

RESOLUTION NO. R-021- 104

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

**A RESOLUTION APPROVING AN AMENDMENT TO AN INTERGOVERNMENTAL
AGREEMENT BETWEEN THE URBAN DRAINAGE AND FLOOD CONTROL DISTRICT
AND THE BOARD OF COUNTY COMMISSIONERS OF THE
COUNTY OF DOUGLAS, COLORADO, REGARDING THE DESIGN AND
CONSTRUCTION OF FEE-IN-LIEU DRAINAGE AND FLOOD CONTROL
IMPROVEMENTS FOR WILLOW CREEK UPSTREAM OF RAMPART RANGE ROAD,
DOUGLAS COUNTY**

WHEREAS, the Board of County Commissioners of the County of Douglas (the “County”) and the Urban Drainage and Flood Control District (“District”), desire to enter into an amendment to that certain intergovernmental agreement, dated November 14, 2018, regarding the design and construction of fee-in-lieu drainage and flood control improvements for Willow Creek upstream of Rampart Range Road; 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.

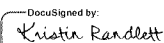
PASSED AND ADOPTED this 14th day of September, 2021, in Castle Rock, Douglas County, Colorado.

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

BY: 
Abe Laydon

Douglas County Commissioners DocuSigned by:

ATTEST:


Kristin Randlett, Clerk to the Board



FIRST AMENDMENT TO
AGREEMENT REGARDING
DESIGN AND CONSTRUCTION
OF FEE-IN-LIEU DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR
WILLOW CREEK UPSTREAM OF RAMPART RANGE ROAD
DOUGLAS COUNTY

Agreement No. 18-03.11A
Project No. 107074

THIS FIRST AMENDMENT TO AGREEMENT (hereinafter called "FIRST AMENDMENT"), 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 Design and Construction of Fee-in-Lieu Drainage and Flood Control Improvements for Willow Creek Upstream of Rampart Range Road" (Agreement No. 18-03.11) dated November 15, 2018 (hereinafter called "AGREEMENT"); and

WHEREAS, PARTIES now desire to proceed with construction of drainage and flood control improvements for Willow Creek upstream of Rampart Range Road (hereinafter called "PROJECT"); and

WHEREAS, DISTRICT, on behalf of COUNTY, shall manage the design and construction of PROJECT for an administrative fee to cover the additional project management costs for PROJECT; and

WHEREAS, the County Commissioners of COUNTY have authorized, by appropriation, resolution or approval of, the Sterling Ranch Planned Development recorded with the Douglas County Clerk and Recorder at Reception No. 2013095325, payment of PROJECT costs of the respective PARTIES.

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

1. 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. Conceptual design
2. Final design services;
3. Construction of improvements;
4. Contingencies mutually agreeable to PARTIES;
5. Administrative Fee

- B. It is understood that PROJECT costs as defined above are not to exceed \$1,576,956 without amendment to this AGREEMENT.

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

<u>PROJECT ITEM</u>	<u>AS AMENDED</u>	<u>ORIGINAL</u>
1. Conceptual Design	\$ 109,199	\$ 109,199
2. Final Design	\$ 138,317	\$ 138,317
3. Construction	\$ 1,214,080	\$ -0-
4. Contingency	\$ 49,503	\$ 49,503
Sub Total	\$ 1,511,099	\$ 297,019
<u>ADMINISTRATIVE ITEM</u>		
5. Final Design Admin. Fee	\$ 15,270	\$ 15,270
6. Construction Admin Fee	\$ 50,587	\$
Grand Total	\$ 1,576,956	\$ 312,289

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.

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

5. MANAGEMENT OF FINANCES

- A. Project Costs. 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 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 DISTRICT approval.

Project Payment by COUNTY of \$1,576,956 shall be made to DISTRICT subsequent to execution of this Agreement and within 30 days of request for payment by DISTRICT. The project payment 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).

- B. Administrative Costs. As set forth in DISTRICT policy (Resolution No. 38, Series of 2017), DISTRICT shall collect administrative fees for Fee-In-Lieu projects to offset DISTRICT staff time required to manage the Final Design and Construction of PROJECT. The administrative fee is nonrefundable and to be held in the Development Service Enterprise Fund.

1. Final Design. The administrative fee is based on a standard one-time charge for final design start-up and close-out cost, plus a monthly final design management cost. The monthly final design management cost will be the rate below per months the PROJECT is in design.

Final Design Start-up Cost	\$2,400
Monthly Final Design Management	\$1,645 per month
Final Design Close-out Cost	\$3,000

2. Construction. The administrative fee is based percentage of the estimated construction costs. The percentage charged is as shown in the following table.

Estimated Construction Cost Range	Percentage
Under \$500,000	8%
\$500,000 - \$1,000,000	6%
\$1,000,000 - \$1,500,000	4%
\$1,500,000 - \$2,000,000	3%
\$2,000,000 - \$3,500,000	2.0%
\$3,500,000 - \$5,000,000	1.5%
\$5,000,000 - \$10,000,000	1.0%
\$10,000,000 - \$15,500,000	0.7%
\$15,500,000 - \$20,000,000	0.6%

3. All other terms and conditions of this AGREEMENT shall remain in full force and effect.

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

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

By _____

Name Ken A. MacKenzie

Title Executive Director

Date _____

Checked By

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