



MEMORANDUM

Date: July 20, 2011

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

From: C.H. Huckelberry
County Administrator 

Re: **City Analysis of County Bond Program**

At the July 6, 2011 City of Tucson Mayor and Council Study Session, Councilmember Steve Kozachik distributed the attached memorandum regarding the County's implementation of bond programs and requested that Finance Director Kelly Gottschalk conduct additional research. The memorandum and the points raised by Councilmember Kozachik during the study session related to whether the City is receiving its fair share of bond projects and how the City fares in intergovernmental agreements (IGA) with the County for those County bond projects managed by the City. Below I address each of the points in Councilmember Kozachik's memorandum as numerated.

1. County staff has since met with Ms. Gottschalk and her staff and offered to assist them with their research in the most efficient way possible. Staff provided them with the original bond ordinances and current amended ordinances for the 1997 general obligation (GO) and sewer revenue program, the 1997 Highway User Revenue Fund (HURF) program and the 2004 GO and sewer revenue program, as well as the Truth in Bonding Code. County staff is also preparing a current map of all bond projects in these programs so the City can easily determine which projects are located within the City, not just those managed by the City.
2. Based on comments at the study session, these lines of text appear to have been taken from IGAs between the City and County. However, staff have been unable to locate any current IGAs that contain this language. Staff did advise Ms. Gottschalk that the County is willing to consider suggestions from the City on language for future IGAs. The issue of the City's unreasonably long time period for submitting invoices to the County for reimbursement was discussed in this context, and Ms. Gottschalk assured County staff she and her staff would work to reduce these delays.
3. Since voter approval of the 1997 HURF bond program, the City has requested bond ordinance amendments to several projects.

DOT-56 Broadway Boulevard was amended at the City's request in 2004 to increase County HURF bond funding from \$15 million to \$25 million. This project is managed by the City and is also now funded by the Regional Transportation Authority (RTA). Our records show this project in design with an estimated completion date of Fiscal Year 2019. Also in 2004, at the request of the City, a new \$10 million bond project was created, DOT-58 Kino Overpass at 22nd Street. This project is also managed by the City, and our records indicate the City intends to bid it soon with an estimated completion date of Fiscal Year 2016. These two projects and an additional project in the City were funded by retiring two HURF bond projects located in the City, also at the request of the City: DOT-28 Speedway Boulevard, Camino Seco to Houghton; and DOT-40 Grant Road, Oracle to Park. These two projects subsequently became RTA projects.

DOT-41, 22nd Street, Interstate 10 to Park Avenue, is now known as DOT-41, Neighborhood Transportation Improvements. City staff requested the funding for the original project be transferred to Grant Road, outside of the supervisorial district boundary. As a result, the Supervisor at the time requested that the Board reallocate the funding to a program that would fund neighborhood street improvements within the supervisorial district. The original project area is still eligible for improvements funded through this program.

4. DOT-48 Duval Mine Road, La Canada to Abrego in Sahuarita was completed by the Arizona Department of Transportation and, therefore, County HURF bond funding was not needed.
5. 4.43 Naranja Town Site Park, a 2004 GO bond project proposed for Oro Valley, was discontinued at the request of the Town of Oro Valley, and the \$3 million in funding transferred to the Town's Steam Pump Ranch project (2004 Bond Project 4.6) due to increased land values that precluded the land acquisition. The bond ordinance amendment for this discontinuance and transfer was approved by the Board of Supervisors on October 11, 2005 after the Town Council took action at their public meeting making the request, after approval by the Bond Advisory Committee at a public meeting on September 23, 2005, and after the Board's public hearing on the item was advertised in the newspaper on September 22, 2005.
6. Staff could not locate this Internal Revenue Service language in our current IGAs.

The issue of the City getting its fair share is raised every few years. Most recently, the City Manager raised this issue in a letter to the Bond Advisory Committee (BAC) dated November 19, 2009. The argument is often made that City residents contribute property taxes that are then used to repay GO bonds. This is true. Property owners in the City

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contribute 41 percent of the County's secondary assessed value; of this amount, residential property owners contribute 37 percent. Our GO bond programs correspondingly include many projects within the City. These are not just projects used by City residents; they are regional projects such as the Joint Justice/Municipal Courts Complex. In the case of this project, the City will receive more than its fair share. The City will occupy 58 percent of the building.

Regarding the County's HURF bond program, these bonds are repaid with the unincorporated County share of HURF revenue from the State. BAC Chairman Larry Hecker has, or soon will be, providing Councilmember Kozachik with my March 1, 2011 memorandum to the BAC explaining the difference between County and City HURF revenues and the history of how the County HURF program came about.

As for the questions regarding transparency and accountability, the County has the highest standards that I am aware of for regularly reporting at a detailed level on the status of bond programs to the public and other jurisdictions and for providing multiple opportunities for the public and other jurisdictions to provide input on proposed changes to projects. Further, our Truth in Bonding Code requires that no changes be made to bond projects that were originally requested by another jurisdiction "without the express written request of the jurisdiction that requested the project" and "only after the jurisdiction has held a public hearing announcing their intent to request the change, the reason for the change, and details of the change." Staff has asked the City for more information on the transparency and accountability measures the City operates under regarding the City's 2000 bond election.

It is prudent for the City to understand and be aware of the cumulative changes that have occurred to County bond projects within the City, and we encourage public figures like council members to better understand the process of how projects are implemented. We all need to share a certain level of comfort about these programs before approaching the public for another bond election. To that end, my staff and I will continue to be as responsive as possible in assisting Ms. Gottschalk and her staff in completing their review.

CHH/mjk

Attachment

c: Chairman and Members, Pima County Bond Advisory Committee
John Bernal, Deputy County Administrator for Public Works
Nanette Slusser, Assistant County Administrator for Public Works Policy
Priscilla Cornelio, Transportation Director
Nicole Fyffe, Executive Assistant to the County Administrator



MEMORANDUM

DATE: July 5, 2011

TO: Honorable Mayor and Council Members
City Manager, City Clerk

FROM: Council Member Kozachik

SUBJECT: COUNTY BOND

I request the following item be Agendized.

September 7th Session Item

①

Request staff document further examples of where city bonded projects, including RTA and County GO Bonds or HURF projects were cancelled, delayed or had unspent Bond capacity shifted to other projects - and prepare discussion of options city might consider to better keep residents' tax dollars allocated to resident's projects

County bonds – supporting materials

From a recent bond agenda item: "Legal Considerations" from City Manager communication:

The City is required to pay for design, construction, operation, maintenance, permits, relocation of utilities, rights of way, taxes and the lease. ...all reimbursement is subject to County's determination as to reasonableness. Additionally, the City is responsible for any costs in excess of the specified maximum amount.

There are several ways in which the agreement can be terminated unilaterally by the County.

The consequences of termination are uncertain but may result in the City not being reimbursed for services for which it has contracted.

SAMPLE BOILERPLATE LANGUAGE FROM BOND AGREEMENT:

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Section 3.4 – Notwithstanding any other provision of this Agreement, County may, in County's sole discretion, either (i) reallocate Project funds to other projects funded with County bonds (which may, in some circumstances, result in a delay in payments under this Agreement), or (ii) terminate this Agreement if the County, in its sole discretion, determines that such reallocation or termination is necessary or advantageous to the County

Section 6.4- Notwithstanding any other provision in this Agreement, this Agreement may be terminated if for any reason, there are not sufficient appropriated and available monies. ...In the event of such termination, County shall have no further obligation to City, other than to make payment to the City to the extent the City has paid for services prior to termination.

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JUNE 13, 2011 MEMO: JIM GLOCK TO BYRON HOWARD

SUBJECT: STATUS OF 1997 PIMA COUNTY TRANSPORTATION BOND PROGRAM

Opening paragraph:

Attached is a copy of a memorandum updating then-City Manager Keene to the status of Pima County's 1997 Transportation Bond Program. ...it was apparent in 2004 that Pima County would have difficulty delivering on its promises not only for the City of Tucson projects, but also for the overall program.

Project examples from that memo:

Broadway Boulevard (Wards 5 & 6) - Pima County Bonds in the amount of \$25M are slated to be contributed to this project, with approximately \$1.5M having been reimbursed by Pima County for right-of-way acquisition efforts. In early 2010 Pima County indicated that no additional funds would be made available prior to 2015. The project will be underfunded without the Pima County Bonds.

3 Kino Park Overpass (Ward 5) - \$10M are slated to be contributed to this project. In early 2010 Pima County indicated that no additional funds would be made available prior to 2015. The project will be underfunded without the Pima County Bonds.

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City of Tucson Projects:

Project DOT - 41, 22nd Street, Interstate 10 to Park Avenue, was eliminated from the program by the County and the bond funds were re-programmed to a project not included in the original Bond Implementation Plan.

NOT LIMITED TO CITY OF TUCSON PROJECTS:

4 Town of Sahuarita - Project DOT - 48 - Duval Mine Road. There are minor improvement elements of the project that have yet to be completed. However, the original \$2M bond allocation to the Town was reallocated to other bond projects by Pima County.

5 Town of Oro Valley - Naranja Town Site Park (Bond #4.43) - \$3M in Pima County Bond Funds was initially allocated to this project. This project was canceled due to the high cost of land acquisition. Funds for this project were transferred to the Steam Pump Ranch project by action of the Pima County Board of Supervisors

6 Note: Some of the boilerplate language cited is a requirement of Federal I.R.S. regulations where the County is listed as manager of expending Bond proceeds - Statutes referred to as "Tax Exempt Bond Rules.")