

**MEMORANDUM OF AGREEMENT
BETWEEN THE FOUNTAIN CREEK WATERSHED, FLOOD CONTROL AND GREENWAY
DISTRICT AND THE CITY OF COLORADO SPRINGS FOR GRANT MATCHING FUNDS**

Recitals

WHEREAS, The Fountain Creek Watershed, Flood Control and Greenway District (“District”) was established by Senate Bill 09-141 to manage, administer and fund the capital improvements necessary in the Fountain Creek Watershed and the Fountain Creek Watershed Management Area, and specifically having as one objective, to develop Watershed Restoration Master Plans that will be used as actionable plans to repair damage caused by storms and flooding to creeks in the Fountain Creek Watershed; and

WHEREAS, the City of Colorado Springs is a home-rule city and municipal corporation organized under Article XX, Section 6 of the Colorado Constitution; and

WHEREAS, the Fountain Creek Watershed, Flood Control and Greenway District, in partnership with the City of Colorado Springs, Colorado Springs Utilities and El Paso County submitted an application for a special release of funds from the Colorado Watershed Restoration Program. The Colorado Water Conservation Board (“CWCB”) accepted applications from counties affected by the September 2013 floods. Applications were accepted for watershed and stream master planning in flood affected watersheds. Master plans should guide communities towards prioritization and implementation of stream rehabilitation and restoration projects that protect life and property from flood hazards. The affected counties eligible for funding included El Paso County. The CWCB recommended that the applicant provide 50% match of the project’s total cost; and

WHEREAS, the District did receive a CWCB Contract on March 26, 2014 for \$175,000 matched by \$175,000 collectively from the District, The City of Colorado Springs, Colorado Springs Utilities and El Paso County, to prepare a Watershed Restoration Master Plan for Upper Fountain Creek and Cheyenne Creek; and

WHEREAS, the City of Colorado Springs, in the interest of supporting the CWCB grant, will provide grant matching funds in FY 2014 to the District in the amount of \$100,000, subject to the following provisions:

NOW, THEREFORE, the Fountain Creek Watershed, Flood Control and Greenway District and the City of Colorado Springs (individually, “Party” and collectively, “Parties”), based on the mutual promises and considerations below, agree as follows:

1. The City of Colorado Springs agrees to provide grant matching funds which may only be used to fund the preparation of a Watershed Restoration Master Plan for Upper Fountain Creek and Cheyenne Creek.
2. The District will serve as Project Manager and will hold monthly project progress meetings with the City of Colorado Springs and other Stakeholders to demonstrate performance under the grant and to permit stakeholder technical participation in the development of grant documentation.
3. The District will provide to the City of Colorado Springs a copy of all project documentation produced for the project at the completion of the project.

4. To the extent authorized by law, the District agrees that it shall indemnify, defend, and hold harmless the City, its officers, employees and agents, from and against any and all loss, damage, injuries, claims, cause or causes of action, or any liability resulting from, arising out of, or in connection with the District's negligence in performing its obligations or actions under this Agreement.
5. The District has full responsibility for the cost of the project and for meeting grant requirements. The City of Colorado Springs assumes no responsibility for performance of the grant requirements and assumes no obligation to provide additional funds required for the project that may arise from any reason.

Any notices or correspondence associated with this Agreement shall be directed to:

For the District:

Larry Small
Executive Director
Fountain Creek Watershed, Flood Control and Greenway District
P.O. Box 26373
Colorado Springs, CO 80936-6373

For the City of Colorado Springs:

Tim Mitros
Engineering Development Review and Stormwater Manager
City Administration Building
30 South Nevada Ave.
Colorado Springs, CO 80903

This Memorandum of Agreement to be effective this ____ day of _____ 2014 as witnessed by the following signatories:

For the District:

Eva Montoya
Chairman, Board of Directors
Fountain Creek Watershed, Flood Control and Greenway District

Dated

Attest:

Richard Skorman
Secretary
Fountain Creek Watershed, Flood Control and Greenway District

Dated

For the City of Colorado Springs:

Steve Bach Dated
Mayor
City of Colorado Springs

Attest:

Sarah B. Johnson Dated
City Clerk
City of Colorado Springs