

SECOND AMENDMENT TO  
AGREEMENT REGARDING  
DESIGN AND CONSTRUCTION  
OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR  
NEWLIN GULCH AT RECREATION DRIVE

Agreement No. 21-05.23B  
Project No. 108504

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"); TOWN OF PARKER (hereinafter called "TOWN"); 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 Newlin Gulch at Recreation Drive" (Agreement No. 21-05.23) dated October 4, 2021, as amended, (hereinafter called "AGREEMENT"); and

WHEREAS, PARTIES now desire to proceed with ongoing design and construction of drainage and flood control improvements for Newlin Gulch at Recreation Drive (hereinafter called "PROJECT"); and

WHEREAS, PARTIES desire to increase the level of funding by \$300,000.00; and

WHEREAS, DISTRICT's Board of Directors has authorized additional DISTRICT financial participation for PROJECT (Resolution No. 67, Series of 2025); and

WHEREAS, the TOWN Council of TOWN, 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 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 \$800,000.00 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	\$ 500,000.00	\$ 400,000.00
2.	Construction*	\$ 300,000.00	\$ 100,000.00
3.	Contingency	\$ -0-	\$ -0-
	Grand Total	\$ 800,000.00	\$ 500,000.00

\* 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	50.00%	\$250,000.00	\$150,000.00	\$400,000.00
TOWN	12.50%	\$100,000.00	-0-	\$100,000.00
COUNTY	37.50%	\$150,000.00	\$150,000.00	\$300,000.00
TOTAL	100.00%	\$500,000.00	\$300,000.00	\$800,000.00

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 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.

Payment of each PARTY's full share (TOWN - \$100,000.00; COUNTY - \$300,000.00; DISTRICT - \$400,000.00) 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 TOWN 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 in excess of 10,000, 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 TOWN or COUNTY request, TOWN or COUNTY share of remaining monies shall be transferred to another special fund held by DISTRICT.

3. Paragraph 15. AMENDMENTS is deleted and replaced as follows:

15. AMENDMENTS

This Agreement contains all of the terms agreed upon by and among PARTIES. Any amendments to this Agreement shall be in writing. Amendments affecting only specific PARTIES, whether through changes in scope or additional funding contributions, shall require the written approval of the impacted PARTIES. All other PARTIES unaffected by the amendment shall acknowledge the amendment in writing, and their acknowledgement shall be sufficient to meet the requirements of this Agreement.

4. 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 Laura A. Kroeger

Title Executive Director

Date \_\_\_\_\_

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

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

TOWN OF PARKER

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

ATTEST:

By: \_\_\_\_\_  
Joshua Rivero, Mayor

Date \_\_\_\_\_

\_\_\_\_\_  
Town Clerk's Office

APPROVED AS TO FORM AND SUFFIECIENCY:

\_\_\_\_\_  
Town Attorney's Office

**BOARD OF COUNTY COMMISSIONERS  
OF DOUGLAS COUNTY**

---

Abe Laydon, Chair

**ATTEST:**

---

Deputy Clerk to the Board

**APPROVED AS TO CONTENT:**

---

Douglas J. DeBord,  
County Manager

**APPROVED AS TO FORM:**

---

Christopher Pratt,  
Sr. Assistant County Attorney

**APPROVED AS TO FISCAL CONTENT:**

---

Andrew Copeland,  
Director of Finance