

Resolution No. R-021- 118

**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, AND THE BOARD OF COUNTY
COMMISSIONERS OF THE COUNTY OF DOUGLAS, COLORADO, REGARDING
DESIGN AND CONSTRUCTION OF DRAINAGE AND FLOOD CONTROL
IMPROVEMENTS FOR CHERRY CREEK UPSTREAM OF SCOTT ROAD, DOUGLAS
COUNTY PROJECT NUMBER FC 2020-014.**

WHEREAS, the Board of County Commissioners of the County of Douglas (the “County”), the Cherry Creek Basin Water Quality Authority (“CCBWQA”), and Mile High Flood District (“District”), desire to enter into an amendment to that certain intergovernmental agreement, dated October 21, 2020, regarding the design and construction of flood control improvements for Cherry Creek upstream of Scott Road; and

WHEREAS, the County is willing to enter into such an agreement with the District and CCBWQA in accordance with the terms and conditions set forth in the 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 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 RANDLETT, Clerk to the Board

DocuSigned by:



SECOND AMENDMENT TO
AGREEMENT REGARDING
DESIGN AND CONSTRUCTION
OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR
CHERRY CREEK UPSTREAM OF SCOTT ROAD
DOUGLAS COUNTY

Agreement No. 20-01.12B
Project No. 107751

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

WITNESSETH:

WHEREAS, PARTIES have entered into "Agreement Regarding Design and Construction of Drainage and Flood Control Improvements for Cherry Creek Upstream of Scott Road, Douglas County" (Agreement No. 20-01.12) dated October 21, 2020 (hereinafter called "AGREEMENT"); and

WHEREAS, PARTIES now desire to construct drainage and flood control improvements for Cherry Creek upstream of Scott Road (hereinafter called "PROJECT"); and

WHEREAS, PARTIES desire to increase the level of funding by \$340,000; and

WHEREAS, the Board of Directors of CCBWQA, 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 4. PROJECT COSTS AND ALLOCATION OF COSTS Subparagraphs B, C, and D are deleted and replaced as follows:

4. PROJECT COSTS AND ALLOCATION OF COSTS

B. It is understood that PROJECT costs as defined above are not to exceed \$2,465,000 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	\$ 250,000	\$ 250,000
2. Construction	\$ 2,215,00	\$ 1,875,000
3. Contingency	\$ -0-	\$ -0-
Grand Total	\$ 2,465,000	\$ 2,125,000

*It is anticipated that funds for construction shall be added to this Agreement at a future date.

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	20.28%	\$ 500,000		\$ 500,000
CCBWQA	25.36%	\$ 625,000		\$ 625,000
COUNTY	54.36%	\$1,000,000	\$340,000	\$1,340,000
TOTAL	100.00%	\$2,125,000	\$340,000	\$2,465,000

- D. 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 (CCBWQA - \$625,000; COUNTY - \$1,340,000; DISTRICT - \$500,000) 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 CCBWQA and 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 CCBWQA

and COUNTY request, CCBWQA and COUNTY share of remaining monies shall be transferred to another special fund held by DISTRICT.

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

ATTEST:

By: _____
Chair

Date _____

Kristin Randlett, Deputy Clerk to the Board

APPROVED AS TO CONTENT:

APPROVED AS TO LEGAL FORM:

Douglas J. DeBord, County Manager

Chris Pratt, Assistant County Attorney

APPROVED AS TO FISCAL CONTENT:

Andrew Copland, Director of Finance

CHERRY CREEK BASIN
WATER QUALITY AUTHORITY

By_____

Name_____

Title_____

Date_____

APPROVED AS TO FORM:

Richard G. Borchardt, Pollution Abatement
Project Manager