

**FORMAL SESSION  
December 19, 2007**

The Board of Directors of the Flood Control District of Maricopa County, Phoenix, Arizona, convened in Formal Session at 9:00 a.m., December 19, 2007, in the Board of Supervisors' Auditorium, 205 W. Jefferson, Phoenix, Arizona, with the following members present: Fulton Brock, Chairman, District 1, Andrew Kunasek, Vice Chairman, District 3, Don Stapley, District 2, Max W. Wilson, District 4 and Mary Rose Wilcox, District 5. Also present: Fran McCarroll, Clerk of the Board, Shirley Million, Minutes Coordinator, David Smith, County Manager, Victoria Mangiapane, Deputy County Attorney. Votes of the Members will be recorded as follows: aye-no-absent-abstain.

**FCD-1. EASEMENTS AND RIGHT-OF-WAY ACQUISITION DOCUMENTS**

No request to approve easements and right-of-way acquisition documents was received for this meeting. (ADM1910)

**FCD-2. IGA WITH U.S. DEPARTMENT OF AGRICULTURE NATURAL RESOURCES CONSERVATION SERVICE FOR FLOOD RETARDING STRUCTURE REHABILITATION PROJECT**

Motion was made by Director Stapley, seconded by Director Wilcox, and unanimously carried (5-0) to approve Amendment No. 5 (FCD 2004A006E) to Intergovernmental Agreement (IGA) FCD 2004A006 between the United States Department of Agriculture Natural Resources Conservation Service (NRCS) and the Flood Control District of Maricopa County (District) for the White Tanks No. 3 Flood Retarding Structure (FRS) Rehabilitation Project (Project). This Amendment is to increase the federal cost share obligation for this Agreement by \$1,000,000.00. (C6904101205)

**FCD-3. IGA WITH MAGMA FLOOD CONTROL DISTRICT REGARDING RAIN GAUGE AND WATER LEVEL MONITOR**

Motion was made by Director Stapley, seconded by Director Wilcox, and unanimously carried (5-0) to approve Intergovernmental Agreement (IGA) FCD 2007A011 between the Magma Flood Control District (MAGMA) and Flood Control District of Maricopa County (District). The purpose of this Agreement is to define the roles and responsibilities of the District and MAGMA regarding the rain gauge and water level monitor located at the Magma Dam in Pinal County. (C6908020200)

**FCD-4. JOINT RESOLUTION WITH MCDOT FOR THE SALE, EXCHANGE OF REAL AND PERSONAL PROPERTY**

Motion was made by Director Stapley, seconded by Director Wilcox, and unanimously carried (5-0) to adopt Joint Resolution, FCD 2007R009, between the Maricopa County Department of Transportation and Flood Control District of Maricopa County authorizing and directing the Chief Engineer and General Manager of the Flood Control District to dispose by sale, exchange or other lawful means real and personal property, including dirt, trees, and other natural resources to any political subdivision upon such term as in his sole discretion and deemed most advantages, including a price of zero dollars per unit or his designee to sell these natural resources to any other person or persons upon an invitation to bid in compliance with the requirements of A.R.S. § 9-402. A corresponding agenda item is found in the Board of Supervisors' agenda under C6408111M00. (C6908025600)

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**JOINT RESOLUTION**  
**FLOOD CONTROL DISTRICT FOR MARICOPA COUNTY**  
**AND THE**  
**BOARD OF SUPERVISORS FOR MARICOPA COUNTY**

**FOR SALE OR DISPOSITION OF DIRT AND NATURAL RESOURCES**  
**RESOLUTION FCD 2007 R009**

**WHEREAS**, Arizona Revised Statutes § 48-3603 authorizes the Flood Control District of Maricopa County (District) to dispose by sale, exchange or other lawful means real and personal property, including dirt, trees, and other natural resources; and

**WHEREAS**, Arizona Revised Statutes § 11-251(9) authorizes Maricopa County to dispose of surplus materials that have little or no value or are unauctionable including dirt, trees and other natural resources, by any means authorized by the Board of Supervisors; and

**WHEREAS**, The Real Estate Division for both the Flood Control District and the Maricopa County Department of Transportation (MCDOT) have previously disposed of these natural resources, usually by public auction; and

**WHEREAS**, these natural resources such as dirt, trees, and plant vegetation have proven to be of no value or nominal value, and in many cases are an expense to be dealt with in the construction of public projects; and

**WHEREAS**, municipalities such as Maricopa County, Cities, the State, School Districts, and other Political Subdivisions, have expressed interest in removing these resources at no cost to the County or the District; and

**WHEREAS**, disposing of these natural resources at no cost would benefit the Flood Control District and the County by eliminating or reducing the cost to excavate and remove the materials in the construction of future public works projects; and

**BE IT RESOLVED**, by the Board of Supervisors of Maricopa County that dirt, trees, and other natural resources of nominal value located on land owned by the County may be disposed of to any person or entity, including the State of Arizona and any political subdivision in any legal manner by the Maricopa County Transportation Director and/or his designee as he in his sole judgment deems most beneficial to Maricopa County, including a price of zero ("0") dollars per unit, provided that if the natural resources are subsequently resold by the political subdivision for a price in excess of the original sale price, MCDOT will be paid the difference between the original sale price and the subsequent sale price, without further action by the Board; and

**BE IT FURTHER RESOLVED**, that the Board of Directors of the Flood Control District authorizes and directs the Chief Engineer and General Manager and/or his designee to sell these natural resources to any political subdivision upon such term as in his sole discretion and deemed most advantages, including a price of zero ("0") dollars per unit, provided that if the natural resources are subsequently resold by the political subdivision for a price in excess of the original sale price, the District will be paid the difference between the original sale price and the subsequent sale price; and

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**BE IT FURTHER RESOLVED**, that the Board of Directors of the Flood Control District authorizes and directs the Chief Engineer and General Manager and/or his designee to sell these natural resources to any other person or persons upon an invitation to bid in compliance with the requirements of A.R.S. § 9-402, without further action of the Board; and

**BE IT FURTHER RESOLVED**, that the Transportation Director of Maricopa County, and Chief Engineer and General Manager of the Flood Control District shall in the exercise of the authority to dispose of natural resources delegated by this Joint Resolution shall at all times impose such conditions upon the person, entity or public entity proposing to remove the natural resources that will protect the public health, safety and welfare, including (as appropriate): dust control measures, site topography requirements, fencing or other security requirements and hours of operation.

**DATED** this 19<sup>th</sup> day of December 2007.

/s/ Fulton Brock, Chairman of the Board

ATTEST:

/s/ Fran McCarroll, Clerk of the Board

**FCD-5. RESOLUTION RELATED TO EAST MESA DRAINS REACH 4 AND REACH 7 – CHANNEL IMPROVEMENTS**

Motion was made by Director Stapley, seconded by Director Wilcox, and unanimously carried (5-0) to adopt Resolution FCD 2007R011, authorizing the design, preparation of construction documents, acquisition of additional rights-of-way or easements, utility relocations, and the construction for the East Mesa Drains Reach 4 and Reach 7 – Channel Improvements. The total project cost is estimated to be \$ 900,000, including design, 404 permits, utility relocations, additional rights-of-way, construction, and construction management. Funding will be from the District's Capital Improvement Program. (C6908027600)

**RESOLUTION FCD 2007R011**

**East Mesa Drains - Reach 4 and Reach 7 - Channel Improvements**

**WHEREAS**, The Flood Control District of Maricopa County (District) was established in accordance with provisions of Arizona Revised Statutes Title 48, Chapter 21, which requires the Board of Directors of the Flood Control District of Maricopa County (Board) to identify flood problems and/or plan for the construction of facilities to eliminate or minimize flooding problems in Maricopa County; and,

**WHEREAS**, various subdivisions and other developments, in Unincorporated Maricopa County, in the area between the City of Mesa and the City of Apache Junction, established dedicated drainage rights-of-way and easements, that were maintained by the Maricopa County Department of Transportation; and,

**WHEREAS**, the maintenance activities and responsibilities of the dedicated rights-of-way and easements, that were outside of roadway rights-of-way, were subsequently transferred from the Maricopa County Department of Transportation to the Flood Control District of Maricopa County, by Resolution FCD 93-17, which was approved on June 7, 1994, by the Maricopa County Board of Supervisors; and,

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**WHEREAS**, erosion problems and the ensuing maintenance activities by the District were found to require extensive effort and cost, the channels located within the dedicated rights-of-way and easements, also known as the East Mesa Drains, were evaluated by the East Mesa Drains Candidate Assessment Report, of April 2004, which led to the selection of Reaches 4 and 7, both of which are unlined earthen channels, as those channels most-needing some structural improvements to reduce erosion problems and significantly reduce the associated maintenance activities and costs; and,

**WHEREAS**, a quitclaim deed, granted on November 14, 2006, by the Maricopa County Board of Supervisors, transferred the drainage easements of the East Mesa Drains from Maricopa County to the Flood Control District of Maricopa County; and,

**WHEREAS**, the project scope-area of this Resolution, as shown on Exhibit A, includes the Reach 4 channel, which extends from a point on Ellsworth Road that is 400 feet north of Broadway Road, extending 850 feet downstream, to a point near Broadway Road that is 800 feet west of Ellsworth Road, and includes the Reach 7 channel, which extends along the approximate 85<sup>th</sup> Place alignment, from Alder Avenue, extending 1,800 feet downstream (in a southward direction), to just north of Broadway Road; and,

**WHEREAS**, the Reach 4 channel has experienced scour erosion of the channel bottom and side slopes, and maintenance complications due to trees and trash, that require extensive periodic maintenance remedies; and,

**WHEREAS**, the Reach 7 channel has experienced chronic erosion from inflows across its east bank, that require extensive periodic maintenance remedies; and,

**WHEREAS**, the total project cost is estimated to be \$900,000 including design, 404 Permits, utility relocations, additional rights-of-way, construction, and construction management.

**NOW, THEREFORE, BE IT RESOLVED**, that the Chief Engineer and General Manager of the District is authorized and directed to advertise, select, negotiate, and award technical service contracts (for design services and the preparation of construction documents) and construction contracts, as necessary for design and construction of the Project, and subject to the ratification and approval of this Board; and,

**BE IT FURTHER RESOLVED**, that the Chief Engineer and General Manager of the District is authorized and directed to negotiate with landowners and/or appropriate agencies to obtain the necessary Rights-of-Entry, real property and/or easements, and all other necessary land rights required for the Project, and to hire, retain, or otherwise utilize the professional services of the County Attorney's office or private counsel for acquisition and/or advance acquisition to initiate and prosecute actions and proceedings in the manner required by law to condemn, under the rights of eminent domain, any and all Rights-of-Entry, real property, and/or easements required for the implementation of the East Mesa Drains - Reach 4 and Reach 7 - Channel Improvements, which cannot be obtained by donation or purchase, in the following land section:

Township 1 North, Range 7 East, Section 21,  
subject to the ratification and approval of this Board; and,

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**BE IT FURTHER RESOLVED**, that the Chief Engineer and General Manager of the District is authorized and directed to include funds in the District's current and future Five-Year Capital Improvement Program (CIP) for the East Mesa Drains - Reach 4 and Reach 7 - Channel Improvements, subject to the District's funding availability and subsequent approvals by this Board.

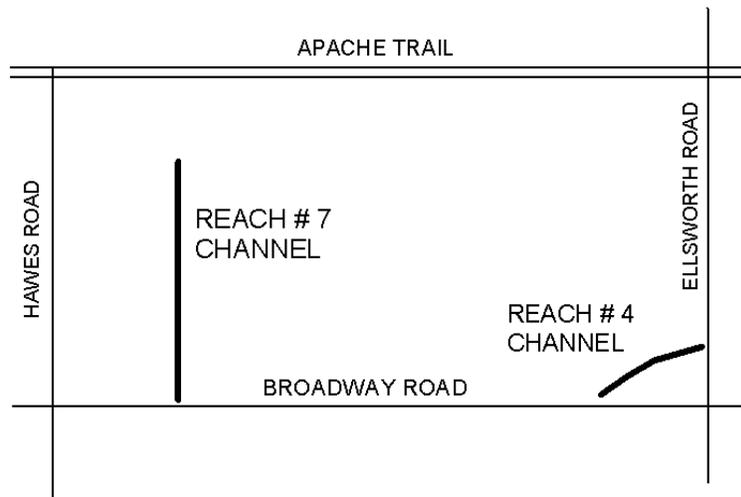
**DATED** this 19<sup>th</sup> day of December 2007.

/s/ Fulton Brock, Chairman of the Board

ATTEST:

/s/ Fran McCarroll, Clerk of the Board

EXHIBIT A



REACHES # 4 AND # 7 OF EAST MESA DRAINS

**FCD-6. IGA WITH CITY OF PHOENIX RELATED TO PHOENIX DETENTION BASIN NO. 7 DAM REHABILITATION PROJECT - WITHDRAWN**

Approve IGA FCD2007A012 between the Flood Control District of Maricopa County and the City of Phoenix for cost sharing and implementation of; design, construction and construction management of the Phoenix Detention Basin No. 7 Dam Rehabilitation Project (Project). The estimated cost of the Project, including, design, construction and construction management is \$1.2 million. These project costs will be shared equally, 50% for the District and 50% for the City. (C6908028200)

The Clerk announced that this item was withdrawn.

**FCD-7. SELL EXCESS PARCEL**

Motion was made by Director Stapley, seconded by Director Wilcox, and unanimously carried (5-0) to authorize the Flood Control District to sell excess parcel (as listed below) in FY 2007-08.

**MARICOPA COUNTY FLOOD CONTROL DISTRICT BOARD OF DIRECTORS MINUTE BOOK**

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The District will utilize its Disposition Program, continuing to evaluate and analyze the best potential of leasing or sales of all real property based on prevailing market conditions. The sale price will be fair market value, to be determined by a certified licensed appraiser, either at the start point of an oral auction, or, in the event of a sale to a municipality, at fair market value without an auction. If an auction takes place, District staff will sell the parcel in compliance with A.R.S. §9-402, which mandates that an invitation for bid be published for the sale of all real property. (C6908030B00) (ADM1903-002)

- FCD Parcel: T-377A – APN - Portion of 158-31-013B

**MEETING ADJOURNED**

There being no further business to come before the Board, the meeting was adjourned.

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Fulton Brock, Chairman of the Board

ATTEST:

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Fran McCarroll, Clerk of the Board