

**Report and Recommendations on Amending Pima County's
1997 and 2004 General Obligation Bond Ordinances
Pima County Bond Advisory Committee, September 9, 2016**

I. Background

Pima County Code Chapter 3.06, the "Truth in Bonding" code, requires that bond implementation plan ordinances be amended to reflect substantial modifications to bond-funded projects. The code defines what constitutes a "substantial modification," and when an amendment must be adopted in relation to actions of the Board that implement affected projects. The code also requires that amendments to bond ordinances be considered and adopted by the Board at public hearings, after advance public notice, and only after review by the County Bond Advisory Committee. Certain projects also require action by the governing body of cities, towns, tribes and other County committees.

This round of bond ordinance amendments affects three projects from the May 20, 1997 General Obligation Bond Program:

1997 General Obligation Bonds

SW-2 Tangerine Landfill Closure

SW-4 El Camino del Cerro Environmental Remediation

P-36 Santa Cruz River Park, Irvington to Valencia

II. Ordinance Amendment Requirements Per the Truth In Bonding Code

Section 3.06.070 of Pima County's Truth in Bonding Code establishes procedures for making changes to a bond implementation plan ordinance. Recognizing that over time the availability of more detailed design and cost information, and changes in circumstances, may require changes in a bond implementation plan presented to the voters at the time of a bond election, Section 3.06.070 authorizes the Board to amend bond implementation plans to accommodate "substantial modifications" to projects. Substantial modifications are defined as:

1. An increase or decrease in total actual project costs by 25 percent or more
2. An increase or decrease in actual bond costs by 25 percent or more
3. An increase or decrease in actual other revenues by 25 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 12 months or more
5. A delay in the scheduled sale of bonds of 24 months or more
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. All changes to a bond implementation plan necessitated by only a portion of the proposed bond questions being approved at the special election

The required timing of an amendment varies based on whether the amendment impacts only funding, or other aspects of a project. Pursuant to the Code, the Board of Supervisors can authorize a substantial modification to the funding for a project on a de facto basis by awarding or amending a contract for the project that reflects that change in funding, while at the same time acknowledging

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that the action will require a future conforming amendment to the bond ordinance. In this situation, the amendment takes place after the Board takes action by awarding a contract. The reason for this is that amendments should not be based on cost estimates, and prior to the awarding of contracts or approval of purchase agreements, cost estimates may vary. For all other types of substantial modifications, an amendment of the bond ordinance is necessary before the modification is implemented.

The County Bond Advisory Committee is tasked with reviewing and making recommendations to the Board of Supervisors regarding all proposed bond ordinance amendments.

III. Recommended Amendments

The 1997 ordinance is attached to this report, with language that is being deleted shown in the “strike-out format” (~~example~~), while new language that is being added to the ordinance is underlined (example). In this format, the ordinance only contains those projects that are being amended, and does not reproduce the entirety of the ordinance.

A brief description of the recommended ordinance amendments impact on each project is presented below.

1997 General Obligation Bonds

1997 SW-2 Tangerine Landfill Closure

Construction activities to close the Tangerine Landfill are expected to be substantially complete by the end of September. A vegetation contractor will then place seed/mulch material over the entire site, which will be followed by the submittal of a closure report to the Arizona Department of Environmental Quality (ADEQ) for their approval. It is often difficult to predict when a landfill will reach capacity and the Tangerine Landfill was able to accept waste until a couple of years ago. As a result of these ongoing operations, the actual closure activities funded by these 1997 bond funds only began recently. This ordinance amendment would add an implementation period, through Fiscal Year 2016/17, and other funding, largely from a Solid Waste operating fund balance and the sale of heavy equipment.

1997 SW-4 El Camino del Cerro Environmental Remediation

Pima County has been performing remedial activities at this site since the early 1990s. Currently, Pima County is conducting pump and treat remediation to address groundwater contamination at this site and will continue to do so until an endpoint can be negotiated with ADEQ. Pima County has been providing data to ADEQ to address claims that the groundwater contamination in the area was not largely caused by Pima County. At this point it is difficult to predict what ADEQs findings will be and how much more Pima County will be required to do. This ordinance amendment would add two implementation periods, through Fiscal Year 2018/19, in order to continue expending these 1997 bond funds for this effort.

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1997 P-36 Santa Cruz River Park, Irvington to Valencia

This project is substantially complete and opened to the public in the Spring of 2015. It is also known as the Paseo del Las Iglesias project that included significant ecosystem restoration along both banks of the river, a new section of The Loop, parking areas, a restroom and new soil cement bank protection. This ordinance amendment would add an implementation period for the purposes of completing the public art, which is scheduled to be complete this fiscal year.