

SUBJECT: APPROVAL OF RESOLUTION NO. 14, SERIES 2024 – A
RESOLUTION APPROVING A FOURTH AMENDMENT TO THE
AGREEMENT WITH THE URBAN DRAINAGE AND FLOOD
CONTROL DISTRICT D/B/A MILE HIGH FLOOD DISTRICT FOR
DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR
COAL CREEK DRAINAGEWAY A-1 AT GARFIELD AVENUE

DATE: MARCH 19, 2024

PRESENTED BY: KURT KOWAR, PUBLIC WORKS

SUMMARY:

Staff recommends approval to amend the Intergovernmental Agreement (IGA) with Urban Drainage and Flood Control District D/B/A Mile High Flood District (District) for the allocation of additional funds to the Coal Creek Drainageway A-1 at Garfield Avenue project (hereinafter called Drainageway A-1 Project). This amendment would increase the project funding by \$160,000 with the City and the District each contributing an additional \$80,000.

This agreement between the City and the District will allocate additional funding for the Drainageway A-1 Project improvements currently being constructed in conjunction with the District. The additional funding request is due to the need for additional construction services during the project including inspection, material testing, and submittal of the Letter of Map Revision (LOMR) necessary for removing buildings adjacent to the project out of the floodplain. The additional funding will also provide a construction contingency, not previously included for the project. The Drainageway A-1 project will remove buildings from the floodplain at Cottonwood Drive and Garfield Avenue by upsized piping and channels increasing flow capacity. This project is currently in the construction phase with construction anticipated conclude in spring/summer of 2024. This amendment would include matching funds from the District for the Drainageway A-1 Project Improvements.

Council has previously approved a total of three amendments to the IGA (July 28, 2020, August 2, 2022, and June 20, 2023) to move the Bullhead Gulch Project funds to the Drainageway A-1 project, and to provide additional funding. With the new addition of funds and the originally planned funding, the District account will have \$1,922,807 allocated to the Drainageway A-1 project. Upon completion of the Drainageway A-1 project, any leftover funding will be moved to future planned drainageway projects in conjunction with the District such as the Drainageway 7-1 project.

SUBJECT: RESOLUTION NO. 14, SERIES 2024

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PAGE 2 OF 3

FISCAL IMPACT:

The \$80,000 requested additional funds from the City will require a budget amendment to account 503499-630150. This amendment has been accounted for in the most recent utility rates for the storm water fund.

The project funding by year is as follows:

Current and Proposed Funds

YEAR	Drainageway A-1 Garfield / Cottonwood City Funds	The District Funds	Yearly Totals	Notes
2020	\$483,258	\$379,549	\$862,807	Transfer from Bullhead Gulch Fund (Original IGA)
2020	\$250,000	\$250,000	\$500,000	Amendment 1 Drainageway A-1 Funding for 2020
2022	\$150,000	\$150,000	\$300,000	Amendment 2 Drainageway A-1 Funding 2022
2023	-	\$100,000	\$100,000	Amendment 3 Drainageway A-1 Funding 2023
2024	Proposed \$80,000	Proposed \$80,000	\$160,000	Amendment 4 Drainageway A-1 Funding 2024
TOTAL	\$963,258	\$959,549	\$1,922,807	

PROGRAM/SUB-PROGRAM IMPACT:

Maintain the City of Louisville storm water system to protect Coal Creek specifically and the natural and built environment generally. Proactively reduce pollutants in the water by educating the public, sweeping the streets, maintaining an efficient & effective storm water system and leveraging intergovernmental partnerships. The project improves storm drainage function and leverages intergovernmental partnerships.

RECOMMENDATION:

Staff recommends City Council pass Resolution No., Series 2024 authorizing the Mayor to sign the attached Agreement on behalf of the City.

ATTACHMENT(S):

CITY COUNCIL COMMUNICATION

SUBJECT: RESOLUTION NO. 14, SERIES 2024

DATE: MARCH 19, 2024

PAGE 3 OF 3

1. Resolution
2. Amendment 4

STRATEGIC PLAN IMPACT:

☒	 Financial Stewardship & Asset Management	☒	 Reliable Core Services
☐	 Vibrant Economic Climate	☐	 Quality Programs & Amenities
☐	 Engaged Community	☐	 Healthy Workforce
☐	 Supportive Technology	☐	 Collaborative Regional Partner

**RESOLUTION NO. 14
SERIES 2024**

**A RESOLUTION APPROVING A FOURTH AMENDMENT TO THE AGREEMENT
WITH THE URBAN DRAINAGE AND FLOOD CONTROL DISTRICT D/B/A MILE
HIGH FLOOD DISTRICT FOR DRAINAGE AND FLOOD CONTROL IMPROVEMENTS
FOR COAL CREEK DRAINAGEWAY A-1 AT GARFIELD AVENUE**

WHEREAS, the City of Louisville ("City") and Urban Drainage and Flood Control District d/b/a Mile High Flood District ("District") entered into that certain Agreement Regarding Final Design, Right-of-Way Acquisition and Construction of Drainage and Flood Control Improvements for Coal Creek Drainageway A-1 at Garfield Avenue, City of Louisville, dated July 30, 2020 ("Agreement"); and

WHEREAS, on December 1, 2020, the City and District amended the Agreement to increase the funding for the construction of drainage and flood control improvements covered under the Agreement by \$500,000, with each party contributing \$250,000 ("First Amendment"); and

WHEREAS, the City and District amended the Agreement for a second time to increase the funding for the construction of drainage and flood control improvements covered under the Agreement by \$300,000, with each party contributing \$150,000 ("Second Amendment"), bringing the City's total contribution under the Agreement, as amended, to \$883,257.95; and

WHEREAS, the City and District desire to amend the Agreement for a third time to increase the funding for the construction of drainage and flood control improvements covered under the Agreement by \$100,000, with the District contributing the entire amount ("Third Amendment"), keeping the City's total contribution under the Agreement, as amended, to \$883,257.95; and

WHEREAS, the City and District desire to amend the Agreement for a fourth time to increase the funding for the construction of drainage and flood control improvements under the Agreement by \$160,000, with half of this increase to be contributed by the City and the other half by the District, increasing the total project cost to \$1,922,806.55, bringing the City's maximum contribution to \$883,257.95.

WHEREAS, the City Council finds that the proposed Fourth Amendment is in the best interest of the City and its residents.

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

1. The City Council hereby approves the proposed Fourth Amendment to Agreement Regarding Final Design, Right-of-Way Acquisition, and Construction of

Drainage and Flood Control Improvements for Coal Creek Drainageway A-1 at Garfield Avenue City of Louisville ("Fourth Amendment"), in essentially the same form as the copy of such Fourth Amendment accompanying this Resolution.

2. The Mayor is authorized to execute the Fourth Amendment on behalf of the City, except that the Mayor is hereby further granted authority to negotiate and approve such revisions to said Fourth Amendment as the Mayor determines are necessary or desirable for the protection of the City, so long as the essential terms and conditions of the Fourth Amendment are not altered.

3. The Mayor, City Manager, Director of Public Works and City staff are hereby authorized to execute all documents and do all other things necessary on behalf of the City to perform the obligations of the City under the Agreement as amended by the First, Second, Third and Fourth Amendments.

PASSED AND ADOPTED this 19th day of March, 2024.

Christopher M. Leh, Mayor

ATTEST:

Meredyth Muth, City Clerk

FOURTH AMENDMENT TO
AGREEMENT REGARDING
FINAL DESIGN, RIGHT-OF-WAY ACQUISITION, AND CONSTRUCTION
OF DRAINAGE AND FLOOD CONTROL IMPROVEMENTS FOR
COAL CREEK DRAINAGEWAY A-1 AT GARFIELD AVENUE
CITY OF LOUISVILLE

Agreement No. 20-02.26D
Project No. 107315

THIS FOURTH AMENDMENT TO AGREEMENT (hereinafter called "FOURTH AMENDMENT"), by and between URBAN DRAINAGE AND FLOOD CONTROL DISTRICT D/B/A MILE HIGH FLOOD DISTRICT (hereinafter called "DISTRICT") and CITY OF LOUISVILLE (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 Coal Creek Drainageway A-1 at Garfield Avenue, City of Louisville" (Agreement No. 20-02.26) dated July 30, 2020, as amended (hereinafter called "AGREEMENT"); and

WHEREAS, PARTIES now desire to construct drainage and flood control improvements on Coal Creek Drainageway A-1 at Garfield Avenue (hereinafter called "PROJECT"); and

WHEREAS, PARTIES desire to increase the level of funding by \$160,000; and

WHEREAS, DISTRICT's Board of Directors has authorized additional DISTRICT financial participation for PROJECT (Resolution No. 11, Series of 2024); 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 \$1,922,806.55 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	\$ -0-	\$ -0-
3. Construction	\$ 1,722,806.55	\$ 1,562,806.55
4. Contingency	\$ -0-	\$ -0-
Grand Total	\$ 1,922,806.55	\$ 1,762,806.55

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.

- 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	49.9%	\$879,548.60	\$80,000	\$959,548.60
Special Fund Transfer				
CITY	50.1%	\$883,257.95	\$80,000	\$963,257.95
Special Fund Transfer				
TOTAL	100.00%	\$1,762,806.55	\$160,000	\$1,922,806.55

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 Board approval.

Payment of each PARTY's full share (CITY - \$1,008,257.95; DISTRICT - \$1,004,548.60) 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 CITY 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 CITY request, CITY share of remaining monies shall be transferred to another special fund held by DISTRICT.

3. All other terms and conditions of this AGREEMENT shall remain in full force and effect.

WHEREFORE, PARTIES hereto have caused this FOURTH 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 Laura A. Kroeger

Title Executive Director

Date_____

Checked By

CITY OF LOUISVILLE

By_____

Name_____

Title_____

Date_____