



MEMORANDUM

Date: November 14, 2014

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

From: C.H. Huckelberry
County Administrator 

Re: **District 1 Supervisor Ally Miller Request for Document Production for November 18, 2014 Board of Supervisors Meeting**

Attached is a November 14, 2014 memorandum received via email today at 11:01 AM from District 1 Supervisor Ally Miller's office (Attachment 1).

The Pima County Department of Transportation (PCDOT) is also in the process of responding to the attached November 7, 2014 email request from Supervisor Miller (Attachment 2) pertaining to all billings and approvals for the same three projects. Item 10 in the November 14th memorandum requests the same duplicate information. PCDOT has compiled the 60 pay estimates involved in responding to this request and will be providing the approximately 600 pages of data to the Board on Monday, November 17.

Attachment 3 is a November 6, 2014 email request from Supervisor Miller regarding the Self Certification Process and funding sources for the three projects undertaken by Select Development. The attached November 14, 2014 memorandum from PCDOT (Attachment 4) responds to this request for information. The funding information is Item 12 in the November 14th memorandum from the District 1 office.

The documents requested in Supervisor Miller's November 14th memorandum are all available in the files of PCDOT, the Procurement Department, or the Finance and Risk Management Department. Compiling this information by 12:00 PM on Monday, November 17, 2014, is not possible. It will be provided in the near future as time permits.

CHH/mjk

Attachments

c: John Bernal, Deputy County Administrator for Public Works
Priscilla Cornelio, Director, Transportation
George Widugiris, Director, Procurement
Tom Burke, Director, Finance and Risk Management




PIMA COUNTY BOARD OF SUPERVISORS
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www.allymillerdistrict1.com

ALLY MILLER
 SUPERVISOR

MEMORANDUM

To: Chuck Huckelberry, County Administrator

Cc: Priscilla Cornelio, Transportation Director
 George Widugiris, Procurement Director
 John Bernal, Deputy County Administrator for Public Works
 Chris Straub, Chief Civil Deputy County Attorney
 Amelia Cramer, Chief Deputy County Attorney

From: Supervisor Ally Miller 

Date: November 14, 2014

Re: Document Production Request for Information in preparation for
 November, 18, 2014, Board of Supervisor Meeting

Please provide all of this requested information to my office by 12:00pm on Monday, November 17, 2014:

This request is for copies of All Select Development contracts and related documentation between Pima County, Select Development, Arizona Department of Transportation and the Federal Highway Administration for the following 3 projects:

- **La Canada road between Ina road and river road in Pima county**
- **Magee road between La Canada and Oracle Road in Pima County**
- **Homer Davis Elementary School**

This request requires your **written response** for each of the above 3 projects to include all activities as specified below including inspection related activities permitted and requested and any documented refusals for Inspection.

These documents shall be produced as covered in the usual course of business and shall be organized and labeled to correspond to the above 3 categories. This request shall encompass all items within your possession, custody or control and require you to promptly amend your response upon receipt of further material, pertinent information.

If you encounter any ambiguity in construing the above and below requests, instruction or definition, set forth in the matter in which you deem ambiguous in the construction of this request, please submit this in writing to Supervisor Ally Miller, Pima County, District 1.

All requests listed above and below shall include documentation as follows for the above 3 contracts:

- All written reports
- All notes, diagrams, photographs or other documentation prepared or reviewed in connection with any of the above 3 contracts.
- All drafts, working papers or documents generated by all individuals carrying out the efforts related to the above 3 contracts.
- Each publication or paper that was written on or worked on by all individuals carrying out efforts related to the above 3 contracts.
- Any and all documentation, correspondence or inter office memoranda concerning the facts, matters and all allegations related to the DBE complaint in this action against Pima County.
- All documents evidencing any expenses incurred by Pima County on behalf of Select Development.
- Each document reflecting any telephone conversations and telephone messages, notes, email and all other forms of informal communication.
- Any and all documentation in support of any factual allegations and or contentions regarding these 3 contracts.
- All books, calendars, diaries, records generated by hand or with software and any other similar compilations for business and professional records pertaining to Select Development contracts over the past 10 years.
- A list of Pima County documentation for all contracts **Select Development** has been awarded in Pima County for the past 10 years. This would include contracts awarded to Select Development or under any other name of a business owned by Brandon and/or Brian Neal including but not limited to Brian Neal dba **RECWEST**.

Specifically, the following documentation is requested and includes any and all documentation from any and all Pima County Agencies and/or individuals, contractors or companies acting as an agent for Pima County including, but not limited to, Psomas Engineering Company.

- 1. Prequalification and or justification of Psomas Engineering to act as Lead Contracting agency on behalf of Pima County certified as a Lead Contracting Agency by ADOT.**
- 2. Documentation showing the last day Blue Diamond, a Disadvantaged Business Enterprise (DBE), was on the Job for any of the above 3 projects.**
- 3. Documentation regarding when Select Development notified Pima County regarding the termination of the contract with Blue Diamond or when they were considered severed from any one of the above contracts. (Copy of any and all documentation provided to Pima County or copies of any correspondence to ADOT and FHWA). This request is to include the rationale supplied by Select Development for removal of Blue Diamond from any of the above contracts.**
- 4. Specific Date and copy of the letter when Blue Diamond, a DBE, filed the complaint against Select Development for termination or otherwise removing Blue Diamond from any or all of the above contracts.**
- 5. Copy of the letter from ADOT including Pima County's response to the allegations regarding the termination/removal of DBE Blue Diamond from any of the above contracts. Specifically were there any questions or references regarding the Federal Highway Administration policies/procedures required (including letters referencing US DOT 49 CFR part 26) for removal of Blue Diamond and reassignment of a new DBE to any of the above projects.**
- 6. A copy of letter from Arizona Department of Transportation specifically addressing Pima county's lack of sufficient oversight of any of the above projects including the termination/removal of DBE Blue Diamond citing any and all specific violations justifying the removal of Blue Diamond from any of the above 3 contracts.**
- 7. Any and all correspondence regarding a request from Select Development to Pima County requesting the approval of a new DBE to replace Blue Diamond. Include the name of the DBE Company in the request and include whether or not this company was qualified as a DBE as required by law and whether the status was active at time of request. Copy of approval of request for the dismissal of Blue Diamond and approval of the new DBE from the State of Arizona.**

- 8. Copy of approval of the request for DBE change by the Federal Highway Administration.**
- 9. Copy of Pima County's issuance of a cure for the alleged material breach of contract, failure to pay subcontractors and failure to meet DBE requirements.**
- 10. Copy of any and all payments to Select Development including any holdbacks in payments withheld by Pima County related to nonperformance on any of the 3 above contracts.**
- 11. Percentage completion in terms of cost and schedule on all 3 of the above projects and remedies for recovery of schedule/cost variances.**
- 12. A summary of the total amount of Federal and State Highway dollars approved on all of the above contracts.**

From: Ally Miller
Sent: Friday, November 7, 2014 3:10 PM
To: Priscilla Cornelio; Tom Burke
Cc: Chuck Huckelberry
Subject: Copies of Invoices and payment approval for select Development contracts

Hello Priscilla and Tom,
I have received all contracts affiliated with the 3 select development projects.
I would like a copy of all billings and approvals along with a listing of payments for these projects.
Most specifically the project on Iacanada between River road and Ina road as well as the Magee road project between Oracle and LaCholla.
I would like a copy of these records as soon as possible.
Please call me when these are ready and we will come pick them up.
Regards,
Ally Miller
520-724-2738

-----Original Message-----

From: Ally Miller

Sent: Thursday, November 06, 2014 11:42 AM

To: Priscilla Cornelio; Chuck Huckelberry

Cc: Jeannie Davis

Subject: Pima county self certification process

Priscilla,

Please send a copy of the procedure in place for "self certification process" as outlined in the memo from you to Mr. Huckelberry in your October 13, 2014 memo.

Also, I would like a schedule of all local and state monies allocated, requested and received to date on all 3 projects.

Overall I would like to see cost and schedule variances for all monies/ efforts involved in these projects I need this information as soon as possible.

Thank you,

Ally Miller, Supervisor

District 1

Pima County Board Of Supervisors

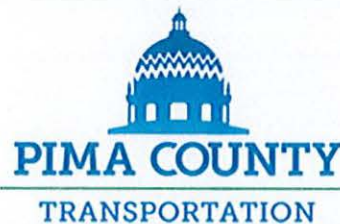
130 W. Congress

11th Floor

Tucson, AZ 85701

(520) 724-2738



Sent from my iPad



MEMORANDUM

DATE: November 14, 2014

TO: C.H. Huckelberry, County Administrator

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

SUBJECT: **Supervisor Miller Information Request – Pima County Self Certification Process**

This memorandum is in response to an e-mail from Supervisor Miller requesting the following information:

- A copy of the procedure in place for "self certification process" as outlined in the memo from Pima County Department of Transportation (PCDOT) to Mr. Huckelberry dated October 13, 2014.
- A schedule of all local and state monies allocated, requested and received to date on all three projects.
- Cost and schedule variances for all monies/ efforts involved in these projects.

Certification

The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), and its 1998 reauthorization, the Transportation Efficiency Act for the 21st Century (TEA-21), allow States to administer certain qualifying projects financed with federal-aid funds. These Acts also allow States to extend the same privilege to qualifying local agencies.

The ISTEA and its reauthorization, TEA-21, provide greater flexibility on behalf of state and local governments in determining transportation solutions through "Certification Acceptance" procedures by delegating greater administrative responsibility to them.

Certification Acceptance is an agreement with the Federal Highway Administration, which authorizes the State Transportation Agency (ADOT) to approve the engineering details in final reports for corridor approval, design approval, plans/specifications and cost estimate (PS&E) approval, contract advertising and award, and construction inspections for federal-aid projects. The State in turn can delegate similar approval authority to local jurisdictions.

PCDOT entered into a Certification Acceptance Program with the ADOT in January 1995. A copy of that original agreement is attached. ADOT has eight (8) Certification Acceptance

Supervisor Miller Information Request – Pima County Self Certification Process

November 14, 2014

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Program Agreements with local jurisdictions around the state, and all 8 are currently going through a recertification process. The revised agreement is expected to go to the Board of Supervisors for approval in early fall 2015.

Funding Allocations

The table below summarizes the project funding sources for all three projects, including planning, design, right of way and construction phases.

Homer Davis	Amount Allocated	Amount Requested to date	Amount Received to date	Percent Complete Based on Work Progress
Federal	\$1,332,271	\$1,125,459	\$752,123	
Local	\$ 979,077	\$ 979,077	\$979,077	
RTA	\$ 249,038	\$ 249,038	\$249,038	
Utility Reimbursement	\$ 7,011	\$ 7,011	\$ 5,573	
Total	\$2,567,397	\$2,360,585	\$1,985,811	99%

La Cañada	Amount Allocated	Amount Requested to date	Amount Received to date	Percent Complete
Federal	\$15,358,700	\$13,649,323	\$13,273,189	
Local	\$ 3,478,974	\$ 2,132,546	\$ 2,132,546	
RTA	\$ 9,368,650	\$ 9,224,303	\$ 9,134,138	
Utility Reimbursement	\$ 3,441,093	\$ 3,194,936	\$ 2,493,388	
Total	\$31,647,417	\$28,201,108	\$27,033,261	90%

Magee	Amount Allocated	Amount Requested to date	Amount Received to date	Percent Complete
Federal	\$7,540,000	\$1,795,799	\$1,739,663	
Local	\$3,750,695	\$2,225,483	\$2,225,483	
RTA	\$5,850,000	\$1,617,197	\$1,565,897	
Utility Reimbursement	\$ 357,003	\$ 162,389	\$ 162,389	
Total	\$17,497,698	\$5,800,868	\$5,693,432	20%

Note: The local funding consists of Impact Fees, County HURF, and previously authorized Bond funds. Federal funds for La Cañada and Magee were reduced in May 2014 with Amendment #9 to the 2014-2018 TIP; the amount shown in the table above is the reduced amount.

Cost and Schedule Information

The table below summarizes construction cost and schedule information only.

	La Cañada	Magee	Homer Davis
Original Contract Amount	\$18,750,777.34	\$9,974,990.20	\$994,011.20
Number of Amendments	9	1	6
Total Amount of Amendments	\$ 241,821.20	\$ 0.00	\$285,402.10
Original Contract Time	480 WD	300 WD	125 WD
Approved Time Extensions	49 WD	6 WD	0
Total Days Used (11/7/14)	610 WD (-81 LD)	252 WD	124 WD
Percent Complete Based on Work Progress	90%	20%	99%

Note: WD=Working Days, LD=Liquidated Damages

PSC:AO:dg

Attachment

c: John M. Bernal, Deputy County Administrator
Charles Wesselhoft, County Attorney
George Widugiris, Procurement Department
Ana Olivares, Deputy Director for Infrastructure
Rick Ellis, Transportation Engineering Division Manager
Thomas J. Kilargis, Field Engineering Division Manager



PIMA COUNTY
PUBLIC WORKS DEPARTMENT
DEPARTMENT OF TRANSPORTATION
CERTIFICATION ACCEPTANCE PROGRAM

A handwritten signature in dark ink, appearing to read "L. Bonine", written over a horizontal line.

Larry S. Bonine, Director
Arizona Dept. of Transportation

2/3/95
Date

A handwritten signature in dark ink, appearing to read "Antonio C. Paez", written over a horizontal line.

Antonio C. Paez, Director
Pima County Dept. of Transportation

1-27-95
Date

**PIMA COUNTY
PUBLIC WORKS DEPARTMENT
DEPARTMENT OF TRANSPORTATION
CERTIFICATION ACCEPTANCE PROGRAM**

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I. INTRODUCTION

The "Intermodal Surface Transportation Efficiency Act of 1991" (ISTEA, H.R. 2950) has given the Arizona Department of Transportation (ADOT) the authority to delegate certain administrative procedures to local governments. ISTEA provides greater flexibility on behalf of state and local governments in determining transportation solutions via "Certification Acceptance" procedures by delegating more administrative responsibilities to ADOT.

The Pima County Certification Acceptance Program (Certification Acceptance) document defines the respective responsibilities of ADOT and the Pima County Public Works Department, Department of Transportation (PCDOT) and establishes procedures and implementation in accordance with the Federal-Aid Policy Guide 23 CFR 640 et seq and applicable State laws and regulations.

Certification Acceptance permits ADOT to discharge certain responsibilities otherwise assigned to the United States Secretary of Transportation under Title 23 of the United States Code (23 U.S.C.) for Federal-aid projects. ADOT, with Federal Highway Administration (FHWA) approval, may further delegate a partial or full Certification Acceptance to local governments that meet the criteria established in Section III of these Procedures.

Certification Acceptance shall not affect or discharge any responsibility or obligations of the FHWA or ADOT under any law other than 23 U.S.C. 117(a), which provides for the administration of Federal-aid funds using applicable State laws, regulations, directives, and standards on all Federal-aid highways, except the Interstate System.

ADOT is authorized by Arizona Revised Statutes 28-108 which permits ADOT to accomplish the policies and objectives contained in or issued pursuant to 23 U.S.C.

An organization chart of the Pima County Public Works Department, as it pertains to Certification Acceptance, is shown on Exhibit A.

II. SCOPE

Certification Acceptance shall apply to all Federal-aid projects administered by PCDOT under Title 23 U.S.C., except those pertaining to:

- (a) Transportation Planning and Research projects as contemplated under 23 U.S.C. 134, 135, and 307.
- (b) Highway Safety projects contemplated under 23 U.S.C. Chapter 4.
- (c) Interstate Highway System projects.
- (d) Projects that PCDOT, ADOT, and/or FHWA elect to exclude from the Certification Acceptance Program.
- (e) Projects contemplated in the "Intelligent Vehicle Highway System" act of 1991 and any Freeway Management System projects.(Title 23)
- (f) Federal Aid Programs for Railroads.(Section 130)

Therefore, in consideration of the above, PCDOT will:

1. Guarantee and certify to administer all projects eligible under Certification Acceptance in full compliance with all applicable Federal statutes, Executive Orders, and FHWA regulations and standards to the same extent as if such statutory provisions, regulations, and standards were enacted or promulgated pursuant to laws of the State.
2. Pursuant to the provisions of 23 U.S.C. 117, perform the responsibilities of the FHWA relating to specific project developmental functions, including but not limited to, the following:
 - (a) Approve or reject project locations and/or designs.
 - (b) Approve or reject concept or design submissions during project development including basic design features, structural sections, preliminary bridge plans, etc.
 - (c) Approve or reject project plans, specifications, estimates, and related project documents.
 - (d) Grant or decline approval to advertise for bids for construction contracts.
 - (e) Grant or decline approval to award construction contracts.

(f) Oversee and ensure proper administration of project construction, construction supplemental agreements, construction engineering, final acceptance of construction projects, and final vouchering.

(g) Approve or reject such other project-related contracts or agreements as may be necessary from time to time in the development or execution of projects, such as railroad agreements, utility agreements, etc.

(h) Approve or reject project financial accounting and audit procedures.

(i) Approve or reject procurement policies, procedures or practices, and ensure compliance with the requirements of 49 CFR 18.36 and 23 CFR 172.

(j) Ensure that the selection of consultants for federally-funded projects, as approved by ADOT, are in conformance with the procedures in 23 CFR 172.

3. Accomplish the policies and objectives of the provisions and objectives of 23 U.S.C. by:

(a) Involving the public in the development of projects during the location and design stages.

(b) Applying appropriate design and construction standards.

(c) Ensuring emphasis on increasing safety in location, design and construction of projects.

(d) Establishing and enforcing controls to assure quality and economy of construction and maintenance.

(e) Providing and enforcing provisions for adequate signing, marking and traffic control devices.

(f) Minimizing the adverse economic, social or environmental impacts of any project.

(g) Requiring equal employment opportunity and nondiscrimination.

(h) Requiring construction contractor on-the-job training.

(i) Requiring competitive bidding and payment of prevailing wage rates on project construction contracts.

(j) Preserving natural beauty.

III. DESIGN AND DEVELOPMENT

All projects administered under Certification Acceptance shall be designed in accordance with established engineering and design principles, including all State and Federal laws, regulations, and procedures applicable to environmental protection.

Location and/or Design Approval

On Federal-aid projects, the Director of PCDOT (Director) is responsible for approval of locations and/or designs. Location and/or design approval will be given only after compliance with ADOT's public hearing requirements and after approval by the FHWA through ADOT of a Final Environmental Impact Statement, Final Environmental Assessment with a Finding of No Significant Impact, or a Categorical Exclusion, where applicable. Public hearings will be held in accordance with the ADOT Public Involvement Guidelines approved by the FHWA, 23 U.S.C. 128, and 23 CFR 771.111.

Roadways and Structures

Roadways, including traffic control and other appurtenances, and structures on all Federal-aid PCDOT projects shall be designed in accordance with the following, including all updates and revisions thereto:

All applicable standards listed in 23 CFR 625, "Design Standards for Highways" including:

A Policy on Geometric Design of Highways and Streets, AASHTO
Standard Specifications for Highway Bridges, AASHTO
Standard Specifications For Highway Signs, Luminaires and Traffic Signals, AASHTO

The following AASHTO Publication:

Roadside Design Guide

The following FHWA Publications:

Manual on Uniform Traffic Control Devices
Drainage of Highway Pavements, HEC No. 12
Policy For Application of Stream Forces on Substructure Design
Hydraulic Engineering Circular No. 18

The following ADOT publications:

All Standard Drawings
Roadway Guidelines for Use in Office and Field
Guide for Highway Geometric Design
Traffic Control Manual for Highway Construction and Maintenance
Urban Highway Section Design Procedures Manual
Materials Preliminary Engineering and Design Manual
Arizona Bicycle Facilities Planning and Design Guidelines
Bridge Design and Detailing Manual

The following Pima County publications:

Stormwater Detention/Retention Manual
Hydrology Manual for Engineering Design and Floodplain
Management within Pima County
Design Criteria for Structures

PCDOT may add publications or use other design standards as the need arises, with the approval by ADOT.

Specifications, Special Provisions and Standard Drawings

Specifications and special provisions for PCDOT projects shall be formatted in accordance with the Standard Specifications for Public Improvements Pima County/City of Tucson, latest edition.

Standard drawings utilized in PCDOT projects shall be contained in the Standard Details for Public Improvements, Pima County/City of Tucson, latest edition and the ADOT Standard Drawings, latest editions.

Design Exceptions

Before Design Exceptions (design criteria less than 23 CFR 625) can be used in the design of a project developed under Certification Acceptance, the Director shall approve all Design Exceptions. All Design Exceptions shall be documented through the PCDOT Design Assessment Procedure. Copies of approved Design Exceptions for projects on the National Highway System will be furnished to ADOT and FHWA.

Safety

All projects developed under Certification Acceptance shall be designed in accordance with applicable State and Federal requirements in a manner that will enhance highway safety. ADOT and FHWA will be invited to participate in the development of the Pima County safety program.

Landscaping

Projects developed under Certification Acceptance shall be designed in accordance with AASHTO Roadside Design Guide and/or the ADOT Landscape Design Guidelines for Urban Highways, where applicable.

Public Interest Finding

Under Certification Acceptance, it is the responsibility of the Director to approve the use of Pima County force account, agreed unit price, State- or locally-furnished materials, experimental features, or proprietary items if these are found to be in the public interest in accordance with 23 CFR 635. The written justification for public interest findings shall be forwarded to ADOT prior to advertisement of the project.

IV. RAILROADS AND UTILITIES

PCDOT will ensure that all railroads or utilities affected by projects designed under Certification Acceptance are identified during the development of construction plans. PCDOT will perform railroad and utility (r-u) coordination functions and will ensure compliance with State and Federal regulations. On all projects adjoining railroad right-of-way, PCDOT will execute flagging agreements and include railroad liability protection insurance documents in the construction contract documents. ADOT will process all railroad signal and surface crossing projects.

Notification

Written notice will be issued by the Pima County Public Works Department, Department of Transportation, Transportation Engineering Division, Utility Coordinator (Utility Coordinator) as the "Preliminary Design Notification", wherein the r-u will be advised of the upcoming project and given a description of the scope of work and any graphic information available as to its location. This notice is issued prior to the completion of the 15 % plans and the r-u are requested to provide base maps, valve maps, as-builts or other graphic information about any facilities existing within the project limits.

This information is then used, in conjunction with other survey-recorded information gathered during the "bluestake for design" process, to depict all known existing facilities on the plans, together with existing right-of-way information and other existing improvements.

These "Pre-design drawings" are then submitted to the r-u with a request for verification of both the existence of and the depicted locations of the respective facilities.

Any revisions/additions received as responses to this submittal are then transferred to the plans.

When the proposed roadway improvements (plan, profile and drainage facilities, etc.) have been depicted on the plans, these are then resubmitted to the r-u as "Preliminary Plans for Utilities." The r-u are requested to respond to this submittal with a letter detailing possible conflicts and an approximation of design and construction time.

After the responses are reviewed, and before the design is finalized, a coordination meeting will be held with the affected r-u to discuss potential conflicts and arrange for solutions.

Coordination meetings are scheduled periodically thereafter to discuss relocation schedules, possible joint trenching opportunities, etc. The number of such meetings will depend upon the complexity of both the project and the extent of the relocations. These meetings will continue through the final plan stage.

After all conflicts are identified and all revisions to the plans are complete, the r-u are submitted as "Final for Utility" plans and are asked to finalize the designs and begin the necessary

relocations. This r-u relocation design is to be completed by the 95% roadway plan stage so that it may be included on the roadway plans. The Utility Coordinator, after all r-u agreements and arrangements for utility relocations are complete, shall write a "Clearance Letter," which will be copied to Pima County Public Works Department, Administrative Support Services Department, Financial Services Division, Contract Administrator (Contract Administrator).

Agreements

When r-u relocation work is found to be eligible for federal participation, or, when a r-u establishes prior rights, or, if, due to unusual circumstances, it becomes necessary to include any r-u facilities (other than Tucson Water or Pima County Wastewater Management) within the roadway project, the necessary documentation is sent to the Pima County Attorney for verification of the documents proving prior rights. If prior rights are determined to be valid and non-revokable, Pima County may choose to use federal aid for utility relocation. Any r-u relocation may be performed by either the r-u or as part of the roadway project; prior rights shall determine whether the r-u or the roadway project will pay for this relocation and if federal reimbursement will be made. All betterments or upgrades of a r-u facility shall be paid for by the r-u requesting the improvements.

Upon verification, Pima County will execute a formal agreement, to be prepared by the Utility Coordinator, detailing the work to be accomplished in what manner, by whom and at whose expense. The agreement will be submitted to the Pima County Attorney for approval. Upon approval, the agreement will then be submitted for approval to both the management of the affected r-u and the Pima County Board of Supervisors.

Authorization to do Preliminary Engineering Work

If prior rights are determined and Pima County decides to utilize Federal aid for design but before the r-u spends any money on an estimate or design, Pima County shall request permission from FHWA through ADOT Utility and Railroad Engineering Section (U&RR). Upon receiving a separate PR-1240 for each r-u from FHWA, Pima County must authorize each r-u to start design and estimate (Preliminary Engineering) work. Only Preliminary Engineering work performed after FHWA has issued a PR-1240 for Preliminary Engineering for the specific r-u will be eligible for reimbursement.

All agreements utilizing federal-aid for relocation will be entered into and all r-u relocation work will be accomplished in accordance with 23 CFR Parts 1401, "Reimbursement for Railroad Work"; 645A, "Utility Relocations, Adjustments, and Reimbursements"; 645B, "Accommodation of Utilities"; and 646B "Railroad-Highway Projects".

Pima County is obligated by an InterGovernmental Agreement with the City of Tucson to include all Tucson Water and Pima County sewer line adjustments as a part of roadway projects.

Prior rights shall determine if Federal aid participation in the costs of these utility relocations is allowable. If Federal aid is not authorized, all r-u relocation cost in the roadway project cost shall be at Pima County's cost.

Costs for water line adjustments necessitated by Pima County improvement projects are shared equally with Tucson Water. Costs for sewer adjustments will be a Pima County cost.

Improvements (upgrades) to Tucson Water facilities within the project limits may be accomplished under the roadway contract, but, paid for by Pima County and reimbursed by Tucson Water.

Authorization to do Relocation Work

If Pima County desires Federal aid for r-u relocation construction and prior rights are determined, Pima County will request from FHWA, through U&RR, a second Form PR-1240 for construction of each r-u relocation. This second PR-1240 request must have the cost estimate for the relocation included for each r-u to be reimbursed. The r-u relocation plans and cost estimate shall be completed and approved by the Director in order to submit for authorization.

Utility Clearance Letter

Prior to the advertising for bids on a roadway project, the Utility Coordinator will issue to the Contract Administrator a Utility Clearance Letter certifying that all utilities have been relocated or that arrangements for relocation have been completed, the date each r-u will be cleared and that all State and Federal regulations have been met.

The Utility Clearance Letter will include the name of the contact person and phone number for each r-u on the project, the condition imposed by each r-u and when each r-u will be cleared. The information on the Utility Clearance Letter will be included in the Special Provisions of the project contract documents.

PCDOT will include, in the contract documents, a description of the r-u company relocation work to be accomplished, whether prior to or during project construction, and this information will be submitted to the r-u companies for review and comment prior to publication. Should a project require roadway construction adjacent to or across railroad right-of-way, insurance requirements for the railroad shall be included in the construction documents as well as the necessary railroad right of entry application.

Payment

Relocation work, required under agreements between Pima County and the r-u, will be paid for by agreed unit price or force account.

V. RIGHT-OF-WAY

PCDOT will determine at an early stage in the development of a project if additional right-of-way will be required for the proposed construction. ADOT will supply assistance as necessary to Pima County for all right-of-way functions and may monitor PCDOT's right-of-way activities to ensure compliance with State and Federal regulations.

Responsibility and Procedures

It will be the responsibility of PCDOT to obtain the right-of-way for a project. All right-of-way functions, shall be accomplished in accordance with PCDOT Administrative Procedure for Acquisition of Real Property.

Certificate of Clearance

After the acquisition is complete and prior to the advertising of a roadway project for construction, the Pima County Public Works Department, Department of Transportation, Real Property Division will issue to the Contract Administrator a right-of-way certificate of clearance certifying that all required rights-of-way have been acquired and that all State and Federal regulations have been met.

Authorization

Authorization by FHWA, through ADOT, will be required when the right-of-way functions are a federal participating project cost. Acquisition includes relocation and property management, if necessary.

It is not necessary to submit right-of-way plans to ADOT on projects administered under Certification Acceptance.

Encroachments

Both existing and new right-of-way shall be free of encroachments before the project is advertised for bid. Either fee simple or easement rights shall be acquired for the necessary rights-of-way, in accordance with the Arizona Revised Statutes. New utility installations within existing or proposed right-of-way will be in accordance with applicable 23 CFR 645B, "Accommodation of Utilities." The use by utilities of the highway rights-of-way will be reasonably regulated in accordance with the Arizona Revised Statutes and under the general terms of the Pima County encroachment permit.

VI. ADVERTISING AND AWARD OF CONTRACT

The advertising of bids and the award of contracts for construction of projects administered under Certification Acceptance shall be in accordance with existing State and Federal regulations. No project shall be advertised for bid until the Director has approved the Plans, Specifications, and Estimates (P.S. & E.) and any addenda for that project. Alternate bidding procedures may be used when more than one alternate is judged equal over the design period. The potential for using alternates shall be developed during project development through design studies and value engineering analysis. Advertisements for bids may not contain add alternatives nor incentive/disincentive provisions for early completion of the construction project or designated phases. Guaranty and warranty clauses shall be in conformance with 23 CFR 635.413

Copies of the P.S. & E. will be furnished to ADOT or FHWA upon request.

Advertising

Advertisement for bids shall be in accordance with Arizona Revised Statute (A.R.S.) Section 18-217. The minimum period of advertisement for bids shall be three weeks.

Award of Contract

Contracts for the construction of projects administered under Certification Acceptance shall be awarded under the provisions of A.R.S. Section 18-217. If a responsible bidder (bidder) disputes a potential award to another bidder, the bidder may forward a letter of protest to PCDOT. If PCDOT continues to recommend against awarding the contract to the bidder, the bidder may request a hearing before the Board of Supervisors to present the bidders' objection to PCDOT's recommendation. If the bidder fails to persuade the Board of Supervisors to alter the recommendation, then the bidder may file a Special Action in Pima County Superior Court prior to award of the contract by the Pima County Board of Supervisors.

VII. CONSTRUCTION

Construction projects administered under Certification Acceptance shall be constructed in accordance with the Standard Specifications for Public Improvements, Pima County/City of Tucson, latest edition including special provisions and the ADOT Construction Manual.

Independent Review

Independent reviews of contract administration under Certification Acceptance will be the responsibility of the Director. The Pima County Public Works Department, Department of Transportation, Field Engineering Division Manager (Field Engineering Division Manager) will be responsible for assigning competent engineers and technicians to administer construction contracts under Certification Acceptance. Independent reviews will conform to the PCDOT Independent Construction Inspection Review Program. ADOT will conduct process reviews of the contract administration.

Materials

Materials used in the construction of projects under Certification Acceptance will be sampled and tested in accordance with the ADOT Materials Manual and the Standard Specifications for Public Improvements, Pima County/City of Tucson, latest edition. The project acceptance sampling and testing shall be performed by the Pima County Department of Public Works, Department of Transportation, Field Engineering Division, Materials Laboratory.

Independent assurance samples and tests shall be performed by the ADOT District Laboratory who have no direct responsibility for acceptance sampling and testing using test equipment other than that assigned to the project. The central laboratory services shall be provided by the Pima County Department of Public Works, Department of Transportation, Field Engineering Division Materials Laboratory, which shall continue to be included in a regular laboratory inspection and comparative sampling testing program such as that provided by the National Reference Laboratories or a comparable laboratory approval process acceptable to FHWA.

Statements and Affidavits

Contractors shall submit all statements and affidavits as required by Federal regulations. PCDOT will ensure labor compliance with State and Federal requirements by conducting reviews in accordance with 23 CFR 230D, "Construction Contract Equal Opportunity Compliance Procedures" and according to the FHWA Field Operations Handbook, Chapter 15.

Supplemental Agreements

Supplemental agreements on Certification Acceptance projects shall be executed in accordance with the procedures established in the ADOT Construction Manual and according to the direction given through related Construction Bulletins. Signature authority for Federal participation under Certification Acceptance shall rest with the Director.

Claims

All claims resulting from construction projects shall be addressed in accordance with the requirements contained in 23 CFR 635.124 and 23 CFR 140E. The Standard Specifications for Public Improvements, Pima County/City of Tucson, latest edition shall be utilized in processing claims for additional compensation.

VIII. EQUAL EMPLOYMENT OPPORTUNITY

PCDOT will comply with State and Federal requirements regarding equal employment opportunity on all projects administered under Certification Acceptance. PCDOT will utilize portions of ADOT programs as implemented by the ADOT Affirmative Action Office (ADOT - AAO). The remaining portions will be administered by ADOT - AAO.

Construction Contracts

All contracts for construction work shall include all applicable sections of 23 CFR 230A, "Equal Employment Opportunity on Federal and Federal-Aid Construction Contracts (Including Supporting Services)," dated December 9, 1991, with all subsequent amendments and revisions thereto.

Provisions set forth in Part I, "Contractor Compliance," of Appendix A of 23 CFR 230C, "State Highway Agency Equal Employment Opportunity Programs," dated December 9, 1991, and included in ADOT's Permanent Program Plan for the External Equal Employment Opportunity Program, approved on September 30, 1991, along with subsequent amendments and revisions thereto, shall be adhered to. This program will continue to be administered by ADOT - AAO.

Reviews

ADOT will conduct reviews to assure contractor compliance in accordance with 23 CFR 230D, "Construction Contract Equal Opportunity Compliance Procedures", dated December 9, 1991, along with subsequent amendments and revisions thereto.

Equal Employment Opportunity

Provisions set forth in 23 CFR 200 "Title VI Program and related Statutes-- Implementation and Review Procedures," and included in ADOT's Permanent Program Plan for the Title VI Program, approved on September 30, 1991, along with subsequent amendments and revisions thereto, shall be adhered to. This program will continue to be administered by ADOT - AAO.

Minority Involvement

Provisions set forth in 49 CFR Part 23, "Participation by Minority Business Enterprise in Department of Transportation Program," and included in ADOT's Permanent Program Plan for the Disadvantaged Business Enterprise Program, approved on September 30, 1991, along with subsequent amendments and revisions thereto, shall be adhered to. This program will be administered as follows:

1. Project Certification - ADOT - AAO.

2. Contract Administration:

- i. Annual DBE goals will be established by PCDOT and reviewed by ADOT - AAO.
- ii. Project Goals will be set by ADOT - AAO.
- iii. Contract Specifications will be set by ADOT - AAO.
- iv. Field Compliance will be done by Pima County Public Works Department, Engineering and Technical Services Department, Field Engineering Division.
- v. End of Project Compliance will be done ADOT - AAO.

Internal Affirmative Action

Provisions of the Pima County Affirmative Action Plan dated June 18, 1991 shall be adhered to.

IX. FINAL ACCEPTANCE

It shall be the responsibility of PCDOT to ensure that all construction done under Certification Acceptance is in accordance with the standards and procedures outlined in this Program .

Inspection

PCDOT shall notify FHWA and ADOT when a project is complete and ready for final inspection. Final inspection of the completed project shall be conducted by the Field Engineering Division Manager. Final acceptance of the completed project shall be made by the Director. Acceptance shall be granted when it has been determined that the construction is in substantial conformance with the plans and specifications. PCDOT will forward to ADOT and FHWA a copy of the Director's letter to the contractor which states that the project has been completed and accepted by PCDOT.

Retention of Records

PCDOT will retain project records in accordance with the retention schedule outlined in 23 CFR 17, "Recordkeeping and Retention Requirements for Federal-Aid Highway, records of State Highway Agencies."

Final Vouchers

Final vouchers submitted through ADOT to FHWA shall certify that the plans, design, and construction for the project were in accord with the standards and procedures outlined in Certification Acceptance.

CERTIFICATION ACCEPTANCE PROGRAM ORGANIZATION CHART

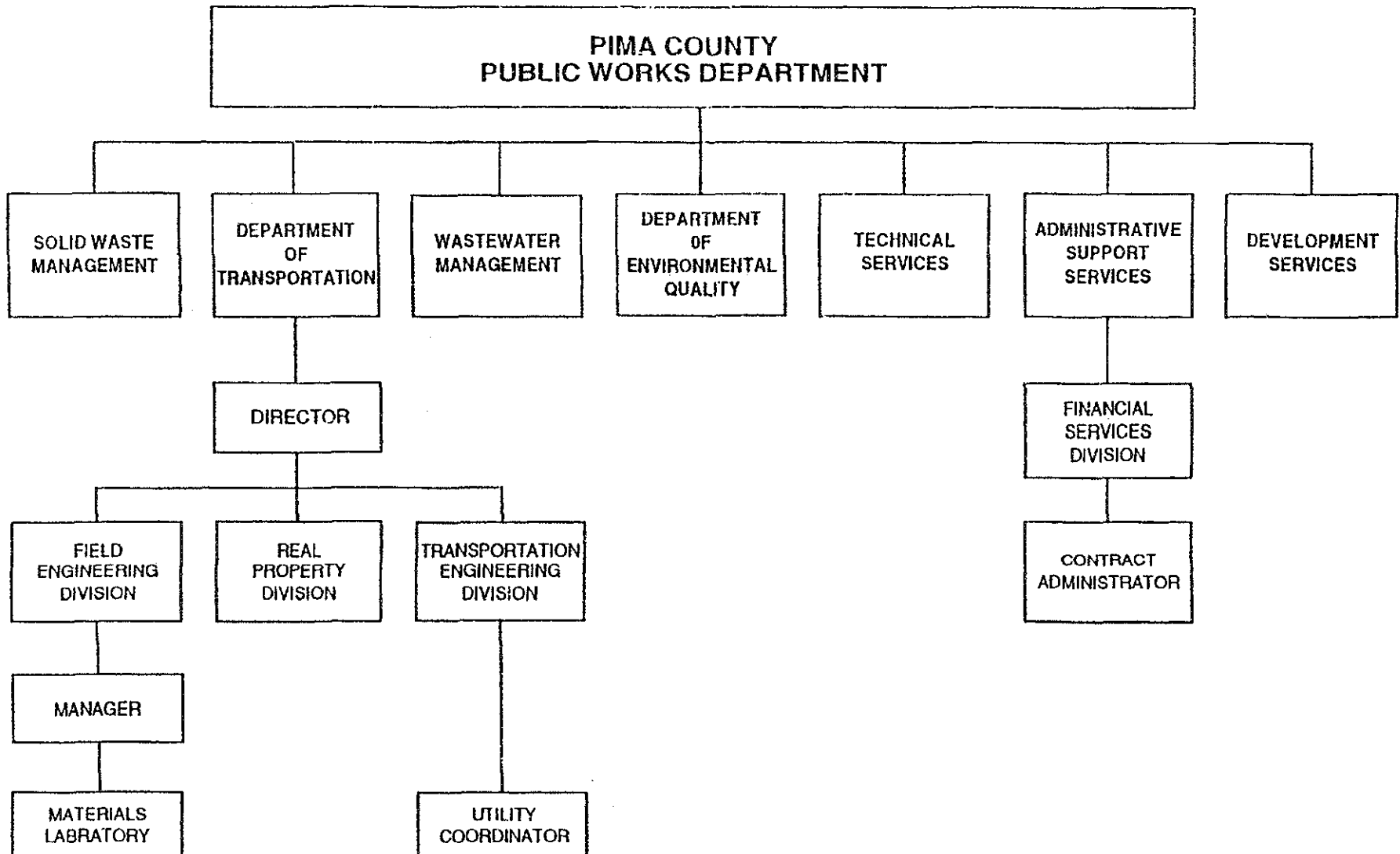


EXHIBIT A

11/16/94-LO