

**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 ____ day of _____, 2015, as witnessed by the following signatories:

For the District

Gabriel Ortega
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

Date

For the City of Colorado Springs

Mayor John W. Suthers
City of Colorado Springs

Dated

Attest:

Sarah B. Johnson
City Clerk
City of Colorado Springs

Dated

APPROVED AS TO FORM



SENIOR ATTORNEY
CITY OF COLORADO SPRINGS