

RESOLUTION NO. R-021- 073

THE BOARD OF COUNTY COMMISSIONERS  
OF THE COUNTY OF DOUGLAS, COLORADO

RESOLUTION APPROVING AN AMENDMENT TO AN INTERGOVERNMENTAL  
AGREEMENT BETWEEN THE MILE HIGH FLOOD DISTRICT AND THE BOARD  
OF COUNTY COMMISSIONERS OF THE COUNTY OF DOUGLAS, COLORADO,  
REGARDING THE FINAL DESIGN, RIGHT-OF-WAY ACQUISITION, AND  
CONSTRUCTION OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR  
HAPPY CANYON CREEK NORTH OF LINCOLN AVENUE, DOUGLAS COUNTY.  
DOUGLAS COUNTY PROJECT NO. FC2015-010.

**WHEREAS**, the Board of County Commissioners of the County of Douglas (the "County") and the Mile High Flood District ("District"), desire to enter into an amendment to that certain intergovernmental agreement, dated November 10, 2015, regarding the final design, right-of-way acquisition and construction of drainage and flood control improvements Happy Canyon Creek north of Lincoln Avenue; and

**WHEREAS**, the County is willing to enter into such an agreement with the District in accordance with the terms and conditions set forth in the Amendment to Intergovernmental Agreement, attached hereto; and

**WHEREAS**, governmental entities are authorized to enter into intergovernmental agreements pursuant to the provisions of Article XIV, Section 18(2)(a) of the Colorado Constitution, and section 29-1-203, C.R.S.; now, therefore,

**BE IT RESOLVED**, BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF DOUGLAS, STATE OF COLORADO, that the amendment to intergovernmental agreement between the Board of County Commissioners of the County of Douglas and the District, a copy of which is attached hereto and incorporated herein, is hereby approved, and the Chair of the Board is authorized to execute the agreement on behalf of Douglas County.

**PASSED AND ADOPTED** this 29<sup>th</sup> day of June, 2021, in Castle Rock, Douglas County, Colorado.

THE BOARD OF COUNTY COMMISSIONERS  
OF THE COUNTY OF DOUGLAS, COLORADO

BY:

DocuSigned by:




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ABE LAYDON, Chair

DocuSigned by:



ATTEST:

DocuSigned by:



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KRISTIN RANDETT, Clerk to the Board

AMENDMENT TO  
AGREEMENT REGARDING  
FINAL DESIGN, RIGHT-OF-WAY ACQUISITION, AND CONSTRUCTION  
OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR  
HAPPY CANYON CREEK NORTH OF LINCOLN AVENUE  
DOUGLAS COUNTY

Agreement No. 15-07.13F  
Project No. 101697

THIS AGREEMENT, by and between URBAN DRAINAGE AND FLOOD CONTROL DISTRICT D/B/A MILE HIGH FLOOD DISTRICT (hereinafter called "DISTRICT") and DOUGLAS COUNTY (hereinafter called "COUNTY") and collectively known as "PARTIES";

WITNESSETH:

WHEREAS, PARTIES have entered into "Agreement Regarding Final Design, Right-of-Way Acquisition, and Construction of Drainage and Flood Control Improvements for Happy Canyon Creek North of Lincoln Avenue" (Agreement No. 15-07.13) dated November 10, 2015, as amended; and

WHEREAS, PARTIES now desire to construct improvements for Happy Canyon Creek north of Lincoln Avenue; and

WHEREAS, PARTIES desire to increase the level of funding by \$70,000; and

WHEREAS, DISTRICT's Board of Directors has authorized additional DISTRICT financial participation for PROJECT (Resolution No. 53, Series of 2021); and

WHEREAS, the County Commissioners of COUNTY and the Board of Directors of DISTRICT have authorized, by appropriation or resolution, all of PROJECT costs of the respective PARTIES.

NOW, THEREFORE, in consideration of the mutual promises contained herein, PARTIES hereto agree as follows:

1. Paragraph 2. SCOPE OF PROJECT is deleted and replaced as follows:
  2. SCOPE OF PROJECT
    - A. Final Design. PROJECT shall include the final design of improvements in accordance with the intent defined in PLAN, with the exception of the recommendations in PLAN for the Dogwood Avenue crossing of Happy Canyon Creek. In addition to the PLAN recommendations, additional alternatives will be developed and fully considered for the Dogwood Avenue crossing, based on cost/benefit considerations and public input.
2. Paragraph 4. PROJECT COSTS AND ALLOCATION OF COSTS is deleted and replaced as follows:
  4. PROJECT COSTS AND ALLOCATION OF COSTS
    - A. PARTIES agree that for the purposes of this Agreement PROJECT costs shall consist of and be limited to the following:
      1. Final design services;
      2. Delineation, description and acquisition of required rights-of-way/ easements;

3. Construction of improvements;
  4. Contingencies mutually agreeable to PARTIES.
- B. It is understood that PROJECT costs as defined above are not to exceed \$2,364,152.17 without amendment to this Agreement.

PROJECT costs for the various elements of the effort are estimated as follows:

<u>ITEM</u>	<u>AS AMENDED</u>	<u>PREVIOUSLY AMENDED</u>
1. Final Design	\$ 162,500.00	\$ 162,500.00
2. Right-of-way	\$ -0-	\$ -0-
3. Construction	\$ 2,021,652.17	\$ 1,951,652.17
4. Contingency	\$ 180,000.00	\$ 180,000.00
Grand Total	\$ 2,364,152.17	\$ 2,294,152.17

This breakdown of costs is for estimating purposes only. Costs may vary between the various elements of the effort without amendment to this Agreement provided the total expenditures do not exceed the maximum contribution by all PARTIES plus accrued interest.

- C. Based on total PROJECT costs, the maximum percent and dollar contribution by each party shall be:

	<u>Percentage Share</u>	<u>Previously Contributed</u>	<u>Additional Contribution</u>	<u>Maximum Contribution</u>
DISTRICT	38.2%	\$ 877,500.00	\$ 70,000.00	\$ 940,500.00
COUNTY	61.8%	\$1,280,000.00	\$ -0-	\$1,280,000.00
Special Funds Transfer		\$ 136,652.17		\$ 136,652.17
TOTAL	100.00%	\$2,294,152.17	\$ 70,000.00	\$2,364,152.17

3. Paragraph 5. MANAGEMENT OF FINANCES is deleted and replaced as follows:

5. MANAGEMENT OF FINANCES

As set forth in DISTRICT policy (Resolution No. 11, Series of 1973, Resolution No. 49, Series of 1977, and Resolution No. 37, Series of 2009), the funding of a local body's one-half share may come from its own revenue sources or from funds received from state, federal, or other sources of funding without limitation and without prior Board approval. Payment of each party's full share (COUNTY - \$1,280,000; DISTRICT - \$940,500) shall be made to DISTRICT subsequent to execution of this Agreement and within 30 days of request for payment by DISTRICT. The payments by PARTIES shall be held by DISTRICT in a special fund to pay for increments of PROJECT as authorized by PARTIES, and as defined herein. DISTRICT shall provide a periodic accounting of PROJECT funds as well as a periodic notification to COUNTY of any unpaid obligations. Any interest earned by the monies contributed by PARTIES shall be accrued to the special fund established by

DISTRICT for PROJECT and such interest shall be used only for PROJECT upon approval by the contracting officers (Paragraph 13).

Within one year of completion of PROJECT if there are monies including interest earned remaining which are not committed, obligated, or disbursed, each party shall receive a share of such monies, which shares shall be computed as were the original shares; or at COUNTY request, COUNTY share of remaining monies shall be transferred to another special fund held by DISTRICT.

4. All other terms and conditions of Agreement No. 15-07.13 shall remain in full force and effect.

WHEREFORE, PARTIES hereto have caused this instrument to be executed by properly authorized signatories as of the date and year written below.

URBAN DRAINAGE AND  
FLOOD CONTROL DISTRICTD/B/A  
MILE HIGH FLOOD DISTRICT

By \_\_\_\_\_

Name Ken A. MacKenzie

Title Executive Director

Date \_\_\_\_\_

BOARD OF COUNTY COMMISSIONERS  
OF THE COUNTY OF DOUGLAS

By: \_\_\_\_\_

Date \_\_\_\_\_

ATTEST:

\_\_\_\_\_

\_\_\_\_\_  
Kristin Randlett, Clerk to the Board

APPROVED AS TO CONTENT:

\_\_\_\_\_  
Douglas J. DeBord, County Manager

APPROVED AS TO FISCAL CONTENT:

\_\_\_\_\_  
Andrew Copland, Director of Finance

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
Lance Ingalls, County Attorney