

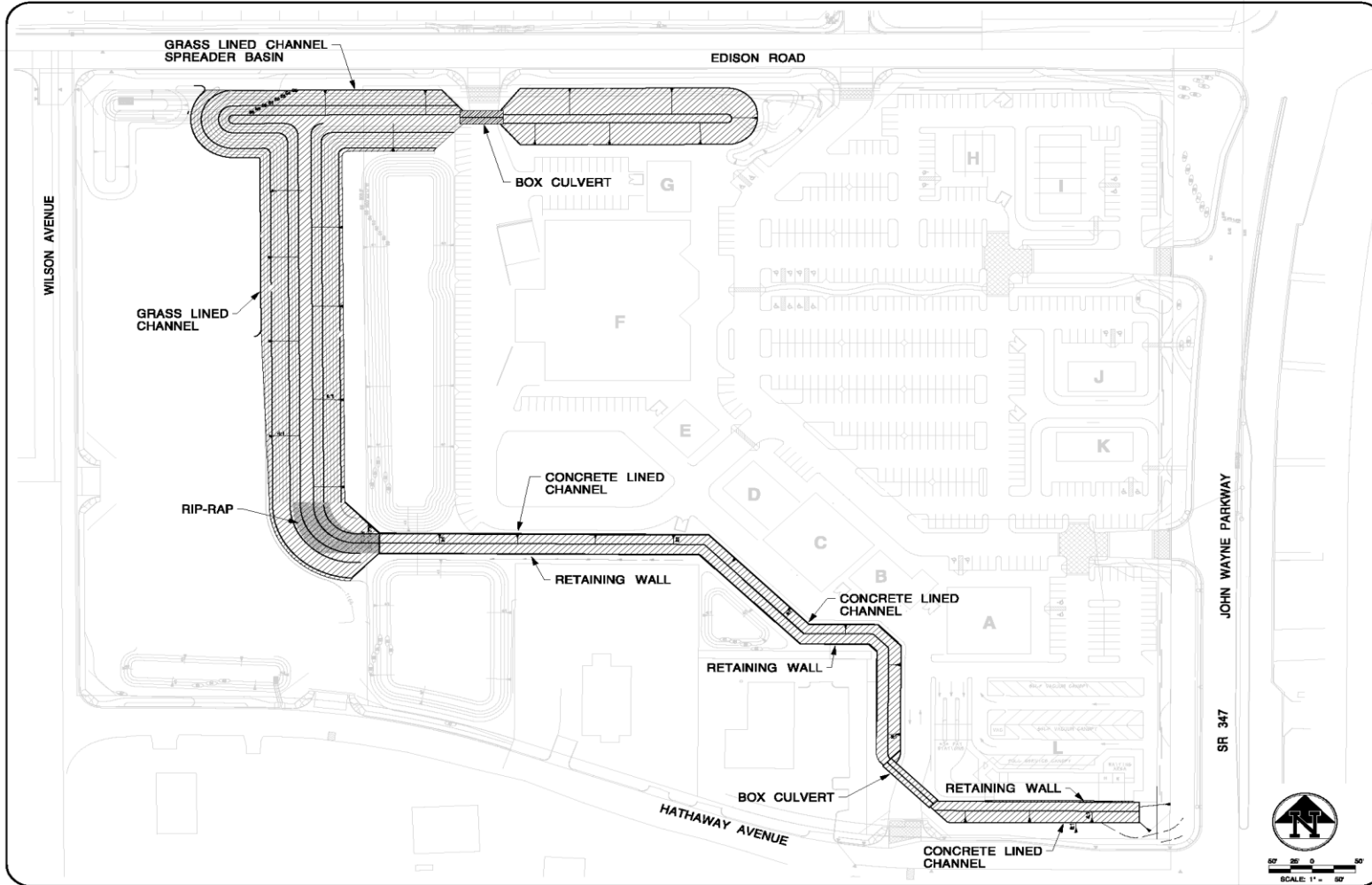


Sonoran Creek L.L.C. Development Agreement

July 17, 2012



Sonoran Creek Subdivision



Scale: 1" = 50'



SONORAN CREEK	
COE & VAN LOO PLANNING ENGINEERING • LANDSCAPE ARCHITECTURE	
SITE PLAN FLOOD CONTROL SYSTEM	SONORAN CREEK
JOB NO 01.0176001	4550 NORTH 12TH STREET PHOENIX, ARIZONA 85014 TELEPHONE (602) 264-6631
EXHIBIT C	



Purpose

- Pursuant to Title 44 of the Code of Federal Regulations, in order to qualify for the issuance of a Letter of Map Revision (“LOMR”), Sonoran Creek must assure FEMA that ultimate responsibility for maintenance of the Flood Control Structures is under the jurisdiction of a Federal or State agency, an agency created by Federal or State law, or an agency of a community participating in the National Flood Insurance Program, hereinafter referred to as the Agency
- The City of Maricopa qualifies as an Agency

Purpose of this Agreement

- In order for Sonoran Creek to develop the site must be removed from the floodplain
- Without this agreement the site cannot develop as a retail/commercial development, due to the federal regulations

City of Maricopa's Responsibility

- The City will be required to perform annual inspections to ensure the proper operation of the flood control solution
- Post-storm inspections should be performed as soon as possible after flood conditions have subsided

City of Maricopa's Liability

- Government flood and storm water control structures typically involve public ownership of land or public acquisition of easements
- Courts tend to treat governments like private landowners when governments own and manage lands
- Governments are then considered to be operating in a “proprietary” rather than “governmental” capacity and the defense of sovereign immunity does not apply

Liability - Continued

- Maintenance of a mitigation measure is considered ministerial and governmental units are responsible for negligence
- The City is liable for failure to maintain a drainage ditch resulting in flooding of leased premises
- Courts have refused to hold governments liable for failure to maintain facilities where there is an inadequate showing of negligence or causation

Questions?

