

**CITY OF CASTLE PINES**

**RESOLUTION NO. 19-35**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO  
APPROVING A SECOND AMENDMENT TO AN INTERGOVERNMENTAL AGREEMENT  
WITH THE URBAN DRAINAGE AND FLOOD CONTROL DISTRICT FOR THE FINAL  
DESIGN AND CONSTRUCTION OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS  
FOR THE CANYONS**

**WHEREAS**, Part 2 of Article 1 of Title 29 of the Colorado Revised Statutes, as amended, authorizes and enables governmental entities within the State of Colorado to enter into cooperative agreements or contracts with one another to provide such functions, services or facilities lawfully authorized to each of them; and

**WHEREAS**, the City of Castle Pines (“City”) and the Urban Drainage and Flood Control District, D/B/A Mile High Flood District, a special district organized under Title 32 of the Colorado Revised Statutes (“UDFCD” or “District”), previously entered into an intergovernmental agreement to facilitate the design and construction of drainage and flood control improvements (the “Project”) for the Canyons development within the City’s boundaries (“IGA”); and

**WHEREAS**, the developers and owners of the Canyons have agreed, through a separate funding agreement with the City, to fully fund the design and construction of the Project in order to be eligible for maintenance of the drainage and flood control improvement by UDFCD in the future; and

**WHEREAS**, since execution of the IGA, the estimated cost for the design of the Project has increased from Four Hundred Thirteen Thousand Seven Hundred Eighty-Five Dollars and Two Cents (\$413,785.02) to One Million One Hundred Twenty One Thousand Seventy-Seven Dollars and Two Cents (\$1,121,077.02) with the first amendment and now One Million Eight Hundred and Twenty Nine Thousand Three Hundred and Sixty-Four Dollars and Twenty Five Cents (\$1,829,364.25), which necessitates an amendment to the IGA; and

**WHEREAS**, the execution of the attached second amendment to the IGA between the City and UDFCD shall be contingent upon the execution of an amended Canyons Funding Agreement by the City and the Canyons and the deposit of the total funding amount from the Canyons into an account with the City; and

**WHEREAS**, it is in the best interests of the City to execute an amended intergovernmental agreement with the UDFCD to facilitate the Project.

**THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF CASTLE PINES, COLORADO, THAT:**

**Section 1.** The City Council hereby: (a) approves the Second Amendment to an IGA with the District for the design and construction of drainage and flood control improvements in the Canyons development in substantially the same form as attached hereto as **Exhibit A**, and approved as to form by the City Attorney (the “IGA”), contingent upon the execution of a separate Canyons Funding Agreement by and between the City and the owners and developers of the Canyons and receipt of funds from the responsible owners and developers; (b) authorizes the City Attorney to finalize and to make such changes as may be needed to correct any nonmaterial errors or language or to negotiate such changes to the IGA as may be appropriate and that do not increase the obligations of the City; and (c) authorizes the Mayor or

City Manager to execute the IGA when in final form and only after execution of the Canyons Funding Agreement and the City's actual receipt of all funds necessary for the Project.

Section 2. Effective Date. This Resolution shall take effect upon its approval by the City Council.

**INTRODUCED, READ AND ADOPTED AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO** by a vote of 6 in favor, 0 against and 1 absent this 10th day of December, 2019.



ATTEST:

DocuSigned by:  
*Tobi Basile*  
AD93A3B92032400...  
Tobi Basile, City Clerk

DocuSigned by:  
*Tera Stave Radloff*  
6E0C8EB270DC479...  
Tera Stave Radloff, Mayor

Approved as to form:  
DocuSigned by:  
*Linda C. Michow*  
5244DE06B8FF444...  
Linda C. Michow, City Attorney

AMENDMENT TO  
AGREEMENT REGARDING  
FINAL DESIGN AND CONSTRUCTION  
OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR  
NEWLIN GULCH BETWEEN INTERSTATE 25 AND RUETER HESS RESERVOIR  
CITY OF CASTLE PINES

Agreement No. 17-07.08B  
Project No. 106799

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

WITNESSETH:

WHEREAS, PARTIES have entered into "Agreement Regarding Final Design and Construction of Drainage and Flood Control Improvements for Newlin Gulch between Interstate 25 and Rueter Hess Reservoir, City of Castle Pines" (Agreement No. 17-07.08) dated September 12, 2017; and

WHEREAS, PARTIES now desire to construct drainage and flood control improvements for Newlin Gulch between Interstate 25 and Rueter Hess Reservoir; and

WHEREAS, PARTIES desire to increase the level of funding by \$708,287.23; and

WHEREAS, the City Council of CITY 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 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. Construction of improvements;
3. Contingencies mutually agreeable to PARTIES.

B. It is understood that PROJECT costs as defined above are not to exceed \$1,829,364.25 without amendment to this Agreement.

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

<u>ITEM</u>	<u>AS</u>	<u>Previously</u>
	<u>AMENDED</u>	<u>Amended</u>
1. Final Design	\$ 1,121,077.02	\$ 1,121,077.02
3. Construction	\$ 708,287.23	\$ -0-
4. Contingency	\$ -0-	\$ -0-
Grand Total	\$ 1,829,364.25	\$ 1,121,077.02

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</u>	<u>Previously</u>	<u>Additional</u>	<u>Maximum</u>
	<u>Share</u>	<u>Contributed</u>	<u>Contribution</u>	<u>Contribution</u>
DISTRICT	0.00%	\$ -0-	\$ -0-	\$ -0-
CITY	100.00%	\$1,121,077.02	\$708,287.23	\$1,829,364.25
TOTAL	100.00%	\$1,121,077.02	\$708,287.23	\$1,829,364.25

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 (CITY - \$1,829,364.25 DISTRICT - \$-0-) 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 CITY 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 CITY

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

- 3. All other terms and conditions of Agreement No. 17-07.08 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 DISTRICT  
D/B/A MILE HIGH FLOOD DISTRICT

By \_\_\_\_\_

Name Ken A. MacKenzie

Title Executive Director

Date \_\_\_\_\_

\_\_\_\_\_  
Checked By

CITY OF CASTLE PINES

By \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_