

RESOLUTION 15-__

TO AMEND THE POLICY AND PROCEDURE FOR THE PUBLIC/PRIVATE PARTNERSHIP PROGRAM FOR COCHISE COUNTY ROAD IMPROVEMENT

WHEREAS, the Board of Supervisors is authorized to lay out, maintain, control and manage public roads within its jurisdiction pursuant to A.R.S. § 11-251 (4); and

WHEREAS, there are roadways used by the public that have primitive surfacing or design, these primarily being roads constructed prior to the adoption of modern engineering standards or roads constructed prior to development regulations; and

WHEREAS, the County does not have sufficient financial resources to improve all roadways used by the public at its present level of funding; and

WHEREAS, the primary users of certain public roads can and will financially contribute to the improvement of roads within their area; and

WHEREAS, it is in the best interests of the public and general welfare that available financial resources be maximized by a public and private sharing of the cost of road improvement, resulting in a greater number of roads being improved with the limited resources available, and

WHEREAS, the current Public/Private Partnership Program For Cochise County Road Improvement, as designated by Resolution 94-49, amended by Resolutions 99-88, 03-07, 03-17 and 06-48, have served well, but additional modifications are now appropriate; and

WHEREAS, pursuant to A.R.S. § 11-251.08 notice of these amendments has been properly advertised.

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**Re: To Amend The Policy And Procedure For The Public/Private Partnership
Program For Cochise County Road Improvement**

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NOW THEREFORE, IT IS RESOLVED, that the attached “Policy And Procedure For Public/Private Partnership For Cochise County Road Improvement” is hereby adopted and the criteria, policy and procedure established by previous resolutions are hereby amended in accordance with this resolution.

IT IS FINALLY RESOLVED that Resolution 06-48 is hereby rescinded.

PASSED AND ADOPTED by the Board of Supervisors of Cochise County, Arizona, this ____ day of _____, 2015.

Patrick Call, Chairman
Cochise County Board of Supervisors

ATTEST:

APPROVED AS TO FORM:

Arlethe Rios,
Clerk of the Board

Britt Hanson

Britt W. Hanson,
Chief Civil Deputy County Attorney

POLICY AND PROCEDURE FOR THE PUBLIC/PRIVATE PARTNERSHIP PROGRAM FOR COCHISE COUNTY ROAD IMPROVEMENT

Adopted by Resolution 15-__

Adoption Date:

I. PURPOSE

To establish criteria and procedures for the improvement of County Maintained roads through a partnership of public and private resources, consistent with Arizona Revised Statutes §11-251 (4), §28-6701 through 28-6703 and §34-201 (D).

Criteria and procedures were established by the Board of Supervisors per Resolution 94-49, and amended by Resolutions 99-88, 03-07, 03-17, 06-48 and 15-__.

II. GENERAL POLICY STATEMENTS

A. Eligibility for Improvement

1. The entire road project must be a part of the County Maintained Road system.
2. Adequate recorded public right-of-way must exist, or must be provided at no cost to the County.
3. There must be demonstrated substantial support by a majority of adjoining property owners for the proposed road improvements.
4. Total cost for construction of any single project cannot exceed the current monetary limitations noted in A.R.S. §34-201 (D) (project cannot be incrementalized over several years).
5. If more than one road is involved they must all connect.

- B. County participation in this program shall generally be based on availability of resources and then on a “first come-first served” basis. However, the County may advance a project, at its discretion, when the County determines that the project meets an exceptional public need, remedies a significant threat to public safety, substantial additional private funding is available, or allows other scheduled work to be performed more expeditiously or at a savings to the public.

- C. This program is intended to complement, not supplement the County's plan for road improvement projects. It is anticipated that road improvement funds for roads classified as major collectors and minor collectors providing significant public access, will continue to be improved exclusively through the use of public funds. However, if private contributions are available for any such roads, such contributions may allow the improvements planned for these roads to be provided on an expedited basis.
- D. The program is intended to address existing problems which have arisen in connection with developments that were consistent with applicable laws and regulations at the time of development. The program is not intended to relieve present and future developers of their current obligations to provide necessary on-site or off-site improvements which are associated with the development and required under existing law.
- E. All improvements shall be consistent with the applicable County adopted roadway standards for that class of road, and with applicable traffic safety and drainage requirements.
- F. Private participation in this program shall not limit the statutory powers of the elected representatives of the public. If, in the best interest of the public and based on available resources, continued County maintenance of a road requires alteration or termination, the County shall not be bound to a prior level of maintenance performed on a road as a result of this program.
- G. These Criteria and Procedures shall be subject to periodic review and may be amended as necessary to best serve the public interest.

III. FEES and REQUIRED CONTRIBUTION RATES

A. Application Processing Fee

- \$200.00
- Non-refundable
- The Application Processing Fee is applied to staff cost for providing the Brief Initial Analysis and estimated cost range for the project

B. Required Contribution Rates

1. The Applicant shall pay:
 - a. The total cost of materials (which may include and is not limited to, oil emulsions and rock chips).

- b. The total costs of all materials and for all of installation work that is not performed by County employees, in the event that the applicable construction standards require curbs, gutters, asphaltic concrete or other improvements that county employees cannot install.
- 2. The County shall pay:
 - a. The total cost of staff labor to complete an Engineering Study and to prepare, if necessary, right-of-way conveyance documentation.
 - b. 100% of construction labor and equipment costs.

IV. GENERAL PROCEDURE

- A. At the time that a request is received, the applicant shall be provided with a copy of the Policy & Procedure, together with an application. Completed application, written support of a majority of adjoining property owners, and the Application Processing Fee shall be submitted to the Highway & Floodplain division.
- B. County staff shall provide the applicant with the Brief Initial Analysis and the applicant shall be given 90 days to decide whether to proceed. The Brief Initial Analysis is not an engineering study, but is intended to give the applicant an idea of potential hurdles and anticipated range of the cost of the project and the applicant's share.

Brief Initial Analysis shall include:

- The functional class of the roadway.
 - Right-of-way status and if additional dedication is anticipated (final width may be revised after the Engineering Study is prepared).
 - Potential environmental permits and utility conflicts.
 - Drainage issues.
 - Cost estimate range and estimated applicant's share.
- C. If additional right-of-way dedication is anticipated, the applicant shall be required to have all affected property owner(s) sign Intent to Dedicate documentation.
- D. Once the applicant has completed any outstanding requirement, County staff shall then add the project to a list of proposed Public/Private Partnership (PPP) Projects for annual review by the Board of Supervisors.

- E. At the time of the Highway and Floodplain annual budget review, the County Engineer shall present the compiled list of proposed PPP Projects and an analysis to the Board.

Proposed project analysis may include as applicable:

- Cost estimate range for the public's share.
- Anticipated ongoing maintenance costs.
- Public use and existing road condition.
- Recommended future projects and/or lane miles that may be cancelled and/or postponed in order to allocate resources for the proposed PPP project.

The Board may, at its sole discretion, consider other funding options for the proposed PPP projects. The Board shall determine to approve, disapprove or postpone a PPP project to the next annual review. Board determination may be based on availability of resources.

- F. The County Engineer shall advise the applicant of the decision of the Board. If the project is postponed to the next annual review the applicant shall have the right to withdraw from the project.
- G. If the project is approved by the Board, County staff shall then prepare and provide the applicant with the Engineering Study. If the applicant is unable to complete the private requirements of the Engineering Study within 1 year, the County may withdraw from the project or update the Engineering Study based on revised costs.

The Engineering Study shall:

- Specify the scale and type of improvements based on the functional classification and drainage standards noted in the Cochise County Road Design and Construction Standards and Specifications for Public Improvement.
- Contain a total cost estimate and the applicant's cost share thereof. The total cost estimate shall include all staff, equipment and materials for the project, including engineering and overhead and any necessary environmental permits.
- Specify the right-of-way to be dedicated at no cost to the County.

- H. If right-of-way dedication is required, the applicant shall coordinate with County staff to prepare Deed(s) of Dedication. County staff shall survey, if necessary, and prepare legal descriptions and dedication forms. The applicant shall be responsible for obtaining property owner signature(s).

- I. Upon payment of the applicant's required private contribution and completion of the right-of-way requirements, the County Engineer shall initiate any required Board of Supervisor proceedings, including a process to establish the roadway as a "County Highway" and/or amend the adopted annual work plan, as may be necessary to pursue the planned construction.

The funds shall be maintained in a fund line, to be used only for the construction work identified in the respective Engineering Study. The funds shall not be used for any other County projects.

- J. Unforeseen circumstances may cause the cost of the project to exceed the Engineering Study cost estimate.
 1. In the event that the project costs exceed monetary limitations noted in A.R.S. §34-201 (D), the project may be reduced in scope or terminated. The applicant shall have the right to withdraw from the project and shall have a right to a refund of the private contribution, less the value of actual improvements provided as of the date of refund demand.
 2. In the event that the project costs exceed the Engineering Study estimate by more than twenty-five percent (25%), the County Engineer shall require additional funds from the applicant to cover applicable costs. The applicant shall have the right to withdraw from the project and shall have a right to a refund of the private contribution, less the value of actual improvements provided as of the date of refund demand.
- K. The County Engineer shall make a reasonable effort to complete the project within 3 years of the date of payment of the private contribution. However, in the event that a lack of resources or other compelling circumstances, such as the need to obtain a 404 Permit or other State/Federal permit, will prevent the work from being completed within 3 years, the applicant shall be notified. The applicant shall have the right to withdraw from the project and shall have a right to a refund of the private contribution, less the value of actual improvements provided as of the date of refund demand.