

Resolution No. R-021- 119

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)), 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 PROJECT  
NUMBER DV 2018-402.

*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 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*

A4883FF633E6444

LORA L. THOMAS, Chair

ATTEST:

DocuSigned by:

*Kristin Randlett*

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KRISTIN RANDETT, Clerk to the Board

DocuSigned by:



SECOND 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. 18-03.11B  
Project No. 107074

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") 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, PARTIES desire to increase the level of funding by \$562,871; 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 \$2,139,827 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>PREVIOUSLY AMENDED</u>
1.	Conceptual Design	\$	109,199	\$	109,199
2.	Final Design	\$	138,317	\$	138,317
3.	Construction	\$	1,776,951	\$	1,214,080
4.	Contingency	\$	49,503	\$	49,503
	<b>Sub Total</b>	\$	<b>1,834,593</b>	\$	<b>1,511,099</b>
	<u>ADMINISTRATIVE ITEM</u>				
5.	Final Design Admin. Fee	\$	15,270	\$	15,270
6.	Construction Admin Fee	\$	50,587	\$	50,587
	<b>Grand Total</b>	\$	<b>2,139,827</b>	\$	<b>1,576,956</b>

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.

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

Transfer From: Sterling Gulch Upstream of Titan Road

Account No. 107247, Agreement No. 18-07.05, Amount: \$239,377

C. Based on Total Project Costs, the maximum percent and dollar contribution by each party shall be:

	<u>Percentage Share</u>	<u>Maximum Contribution</u>
DISTRICT	-0-%	\$0
COUNTY	100%	\$1,576,956
Additional Contribution		\$ 323,494
Special Fund Transfer		\$ 239,377
TOTAL	100.00%	\$2,139,827

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 \$2,139,827 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 SECOND 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: \_\_\_\_\_

Date \_\_\_\_\_

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

APPROVED AS TO CONTENT:

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

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
Chris Pratt, Senior Asst. County Attorney

APPROVED AS TO FISCAL CONTENT:

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