

Resolution No. R-021- 117

**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 (MHFD) (AKA URBAN DRAINAGE AND FLOOD CONTROL DISTRICT - UDFCD), THE CHERRY CREEK BASIN WATER QUALITY AUTHORITY (CCBWQA) 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 NEAR INTERSTATE 25., DOUGLAS COUNTY PROJECT NUMBER FC 2019-012.

WHEREAS, the Board of County Commissioners of the County of Douglas (the “County”), the Cherry Creek Basin Water Quality Authority (“CCBWQA”), and the Urban Drainage and Flood Control District (“District”), desire to enter into an amendment to that certain intergovernmental agreement, dated August 19, 2013, regarding the final design, right-of-way acquisition and construction of drainage and flood control improvements for Happy Canyon Creek near Interstate 25; and

WHEREAS, the County is willing to enter into such an agreement with the District and the CCBWQA 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, the CCBWQA, 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 19th day of October, 2021, in Castle Rock, Douglas County, Colorado.

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

BY:

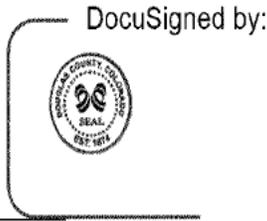
DocuSigned by:
Lora L. Thomas
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LORA L. THOMAS, Chair

ATTEST:

DocuSigned by:
Kristin Randlett
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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 NEAR INTERSTATE 25
DOUGLAS COUNTY

Agreement No. 13-06.01F
Project No. 100464

THIS AGREEMENT, by and between MILE HIGH FLOOD DISTRICT (aka URBAN DRAINAGE AND FLOOD CONTROL DISTRICT (hereinafter called "DISTRICT")), DOUGLAS COUNTY (hereinafter called "COUNTY") and CHERRY CREEK BASIN WATER QUALITY AUTHORITY (hereinafter called "CCBWQA) collectively known as "PARTIES";

WITNESSETH:

WHEREAS, DISTRICT and COUNTY have entered into "Agreement Regarding Final Design, Right-of-Way Acquisition and Construction of Drainage and Flood Control Improvements for Happy Canyon Creek near Interstate 25 Douglas County" (Agreement No. 13-06.01) dated August 19, 2013, as amended; and

WHEREAS, DISTRICT and COUNTY have agreed to add CCBWQA as a funding partner; and

WHEREAS, CCBWQA was not a party to the Original Agreement 13-06.01, and are being added as a party by this Amendment; and

WHEREAS, PARTIES now desire to construct drainage, flood control and water quality improvements for Happy Canyon Creek near I-25; and

WHEREAS, PARTIES desire to increase the level of funding by \$895,598; and

WHEREAS, DISTRICT's Board of Directors has authorized additional DISTRICT financial participation for PROJECT (Resolution No. 54, Series of 2021); and

WHEREAS, the Board of Commissioners of COUNTY and the Board of Directors of DISTRICT and CCBWQA 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 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 \$3,976,427 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	\$200,000	\$ 200,000
2. Right-of-way	\$100,000	\$100,000
3. Construction*	\$3,603,427*	\$2,707,829
4. Contingency	\$73,000	73,000
Grand Total	\$3,976,427*	\$3,080,829

* It is anticipated that additional funding for construction will be brought in through future amendments.

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. At the request of COUNTY, the following COUNTY and DISTRICT funds may be transferred to PROJECT from a separate special fund held by DISTRICT:

Transfer from: T&A #5616

Account No. 50-05-76111-005616

Amount: \$345,598

D. 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>Funds Transfer</u>	<u>Maximum Contribution</u>
DISTRICT	40.81%	\$1,250,000	\$ 200,000	\$172,799	\$1,622,799
COUNTY	52.90%	\$1,830,829	\$ 100,000	\$172,799	\$2,103,628
CCBWQA	6.29%	\$ -0-	\$ 250,000	-0-	\$ 250,000
TOTAL	100.00%	\$3,080,829	\$ 550,000	\$345,598	\$3,976,427

*COUNTY is designing and constructing the reach of Happy Canyon which goes under I-25 as a part of Phase1. As such, \$980,829 will be held by COUNTY.

E. It is understood and agreed that notwithstanding any other provision contained herein to the contrary, any additional contribution obligation of PARTIES hereunder, whether direct or contingent, shall under no circumstances exceed the Maximum Contribution indicated above without prior express written consent of CCBWQA or COUNTY.

2. 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 - \$2,103,628 with the remaining share portion of \$980,829 held by the County pursuant to paragraph 4 above; DISTRICT - \$1,622,799, CCBWQA - \$250,000) 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 and CCBWQA 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 or CCBWQA request, COUNTY or CCBWQA share of remaining monies shall be transferred to another special fund held by DISTRICT.

3. All other terms and conditions of Agreement No. 13-06.01 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 first above written.

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

By _____

Name _____

Title Executive Director

Date _____

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DOUGLAS

ATTEST:

Kristin Randlett, Deputy Clerk to the Board

APPROVED AS TO CONTENT:

Douglas J. DeBord, County Manager

APPROVED AS TO FISCAL CONTENT:

Andrew Copland, Director of Finance

By: _____
Chair

Date _____

APPROVED AS TO LEGAL FORM:

Chris Pratt, Senior Assistant County Attorney

CHERRY CREEK BASIN
WATER QUALITY AUTHORITY

By _____

Name _____

Title _____

Date _____

APPROVED AS TO FORM:

Richard G. Borchardt, Pollution Abatement
Project Manager

