

SECOND AMENDMENT TO
AGREEMENT REGARDING
FINAL DESIGN, RIGHT-OF-WAY ACQUISITION, AND CONSTRUCTION
OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR
IRONDALE GULCH AT HIGHWAY 2
CITY OF COMMERCE CITY

Agreement No. 21-04.28B
Project No. 107303

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") and CITY OF COMMERCE CITY (hereinafter called "CITY") and collectively known as "PARTIES";

WITNESSETH:

WHEREAS, PARTIES have entered into "Agreement Regarding Final Design, Right-of-Way Acquisition and Construction of Drainage and Flood Control Improvements for Irondale Gulch at Highway 2" (Agreement No. 21-04.28) dated December 18, 2021, (hereinafter called "AGREEMENT"); and

WHEREAS, PARTIES now desire to proceed with the design, right-of-way acquisition and construction of drainage and flood control improvements for Irondale Gulch at Highway 2 (hereinafter called "PROJECT"); and

WHEREAS, PARTIES desire to increase the level of funding by \$600,000; and

WHEREAS, DISTRICT's Board of Directors has authorized additional DISTRICT financial participation for PROJECT (Resolution No. 25, Series of 2023); 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. Delineation, description and acquisition of required rights-of-way/ easements;
 3. Construction of improvements;
 4. Contingencies mutually agreeable to PARTIES.

B. It is understood that PROJECT costs as defined above are not to exceed \$1,400,000 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	\$	200,000	\$	200,000
2. Right-of-way	\$	1,200,000	\$	600,000
3. Construction	\$	-0-	\$	-0-
4. Contingency	\$	-0-	\$	-0-
Grand Total	\$	1,400,000	\$	800,000

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%	\$400,000	\$300,000	\$700,000
CITY	50.00%	\$400,000	\$300,000	\$700,000
TOTAL	100.00%	\$800,000	\$600,000	\$1,400,000

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 DISTRICT approval.

Within 30 days of request for payment by CITY, DISTRICT shall remit to CITY 50% of these costs attributed to PROJECT, up to DISTRICT's full share of \$700,000. CITY shall provide a periodic accounting of PROJECT funds as well as a periodic notification to DISTRICT of any unpaid obligations.

3. 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 _____

Title Executive Director

Date _____

Checked By

CITY OF COMMERCE CITY

By _____

Name Benjamin A. Huseman

Title Mayor

Date _____

(SEAL)

ATTEST:

Dylan A. Gibson, City Clerk

APPROVED AS TO FORM:

John-Patrick Sansom, Assistant City Attorney