

AMENDMENT TO  
AGREEMENT REGARDING RIGHT-OF-WAY ACQUISITION  
FOR DRAINAGE AND FLOOD CONTROL IMPROVEMENTS ON  
HOFFMAN DRAINAGEWAY, ADAMS COUNTY

Agreement No. 97-09.01C

THIS AGREEMENT, dated \_\_\_\_\_, 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, PARTIES have entered into "Agreement Regarding Right-of-Way Acquisition for  
Drainage and Flood Control Improvements on Hoffman Drainageway, Adams County" (Agreement No.  
97-09.01) dated December 31, 1997, as amended; and

WHEREAS, PARTIES desire to increase the level of funding by \$4,788,000 in order to proceed  
with construction; 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. Paragraph 5. PROJECT COSTS AND ALLOCATION OF COSTS is deleted and replaced as follows:

5. 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 \$5,740,500 without amendment to this Agreement.

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

		PREVIOUSLY
<u>ITEM</u>	<u>AS AMENDED</u>	<u>AMENDED</u>
1. Final Design	\$ 450,000	\$100,000
2. Right-of-way	50,000	400,000
3. Construction	5,199,400	411,400
4. Contingency	41,100	41,100
Grand Total	\$5,740,500	\$952,500

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	6.1%	\$150,000	\$ 200,000	\$ 350,000
COUNTY	93.9%	\$802,500	\$4,588,000	\$5,390,500
TOTAL	100.0%	\$952,500	\$4,788,000	\$5,740,500

2. Paragraph 6. MANAGEMENT OF FINANCES is deleted and replaced as follows:

6. 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 (COUNTY - \$5,390,500; DISTRICT - \$350,000) 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.

3. Paragraph 8. MANAGEMENT OF CONSTRUCTION is deleted and replaced as follows:

8. MANAGEMENT OF CONSTRUCTION

- A. Costs. Construction costs shall consist of those costs as incurred by the most qualified contractor(s) including detour costs, licenses and permits, utility relocations, and construction related engineering services as defined in Paragraph 4 of this Agreement.

B. Construction Management and Payment

1. DISTRICT, with the assistance of COUNTY, shall administer and coordinate the construction-related work as provided herein.
2. DISTRICT, with assistance and approval of COUNTY, shall select and award construction contract(s).
3. DISTRICT shall require the contractor to provide adequate liability insurance that includes COUNTY. The contractor shall be required to indemnify COUNTY. Copies of the insurance coverage shall be provided to COUNTY.
4. DISTRICT, with assistance of COUNTY, shall coordinate field surveying; staking; inspection; testing; acquisition of right-of-way; and engineering as required to construct PROJECT. DISTRICT, with assistance of COUNTY, shall assure that construction is performed in accordance with the construction contract documents including approved plans and specifications and shall accurately record the quantities and costs relative thereto. Copies of all inspection reports shall be furnished to COUNTY on a weekly basis. DISTRICT shall retain an engineer to perform all or a part of these duties.
5. DISTRICT, with approval of COUNTY, shall contract with and provide the services of the design engineer for basic engineering construction services to include addendum preparation; survey control points; explanatory sketches; revisions of contract plans; shop drawing review; as-built plans; weekly inspection of work; and final inspection.
6. PARTIES shall have access to the site during construction at all times to observe the progress of work and conformance to construction contract documents including plans and specifications.
7. DISTRICT shall review and approve contractor billings and send them to COUNTY for approval. DISTRICT shall remit payment to contractor based on billings approved by PARTIES.
8. DISTRICT, with assistance and written concurrence by COUNTY, shall prepare and issue all written change or work orders to the contract documents.
9. PARTIES shall jointly conduct a final inspection and accept or reject the completed PROJECT in accordance with the contract documents.
10. DISTRICT shall provide COUNTY a set of reproducible "as-built" plans.

- C. Construction Change Orders. In the event that it becomes necessary and advisable to change the scope or detail of the work to be performed under the contract(s), such changes shall be rejected or approved in writing by the contracting officers. No change orders shall be approved that increase the costs beyond the funds available in the PROJECT fund, including interest earned on those funds, unless and until the additional funds needed to pay for the added costs are committed by all PARTIES.

4. All other terms and conditions of Agreement No. 97-09.01 shall remain in full force and effect.

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

URBAN DRAINAGE AND  
FLOOD CONTROL DISTRICT

By\_\_\_\_\_

Title Executive Director

Date\_\_\_\_\_

ADAMS COUNTY

By\_\_\_\_\_

Title\_\_\_\_\_

Date\_\_\_\_\_