Board of Supervisors Memorandum

April 10, 2012

Need for Increased Investment in Transportation and Highway Maintenance

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I. Introduction

The County builds, operates and maintains the transportation system in the unincorporated area of Pima County except for those roads that pass through the County that are state highways, interstate highways or private roads. All other public roadways are operated and maintained by Pima County.

The Department of Transportation (DOT) is charged with maintaining these streets and highways. In total, there are 1,803 paved miles of highways within the County. These paved roadways are divided into arterial and collector highways that carry most of the traffic and local streets and roads. There are 689 miles of arterial and collector highways maintained by the County and 1,114 miles of local roads.

The condition of our paved highways is mixed to poor. While we have a significant number of arterial and collector roadways that are in good condition due to new construction, we also have a significant number of arterial and collector roadways that are in need of major maintenance and repair. In addition, most local paved streets have not had adequate maintenance in the last 10 years. Significant investments are necessary to keep our paved highway transportation system from deteriorating further. These investments will require realignment of County spending priorities and reallocation of funds, including those normally reserved for the County General Fund.

Transportation funds come from a variety of federal, state, local and private sources. There has been significant discussion for years about the shortage of transportation funding and its deleterious impact on our decaying infrastructure. Despite the obvious decay and its impact on safety and the economy, there has been little effort at the federal and state levels to enhance or even preserve current funding levels. Accordingly, this report provides the Board with a number of local options regarding increasing highway maintenance investment.

II. Highway User Revenue Fund History and Distribution

The Highway User Revenue Fund (HURF) was created by State statute and is essentially a collection of transportation-related taxes and fees; most of which come from taxes levied on the sale of gasoline on a per gallon basis. The use of HURF is restricted to roadway purposes by Article 9, Section 14, of the Arizona Constitution. The gas tax in Arizona has not been increased in over 20 years and is currently $0.18 per gallon. The price of fuel during this period has varied widely from as low as $0.99 per gallon in 1991 to as high as $4.05 in 2008 as shown in Figure 1. While everyone today is concerned about the high price of gasoline, Figure 2 shows that, adjusted for inflation, we are paying about the same price for gasoline today that we paid in 1918.

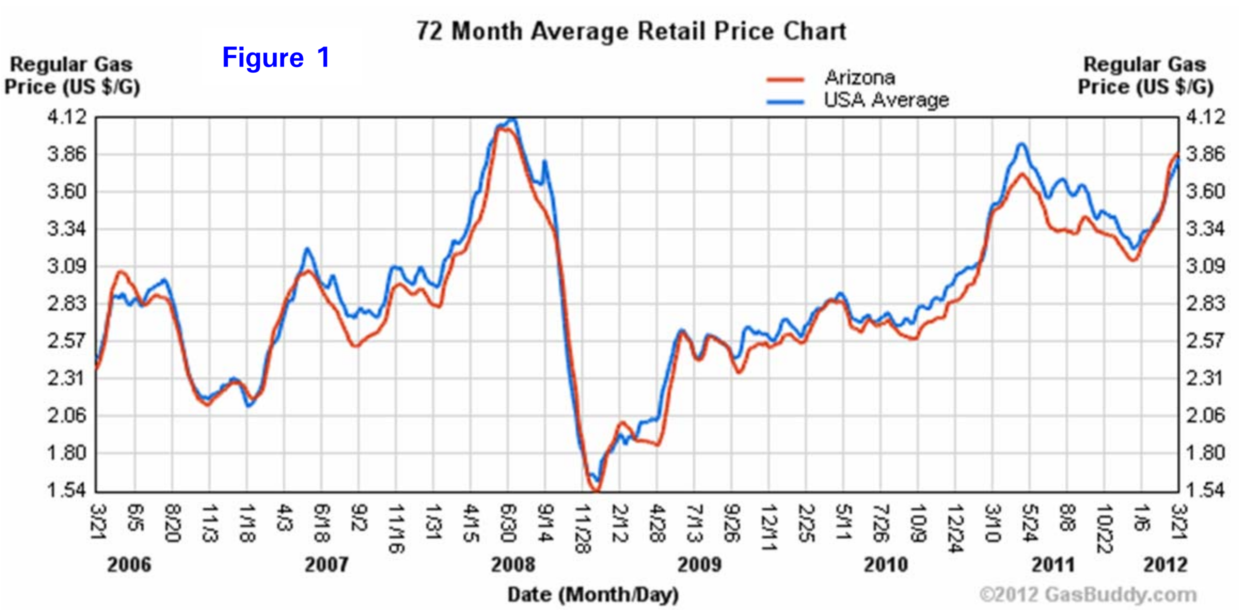
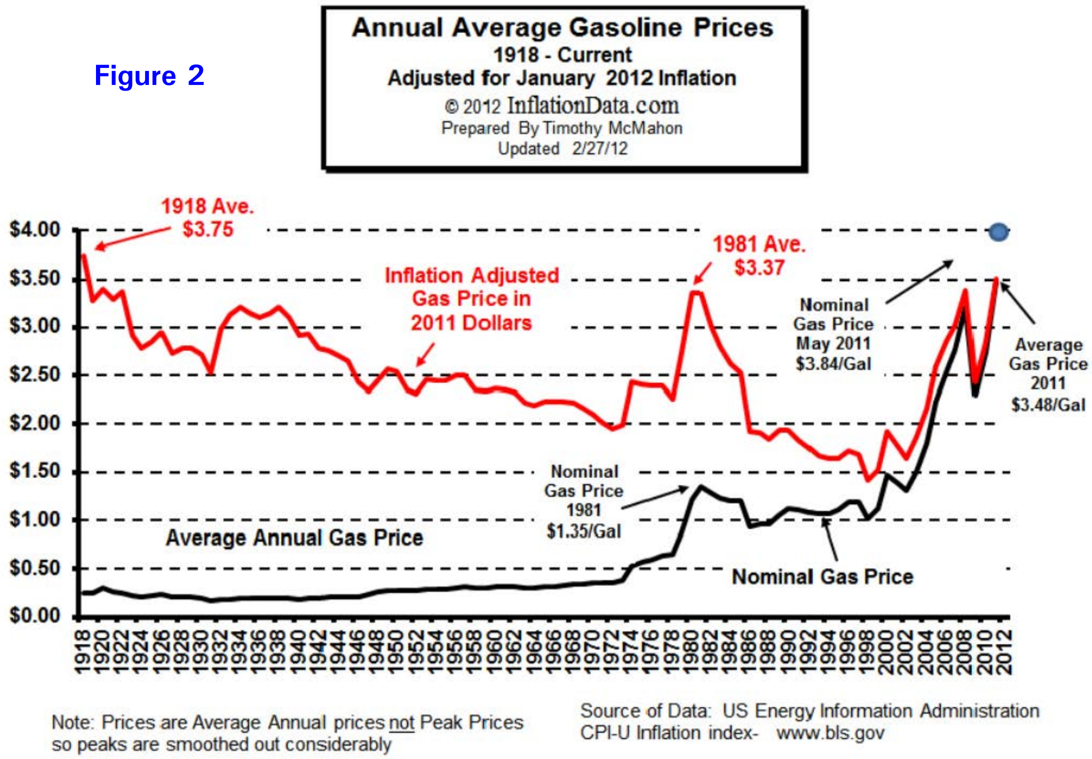


Figure 2



Funding from the HURF, including its portion of vehicle license taxes, is distributed by a convoluted formula to the state, cities, towns and counties. Most of the revenues are distributed to the state, followed by cities and towns. Counties are receiving just 19 percent of the overall fund. The funds are divided among the various local jurisdictions responsible for transportation so that each jurisdiction has a funding source for the roads under its jurisdictional responsibility. For Pima County, this is only those roads and highways in the unincorporated area that are public but not state or interstate highways.

Prior to the statutory establishment of the most current HURF, statutes existed in what was formerly Title 18, which allowed counties to levy a property tax for highway purposes. This statute, which was consolidated into Title 28, read as follows:

"§ 18-216. Tax levy for county highway improvement; additional tax for highway purposes.

A. The board of supervisors may levy a real and personal property tax, not exceeding twenty-five cents per one hundred dollars of property in the county as valued for tax purposes, for road purposes, to be levied and collected at the same time and manner as other primary property taxes are levied and collected.

> *B. The money when collected shall be paid into the county treasury for the benefit of highways within the county and, together with other money received for those purposes, expended by the board for improvements of roads of the county."*

There has not been a direct property tax levy for transportation in Pima County since Fiscal Year (FY) 1981/82 when the County property tax levy for transportation was $2,536,406.

III. <u>HURF Distribution Equity and Bonding</u>

Pima County has the largest unincorporated population of any county in the state, now estimated to be 354,957 (July 1, 2011). Pima County has for decades had the largest unincorporated population of any County in the state as contrasted to Maricopa County, whose unincorporated population is 284,980 (July 1, 2011). Because of this, Pima County has the largest obligation of any county for highway transportation operation and maintenance. Unfortunately, the gasoline tax prior to 1996 was distributed on the sole basis of the sale of fuel in a particular county as it related to total sale of fuel in the state. This resulted in HURF distributions to Maricopa County substantially higher than those to Pima County even though Maricopa County is mostly incorporated into cities and towns. This inequity existed from the date the fund was initiated in 1973 to HURF equity legislation enacted by the State Legislature in 1996 that introduced unincorporated population as a component of fund distribution. From 1996 to today, HURF has continued to be distributed 72 percent on the basis of total fuel sales and 28 percent on the basis of unincorporated population. This HURF equity legislation resulted in Pima County receiving substantial additional HURF monies.

Because Pima County did not receive its fair share of HURF for decades, a significant backlog of needed highway capacity improvements accumulated within the unincorporated area. To help alleviate this capacity improvement backlog, the County chose to bond its additional HURF equity revenues. In November 1997, a $350 million HURF bond authorization was approved by the voters.

Unfortunately, statutes related to transportation HURF bonding were archaic in the sense that previously only cities and towns had held elections for HURF bonds, and their elections were confined to only the residents within the jurisdiction. Since Pima County has been the only county to pursue HURF revenue bonding, our election required that everyone in the County vote in a County HURF revenue bond election – unincorporated residents as well as those in cities and towns. During the period leading up to the election, the Tucson Mayor and others threatened to campaign against the County's revenue bond election unless funds that were intended originally to be used only in the unincorporated area were also spent in the City of Tucson. The County relented and allocated up to $129.3 million of County HURF bonds to improve city streets and highways – an unprecedented action anywhere in the state and required the County and City to address the courts to allow such a process to be undertaken.

To date, 37 projects funded by HURF bonds have been completed, providing 185 lane miles of new road capacity at an estimated cost of $313,025,169 (includes other transportation funds: federal, RTA, and other regional funds) both in the unincorporated area of the County as well as within our cities and towns.

HURF bonding is an important issue when considering operating and maintenance of the transportation system in the unincorporated area of Pima County because the repayment obligations of these bonds directly reduce the total amount of revenue available to the County for street maintenance and repair. Today, the estimated total revenue from the HURF and vehicle license tax for transportation of $45.8 million is reduced by about $16.4 million, which is the annual debt service payment for outstanding HURF bonded indebtedness. Table 1 below shows the 10-year history of annual bond payment requirements and net revenues for highway operations and maintenance. Part of the payment is for city and town streets for which the County has no legal responsibility.

Table 1. 10-year Revenue and Bond Payment History.

FY	Total Revenue	Bond Payments	Net Revenue
2002/03	$ 48,071,873	$14,609,000	33,462,873
2003/04	51,334,009	12,870,000	38,464,009
2004/05	53,878,131	16,768,000	37,110,131
2005/06	56,936,526	16,692,000	40,244,526
2006/07	58,637,774	17,404,000	41,233,774
2007/08	57,847,338	18,512,000	39,335,338
2008/09	53,906,177	21,348,000	32,558,177
2009/10	50,535,192	16,239,000	34,296,192
2010/11	50,459,963	16,259,000	34,200,963
2011/12	45,767,907	16,410,000	29,357,907
Totals	**$527,374,890**	**$167,111,000**	**$360,263,890**

While the 1997 HURF bond issue has been successful at making numerous capacity improvements for roadways in the unincorporated area, it has also contributed significantly to roadway improvements inside the City of Tucson and other cities and towns. Because of the unique circumstances associated with the election, in hindsight, the 1997 HURF bond program was a mistake, primarily because of political pressure exerted by the Tucson Mayor. For this reason and others, the 1997 HURF bond issue will be the last County HURF bond issue. After the bonds have been paid off, any further capital investments in our transportation system in the unincorporated area of Pima County will be made on a pay-as-you-go basis.

IV. Ten-year Funding History Associated with County Transportation and Reasons for Decline

Table 2 below shows the funding history of the HURF and vehicle license combined into total funding revenue for the DOT over a 10-year period. The table also indicates the decrease in revenue since 2007. The DOT is operating today with less revenue by almost 10 percent than it had in 2002. In addition, the Department is paying more annual debt service for retiring County HURF bonded indebtedness than in the past. In the past 10 years, as shown in the previous table, this annual payment has been as low as $12.9 million; today it is $16.4 million.

Table 2. DOT HURF and Vehicle License Tax Revenue: FYs 2002/03 through 2011/12.

FY	HURF Revenue Received	Vehicle License Tax Revenue Received	Total Received	Cumulative Loss
2002/03	$48,071,873	Included with HURF Revenue	$48,071,873	
2003/04	51,334,009	Included with HURF Revenue	51,334,009	
2004/05	53,878,131	Included with HURF Revenue	53,878,131	
2005/06	56,936,526	Included with HURF Revenue	56,936,526	
2006/07	44,606,855	$14,030,919	58,637,774	
2007/08	44,060,141	13,787,197	57,847,338	($790,436)
2008/09	41,209,550	12,696,627	53,906,177	(4,731,597)
2009/10	38,739,414	11,795,778	50,535,192	(8,102,582)
2010/11	38,973,544	11,486,419	50,459,963	(8,177,811)
2011/12	34,648,805	11,119,102	45,767,907	(12,869,867)
Total Loss Since 2007				**($34,672,293)**

The most significant factor in the decline in revenues available to the DOT to build, operate and maintain the County transportation system is the diversion of County HURF monies by the State Legislature. In 2002, the State Legislature began to divert funding that had previously been used exclusively to build, operate and maintain streets and highways throughout the State and within its cities, towns and counties for the purpose of operating a State agency – the Department of Public Safety – the State's law enforcement arm. Each city, town and county today funds their law enforcement agencies out of their general fund and does not use any HURF monies to support their individual jurisdictional law enforcement responsibilities.

The diversions of HURF funds accelerated with the State budget crisis, beginning in 2008, when additional monies were taken to support the Department of Public Safety and a new diversion was started to fund the Motor Vehicle Division of the Arizona Department of Transportation. These fund diversions cumulatively have resulted, over a 10-year period, in the loss of $26 million the County could have used to maintain our streets and highways in the unincorporated area. This diversion has also reduced by $54 million the amount of city and town HURF monies within Pima County to maintain their streets. The State legislative diversion of HURF funds to balance the State budget is causing a significant and continuing detrimental impact on the ability of counties, cities and towns to maintain their local streets and highways.

Another factor associated with the declining revenues available through statewide HURF relates to vehicle fuel efficiency. In the last decade, there have been increased efforts to improve fuel efficiency, and the overall light vehicle fleet has increased in fuel efficiency by nearly 20 percent. This means there is the same or more wear and tear on the highway system by vehicle miles of travel, but there is less revenue because 20 percent less gasoline is being purchased.

It is also apparent our maintenance dollars are not going as far as in the past; they have been significantly impacted by inflation. While the United States Consumer Price Index has increased by 25 percent since 2002, the United States Producer Price Index for Asphalt Paving Materials has increased by 121 percent. More importantly, the Producer Price Index for Refined Petroleum Products, most of which are used in pavement repair and rehabilitation, increased 237 percent over the last decade.

Table 3 below shows the average miles per gallon (mpg) for new light vehicles over the period, the Producer Price Index for Asphalt Paving Materials over the period, the United States Consumer Price Index over the period, and the Producer Price Index for Refined Petroleum Products over the same period.

Table 3. Contributing Factors to Declining Transportation Revenues.

FY	Average mpg for New Light Vehicles	U.S. Producer Price Index for Asphalt Paving Materials	Producer Price Index for Refined Petroleum Products	U.S. Consumer Price Index
2002/03	19.84	141.42	0.93	1.82
2003/04	19.66	144.02	1.03	1.86

Table 3. Contributing Factors to Declining Transportation Revenues.

FY	Average mpg for New Light Vehicles	U.S. Producer Price Index for Asphalt Paving Materials	Producer Price Index for Refined Petroleum Products	U.S. Consumer Price Index
2004/05	19.77	150.58	1.37	1.91
2005/06	20.16	175.85	1.89	1.98
2006/07	20.46	218.34	1.93	2.04
2007/08	21.01	228.56	2.58	2.11
2008/09	21.80	289.90	2.03	2.14
2009/10	22.44	276.90	2.10	2.16
2010/11	22.82	289.09	2.63	2.21
2011/12	23.64	*312.85	3.13	2.27
Percentage increases since FY 2002/03	19.1	121.2	237.1	25.1

*estimate with eight months of data.

In summary, revenues to maintain our streets and highways have declined significantly for reasons of State diversion, increasing vehicle fleet efficiency, and the cost to maintain our paved streets and highways has increased dramatically over the last 10 years. We have significantly less revenues to maintain our streets and highways, and the revenues we do use do not go nearly far as they did previously.

V. The State and National Perspective on Transportation Funding

The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy For Users (SAFETEA-LU) is the federal legislation that authorizes transportation funding. It is set to expire on March 31, 2012. Congress is currently debating a two-year extension while the President is calling for major funding in his 2013 budget. The White House budget for FY 2013 includes a $476 billion surface transportation reauthorization bill to invest in highway, bridge and mass transit projects through 2018. For 2013 alone, the budget proposes $74 billion for the US Department of Transportation, or about a two percent increase from this year. President Obama also calls for $50 billion in immediate funding for 2012 to invest in critical areas of transportation to provide an economic boost. The House has proposed a five-year transportation budget of $260 billion. The Senate's proposal is for $109 billion over two years.

Compromise does not seem to be imminent. President Obama's budget was not well received by Republicans, according to the Huffington Post, and the budget debate is expected to be a major topic in the presidential campaign. Interestingly, federal law requires metropolitan transportation plans and improvement programs to be fiscally constrained, which is problematic when the major funding sources are extremely tenuous.

The federal gas tax is 18.4 cents per gallon. The Omnibus Budget Reconciliation Act of 1993, signed by President Bill Clinton on August 10, 1993, increased the prior gas tax by 4.3 cents, bringing the total tax to 18.4 cents per gallon. The increase was entirely for deficit reduction, with none credited to the Highway Trust Fund. However, the Taxpayer Relief Act of 1997, which President Clinton signed on August 5, 1997, redirected the 4.3-cents general fund gas tax increase to the Highway Trust Fund.

It is also important to note that Arizona is a donor state when it comes to federal gas tax distribution. This means we pay more in federal gas taxes than we receive. In a recent report, the US General Accounting Office identifies Arizona as a donor state, having received only 91.3 percent relative rate of return between FYs 2005 and 2009. Raising federal gas taxes would not be helpful. There is really no federal help on the horizon to help with transportation funding.

At the state level, taxes and fees of any kind can be increased only with a supermajority vote. Article 9 Section 22 of the Arizona State Constitution requires that two-thirds of both houses of the general assembly vote affirmatively for any tax increase. This includes all taxes, as well as any imposition of new taxes, and any statutorily administered state fee or new state fee. About half of the Legislature has signed a no-tax pledge, making any increase mathematically unattainable without broad relinquishing of the pledge. The other option for any increase is a referral by the Legislature or a citizen initiative. If placed before the voters, a simple majority would be needed to create an increase.

The Arizona Legislature does have the option of authorizing local option taxes and fees to expand the transportation revenue source. Examples used in localities outside Arizona include a sales tax on gas, local per-gallon tax on fuel, licensing and registration fees, and local toll roads. In this manner, the decision to expand taxes and fees occurs at the local level and would likely bypass any requirement for a legislative supermajority. Given the current budget crisis and the anti-tax temperament of the Legislature, authorizations of local options are considered unlikely.

The basic concept of a per-gallon gas tax is also being questioned by the federal government and some states. There is a growing interest in a vehicle miles traveled (VMT) charge, in which motorists pay for how much they drive, and in some cases also by time of day. Trips in rush hour on congested roads would cost more than off-peak travel. The Arizona Legislature has considered bills in the last two sessions that would charge electric vehicles, which pay no gas tax, a token fee per mile traveled. This session, House Bill 2257 would tax electric car drivers one cent per mile. It appears to have been successfully defeated again this session. Similar legislation is pending in other states.

The best help we can receive from the State in solving our transportation problem is for them to simply leave us alone. They have already helped too much by diverting our HURF funds; State legislative HURF diversions are approaching $200 million per year. If the State were to raise the gas tax, we would be in the same position as the State with federal tax. As we are a donor county, for every gas tax dollar raised in Pima County, all counties are supposed to receive 19 cents; however, because of State diversion before distribution, counties received only 16 cents. Most importantly, Pima County receives only 2.8 cents for every dollar of State HURF revenues.

VI. General Fund Support for Transportation

The County General Fund has been making an annual appropriation to the DOT since FY 2007/08. This annual appropriation has varied over time from $3.2 million to $2.78 million and currently holds steady at approximately $2.8 million per year. It was originally allocated for the purpose of offsetting transit expenditures based on old legislation that indicated transit could not be funded through the vehicle license tax but required General Fund support. The law was changed in 2008, which made it clear the County did not need to fund transit expenditures through the General Fund and could use vehicle license tax revenues for this purpose. The County, however, continued to retain the General Fund appropriation because of the dire condition of the DOT operating budget, which has since been exacerbated by the State Legislature diverting HURF funds for operating expenses for State agencies.

The County General Fund now subsidizes three funds that historically have been identified as special revenue funds, or enterprise funds, that, by definition, are not required to receive a General Fund subsidy. Since FY 2009/10, Development Services, due to economic conditions and declines in the overall economy, has received a General Fund subsidy each budget year averaging $1.5 million. The Solid Waste Division of the Department of Environmental Quality, from FY 2007/08, has received a General Fund subsidy averaging $1 million. The Stadium District has also received a General Fund subsidy averaging $1.5 million since FY 2010/11.

Given that we have previously simply transferred these funds to the Department of Transportation and not specifically budgeted this transfer as a subsidy, these cost transfers have essentially been hidden. It would now be appropriate, through our budgeting process, to identify this subsidy to the Transportation Fund, which improves our disclosure and transparency in developing the budget.

VII. Highway Maintenance Obligations by Supervisorial District

Since the County only provides highway maintenance in the unincorporated area, the maintenance obligations by Supervisorial district vary widely. Table 4 below indicates these varying obligations by Supervisorial District.

Table 4. County Roadway Maintenance Obligations by Supervisorial District.

Supervisorial District	Paved Roadways (miles)	Dirt Roads (miles)	Total Roadway Miles	Percentage of Total
1	561	40	601	29
2	105	56	161	8
3	538	17	555	27
4	476	70	546	26
5	123	93	216	10
Totals	1,803	276	2,079	100

VIII. Private Streets and Highways are not County Obligations

There are a number of private streets and highways within the County, which means they are roadways over which individual homeowners associations or others have chosen to build, maintain and retain control. Maintenance and repair of streets within these areas is the obligation of the homeowners association or entity responsible for control and maintenance of the private streets. They are not the obligation of Pima County. This is an important distinction when considering the number of road or highway miles for which the County is responsible.

IX. Immediate Actions Being Taken to Reinvest in Highway Pavement Preservation and Maintenance

Most County roads are asphalt, which requires frequent resealing and crack filling to avoid significant deterioration. The remainder are unpaved rural roads that require periodic grading. Due to fiscal constraints, too much of this routine maintenance has been deferred. I have directed that the DOT Director develop a plan for the expenditure of up to $15 million for the balance of Calendar Year 2012, in $2.5 million increments, to make major pavement preservation and repairs to our most deteriorated roadways. In addition, I have directed the DOT Director to accelerate pothole repair and crack filling. The DOT Director has requested that at least eight to 10 hours of overtime be worked per week by all available crews for pothole repair until the backlog of pothole repairs is near zero. This will mean that current County-staffed crews will work overtime likely through April to eliminate pothole repair backlogs. I have also directed the Transportation Director to establish a second crack-filling crew to help arrest significant deterioration of the pavement structure of most of our major roadways and to perform the crack filling activities on local streets where they are currently salvageable. This additional crew will also be working overtime. Resources for these activities will be made available by shifting work priorities within the DOT, primarily away from unpaved road maintenance.

In addition, we will accelerate two pavement repair and rehabilitation actions this year by consolidating the pavement repair and rehabilitation project that remains in this year's budget of $2.5 million with an earmarked allocation of $2.5 million from next year's budget to fund a $5 million investment in major pavement repair, rehabilitation and reconstruction on the arterial highway system as indicated in Table 5 below.

Table 5. FY 2012 Pavement Preservation Program.

Route	From	To	Length (feet)	Supervisorial District	Estimate*
Campbell Avenue	River Road	Sunrise	8,500	1	$ 476,000
Las Lomitas	Ecsondido Lane	500' north of Northern Hills	2,820	1	112,800
Craycroft Road	Avenida De Las Palazas	90' east of Finisterra	5,530	1	275,271
Craycroft Road	90' east of Finisterra	Sunrise Drive	5,580	1	208,320
Kolb Road	Avenida De Las Palazas	Sunrise Drive	8,574	1	320,096
Los Reales Road	Alvernon Way	55' east of Los Reales (center line)	7,935	2	402,040
Craycroft Road	340' south of Dream Street	250 feet north of the Interstate 10 Frontage Road	1,020	2	41,253
Craycroft Road	Littletown Road	340' south of Dream Street	1,685	2	68,148
Valencia Road	Camino Verde	ADOT right of way at Ajo	19,115	3	254,866
Shamrock Manor Subdivision	All Streets	All Streets	7,500	3	350,000
Ina Road	Wade Road	Marana Town Boundaries	7,900	3	252,800

Table 5. FY 2012 Pavement Preservation Program.

Route	From	To	Length (feet)	Supervisorial District	Estimate*
Curtis Road	Davis Av	Kain Avenue	1,964	3	117,840
Abrego	Duval Road (center line)	Esperanza	11,430	4	924,560
Bel Air Ranch Estates Subdivision	All Streets	All Streets	28,600	4	915,200
Mission Road	1,377 south of center line Ajo Way	Via Ingresso	1,848	5	172,480
Mission Road	1,243 south Via Ingresso	250' north CL Irvington	2,360	5	220,266
Cardinal/Los Reales Subdivision	All Streets	All Streets	19,747	5	164,558
Totals					**$5,276,501**

*Cost varies by treatment. Treatments vary from mill/fill to overlay to chip seal.

These short-term activities should result in some immediate benefits that are measurable and noticeable. This action assumes budget expenditure capacity in the present fiscal year, since the proposal accelerates planned maintenance investment for next fiscal year. Given our sale of Posada del Sol Healthcare Center and not incurring the planned expenditures of this function for the balance of the current fiscal year, this expenditure authority capacity will be available.

X. Options to Further Increase Transportation Funding for Highway Maintenance

There are a number of options available under current statutes and options that could be requested of the Legislature for the Board to consider regarding increasing the funding allocation for highway maintenance. These include:

1. Allocate an additional $5 million of the DOT fund balance;
2. Increase the annual General Fund contribution of $2.8 million by directing reallocation of General Fund budget appropriations;
3. Use a one-time allocation of excess General Fund balance;

4. Use short-term borrowing related to the annual General Fund transfer;
5. Lobby to successfully eliminate the State HURF diversions that continue to occur and to restore the funds that have already been "swept";
6. Levy a countywide property tax equivalent to the State HURF diversions and provide said revenues for highway repair and maintenance;
7. Reprogram Regional Transportation Authority (RTA) revenues;
8. Add specific highway maintenance authority to the RTA legislation;
9. Levy a countywide property tax for transportation under ARS 28-6712;
10. Levy up to a half-cent countywide sales tax under ARS 42-6103;
11. Encourage County improvement districts;
12. Redistribute HURF statewide;
13. Designate construction sales tax revenue for street and highway maintenance and repairs;
14. Cease development incentives that give away revenues to developers and earmark these lost governmental revenues for transportation;
15. Ask the State Legislature to modify development impact fee legislation to include major highway repair and maintenance as an allowable use of development impact fees;
16. Loan a limited portion of the RTA's cash balance to local governments for street repairs;
17. Borrow from the development impact fee fund balance;
18. Include "donation to potholes in Pima County" as an option in the "Voluntary Gifts" section of the Arizona Resident Personal Income Tax Return.

Each of these options has positive and negative consequences. Below is an analysis of each option.

1. <u>Allocate an additional $5 million of the DOT fund balance</u>. The Comprehensive Annual Financial Report (CAFR) prepared and published by the County each year and approved by the State Auditor General indicates the Transportation Fund balance as of June 30, 2011 was $29.7 million. This fund balance is for the purpose of financing ongoing capital improvements and meeting variable cash flow demands associated with high-cost capital projects. While most of the fund balance will ultimately be expended in the coming years, it is possible to "borrow" this fund balance in the short term knowing it must be replenished to continue the 1997 transportation capital bond program. By allocating $5 million of the fund balance with an appropriate repayment schedule in the

future, it is possible to make an additional $5 million allocation to pavement repair and preservation targeted mostly at local streets. Action necessary by the Board to implement this option is to direct that $5 million from the Transportation Fund balance be utilized for this purpose and budgeted in the to-be-adopted budget for FY 2012/13.

If the Board chooses to allocate this additional $5 million, streets most in need of repair would be improved as shown in Table 6 below. It must be remembered this fund balance borrowing must be replaced in three to five years.

Table 6. FY 2013 Pavement Preservation Program.

Route	From	Length (feet)	Supervisorial District	Cost
Heatherwood Hills/Flecha Caida 5, 8 and 10	Subdivision	48,678	1	$ 292,068
Catalina Foothills Estates 7 and Northridge Estates	Subdivision	48,100	1	384,800
Shadow Rock	Subdivision	21,555	1	129,330
Flair	Subdivision	12,800	1	597,333
Los Ranchitos	Subdivision	39,000	2	364,000
Sunrise Manor	Subdivision	5,280	3	176,000
Melody Lane Estates 1, 3, 4	Subdivision	5,200	3	242,667
Plum Acres	Subdivision	1,568	3	41,813
Treasure Home Estates	Subdivision	2,400	3	64,000
Del Cerro Estates 4	Subdivision	6,042	3	45,315
Camino De Oeste	El Camino Del Cerro	3,157	3	105,233
Del Cerro Estates Lots 1-74	Subdivision	9,603	3	277,420
Rudasill	Sandario	10,556	3	281,493
Van Ark	Picture Rocks	4,590	3	122,400
Sunset Acres	Subdivision	16,100	3	120,750
Rocking K Ranch Estates	Subdivision	39,000	4	546,000
Thunderhead Ranch	Subdivision	7,050	4	42,300
New Tucson	Subdivision	3,075	4	114,800
New Tucson	Subdivision	11,085	4	129,325
New Tucson	Subdivision	19,270	4	179,853
Casas Colina Cabo 2 Lots 31-96	Subdivision	6,468	5	38,808
Mission Terrace 1, 2, 3	Subdivision	22,943	5	191,192
Mission West Lots 1-370, Mission View 1-134, Sierra Sagrada	Subdivision	27,250	5	204,375
San Xavier Estates Lots 1-122	Subdivision	13,500	5	101,250
Cardinal/Arrowhead/Bilby/Milton	Subdivision	21,500	5	161,250
Total				**$4,953,775**

2. Increasing the annual General Fund contribution. The $2.8 million contribution by the General Fund to the DOT budget each year could be increased without significant adverse impacts on other County programs or departments. Each year, there are a number of departments or agencies that under-expend their allocated budget and have done so for several years; the Juvenile Court, for example. It is estimated the Juvenile Court budget allocated from the County General Fund could be reduced by $500,000 this year with no adverse impact on the Court. In FY 2010/11, based on final financial reports, the Juvenile Court was over-budgeted by $1,015,329. In addition, we are proactively managing and have done so for some time indigent defense costs across all categories of required legal defense, ranging from the Public Defender in felony cases through juvenile dependencies and mental health proceedings. With the increased scrutiny that has been applied in the last year through our Office of Court Appointed Counsel and many of the other legal defense offices that have been created, it is likely another $500,000 in costs can be reduced from these functions and allocated to an additional highway maintenance General Fund contribution. There are a number of other areas where the County has been setting aside funds to subsidize actions of other County departments and agencies such as the average $1.5 million annual subsidy for Development Services, the average $1 million annual subsidy for the Solid Waste Division, and the $1.5 million average annual subsidy for the Stadium District. I would recommend each of these be reviewed in detail when developing the budget for FY 2012/13 with the goal of increasing the General Fund transportation allocation of the County from $2.8 million to $5 million.

3. Using a one-time allocation of excess General Fund balance. While the County has largely weathered the great recession without significant consequences of either increasing taxes or reducing services, such is largely possible because of very conservative and fiscally prudent budgeting practices, which includes building the reserved fund balance. The reserved fund balance for this fiscal year is $34,774,388. It is significant to remember that the County property tax base and revenue continues to shrink; therefore, it is important this level of fund balance be retained to stabilize the County budget and guard against future revenue losses or adverse State budget transfers. It is also very important to retain a significant fund balance as the economy recovers and the County faces price increase pressures while our property tax base is forecasted to continue to decline for another two fiscal years. In addition, this fund balance is vital in retaining and maintaining our current high quality bond rating, which significantly lowers our cost of borrowing and saves taxpayers millions of dollars in interest payments. While it is certainly possible to allocate some portion of the unreserved fund balance to this issue, I would be very careful in doing so, and it would be my last choice in attempting to increase funding for transportation highway maintenance. Recognizing the poor condition of our streets and highways, however, I would recommend up to $5 million of our General Fund balance be set aside for this purpose with no final decision on the amount of the allocation until our overall budget is considered by the Board.

4. Short-term borrowing related to the annual General Fund transfer. Interest rates remain at all-time record lows. It may be possible to short-term borrow against the pledged recurring General Fund revenue support to the DOT. With the life of the proposed improvements being in the range of five to 10 years, I would suggest any contemplated borrowing have a five-year time limit. Therefore, if the County was able to bond the recurring revenue to the DOT at $5 million as opposed to $2.8 million, and a short-term borrowing not to exceed five years was implemented at an interest rate of three percent, $22.9 million would be immediately available to invest in highway pavement rehabilitation and repair. This form of borrowing, commonly referred to as a Certificate of Participation issuance, will require a pledge of public assets or facilities during the term of borrowing. This is usually accomplished by pledging the facility being built or improved as collateral; however, short-term borrowing for a diverse system of streets and highways may be difficult.

5. Lobby to successfully eliminate the State HURF diversions that continue to occur. The annual legislative diversions of HURF from the County are estimated to be approximately $7 million. While there has been some discussion and the introduction of one bill in the Legislature to repeal the diversions, the bill introduced did not even receive a hearing before the Legislature. This is an embarrassment. There is apparently no attempt to return the diverted funds to the County, which is also unconscionable.

The Governor's budget for this year continues HURF diversions. These legislative diversions are bad public policy because they divert funds from an essential economic development component of the State – an efficient and effective transportation system.

Further, as has been demonstrated by data related to vehicle fuel efficiency increases and the significant inflationary cost of petroleum products used for roadway development and maintenance, the fund can little afford a legislative diversion. It is essential this diversion be stopped immediately. This option should be a top priority for all cities, towns and counties. It is imperative that local revenues intended for road maintenance not be stolen by the Legislature to balance the State budget.

If the $7 million annual diversion was bonded for a five-year term similar to Option 4 above, the amount available for a major investment in highway maintenance and repair would be $32.1 million.

6. Levy a property tax equivalent to the State HURF diversions and provide the revenues for highway repair and maintenance. If the Legislature will not return the diverted HURF funds to the County for highway maintenance purposes, I would suggest a temporary property tax be enacted equivalent to the legislative diversion. This would mean an approximate $0.0913 per $100 of assessed value would be added to the primary property tax levy to collect $7 million, which would be transferred to the DOT for highway

maintenance and repair. This property tax would automatically be repealed upon State legislative restoration of annual County HURF diversions.

7. Reprogram RTA revenues. In an *Inside Tucson Business* article dated March 19, 2012, Tucson City Councilmember Steve Kozachik recommended two actions that could affect the use of RTA revenue. The first relates to only spending what is actually necessary based on the most recent and accurate travel demand and traffic forecast. This relates to the scope and extent of improvements on Broadway Boulevard. I completely agree with Councilmember Kozachik on this issue. It makes little sense to force the original scope of transportation improvements where they are clearly outdated or unnecessary. Reducing the size and scope of transportation improvements not only saves money; it is more responsive to community needs and desires.

Councilmember Kozachik also suggests allowing the voters to decide whether some RTA revenue should be reprogrammed for street and highway repair and maintenance. While this would be a community choice, I believe it erodes the credibility of the original RTA proposal, which was to enhance mobility by providing increased highway capacity and increased transit services and may be contrary to the enabling legislation. Further, it potentially begins a process of rethinking every previous voter decision. In the past, we have treated most voter decisions as sacrosanct; and, once made, cannot be reversed. While it is not impossible to reprogram RTA funds for road maintenance with voter approval, it begins a path I would not recommend. However, the Board can certainly consider this as an option to substantially increase funding for highway repair and maintenance.

If the amount of reduction or reprogramming was as suggested by Councilmember Kozachik, $400 million of project authorizations would have to be shifted. Further, the $400 million shift should come proportionately from each program area of the RTA; i.e., streets and highways, transit, safety, etc. In addition, since 70 percent of the RTA proceeds are programmed for City of Tucson improvements, approximately $280 million of the reprogramming should come from City of Tucson projects or programs. This reprogramming would break the RTA pledge as identified in Resolution 2006-01, signed by every jurisdiction, which states:

> *"WHEREAS, This Board now expands its pledge to include:*
>
> *The promise that the minimum allocation for each project as voted by the public will be honored and will not be changed."*

If all of these issues are overcome, it will next be necessary to find some legal process to rescind the approval and issue some new program authorization. The RTA Board, however, has no legislative authority for referring such questions to the voters. This power rests solely with the State Legislature.

8. Add specific highway maintenance authority to the RTA legislation. The RTA legislation as originally passed is less than absolutely clear about whether proceeds from the half-cent sales tax could be used for maintenance and repair purposes. The general consensus was that the RTA authorization was for the construction of new improvements and new highway and transit capacity. The very specific Maintenance of Effort provisions for highway expenditures and transit expenditures tend to confirm this understanding. It is certainly possible to ask the Legislature to add authority to the RTA legislation allowing a sales tax election for the purpose of making roadway repairs and conducting maintenance activities. Specifically, it would be appropriate to ask for authority from the Legislature to enact up to a one quarter-cent sales tax for the purpose of providing highway maintenance and repair of existing streets. While there is no real consensus methodology for distributing such proceeds, they could be distributed on the basis of the population of each jurisdiction as it relates to the total population of Pima County, or the proceeds could be distributed based on the road miles maintenance responsibility of each jurisdiction. It would appear new legislative authority would be needed to allow the RTA to spend additional sales tax proceeds for highway repair and maintenance. It would be appropriate to consider asking the Legislature for such authority. A quarter-cent sales tax for road maintenance would generate approximately $32 million per year and a one-eighth cent approximately $16 million.

9. Levy a countywide property tax for transportation under ARS 28-6712. This requires a majority vote of the Board to implement. The tax rate cannot exceed 25 cents per $100 of assessed valuation. At the maximum rate, about $19 million would be collected per year countywide. This property tax levy would substantially increase available road maintenance funding. Since the levy would be countywide, the tax levy should be returned to the jurisdictions within Pima County in accordance with their contributions. Table 7 below shows the portion of jurisdictional assessed value in proportion to total assessed value of the County. The table also shows the amounts that would be received by each jurisdiction based on the maximum property tax levy.

Table 7. Proportionate Distribution of Transportation Property Tax Levy.

Jurisdiction	Percent of Assessed Value	Distribution of Maximum Property Tax Levy Based on Assessed Value
City of Tucson	41.29	$ 7,845,100
City of South Tucson	0.29	55,100
Town of Oro Valley	7.39	1,404,100
Town of Marana	5.38	1,022,200
Town of Sahuarita	2.44	463,600
Unincorporated Area	43.21	8,209,900
Total	100.00	$19,000,000

The Board could also impose very specific jurisdictional conditions for receiving these monies. For example, all proceeds must be spent on actual street maintenance and not on public art, administration, overhead or engineering.

10. Levy up to a half-cent countywide sales tax under ARS 42-6103. This requires a unanimous vote of the Board to implement. Although the statute allows up to a 1/2 cent, a rate of only 1/8 cent would generate up to $15 million per year and could be discontinued at any time the Board chooses. All counties in Arizona except Maricopa County are authorized to levy this tax. Pima County is the only authorized county that does not levy such a tax. Because of the requirement of a unanimous vote, as well as past imposition of sales tax increases only after voter approval, this option does not appear to be one that should be pursued.

11. Encourage County Improvement Districts. Current law allows for individuals within a county in specific geographic areas to petition for the formation of an improvement district. Of the many purposes available for improvement districts is the construction and improvement of highways, roadways and sewers. Tucson Country Club Estates is a recent paving and sewer improvement district formed in 1994 for the purpose of reconstructing the streets, highways and sewers within Tucson Country Club Estates. This group of property owners spent $4.27 million to improve their streets, highways and sewers. This model is available to anyone who wishes to form an improvement district and requires a majority of the property owners within the district or the owners of 51 percent of the real property within the district (A.R.S. 49-903) to agree to a self-imposed property tax to pay for such improvements. To incentivize the use of improvements districts for street and highway improvements, the County could offer to fund up to 25 percent of the cost of such infrastructure improvements.

12. Statewide Redistribution of HURF. There is nothing magical about the distribution of HURF monies among the three primary beneficiaries: the State, the cities and towns and the counties. Counties receive the least allocation of any of the three beneficiaries. In judging the adequacy of funding for each of these entities by the condition of roadways, it is apparent the streets and highways likely in the best condition are those of the State, followed by significant deterioration of local highways, particularly those managed by counties, cities and towns. Therefore, another option would be to reexamine the existing formula distribution of HURF revenues throughout the State. Such would require an act of the Legislature.

13. Designate construction sales tax for street and highway maintenance and repairs. Little known or recognized is that most municipalities within Pima County have a construction sales tax. This sales tax is equivalent to, in most cases, the standard retail tax and generates significant revenues to local municipal governments, which could be

used for highway and street maintenance. The construction sales tax by jurisdiction is shown in Table 8 below.

Table 8. Construction Sales Tax by Jurisdiction.

Jurisdiction	Construction Sales Tax Percentage
City of Tucson	2
City of South Tucson	0
Town of Marana	4
Town of Sahuarita	4
Town of Oro Valley	4
Pima County	0

Pima County does not have the authority to levy a construction sales tax; therefore, we are at a revenue disadvantage when it comes to such activities. Most construction sales tax revenue is generated from new development associated with growth; therefore, it would be appropriate to legislatively require that all new construction sales tax revenues be earmarked for transportation capacity improvements or street and highway maintenance. These construction sales tax revenues are significant; and sometimes, such as in the case of Marana, exceed the normal sales tax revenue. Since the tax is discretionary and part of their general fund, it can be used for any legitimate purpose by the municipalities. It would be appropriate to request that Pima County be given the legislative authority to levy a construction sales tax and earmark these revenues for highway and street construction and maintenance.

14. Stop development incentives that give away local government revenues to developers and earmark these lost governmental revenues for transportation. Development incentives given to developers through development agreements or pre-annexation development agreements rob taxpayers of fair compensation for development-related impacts. As has been reported in documents from the Goldwater Institute, competition between jurisdictions over development generally results in everyone losing. Such is the case in Pima County. Historically, a number of development agreements have been entered into by jurisdictions where normal development requirements, such as payment of impact fees – costs associated with offsetting the actual cost of development-related infrastructure – have been offset or forgiven. These agreements, while favorable for the developer, are not beneficial for the general public. More importantly, because many of these development agreements forgive contributions for fundamental infrastructure related to streets and highways, the agreements rob the street and highway system of needed capital investment. To improve the opportunity for investment in local streets and highways and to stop unreasonable financial concessions to developers associated with

development agreements, it should be required that cities and towns, as well as counties, not enter into development agreements that disadvantage the public and ensure that each development entity pays their fair share of infrastructure cost associated with their impacts.

15. Ask the State Legislature to modify development impact fee legislation to include major highway repair and maintenance as an allowable use of development impact fees. The account balance of collected transportation impact fees in unincorporated Pima County was $36,631,957 as of December 31, 2011. These funds are largely programmed for major capacity improvements to the transportation system with a nexus in the general geographic area where the fees were paid. These fees are restricted for capacity improvements associated with transportation system expansion. A case could be made for increased wear and tear on our transportation infrastructure, particularly on the arterial and collector system, from growth that may not rise to the level of requiring capacity improvements. Therefore, it is plausible to allocate a certain percentage of development impact fees to major highway maintenance and repairs due to increased wear and tear from increased vehicular travel and increased vehicle travel miles associated with new development. If just 25 percent of these funds were made available, another $9,157,989 would be available for major pavement restoration and repairs, primarily for the arterial and collector highway system.

16. Loan a limited portion of the RTA's cash balance to local governments for street repairs. The RTA presently has a cash balance of nearly $180,000,000, and a number of ongoing projects will draw down this cash balance within the next few years. However, if the RTA had appropriate security and an interest rate significantly greater than the amount paid on their bonded indebtedness, it could be legally possible for them to loan a portion of their cash balance to local governments desiring to perform accelerated highway repairs and maintenance. This option repays any loan from the RTA without affecting RTA's approved plan or project delivery schedule. There would be a large number of legal obstacles to overcome, but it may be feasible. This option is clearly distinct from Option 7, which attempts to redistribute RTA funds for maintenance, thereby modifying the voter-approved plan and delivery schedule.

17. Borrow from the development impact fee fund balance. As indicated in Option 15, the County's development impact fee fund balance as of December 31, 2011 was $36,631,957. While there a number of projects that could draw down this fund balance, it is unlikely it will be significantly reduced in the short term. Therefore, it may be possible to also borrow some of these funds for advancing County highway maintenance and repairs. Given the legislative threat to local government development fee legislation that was either enacted by the Legislature last year or discussed by industry associations, this

option is not desirable as it may offer the Legislature another excuse to interfere in local authority.

18. Include roadway maintenance and preservation as an option in the "Voluntary Gifts" section of the Arizona Resident Personal Income Tax Return. The Arizona Resident Personal Income Tax Return provides a variety of options for voluntary taxpayer donations such as Citizens Clean Elections and Special Olympics, among others. Adding "donation to potholes in Pima County" as a Voluntary Gift option was recently suggested to me by a Green Valley resident, and it does have practical appeal.

XI. Recommended Options to Increase Highway and Street Maintenance Investment

Of the 18 options discussed in this report to substantially increase County highway and street maintenance and repair investments in the short term, I would recommend only five. If all five options are implemented, one of which relies on action by the Arizona Legislature to stop HURF diversions, a total of $70 million could be invested in County street and highway maintenance and repairs in the short term. These five options are:

1. Allocate and appropriate to the DOT budget $2.5 million this fiscal year and $2.5 million next fiscal year, for a total of $5 million, to make major repairs to arterial and collector highways as itemized in Table 5 of this report.
2. Allocate $5 million of the DOT fund balance for street and highway repairs as indicated in Table 2 of this report.
3. Allocate, at the time of FY 2012/13 final budget adoption, up to $5 million of the General Fund reserve fund balance for street and highway investment, with specific projects to be delineated and approved by the Board at the time of budget adoption.
4. Increase the recurring General Fund transfer to the DOT budget from $2.8 million to $5 million for street and highway maintenance and repair and leverage this annual appropriation through five-year term bonds for pavement repair and replacement to occur in the unincorporated area street and highway system. If leveraged, an additional $23 million would be invested in street and highway repair.
5. Continue to request of the Arizona Legislature that it stop the annual raids on city, town, and county HURF distributions. For the County, this would result in an increase in annual revenues of approximately $7 million; and if leveraged through short-term (five-year) borrowing, would allow an additional $32 million to be invested in street and highway repairs in the unincorporated area.

I have also directed that the DOT undertake a comprehensive district-by-district condition assessment of all arterial, collector and local paved highways within the unincorporated area and that this assessment include a detailed evaluation and recommendations for further pavement repair and rehabilitation to be considered by the Board for Options 3, 4 and 5 above at the time of final budget adoption.

All other options identified in this report are either not feasible, require unrealistic increases in taxes or have legal complexities that cannot be resolved in the short term, and therefore, should be discarded from further consideration.

Respectfully submitted,

C.H. Huckelberry
County Administrator

CHH/mjk – March 28, 2012