

AGREEMENT REGARDING
ADAMS COUNTY SOUTH PLATTE WORKING GROUP
SOUTH PLATTE RIVER

Agreement No. 19-06.08
Project No. 107709

THIS AGREEMENT, by and between URBAN DRAINAGE AND FLOOD CONTROL DISTRICT (hereinafter called "DISTRICT") and ADAMS COUNTY (hereinafter called "COUNTY") and collectively known as "PARTIES";

WITNESSETH:

WHEREAS, DISTRICT, in a policy statement previously adopted, (Resolution No. 14, Series of 1970 and Resolution No. 11, Series of 1973) expressed an intent to assist public bodies which have heretofore enacted floodplain regulation measures; and

WHEREAS, PARTIES participated in a joint planning study titled "Major Drainageway Planning South Platte River in Adams County, Colorado" by Camp Dresser & McKee, Inc. dated April 2002 (hereinafter called "SPR PLAN"); and

WHEREAS, PARTIES now desire to proceed with establishing a working groups for the South Platte River to provide a River Vision for the Adams County reach that includes floodplain management, trails, parks and recreation (hereinafter called "PROJECT"); and

WHEREAS, DISTRICT's Board of Directors reviewed and authorized expenditures for the 2019 Work Program (Resolution No.66, Series of 2018); and

WHEREAS, 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. SCOPE OF AGREEMENT

This Agreement defines the responsibilities and financial commitments of PARTIES with respect to PROJECT.

2. SCOPE OF PROJECT

A. PROJECT shall include organizing and facilitating meetings with the selected working group members. Members include an elected official and the manager from the county and from each municipality that touches the South Platte River through the DISTRICT in COUNTY. The DISTRICT and Metro Wastewater Reclamation District will also be included as members.

The purpose of PROJECT is to develop a River Corridor Visioning Guidance document to provide overarching goals and core values for the river corridor that bring together river management, recreation and land use. The vision document will provide the direction and

guidance for a conceptual river corridor plan that will be developed in another phase of work.

3. PUBLIC NECESSITY

PARTIES agree that the work performed pursuant to this Agreement is necessary for the health, safety, comfort, convenience, and welfare of all the people of the State, and is of particular benefit to the inhabitants of PARTIES and to their property therein.

4. PROJECT COSTS AND ALLOCATION OF COSTS

- A. PARTIES agree that for the purposes of this Agreement PROJECT costs shall consist of establishing a working group to develop a River Corridor Visioning Guidance document.
- B. It is understood that PROJECT costs as defined above are not to exceed \$75,000 without amendment to this Agreement.

PROJECT costs for the various elements of the effort are estimated as follows:

<u>ITEM</u>	<u>AMOUNT</u>
1. Organizing and Facilitating Meetings	\$ 40,000
2. River Corridor Visioning Guidance Document	\$ 25,000
3. Contingency	\$ 10,000
Grand Total	\$ 75,000

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, if applicable.

- C. Based on total PROJECT costs, the maximum percent and dollar contribution by each party shall be:

	<u>Percentage Share</u>	<u>Maximum Contribution</u>
DISTRICT	50.00%	\$37,500
COUNTY	50.00%	\$37,500
TOTAL	100.00%	\$75,000

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.

Payment of each party's full share (COUNTY - \$37,500; DISTRICT - \$37,500) 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 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 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 COUNTY request, COUNTY share of remaining monies shall be transferred to another special fund held by DISTRICT.

6. RIVER CORRIDOR VISIONING GUIDANCE DOCUMENT

DISTRICT shall contract with The Greenway Foundation to provide the visioning guidance document as well as organizing and facilitating the working group meetings.

The River Corridor Visioning Guidance Document shall consist of, but not be limited to, the following:

- A. Executive Summary;
- B. Identify the purpose, goals, and how the working group will work together to realize the vision for the river in COUNTY;
- C. Background research of previous studies along the river;
- D. List potential funding partners;
- E. Identify next steps for the working group.

7. OWNERSHIP OF PROPERTY AND LIMITATION OF USE

COUNTY shall own the property either in fee or non-revocable easement and shall be responsible for same. It is specifically understood that the right-of-way is being used for drainage and flood control purposes. The properties upon which PROJECT is constructed shall not be used for any purpose that shall diminish or preclude its use for drainage and flood control purposes. COUNTY may not dispose of or change the use of the properties without approval of DISTRICT. If, in the future, COUNTY disposes of any portion of or all of the properties acquired upon which PROJECT is constructed pursuant to this Agreement; changes the use of any portion or all of the properties upon which PROJECT is constructed pursuant to this Agreement; or modifies any of the improvements located on any portion of the properties upon which PROJECT is constructed pursuant to this Agreement; and COUNTY has not obtained the written approval of DISTRICT prior to such action, COUNTY shall take any and all action necessary to reverse said unauthorized

activity and return the properties and improvements thereon, acquired and constructed pursuant to this Agreement, to the ownership and condition they were in immediately prior to the unauthorized activity at COUNTY's sole expense. In the event COUNTY breaches the terms and provisions of this Paragraph 7 and does not voluntarily cure as set forth above, DISTRICT shall have the right to pursue a claim against COUNTY for specific performance of this portion of the Agreement.

8. FLOODPLAIN REGULATION

COUNTY agrees to regulate and control the floodplain of South Platte River within COUNTY in the manner prescribed by the National Flood Insurance Program and prescribed regulations thereto as a minimum.

PARTIES understand and agree, however, that COUNTY cannot obligate itself by contract to exercise its police powers. If COUNTY fails to regulate the floodplain of South Platte River within COUNTY in the manner prescribed by the National Flood Insurance Program and prescribed regulations thereto as a minimum, DISTRICT may exercise its power to do so and COUNTY shall cooperate fully.

9. TERM OF AGREEMENT

Despite the date that this Agreement is signed by PARTIES, the term of this Agreement shall commence upon the earlier of the date of final execution by all PARTIES or December 31 of the year that it is tendered to COUNTY for execution and shall terminate three (3) years after the final payment is made to the construction contractor and the final accounting of funds on deposit at DISTRICT is provided to all PARTIES pursuant to Paragraph 5 herein, except for Paragraph 10. FLOODPLAIN REGULATION, Paragraph 7.C. Ownership of Property and Limitation of Use, and Paragraph 9. MAINTENANCE, which shall run in perpetuity.

10. LIABILITY

Each party hereto shall be responsible for any suits, demands, costs or actions at law resulting from its own acts or omissions and may insure against such possibilities as appropriate.

11. CONTRACTING OFFICERS

- A. The contracting officer for COUNTY shall be the Engineering Manager, 4430 S. Adams County Parkway, Suite 2000B, Brighton, CO 80601.
- B. The contracting officer for DISTRICT shall be the Executive Director, 2480 West 26th Avenue, Suite 156B, Denver, Colorado 80211.
- C. The contracting officers for PARTIES each agree to designate and assign a PROJECT representative to act on the behalf of said PARTIES in all matters related to PROJECT undertaken pursuant to this Agreement. Each representative shall coordinate all PROJECT-related issues between PARTIES, shall attend all progress meetings, and shall be responsible for providing all available PROJECT-related file information to the engineer upon request by DISTRICT or COUNTY. Said representatives shall have the authority for

all approvals, authorizations, notices or concurrences required under this Agreement.

However, in regard to any amendments or addenda to this Agreement, said representative shall be responsible to promptly obtain the approval of the proper authority.

12. RESPONSIBILITIES OF PARTIES

DISTRICT shall be responsible for coordinating with COUNTY the information developed by the various consultants hired by DISTRICT and for obtaining all concurrences from COUNTY needed to complete PROJECT in a timely manner. COUNTY agree to review all concept plans, preliminary design plans, and final plans and specifications; and to provide comments within 21 calendar days after the drafts have been provided by DISTRICT to COUNTY.

13. AMENDMENTS

This Agreement contains all of the terms agreed upon by and among PARTIES. Any amendments to this Agreement shall be in writing and executed by PARTIES hereto to be valid and binding.

14. SEVERABILITY

If any clause or provision herein contained shall be adjudged to be invalid or unenforceable by a court of competent jurisdiction or by operation of any applicable law, such invalid or unenforceable clause or provision shall not affect the validity of the Agreement as a whole and all other clauses or provisions shall be given full force and effect.

15. APPLICABLE LAWS

This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado. Jurisdiction for any and all legal actions regarding this Agreement shall be in the State of Colorado and venue for the same shall lie in the county where PROJECT is located.

16. ASSIGNABILITY

No party to this Agreement shall assign or transfer any of its rights or obligations hereunder without the prior written consent of the nonassigning party or parties to this Agreement.

17. BINDING EFFECT

The provisions of this Agreement shall bind and shall inure to the benefit of PARTIES hereto and to their respective successors and permitted assigns.

18. ENFORCEABILITY

PARTIES hereto agree and acknowledge that this Agreement may be enforced in law or in equity, by decree of specific performance or damages, or such other legal or equitable relief as may be available subject to the provisions of the laws of the State of Colorado.

19. TERMINATION OF AGREEMENT

This Agreement may be terminated upon thirty (30) days' written notice by any party to this Agreement, but only if there are no contingent, outstanding contracts. If there are contingent, outstanding contracts, this Agreement may only be terminated upon the cancellation of all

contingent, outstanding contracts. All costs associated with the cancellation of the contingent contracts shall be shared between PARTIES in the same ratio(s) as were their contributions.

20. PUBLIC RELATIONS

It shall be at COUNTY's sole discretion to initiate and to carry out any public relations program to inform the residents in PROJECT area as to the purpose of PROJECT and what impact it may have on them. Technical information shall be presented to the public by the selected engineer. In any event DISTRICT shall have no responsibility for a public relations program, but shall assist COUNTY as needed and appropriate.

21. NO DISCRIMINATION IN EMPLOYMENT

In connection with the performance of work under this Agreement, PARTIES agree not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified because of race, color, ancestry, creed, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability and further agree to insert the foregoing provision in all subcontracts hereunder.

22. APPROPRIATIONS

Notwithstanding any other term, condition, or provision herein, each and every obligation of COUNTY and/or DISTRICT stated in this Agreement is subject to the requirement of a prior appropriation of funds therefore by the appropriate governing body of COUNTY and/or DISTRICT.

23. NO THIRD PARTY BENEFICIARIES

It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to PARTIES, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person on such Agreement. It is the express intention of PARTIES that any person or party other than any one of PARTIES receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

24. ILLEGAL ALIENS

PARTIES agree that any public contract for services executed as a result of this intergovernmental agreement shall prohibit the employment of illegal aliens in compliance with §8-17.5-101 C.R.S. *et seq.* The following language shall be included in any contract for public services:

- A. At the time of execution of this Agreement, CONTRACTOR does not knowingly employ or contract with an illegal alien who will perform work under this Agreement.
- B. CONTRACTOR shall participate in the E-Verify Program, as defined in § 8 17.5-101(3.7), C.R.S., to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.

- C. CONTRACTOR shall not knowingly employ or contract with an illegal alien to perform work under this Agreement.
- D. CONTRACTOR shall not enter into a contract with a subconsultant or subcontractor that fails to certify to CONTRACTOR that it shall not knowingly employ or contract with an illegal alien to perform work under this Agreement.
- E. CONTRACTOR shall confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement through participation in the E-Verify Program.
- F. CONTRACTOR is prohibited from using the E-Verify Program procedures to undertake pre-employment screening of job applicants while performing its obligation under this Agreement, and that otherwise requires CONTRACTOR to comply with any and all federal requirements related to use of the E-Verify Program including, by way of example, all program requirements related to employee notification and preservation of employee rights.
- G. If CONTRACTOR obtains actual knowledge that a subconsultant or subcontractor performing work under this Agreement knowingly employs or contract with an illegal alien, it will notify such subconsultant or subcontractor and PARTIES within three (3) days. CONTRACTOR shall also then terminate such subconsultant or subcontractor if within three (3) days after such notice the subconsultant or subcontractor does not stop employing or contracting with the illegal alien, unless during such three (3) day period the subconsultant or subcontractor provides information to establish that the subconsultant or subcontractor has not knowingly employed or contracted with an illegal alien.
- H. CONTRACTOR shall comply with any reasonable request made in the course of an investigation by the Colorado Department of Labor and Employment under authority of § 8-17.5-102(5), C.R.S.
- I. CONTRACTOR shall, within twenty days after hiring an employee who is newly hired for employment to perform work under this Agreement, affirms that it has examined the legal work status of such employees, retained file copies of the documents required by 8 U.S.C. Section 1324a, and not altered or falsified the identification documents for such employees. CONTRACTOR shall provide a written, notarized copy of the affirmation to PARTIES.

25. GOVERNMENTAL IMMUNITIES

PARTIES hereto intend that nothing herein shall be deemed or construed as a waiver by any party of any rights, limitations, or protections afforded to them under the Colorado Governmental Immunity Act (§ 24-10-101, *et seq.*, C.R.S.) as now or hereafter amended or otherwise available at law or equity.

26. INTENT OF AGREEMENT

Except as otherwise stated herein, this Agreement is intended to describe the rights and responsibilities of and between PARTIES and is not intended to and shall not be deemed to confer rights upon any person or entities not named as PARTIES, nor to limit in any way the powers and responsibilities of COUNTY, DISTRICT or any other entity not a party hereto.

27. EXECUTION IN COUNTERPARTS – ELECTRONIC SIGNATURES

This Agreement, and all subsequent documents requiring the signatures of PARTIES to this Agreement, may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. PARTIES approve the use of electronic signatures for execution of this Agreement, and all subsequent documents requiring the signatures of PARTIES to this Agreement. Only the following two forms of electronic signatures shall be permitted to bind PARTIES to this Agreement, and all subsequent documents requiring the signatures of PARTIES to this Agreement.

- A. Electronic or facsimile delivery of a fully executed copy of a signature page; or
- B. The image of the signature of an authorized signer inserted onto PDF format documents.


Documents requiring notarization may also be notarized by electronic signature, as provided above.

All use of electronic signatures shall be governed by the Uniform Electronic Transactions Act, CRS §§ 24-71.3-101 to -121.

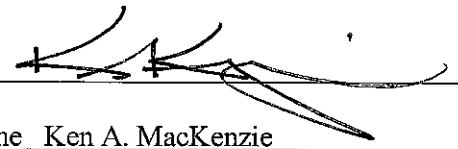
WHEREFORE, PARTIES hereto have caused this instrument to be executed by properly authorized signatories as of the date and year first above written.

WHEREFORE, PARTIES hereto have caused this instrument to be executed by properly authorized signatories as of the date and year written below.

URBAN DRAINAGE AND
FLOOD CONTROL DISTRICT



 Checked By

By 
 Name Ken A. MacKenzie
 Title Executive Director
 Date 11/21/19

ADAMS COUNTY

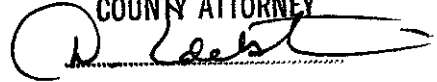
By Steven J. O'Dorisio

Name Steven J. O'Dorisio

Title Chair

Date 10/10/19

APPROVED AS J.D. PER
COUNTY ATTORNEY



BOARD OF COUNTY COMMISSIONERS FOR
ADAMS COUNTY, STATE OF COLORADO

RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT REGARDING
ADAMS COUNTY SOUTH PLATTE WORKING GROUP SOUTH PLATTE RIVER

Resolution 2019-672

WHEREAS, Adams County received a proposal for the development of a river corridor visioning guidance document for the Platte River Corridor from the Greenway Foundation in January of 2019; and,

WHEREAS, the County referred this proposal to the Urban Drainage and Flood Control District (UDFCD) for consideration; and,

WHEREAS, the subject IGA proposes a cost share between the County and UDFCD to support the production of a River Corridor Visioning Guidance document for the South Platte River; and,

WHEREAS, this document will present overarching goals and core values for the river corridor that bring together river management, recreation, and land use; and,

NOW, THEREFORE, BE IT RESOLVED, by the Board of County Commissioners, County of Adams, State of Colorado, that the Agreement Regarding Adams County South Platte Working Group South Platte River be approved.

BE IT FURTHER RESOLVED, that the Chair is hereby authorized to sign said agreement on behalf of Adams County.

Upon motion duly made and seconded the foregoing resolution was adopted by the following vote:

Henry _____ Aye
Tedesco _____ Aye
Pinter _____ Aye
O'Dorisio _____ Aye
Hodge _____ Aye
Commissioners

STATE OF COLORADO)
County of Adams)

I, Josh Zygielbaum, County Clerk and ex-officio Clerk of the Board of County Commissioners in and for the County and State aforesaid do hereby certify that the annexed and foregoing Order is truly copied from the Records of the Proceedings of the Board of County Commissioners for said Adams County, now in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County, at Brighton, Colorado this 10th day of December, A.D. 2019.

County Clerk and ex-officio Clerk of the Board of County Commissioners

Josh Zygielbaum:



By:

E-Signed by Erica Hannah
VERIFY authenticity with e-Sign

Deputy

