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MAY 10 2007

MEMORANDUM

Public Works Department – Council Memo No. TR07-028

DATE: MAY 10, 2007

TO: MAYOR AND COUNCIL

THRU: W. MARK PENTZ, CITY MANAGER
PAT MCDERMOTT, ASSISTANT CITY MANAGER

FROM: DANIEL W. COOK, ACTING PUBLIC WORKS DIRECTOR

SUBJECT: RESOLUTION NO. 4058 AUTHORIZING AN AMENDMENT TO AN INTERGOVERNMENTAL AGREEMENT WITH THE FLOOD CONTROL DISTRICT OF MARICOPA COUNTY FOR THE DESIGN, UTILITY RELOCATION, CONSTRUCTION, CONSTRUCTION MANAGEMENT, AND OPERATIONS AND MAINTENANCE OF THE QUEEN CREEK ROAD BASIN, TO EXTEND THE COMPLETION DATE AND INCREASE THE COUNTY FUNDING BY \$700,000 TO THE AMOUNT OF \$2,200,000

RECOMMENDATION: Staff recommends Council pass and adopt Resolution No. 4058 approving an amendment to an intergovernmental agreement with the Flood Control District of Maricopa County for the design, utility relocation, construction, construction management, and operations and maintenance of the Queen Creek Road Basin, to extend the completion date and increase the County funding by \$700,000 to the amount of \$2,200,000.

BACKGROUND/DISCUSSION: In 2002, the City and the Flood Control District of Maricopa County (FCDMC) jointly purchased approximately 70 acres of land south of Queen Creek Road and east of McQueen Road. This land was designated to be a basin as a part of the Higley Area Drainage Master Plan.

In April 2005, Council approved an agreement between the City and FCDMC for design and construction of the retention basin, with FCDMC to provide \$1,500,000 towards the design and construction of the project. The April 2005 agreement also required the City to complete construction of the basin by June 30, 2007. On June 6, 2006, staff sent a letter to FCDMC requesting that the intergovernmental agreement be amended to give the City until December 31, 2010 to complete construction of the basin. Also, staff asked that the FCDMC funding be increased from \$1,500,000 to \$2,200,000 due to increases in excavation and construction costs since the original agreement was signed. The FCDMC staff will make a recommendation for approval to the Maricopa County Board of Supervisors.

The primary reason for the delay of the project is a pending land transfer with an adjacent landowner. The City also negotiated increased funding because construction cost increases exceeded the amounts in the original agreement with FCDMC. The CIP was updated for FY06/07 to increase funding for the project. The original IGA allowed for the possibility of the land exchange so the exchange does not require an IGA amendment.

A design consultant for basin excavation and park design should be on board within the next few months. Construction of the basin should start in late 2008.

FINANCIAL IMPLICATIONS: This agreement will provide the City with \$2,200,000 in funding for design and construction of the Queen Creek Road Basin. The project is in the current (Fiscal Year 2007-08) Capital Improvement Program.

PROPOSED MOTION: Staff recommends Council pass and adopt Resolution No. 4058 approving an amendment to an intergovernmental agreement with the Flood Control District of Maricopa County for the design, utility relocation, construction, construction management, and operations and maintenance of the Queen Creek Road Basin, to extend the completion date and increase the County funding by \$700,000 to the amount of \$2,200,000.

Attachments:

Resolution No. 4058

Location Map

Amended Intergovernmental Agreement

RESOLUTION NO. 4058

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, AUTHORIZING AN AMENDMENT TO AN INTERGOVERNMENTAL AGREEMENT WITH THE FLOOD CONTROL DISTRICT OF MARICOPA COUNTY FOR THE DESIGN, UTILITY RELOCATION, CONSTRUCTION, CONSTRUCTION MANAGEMENT, AND OPERATIONS AND MAINTENANCE OF THE QUEEN CREEK ROAD BASIN.

WHEREAS, the City of Chandler (the City) and the Flood Control District of Maricopa County (FCDMC) have jointly purchased approximately 70 acres of land generally south of Queen Creek Road and east of McQueen Road; and,

WHEREAS, the Chandler City Council passed and adopted Resolution No. 3841 on April 14, 2005, authorizing the Mayor to execute an Intergovernmental Agreement (IGA) with the FCDMC for the design, utility relocation, construction, and construction management of the Queen Creek Road Basin; and,

WHEREAS, the City and FCDMC wish to amend the IGA to, among other things, permit the City to accept an increase in FCDMC grant funding from \$1,500,000 to \$2,200,000 and to extend the project completion date from June 30, 2007 to December 31, 2010.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Chandler, Arizona, that the Mayor is authorized to execute an Amendment to the IGA in the form attached hereto.

PASSED AND ADOPTED by the City Council of the City of Chandler, Arizona this ____ day of _____ 2007.

ATTEST:

CITY CLERK

MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Resolution No. 4058 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at the regular meeting held on the ____ day of _____ 2007, and that a quorum was present thereat.

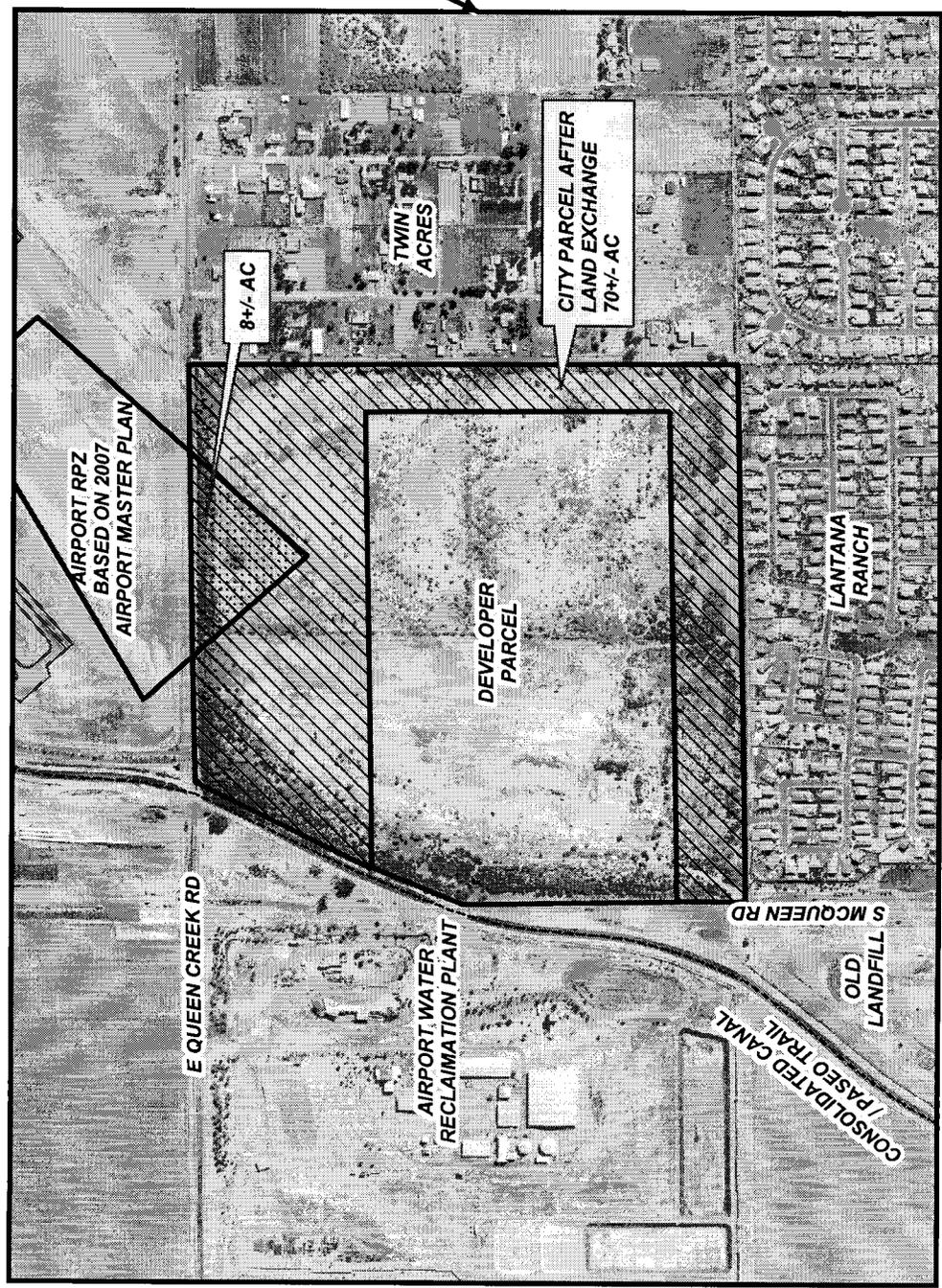
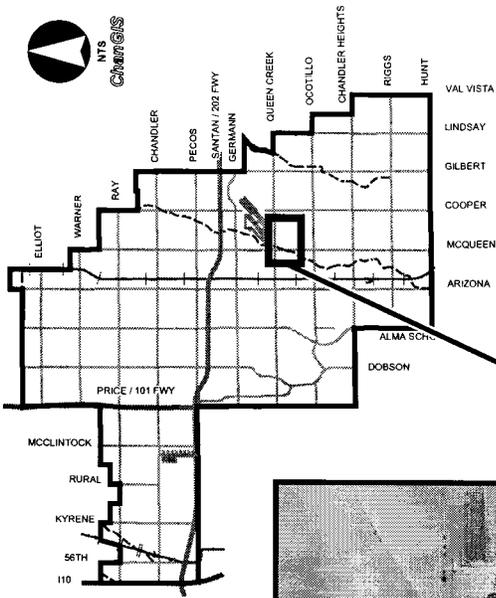
CITY CLERK

APPROVED AS TO FORM:



CITY ATTORNEY

QUEEN CREEK BASIN IGA AMENDMENT WITH FCDMC



MEMO NO. TR07-028
RESOLUTION NO. 4058

CITY PARCEL AFTER LAND EXCHANGE

When Recorded Return to:
Flood Control District of Maricopa County
2801 West Durango Street
Phoenix, AZ 85009-6399

**Amendment No. 1
FCD 2004A014A**

To

**INTERGOVERNMENTAL AGREEMENT
FCD 2004A014**

for the

**Design, Utility Relocation, Construction, Construction Management,
Operation and Maintenance**

of the

Queen Creek Road Basin,

between

The Flood Control District of Maricopa County

and the

City of Chandler

**Amendment No. 1
IGA FCD 2004A014A**

AGENDA ITEM: C-69-05-084-2-01

This Amendment No. 1, Intergovernmental Agreement (IGA) FCD 2004A014A to IGA FCD 2004A014 is entered into by and between the Flood Control District of Maricopa County, a municipal corporation and political subdivision of the State of Arizona, acting by and through its Board of Directors, hereinafter called the DISTRICT and the City of Chandler, acting by and through the City Council, hereinafter called the CITY.

This Amendment No. 1, Intergovernmental Agreement (IGA) FCD 2004A014A to IGA FCD 2004A014 shall become effective as of the date it has been executed by all parties.

DATE FILED WITH MARICOPA COUNTY RECORDER _____

STATUTORY AUTHORIZATION

1. The DISTRICT is empowered by Arizona Revised Statutes Section 48-3603, as revised, to enter into this

Amendment No. 1 and has authorized the undersigned to execute this Agreement on behalf of the DISTRICT.

2. The CITY is empowered by Arizona Revised Statutes Sections 9-240 and 9-276 and by City Charter Section 1.03, as revised, to enter into the Amendment No. 1 and has by resolution authorized the undersigned to execute this Amendment No. 1 on behalf of the CITY.

BACKGROUND

3. The Board of Directors of the Flood Control District of Maricopa County (BOARD) adopted Resolution FCD 98-05 on August 5, 1998 (C-69-99-002-6-00) authorizing the Chief Engineer and General Manager to negotiate and prepare an IGA(s) required for the Queen Creek Road Basin, hereinafter called the PROJECT, and obtain necessary rights-of-entry and/or easements required for the PROJECT. IGA FCD 2002A001 was approved by the BOARD on May 1, 2002 (C-69-02-089-2-00) between the CITY and the DISTRICT for the purchase of approximately seventy (70) acres needed for this basin. The PROJECT was recommended for inclusion into the DISTRICT's Capital Improvement Program (CIP) by DISTRICT staff and was endorsed by the Flood Control Advisory Board on December 04, 2002.

The BOARD approved the IGA 2004A014 on May 4, 2005 (C-69-05-084-2-00) authorizing the Chief Engineer and General Manager to cost share the design, utility relocations, construction and construction management, and operation and maintenance for the PROJECT.

On June 6, 2006, the CITY staff requested a time extension for the completion of the basin from the original date of June 30, 2007 to December 31, 2010. In addition to the time extension, the CITY also, requested to increase the DISTRICT's share of the funding from \$1.5 million to \$2.2 million due to the increase in construction costs. On January 4, 2007, the City requested to modify the volume requirement from 204 acre-feet to 194 acre-feet.

The CITY will be the lead agency for design, utility relocation, construction, construction management, and operation and maintenance of the PROJECT. The CITY will fund the landscaping and aesthetic features of the basin and construct a multi-use park on the basin site. The DISTRICT will provide technical assistance, technical review and participate in consultant selection for the PROJECT.

PURPOSE OF THE AGREEMENT

4. The purpose of this Amendment No. 1 is to extend the original PROJECT completion date of June 30, 2007 to the new completion date of December 31, 2010 and also to increase the DISTRICT's cost share amount from \$1.5 million to \$2.2 million for the PROJECT.

TERMS OF AGREEMENT

5. The CITY shall:
 - 5.1 Complete the PROJECT, including design, utility relocation, and construction no later than December 31, 2010.
 - 5.2 Invoice the DISTRICT for the design and excavation costs of the PROJECT as follows:

- 5.2.1 Upon the issuance of the award of the design contract for the PROJECT invoice the DISTRICT for fifty percent (50%) of the DISTRICTS's fifty percent (50%) share of the design cost.
 - 5.2.2 Upon the completion of the design contract for the PROJECT (to include utility relocations, construction management and excavation), invoice the DISTRICT for the remaining fifty percent (50%) of the DISTRICT's fifty percent (50%) share of the design cost.
 - 5.2.3 Upon the issuance of the award of the construction contract for the PROJECT (to include utility relocations, construction management, and excavation), invoice the DISTRICT for fifty percent (50%) of the DISTRICT's one hundred percent (100%) share of the construction cost.
 - 5.2.4 Upon the completion and acceptance of the construction contract for the PROJECT and subject to the DISTRICT's overall funding limits for the PROJECT as set forth in paragraph 5.2.5 below, invoice the DISTRICT for the remaining fifty percent (50%) of the DISTRICT's one hundred percent (100%) share of the construction cost.
 - 5.2.5 The sum of the costs of paragraph 5.2.1 through 5.2.4 shall not exceed \$2,200,000.
- 5.3 Provide a minimum of 204 acre-feet of storage within the basin unless a study reviewed and approved by the District justifies less storage volume.

6. The DISTRICT shall:

- 6.1 Agree to a revised PROJECT completion date of December 31, 2010.
- 6.2 Increase their cost share reimbursement to a not to exceed amount of \$2,200,000 for the design, and excavation costs, including any utility relocations and construction management associated with the basin excavation.
 - 6.2.1 The DISTRICT's funding will be based on the availability of funding in the DISTRICT's CIP budget. The DISTRICT will notify the CITY of any potential funding issues as soon as such issues are known.
- 6.3 Reimburse the CITY for the design and excavation costs of the PROJECT as indicated below:
 - 6.3.1 Upon the issuance of the award of the design contract for the PROJECT by the CITY and upon receipt of the invoice from the CITY, reimburse fifty percent (50%) of the DISTRICT's fifty percent (50%) share of the design cost.
 - 6.3.2 Upon the completion of the design contract for the PROJECT by the CITY, and upon receipt of the invoice from the CITY, reimburse the remaining fifty percent (50%) of the DISTRICT's fifty percent (50%) share of the design cost.
 - 6.3.3 Upon the issuance of the award of the construction contract for the PROJECT by the CITY (to include utility relocations, construction management, and excavation) and

upon receipt of the invoice from the CITY, reimburse fifty percent (50%) of the DISTRICT's one hundred percent (100%) share of the construction cost.

6.3.4 Upon the completion and acceptance of the construction contract for the PROJECT by the CITY, and subject to the DISTRICT's overall funding limits for the PROJECT as set forth in paragraph 6.3.5 below, and upon receipt of the invoice from the CITY, reimburse the remaining fifty percent (50%) of the DISTRICT's one hundred percent (100%) share of the construction cost.

6.3.5 The sum of the costs of paragraph 6.3.1 through 6.3.4 shall not exceed \$2,200,000.

7. If the CITY has not completed excavation of the basin by December 31, 2010, the DISTRICT may elect to dispose of the DISTRICT's portion of the basin property as it deems appropriate, and in accordance with the original IGA FCD 2004A014.
8. This Amendment No. 1 governs where terms conflict with the Agreement. However, the Agreement is applicable unless specifically changed by this Amendment No. 1. The paragraph numbering in this Amendment No. 1 is coincidental and is not intended to indicate that these same numbered paragraphs in the Agreement are being replaced in their entirety.
9. This Amendment No. 1 shall expire ten (10) years from the date of recording with the County Recorder or upon completion of the PROJECT and after all funding obligations and reimbursements have been satisfied in accordance with this Addendum No. 1, whichever is the first to occur. However, by mutual written agreement of all parties, this Amendment No. 1 may be amended or terminated. If this PROJECT is terminated for any reason, funds already paid to the CITY by the DISTRICT and not contractually obligated for the PROJECT, shall be reimbursed to the DISTRICT.
10. This Amendment No. 1 is subject to cancellation by either party pursuant to the provisions of Arizona Revised Statutes Section 38-511.
11. Attached to this Amendment No. 1 or contained herein are the written determinations by the appropriate attorneys for the parties to this Amendment No. 1, that these agencies are authorized under the laws of the State of Arizona to enter into this Amendment No. 1 and that it is in proper form.
12. If legislation is enacted after the effective date of this Amendment No. 1, which changes the relationship or structure of one or more parties of this Amendment No. 1, the parties agree that this Amendment No. 1 shall be renegotiated at the written request of any party.

Exhibit A: Site Map IGA FCD 2004A014A

