

NAVAJO COUNTY AGENDA ITEM REQUEST FORM

Meeting Date: November 24, 2015	Time Needed: 10 minutes												
Requesting Department: Public Works	Presenter(s) Name: Bill Bess												
Motion before the Board: Navajo County Flood Control District Board of Directors Session – Motion to approve the Intergovernmental Agreement between the Navajo County Flood Control District and the Silver Creek Flood Protection District for sediment removal behind Millet Swale Dam.													
Recommendation: (who, what, where, when, how, etc.) Staff recommends approval of this request													
<p>Background: (why should it be done, what will happen if not approved, etc. include resolution)</p> <p>The Navajo County Flood Control District and the Silver Creek Flood Protection District (SCFPD) recognize that Millet Swale Dam ("the Dam") has safety and structural deficiencies as identified by Dam Safety officials of the Arizona Department of Water Resources. The dam deficiencies are now being addressed by the Silver Creek Flood Protection District at a cost of \$1.4 million. SCFPD will utilize their available funds to correct the dam deficiencies. The SCFPD is requesting financial assistance of \$100,000 for the project construction (the "Project") costs to address the safety and structural deficiencies.</p> <p>The NCFCD shall reimburse the SCFPD for the eligible costs of the Project, a one-time maximum reimbursement of \$100,000 in matching funds for the construction of the Project. Eligible costs are the actual expenses of the construction costs directly associated with the Project. The SCFPD's administrative and other expenses are not eligible costs, nor are any expenses not directly related to the Project. The NCFCD shall be solely responsible for determining whether an expense is an eligible cost.</p>													
<p>Fiscal Impact: (what will it cost, where funds will come from, is it budgeted, etc.)</p> <p>Funds have been budgeted in the Navajo County Flood Control District FY 15/16 budget for flood control projects.</p>													
Reviewed and approved by:	<table style="width: 100%; text-align: center; border: none;"> <tr> <td style="width: 14%;">County Manager</td> <td style="width: 14%;">County Attorney</td> <td style="width: 14%;">Human Resources</td> <td style="width: 14%;">Finance</td> <td style="width: 14%;">IT</td> <td style="width: 14%;">Public Works</td> </tr> <tr> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> </table>	County Manager	County Attorney	Human Resources	Finance	IT	Public Works	<input type="checkbox"/>					
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<p>Board Action Taken</p> <table style="width: 100%; text-align: center; border: none;"> <tr> <td style="width: 16%;">Approved</td> <td style="width: 16%;">Denied</td> <td style="width: 16%;">No Action</td> <td style="width: 16%;">Continued</td> <td style="width: 30%;">Continued to:</td> </tr> <tr> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td>_____</td> </tr> </table>		Approved	Denied	No Action	Continued	Continued to:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____		
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<p>Approved with changes as follows: _____</p>													

Clerk's Notes

Date:

Initial:

REMINDER: Email this coversheet and all backup documentation to **BOS.Clerk** by **Noon the Tuesday** before the **BOS meeting**.

INTERGOVERNMENTAL AGREEMENT FOR FLOOD CONTROL PROJECT FUNDING

THIS INTERGOVERNMENTAL AGREEMENT is entered into as of _____ 2015 ("the Effective Date") by and between the Navajo County Flood Control District, a special taxing district organized pursuant to Title 48, Chapter 21 of the Arizona Revised Statutes Navajo County Flood Control District and the Silver Creek Flood Protection District, a special taxing district organized pursuant to Title 48, Chapter 18, Article 10 of the Arizona Revised Statutes.

1. Premises.

- 1.1 The parties are authorized to enter into intergovernmental agreements for joint or cooperative action pursuant to A.R.S. § 11-952.**
- 1.2 The SCFPD and NCFCD recognize that Millet Swale Dam ("the Dam") has safety and structural deficiencies as identified by Dam Safety officials of the Arizona Department of Water Resources.**
- 1.3 The SCFPD, as the owner and operator of the Dam, intends to undertake a construction project (the "Project") to address safety and structural deficiencies. The goal is to add additional height to the Dam and incorporate sand filters to make the Dam structurally sound. The estimated cost for these improvements is \$1.4 million.**
- 1.4 The NCFCD is authorized by A.R.S. § 48-3603(C) (3) to contract and join with a district such as the SCFPD "in acquiring, constructing, maintaining and operating flood control works, and regulating floodplains."**
- 1.5 The Board of Directors of the NCFCD has determined that it is an appropriate use of NCFCD funds to financially assist the SCFPD with the Project and has budgeted \$100,000 for this purpose, subject to the terms and conditions of this Agreement.**

2. The NCFCD's Obligations.

- 2.1 The NCFCD shall reimburse the SCFPD for the eligible costs of the Project, a one-time maximum reimbursement of \$100,000 in matching funds for the construction of the Project. Eligible costs are the actual expenses of the construction costs directly associated with the Project. The SCFPD's administrative and other expenses are not eligible costs, nor are any expenses not directly related to the Project. The NCFCD shall be solely responsible for determining whether an expense is an eligible cost.**

2.1.1 Payment shall be made by the NCFCD within 30 days after receipt of each accurate and complete reimbursement request. Reimbursement requests shall be in writing, shall specify the costs in sufficient detail to enable the NCFCD to determine whether they are eligible costs, and shall include the certification of the Chairman of the Board of the SCFPD that the costs are eligible costs. Reimbursement requests shall not be submitted more frequently than monthly. The NCFCD, at its sole discretion, shall determine whether reimbursement requests are accurate and complete and may withhold reimbursement for incomplete requests.

3. The SCFPD's Obligations.

3.1 The SCFPD shall be solely responsible for the procurement, permitting and construction of the Project and subsequent improvements to the Dam. The SCFPD understands and agrees that the NCFCD's sole participation and obligation with respect to the Project shall be that of a funding source as described in Section 2.1. The Project is not an NCFCD project, and the NCFCD is neither a partner nor a joint venture with the SCFPD in connection with the Project or the improvements to the Dam. The SCFPD shall not represent to any consultant, contractor or any other person that the NCFCD will have any responsibility or liability in connection with the Project except as set forth in this Agreement.

3.1.1 As a condition of the funding to be provided by the NCFCD, the SCFPD shall ensure that all aspects of the Project and the improvements to the Dam meet all federal, state and local dam safety and 100-year flood protection requirements.

3.2 The SCFPD warrants that all procurement in connection with the Project, whether of professional services, other contractual services, or materials or supplies, will be conducted in strict compliance with the requirements of the Arizona Revised Statutes.

3.3 Upon completion of the Project, the SCFPD shall be solely responsible for all construction, maintenance, repairs and operating expenses associated with the improvements to the Dam. The SCFPD shall maintain in force comprehensive liability insurance adequate to insure against all risks associated with the Project and such improvements.

3.4 In addition, the SCFPD shall maintain the Dam intake structure elevation at the existing elevation 5706.16, and assures that the intake valve (valve to be open at all times, unless the Arizona Department of Water Resources deems it to be closed) and outlet pipe to be un-obstructed at all times, and shall provide a copy of an emergency action plan that incorporates this condition as the standard operating procedure.

4. Indemnification.

To the fullest extent permissible by law, the SCFPD shall indemnify, defend and hold harmless the NCFCD and its officers, employees and agents from and against any and all claims, actions, suits, liabilities, damages, losses and expenses arising out of the Project or the construction, maintenance, repair or operation of the improvements to the Dam.

5. General.

5.1 This Agreement shall be effective as of the Effective Date and shall remain in effect for five (5) years after the Project has been substantially completed.

5.2 Requests for reimbursement, payments and other communications relating to this Agreement shall be sent to the intended recipient at the following address. Either party may specify a different address by written notice to the other party:

If to the NCFCD:

If to the SCFPD:

_____	_____
_____	_____
_____	_____
_____	_____

5.3 In the event of any dispute arising out of this Agreement, the parties agree to make a good faith attempt to informally resolve or mediate the dispute before submitting the matter to arbitration pursuant to the provisions of A.R.S. § 12-1518.

5.4 Each party warrants that this Agreement has been duly authorized by its governing body, which the officials executing this Agreement on its behalf have been duly authorized to do so, and that when so executed this Agreement shall constitute a valid and binding obligation of the party.

5.5 The provisions of A.R.S. §38-511, concerning conflicts of interest, are incorporated herein by this reference.

5.6 This Agreement constitutes the entire understanding between the parties with respect to its subject matter, superseding any prior or contemporaneous agreements, whether oral or written, concerning the same subject matter. This Agreement may be amended only by a written document which expressly refers to it and is executed with the same formality by both parties.

5.7 This Agreement shall be recorded with the Navajo County Recorder pursuant to A.R.S. § 11-952.

IN WITNESS WHEREOF, the authorized representatives of the parties have executed this Agreement as of the Effective Date.

**NAVAJO COUNTY FLOOD
CONTROL DISTRICT**

By _____

Chairwoman, Board of Directors

ATTEST:

Clerk of the Board

**SILVER CREEK FLOOD
PROTECTION DISTRICT**

By _____

Chairman, Board of Directors

ATTEST:

Secretary

APPROVE AS TO FORM AND AUTHORITY:

Attorney for the Navajo County Flood Control District