

RESOLUTION NO. 74-15

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A MEMORANDUM OF AGREEMENT BETWEEN THE FOUNTAIN CREEK WATERSHED, FLOOD CONTROL AND GREENWAY DISTRICT AND THE CITY OF COLORADO SPRINGS FOR GRANT MATCHING FUNDS FOR THE PREPARATION OF A WATERSHED RESTORATION MASTER PLAN FOR MONUMENT CREEK

WHEREAS, the Fountain Creek Watershed, Flood Control and Greenway District, in partnership with the City of Colorado Springs, Colorado Springs Utilities, El Paso County and the United States Air Force Academy submitted an application to the Colorado Department of Local Affairs under the Community Development Block Grant-Disaster Recovery ("CDBG-DR") Resilience Planning Grant Program; and

WHEREAS, the Fountain Creek Watershed, Flood Control and Greenway District received grant award notification from the Colorado Department of Local Affairs on April 1, 2015, for \$300,000.00; and

WHEREAS, the terms of the grant require a match of \$300,000.00 collectively from the City of Colorado Springs (\$150,000.00), Colorado Springs Utilities (\$50,000.00), El Paso County (\$50,000.00), and the United States Air Force Academy (\$50,000.00), to prepare a Watershed Restoration Master Plan for Monument Creek; and

WHEREAS, City Council finds that it is in the best interest of the citizens of Colorado Springs to support the CDBG-DR Resilience Planning Grant by providing matching funds in Fiscal Year 2015 to the Fountain Creek Watershed, Flood Control and Greenway District in the amount of \$150,000, subject to execution of the attached Memorandum of Agreement.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:**

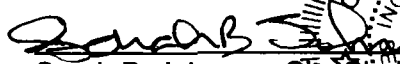
Section 1. The Mayor is hereby authorized to execute and administer the Memorandum of Agreement between the Fountain Creek Watershed, Flood Control and Greenway District and the City of Colorado Springs for Grant Matching Funds, attached hereto and incorporated herein as "Exhibit A".

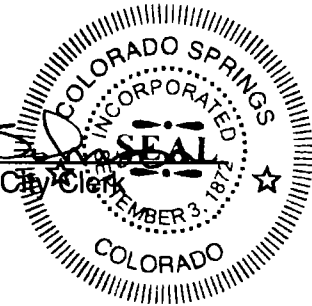
Section 2. Any future amendments to the Memorandum of Agreement increasing the City's funding match commitment must be approved by a subsequent City Council resolution.

DATED at Colorado Springs, Colorado, this 28<sup>th</sup> day of July, 2015.

  
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Merv Bennett, Council President

ATTEST:

  
Sarah B. Johnson, City Clerk



**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 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 Colorado municipal corporation (the “City”), organized under Article XX, Section 6 of the Colorado Constitution; and

WHEREAS, the District, in partnership with the City, Colorado Springs Utilities, El Paso County and the United States Air Force Academy submitted an application to the Colorado Department of Local Affairs (“DOLA”) under the Community Development Block Grant - Disaster Recovery (“CDBG-DR”), Resilience Planning Grant Program. DOLA 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 toward 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; and

WHEREAS, the District did receive a grant award from DOLA on April 1, 2015 for \$300,000.00 matched by \$300,000.00 collectively from the City, Colorado Springs Utilities, El Paso County and the United States Air Force Academy, to prepare a Monument Creek Watershed Restoration Master Plan; and

WHEREAS, the City, in the interest of supporting the DOLA grant, will provide matching funds in the City’s Fiscal Year 2015 to the District in the amount of \$150,000.00, subject to the following provisions:

NOW, THEREFORE, the District and the City, based on the mutual promises and considerations below, agree as follows:

1. The City agrees to provide grant matching funds, which have been appropriated through the 2015 budget approval process, in the amount of \$150,000.00 which may only be used by the District to fund the preparation of a Monument Creek Watershed Restoration Master Plan.
2. The District will serve as Fiscal Agent and Project Manager and will hold monthly project progress meetings with the City and other Stakeholders to demonstrate performance under the grant and permit stakeholder technical participation in the development of grant documentation.
3. The District will provide to the City 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 assumes no responsibility for the 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:

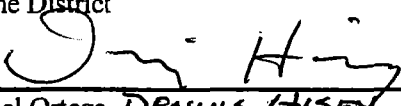
Larry Small  
Executive Director  
Fountain Creek watershed, Flood Control and Greenway District  
P.O. Box 26373  
Colorado Springs, CO 80936-6373

For the City:

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

This Memorandum of Agreement is to be effective this 28 day of AUGUST, 2015, as witnessed by the following signatories:

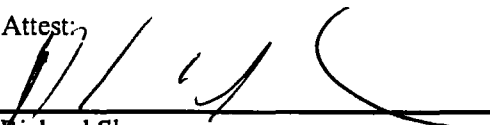
For the District

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28 AUGUST 2015  
Dated  
~~Gabriel Ortega~~ DENNIS HISBY  
Chairman, Board of Directors  
Fountain Creek Watershed, Flood Control and Greenway District

Attest:

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28 AUGUST 2015  
Date  
Richard Skorman  
Secretary  
Fountain Creek Watershed, Flood Control and Greenway District

For the City of Colorado Springs

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July 30, 2015  
Date  
Mayor John W. Suthers  
City of Colorado Springs

Attest:

*Sarah B. Johnson*  
Sarah B. Johnson  
City Clerk  
City of Colorado Springs



*July 31, 2015*  
Dated

APPROVED AS TO FORM

*[Handwritten Signature]*

SENIOR ATTORNEY  
CITY OF COLORADO SPRINGS