



City of Maricopa

Legislation Text

File #: IGA 12-008, **Version:** 2

The Mayor and City Council shall discuss and possibly take action on approval of a modification to the Intergovernmental Agreement originally approved on July 17, 2012 between the City of Maricopa and Pinal County Flood Control District to define the responsibilities concerning implementation of their agreement to jointly serve as the Qualified Jurisdictions for the Sonoran Creek project. Discussion and Action.

On July 17, 2012, Council approved the original Intergovernmental Agreement and authorized City Manager Brenda Fischer to resolve any remaining issues that may arise with Pinal County concerning the Agreement and to execute the Agreement once approved by Pinal County and the City Attorney. Additional changes proposed by Pinal County on or about July 23, 2012, while recommended for approval by staff and the City Attorney, are of substantial enough nature to warrant Council action. Changes proposed include additional language in the Indemnity provision of the Agreement which is related to recently passed House Bill 2658 (attached as an exhibit in this Council communication). This provides additional assurance to the Flood Control District that FEMA or others will not consider the District to be a responsible party.

The project, Sonoran Creek, is a proposed commercial site and will consist of various retail buildings, drainage facilities, and open spaces. The site is irregular in shape, consisting of approximately 18 acres. The site is surrounded by residential and commercial development. The site is located within the limits of the City of Maricopa, Arizona, in Pinal County. The site is bounded by Edison Road on the north, Hathaway Avenue on the south, John Wayne Parkway on the east, and Wilson Avenue on the west. The proposed Sonoran Creek commercial development is located within the existing Flood Zone "AO," with a flood depth of 1 foot.

Sonoran Creek has designed and engineered a flood control solution that has received a Conditional Letter of Map Revision (Sonoran Creek CLOMR) from the Federal Emergency Management Agency (FEMA) that removes the property from the floodplain. In order to remove the property from the floodplain, Sonoran Creek secured approval of flood mitigation plans by FEMA which resulted in the issuance of the Sonoran Creek CLOMR. The Sonoran Creek CLOMR requires the construction of certain flood mitigation structure(s) (the Flood Control Structures) within the boundaries of the property. Pursuant to 44 C.F.R. 65.10(d), (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 and Pinal County Flood Control District qualifies as an Agency under the terms of 44 C.F.R. 65.10(d). The primary obligation and responsibility for inspecting, maintaining, repairing and insuring the Flood Control Structures has been delegated to Sonoran Creek under this Agreement.

The purpose of this IGA is to define the responsibilities of the Parties, City of Maricopa and Pinal County, concerning implementation of their agreement to jointly serve as the Qualified Jurisdictions. It is the intention of the Parties that because of its proximity to the Sonoran Creek Development, the City of Maricopa shall perform the inspections and any maintenance required pursuant to the terms of the agreement. This agreement will only become effective after the execution of the development agreement between the City of Maricopa and Sonoran Creek L.L.C.

Appendix D of the development agreement details the Operations and Maintenance plan. The City will be required to perform annual inspections to ensure the proper operation of the flood control solution. In the event of a major storm event, post-storm inspections should be performed as soon as possible after flood

conditions have subsided.

Staff recommends approval of the modified Intergovernmental Agreement between the City of Maricopa and Pinal County to define their responsibilities concerning implementation of their agreement to jointly serve as the Qualified Jurisdictions with regard to the Sonoran Creek project.