LEGAL AUTHORITY CONCERNING
RTA PLAN AND PROJECT
IMPLEMENTATION

An Overview

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Introduction

The RTA Board adopted the twenty-year Regional Transportation Plan [“RTP”] on November 30, 2005, through its Resolution No. 2005-01. The RTP was approved by the voters of Pima County on May 16, 2006.
The RTA Board Retains Control Over the RTP

The RTA Board is charged with developing, adopting, supplementing, changing, implementing and administering the RTP.

A.R.S. 48-5304 (6) (12) (13) & (16); 48-5309 (A); 48-5314 (A).
Approval of **Substantial** Changes to the RTP

Now that the voters have approved the RTP, the RTA Board may not amend the RTP to add or delete an **element** or substantially change an **element** without the prior approval of the voters.

A.R.S. 48-5309 (B).
But What is an Element?

An element is a group of a certain type of transportation projects.
[See: 48-5304(3); 48-5314(C)(4); 48-5308(F)]

The RTP is broken into four separate elements:
• Roadway Improvements
• Safety Improvements
• Environmental and Economic Vitality Improvements
• Public Transit Improvements
Each Element’s Proportionate Share of the Overall RTP Budget

- **Roadway Improvements** – Account for 58.5% of the RTP Budget [$1.17 Billion]

- **Safety Improvements** – Account for 9.0% of the RTP Budget [$180 Million]

- **Environmental and Economic Vitality Improvements** Account for 5.8% of the RTP Budget [$115 Million]

- **Public Transit Improvements** – Account for 26.7% of the RTP Budget [$534 Million]
Substantial Change Defined

A.R.S. 48-5309(E)

• “An estimated cost to complete one or more elements of the RTP that exceeds the expenditure limitations of the RTP . . . by the following or greater percentages:

  a. Ten per cent for a single element of the plan.
  b. Fifteen per cent for any two elements of the plan.
  c. Twenty per cent for three or more elements of the plan.”
Other Changes . . . ?

This statute means that the RTA Board may make changes to the RTP, so long as the “substantial change” thresholds, stated above, are not reached.
Statutory Purposes

The purpose of the Legislature in empowering the RTA Board to make changes to the RTP, without necessitating a public vote, was to ensure that the Board could react, efficiently, to changing circumstances throughout the RTP’s twenty-year implementation period.
Public officials, like the members of the RTA Board, must use a high level of care in spending public funds to implement the RTP. Indeed, it is the highest standard of care, known as a fiduciary duty. *Op. Atty. Gen. 75-11.*

This is a duty which is owed to the public, and it means, in part, that public officials who have the authority to expend public funds, “have a fiduciary obligation to do so in the most economical and feasible manner.” *Id.* Specifically, they must “obtain maximum return for each dollar spent . . . .” *Op. Atty. Gen. 84-24.* *Hertz Drive-Ur-Self System, Inc. v. Tucson Airport Authority*, 81 Ariz. 80, 85 (1956).
Overarching Fiduciary Duty

Thus, the RTA Board must be able to respond to prevailing circumstances, and exercise sound stewardship over implementation of each project within the RTP, based upon current data, but within the context of the voter mandate.
The Board’s Policy

Immediately after adopting the RTP, the Board adopted its Resolution No. 2005-02, which approved policies for implementation of the RTP. Among these policies was item 2, which read:

“Functionality Not to Be Diminished - The Technical/Management Committee as well as the Citizens Advisory Committee had specific capacity and/or performance improvements in mind when recommending highway improvement projects as well as transit improvements. This functionality should not and cannot be diminished. The voters, in approving the expenditure plan, are relying on the planned improvements actually being implemented.”
Implementing the Policy

The RTA Board Established Committees to Guide Project Implementation

1. CART -- Citizens Accountability for Regional Transportation – Ensures that the RTP is implemented as promised to the voters.

2. TMC – Technical Management Committee – Advises the Board on specific project implementation.

3. CAC – Citizen Advisory Committees – Guide implementation of specific projects regarding roadway characteristics, design features, mitigation measures, etc.
Defining Functionality

Functionality is a term, with no specific engineering or legal definitions. However, common dictionary definitions indicate that the term addresses capability to perform functions. Functionality can be assessed for many functions (pedestrian accessibility, transit speed, etc.), but is most important on modes of travel impacted by a change proposal. Where a departure from the ballot description is being considered, a performance comparison between the proposed alternative and the original scope of work must show no degradation in performance.
Conclusion

• The RTA Board retains authority to implement the RTP.
• The Voters must approve any substantial or elemental changes to the RTP.
• The RTA Board has adopted a policy not to diminish individual project functionality. This should be evaluated by mode of travel.
• The RTA Board engages its committees to inform the Board on specifics of project design and implementation.
• The RTA Board is bound by its fiduciary duty to the public to use wise discretion when spending the public’s money.
Questions?