bond improvement plan.
E. The committee shall review and make recommendations to the board of supervisors on all proposed amendments to the bond implementation plan.
F. The Committee shall review and approve the semiannual progress reports on the bond implementation plan prior to it being transmitted to the board of supervisors and published, as required by section 3.06.060.
G. The committee shall make recommendations to the board of supervisors about the amount of bond funding and projects to be included in bond implementation plans for future bond elections.

3.06.050 Conservation acquisition commission.

A. The board of supervisors hereby establishes the conservation acquisition commission.
B. The conservation acquisition commission shall have a total of eleven members, appointed as follows:
   1. Five members, one appointed by each member of the board of supervisors;
   2. Two members appointed by land conservation organizations active in Pima County;
   3. One member appointed from the Pima County natural resources, parks and recreation commission;
   4. One member appointed by the local board of realtors;
   5. One member appointed by the ranching community; and
   6. One member appointed by the county administrator.
C. Appointments to the commission are for a term of eight years. Upon the resignation of any member, the appointing authority shall appoint another member to begin a new eight-year term.
D. The duties and responsibilities of the commission are as follows:
   1. Oversee and monitor all open space bond acquisitions placed before the board of supervisors for consideration including, but not limited to, acquisitions funded by general obligation bonds.
   2. Make recommendations to the board of supervisors and the Pima County bond advisory committee for priorities in the scheduling of open space acquisitions and periodic assessment and change in priorities as necessary.
   3. Make recommendations to the board of supervisors and the Pima County bond advisory committee on any aspects of open space land management, including management of lands acquired for open space.
   4. Make recommendations to the county administrator, and the Pima County bond advisory committee on any aspect relating to internal county management of the open space acquisition process.
   5. Make recommendations to the Pima County bond advisory committee on the amount of bond funding and location of open space property to include in bond implementation plans for future bond elections.

E. The commission will meet as often as it deems necessary but in any event no less frequently than semi-annually.
F. Under direction of the county administrator, county staff shall prepare progress reports and otherwise brief the commission on the status of implementation of the conservation bond program component of the bond implementation plan, with special attention paid to major issues impacting implementation of the conservation bond program.
G. The commission shall review and make recommendations to the board of supervisors on all potential amendments to conservation bond program components of the bond implementation plan.
H. The commission shall review and approve the semiannual progress reports on the conservation bond program component of the bond implementation plan prior to it being transmitted to the Pima County bond advisory committee as required by Section 3.06.040.

3.06.060 Monitoring and reporting on sold bonds.

The county administrator shall prepare semiannual reports on the progress of the bond implementation plan implementation which shall be transmitted to the board of supervisors for review. Semiannual progress reports shall also be posted on the county's web site. Progress reports shall be prepared and transmitted by the county administrator until a bond implementation plan is determined by the board of supervisors to have been completed. Each progress report shall contain the following information on the status of every project or program contained in the plan:

A. The project implementation schedule status, including design, construction, acquisition, and completion.
B. Any estimated substantial variances from the project cost and revenue sources in the adopted bond implementation plan.
C. Any major issues that may affect implementation of the bond implementation plan.
D. Plans and options for addressing substantial modifications in costs or revenue sources or other major issues, including the potential need for substantial modifications in the bond implementation plan as provided for in Section 3.06.070.
E. A fiscal status report, including discussion of bond sales completed and projected; interest rates and terms of completed sales; interest rates received on deposits of bond proceeds; updated projections on conditions in municipal bond markets; current debt service schedules and updated projections of secondary property tax rates for debt service; updated projections of secondary property tax rates with projected future sales of bonds; and analysis and projection of fiscal impacts of completed and projected sales of revenue bonds.

3.06.070 Substantial modification of an adopted bond implementation plan.

A. A substantial modification in the implementation of an adopted bond implementation plan shall not be made except as provided in this section.
B. For purposes of this section, "substantial modification" means any of the following:
   1. An increase or decrease in total actual project costs by twenty-five percent or more.
   2. An increase or decrease in actual bond costs by twenty-five percent or more.
   3. An increase or decrease in actual other revenues by twenty-five percent or more~~.~~; for projects with other revenues estimated at zero, a substantial modification shall be defined as an increase in "other" (non-bond) revenues of $100,000 or more.
   4. A delay in a project construction or implementation schedule of twelve months or more.

5. A delay in the scheduled years of sale of bonds of twenty-four months or more caused by changes in municipal bond market conditions or county financial conditions and necessary to maintain commitments to capping the secondary property tax rate for debt service.
6. Any project that is not constructed.
7. Any project that is added to those to be constructed.
8. Any increase or decrease in the project scope that alters the disclosed project benefits.
9. If some but not all proposed bond questions are approved at the special election, the board of supervisors will make any changes to the projects for the approved questions that are necessary because of the failure of another question, and these will be considered "substantial modifications."

C. Cost estimates may vary, up or down, as a project proceeds through planning, design, procurement, contract award, and construction, or through appraisals and negotiations for conservation acquisitions. Variations in cost estimates do not constitute "substantial modifications." "Substantial modifications" relating only to cash amounts may occur pursuant to official action by the board of supervisors, in open session, that establish actual costs through awards of construction contracts, contract amendments or change orders, or approval of a contract for acquisition. Such board actions shall be accompanied by notice that the action will require a bond ordinance amendment.

D. Any substantial modification in the implementation of an adopted bond implementation plan requires ~~an~~ specific amendment to the ordinance that adopted the plan. The ordinance amendment must be enacted by the board of supervisors at a public hearing for which at least fifteen days' prior notice was published in a newspaper of general circulation in the county.
   1. Bond ordinance amendments shall be scheduled to coincide with transmittal of the semiannual bond progress reports as required by Section 3.06.060.
   2. Recommendations for bond ordinance amendments shall be reviewed by the Pima County bond advisory committee, as required by Section 3.06.040, and for conservation acquisitions by the conservation acquisition commission, as required by Section 3.06.050.
   3. Substantial modifications of costs, bond funding, or other funding ordinance amendments may be scheduled for the next regular transmission of the semiannual bond progress report, provided the modifications were previously approved by the board of supervisors.
   4. All other substantial modifications require amendment of the bond ordinance prior to the substantial modification.

3.06.080 Coordination with other capital planning of the county and region, and applicability to county bond projects implemented by other agencies.

A bond implementation plan shall be integrated into a five year capital improvement plan to be adopted at the time the annual budget of the county is adopted. The county five-year capital improvement program shall be reported to the Metropolitan Planning Organization for all necessary coordination and integration into a regional capital plan. Any project contained within a bond implementation plan that is being implemented by a political subdivision other than the county, or by a nonprofit community partner (each an "agency"), shall conform with the requirements of this chapter. Specific program or project oversight for the purposes of conforming with this chapter shall remain with the county.

3.06.090 Design, construction, and equipping of county bond projects by other agencies.

A. Pursuant to Pima County Code Section 3.06.080, bond projects authorized by the board of supervisors in a bond implementation plan for a special bond election to be designed, constructed,

or equipped by another agency using county general obligation bonds to fund a project in whole or part shall be funded by the county only pursuant to ~~an~~ binding contract or intergovernmental agreement executed between Pima County and the implementing agency. Each such project shall be authorized and implemented with a separate agreement. Neither this Code, nor the inclusion of a project in the bond implementation plan gives an agency any contractual rights with respect to a project until a binding agreement is duly approved and executed. The agreement shall authorize the implementing agency to design, construct, or equip the project, subject to compliance with the terms and mutual responsibilities of the parties agreed upon in the agreement. Each agency with an interest in one or more projects in the bond implementation plan is expected to designate an individual to liaison with the County with respect to bond program implementation to facilitate the development of project-specific agreements and other aspects of overall program implementation.

B. Unless waived by the board of supervisors as being in the best interests of the county and warranted by the circumstances of the bond funded project at issue, the agreement shall include, but not be limited to, provisions establishing the following:

1. That the implementing agency shall operate and maintain the improvements constructed by county bond funds for a period of not less than twenty-five (25) years.
2. That the implementing agency shall sufficiently fund operations and maintenance of the facility, and identify the estimated amount and source of funding for operations and maintenance of the facility.
3. That the implementing agency and the County will conduct regular performance audits to determine if facilities built, operated and maintained by the implementing agency are being maintained in good working order and are being used for the appropriate purposes; and that the County may suspend the allocation of County bond funding for other not-yet-built projects if the performance audit results in a finding of unsatisfactory and facilities are not returned to good working order within 120 days.
4. That the implementing agency shall not charge a fee for use of the constructed improvement that is more than a fee charged by the county for a similar purpose.
5. That the implementing agency agrees to insure the improvements constructed with county bond funds and will replace same them if they are damaged or destroyed.
6. That the implementing agency agrees to make the improvements available to all residents of Pima County without restriction or preference to jurisdiction of residence.
7. That the implementing agency agrees to comply with all provisions of Chapter 3.06 (Bonding Disclosure, Accountability, and Implementation) of the Pima County Code and will provide all reports to the county in a format and schedule agreed upon by the parties.
8. That the county will only transfer county general obligation bond proceeds to the implementing agency upon request from the implementing agency, with full documentation.
9. That the implementing agency agrees to a provision requiring compliance with federal arbitrage regulations.
10. That the implementing agency, by action of its governing body at a public hearing, shall notify the county of events that would require an amendment of the bond implementation plan ordinance and formally request the board of supervisors to hold a public hearing on the necessary ordinance amendment.
11. The maximum amount of county bond funds allocated to the specific project, and what entity will own improvements as they are constructed.
12. That the implementing agency will pay for any and all project costs in excess of the allocated county bond funds.

PASSED AND ADOPTED by the Board of Supervisors of Pima County, Arizona, on this ___ day of _____, 2015.

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Chair, Board of Supervisors

Attest:

_____
Clerk, Board of Supervisors

Reviewed by:

_____
County Administrator

Approved as to Form:

_____
Civil Deputy County Attorney