

SOUTHEAST METRO STORMWATER AUTHORITY
acting by and through
SEMSWA WATER ACTIVITY ENTERPRISE

RESOLUTION 26-21

Authorization to Execute Agreement regarding Funding of Major Drainageway
Plan (MDP) for Piney Creek, Sampson Gulch, & Antelope Creek with MHFD

WHEREAS, SEMSWA wishes to participate in a Major Drainageway Plan (MDP) for Piney Creek, Sampson Gulch, & Antelope Creek with Mile High Flood District (MHFD); and

WHEREAS, SEMSWA's service area portion of Piney Creek and Antelope Creek was previously studied in 2011 – by the Piney Creek and Antelope Creek FHAD, in 2012 – by the Piney Creek MDP Conceptual Design Report, and Sampson Gulch was previously studied in 2003 – by the Piney Creek OSP (upper, U/S of Arapahoe Rd); and

WHEREAS, MHFD has included the MDP for Piney Creek, Sampson Gulch, & Antelope Creek in its 2026 Work Program at the request of SEMSWA, City of Aurora, and Douglas County, and

WHEREAS, SEMSWA will be a co-sponsor of the MDP; and

WHEREAS, MHFD will pay \$200,000 (50.0%) of the total project cost (\$400,000) for the MDP, City of Aurora will pay \$90,000 (22.5.0%), Douglas County will pay \$60,000 (15.0%) and SEMSWA will pay \$50,000 (12.5%) as their local cost share; and

WHEREAS, it is customary for SEMSWA to budget an additional fifteen percent (15.0 %) or \$7,500 to cover contingencies that may be encountered during the study such as additional analysis, scope changes, or budget shortfalls due to changes to Master Planning procedures and planning timelines; and

WHEREAS, the total cost of the MDP; including the fifteen percent (15.0%) contingency is \$57,500; and

WHEREAS, SEMSWA desires to study Piney Creek, Sampson Gulch, & Antelope Creek to update the effective hydrologic and hydraulic models with the updated and accepted hydrology information; investigate opportunities to incorporate regional detention and water quality improvements; identify areas of flood risk and/or drainage problems; evaluate and recommend design solutions to address such drainage problems and reduce flood risk; and to prioritize and program future SEMSWA capital improvement and/or maintenance projects; and

WHEREAS, SEMSWA has adopted a budget for calendar year 2026 subsequent to public hearing which includes funds for the MDP.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Board authorizes the Executive Director to execute an Agreement regarding Funding of Major Drainageway Plan for Piney Creek, Sampson Gulch, & Antelope Creek with MHFD.
2. Total cost for the work authorized herein payable to MHFD, including contingency, is limited to \$57,500, without prior authorization of the Board.

SOUTHEAST METRO STORMWATER AUTHORITY
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SEMSWA WATER ACTIVITY ENTERPRISE

Date: June 17, 2026

ATTEST:

Secretary

Chairperson

APPROVED AS TO FORM:
Attorney for
Southeast Metro Stormwater Authority

By _____
Edward J. Krisor

AGREEMENT REGARDING FUNDING OF
MAJOR DRAINAGEWAY PLANNING FOR
PINEY CREEK, SAMPSON GULCH, & ANTELOPE CREEK

Agreement No. 26-01.21
Project No. 110619
Agreement Amount \$400,000

THIS AGREEMENT, by and between URBAN DRAINAGE AND FLOOD CONTROL DISTRICT D/B/A MILE HIGH FLOOD DISTRICT (hereinafter called "DISTRICT"), CITY OF AURORA (hereinafter called "CITY"), SOUTHEAST METRO STORMWATER AUTHORITY (hereinafter called "SEMSWA") and DOUGLAS COUNTY (hereinafter called "COUNTY"); (hereinafter CITY, SEMSWA, and COUNTY shall be known as "PROJECT SPONSORS" and DISTRICT and PROJECT SPONSORS shall be collectively known as "PARTIES");

WITNESSETH THAT:

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

WHEREAS, PARTIES now desire to proceed with development of a drainageway master plan report for Piney Creek, Sampson Gulch, and Antelope Creek (hereinafter called "PROJECT"); and

WHEREAS, DISTRICT's Board of Directors has authorized DISTRICT financial participation for PROJECT (Resolution No. 06 Series of 2026); and

WHEREAS, the governing board (officials) of PROJECT SPONSORS has budgeted, by appropriation or resolution, all of its share of PROJECT costs; and

WHEREAS, PARTIES desire to acquire mapping needed to conduct the engineering studies for PROJECT; and

WHEREAS, PARTIES desire to engage an engineer to render certain technical and professional advice and to compile information, evaluate, study, and recommend design solutions to such drainage problems for PROJECT which are in the best interest of PARTIES.

NOW, THEREFORE, in consideration of the mutual promises contained herein, PARTIES hereto agree as follows:

Part 1

1.01. SCOPE OF AGREEMENT

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

1.02. PROJECT AREA

DISTRICT shall engage an engineer and obtain mapping as needed to perform or supply necessary services in connection with and respecting the planning of PROJECT of the area and watershed shown on the attached Exhibit A dated January 28, 2026, (hereinafter called "AREA").

1.03. SCOPE OF PROJECT

The purpose of PROJECT is to develop a drainageway master plan. The proposed work shall include, but not be limited to, mapping; compilation of existing data; necessary field work; and development and consistent evaluation of all reasonable alternatives so that the most feasible drainage and flood control master plan can be determined and justified for AREA. Consideration shall be given to costs, existing and proposed land use, existing and proposed drainage systems, known drainage or flooding problems, known or anticipated erosion problems, stormwater quality, right-of-way needs, existing wetlands and riparian zones, open space and wildlife habitat benefits, and legal requirements. Schematic alternative plans shall be developed such that comparison with other alternatives can be made.

1.04 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.

1.05 PROJECT COSTS

PARTIES agree that for the purposes of this Agreement PROJECT costs shall consist of, and be limited to, mapping, master planning, and related services and contingencies mutually agreeable to PARTIES. Project costs are not to exceed \$400,000 without amendment to this Agreement.

1.06 FINANCIAL COMMITMENTS OF PARTIES

PARTIES shall each contribute the following percentages and maximum amounts for PROJECT costs as defined in Section 1.05:

	<u>Percentage Share</u>	<u>Master Plan Contribution</u>	<u>Maximum Contribution</u>
CITY	22.5%	\$90,000	\$90,000
SEMSWA	12.5%	\$50,000	\$50,000
COUNTY	15%	\$60,000	\$60,000
DISTRICT	50%	\$200,000	\$200,000
TOTAL	100%	\$400,000	\$400,000

Each PARTY'S payment obligation, whether direct or contingent, extends only to funds budgeted by appropriation or resolution annually by each PARTY'S governing body (officials), paid into the treasury of that PARTY, and encumbered for the purpose of this AGREEMENT. Each PARTY does not by this Agreement irrevocably pledge present cash reserves for payment or performance in future fiscal years. This Agreement does not and is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of each PARTY.

1.07 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 PROJECT SPONSOR's full 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 CITY - \$90,000; SEMSWA - \$50,000; COUNTY - \$60,000; DISTRICT - \$200,000 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 an accounting of PROJECT funds as well as notification to PROJECT SPONSOR(S) of any unpaid obligations upon request. 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 (Section 2.03).

Following completion of PROJECT if there are monies including interest earned remaining, which are not committed, obligated, or disbursed, each party shall be refunded proportional to the PARTY'S contribution; or, at PROJECT SPONSOR request, monies shall be transferred to another special fund held by DISTRICT.

- 1.08 PROJECT MAPPING No new mapping is anticipated under this Agreement for PROJECT. Upon execution of this Agreement, PROJECT SPONSOR(S) shall provide copies of the most recent mapping within its jurisdictional area in digital format to DISTRICT to the extent such mapping is available without additional cost.
- 1.09 MASTER PLANNING
Upon execution of this Agreement, PARTIES shall select an engineer mutually agreeable to PARTIES. DISTRICT shall contract with the selected engineer, shall administer the contract, and shall supervise and coordinate the planning for the development of alternatives and of conceptual design subject to approval of PROJECT SPONSOR(S).
- 1.10 PUBLISHED REPORTS AND PROJECT DATA
DISTRICT will provide to PROJECT SPONSOR(S) access to all draft and final electronic report files. Upon completion of PROJECT, electronic files of all mapping, drawings, and hydrologic and hydraulic calculations developed by the engineer contracted for PROJECT shall be provided to PROJECT SPONSOR(S) upon request. This Paragraph shall survive termination of this Agreement.
- 1.11. RESPONSIBILITIES OF PARTIES
DISTRICT shall be responsible for coordinating with PROJECT SPONSOR(S) the information developed by the various consultants hired by DISTRICT and for obtaining all concurrences from PROJECT SPONSOR(S) needed to complete PROJECT in a timely manner. PROJECT SPONSOR(S) agrees to review all draft reports and to provide comments within 21 calendar days after the draft reports have been provided by DISTRICT to PROJECT SPONSOR(S). PROJECT SPONSOR(S) also agree(s) to evaluate the alternatives presented in the alternatives analysis sections of the report, to select an alternative, and to notify DISTRICT of their decision(s) within 30 calendar days after the alternatives analysis report is provided to PROJECT SPONSOR(S) by DISTRICT.
- 1.12 PUBLIC RELATIONS
It shall be at the sole discretion of the PROJECT SPONSOR(S) 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, if requested by PROJECT SPONSOR(S). In any event DISTRICT shall have no responsibility for a public relations program, but shall assist PROJECT SPONSOR(S) as needed and appropriate.
- 1.13 EXECUTION IN COUNTERPARTS – ELECTRONIC SIGNATURES
Electronic signatures shall be permitted to bind PARTIES to this Agreement, and all subsequent documents requiring the signatures of the PARTIES to this Agreement. Documents requiring notarization may also be notarized by electronic signature. All use of electronic signatures shall be governed by the Colorado Uniform Electronic Transactions Act, §§ 24-71.3-101-121, C.R.S. However, the PARTIES agree that only electronic signatures created by electronic software including but not limited to DocuSign shall be permitted.

Part 2

2.01 TERM OF THE AGREEMENT

The term of this Agreement shall commence upon the execution by all PARTIES and shall terminate two years after the final master planning report is delivered to DISTRICT and the final accounting of funds on deposit at DISTRICT is provided to all PARTIES pursuant to Section 1.07 herein.

2.02 LIABILITY

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

2.03 CONTRACTING OFFICERS

- A. The contracting officer for CITY shall be Director of Utilities, 15151 E. Alameda Ave Aurora, CO 80012.
- B. The contracting officers for SEMSWA shall be Executive Director, 7437 South Fairplay Street, Centennial, CO 80112.
- C. The contracting officer for COUNTY shall be County Engineer, 100 Third St Castle Rock, CO 80104.
- D. The contracting officer for DISTRICT shall be the Executive Director, 12575 W. Bayaud Ave. Lakewood, Colorado 80228.
- 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 PROJECT SPONSOR(S). Said representatives shall have the authority for all approvals, authorizations, notices, or concurrences required under this Agreement. In the case of amendments to this Agreement, contracting officers shall determine which PARTIES are impacted by the amendment and ensure that such PARTIES provide their approval in writing. Unaffected PARTIES shall only be required to acknowledge the amendment in writing, and their acknowledgement shall be sufficient to meet the requirements of this Agreement.

2.04 AMENDMENTS

This Agreement contains all of the terms agreed upon by and among PARTIES. Any amendments to this Agreement shall be in writing. Amendments affecting only specific PARTIES, whether through changes in scope or additional funding contributions, shall require the written approval of the impacted PARTIES. All other PARTIES unaffected by the amendment shall acknowledge the amendment in writing, and their acknowledgement shall be sufficient to meet the requirements of this Agreement.

2.05 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.

2.06 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 the Project is located.

2.07 ASSIGNABILITY

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

2.08 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.

2.09 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.

2.10. 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.

2.11. 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 on the basis of race, color, ancestry, creed, religion, national origin, gender, age, military status, sexual orientation, gender identity, marital status, or physical or mental disability and further agrees to insert the foregoing provision in all contracts stemming from this Agreement.

2.12. APPROPRIATIONS

Notwithstanding any other term, condition, or provision herein, each and every obligation of the PARTIES stated in this Agreement is subject to the requirement of a prior appropriation or resolution of funds therefore by the appropriate governing body (officials) of the respective PARTIES.

2.13. 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 PROJECT SPONSOR(S) or DISTRICT receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

2.14. GOVERNMENTAL IMMUNITIES

The 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.

2.15. 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 PROJECT SPONSOR(S), DISTRICT or any other entity not a party hereto. 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

D/B/A
MILE HIGH FLOOD DISTRICT

By_____

Name Laura A. Kroeger

Title Executive Director

Date_____

Checked By

Checked By

SOUTHEAST METRO STORMWATER AUTHORITY

By_____

Name_____

Title_____

Date_____

CITY OF AURORA

By_____

Name_____

Title_____

Date_____

DOUGLAS COUNTY

By_____

Name_____

Title_____

Date_____

AGREEMENT REGARDING FUNDING OF
MAJOR DRAINAGEWAY PLANNING FOR
PINEY CREEK, SAMPSON GULCH, & ANTELOPE CREEK
Agreement No. 26-01.21
Project No. 110619
EXHIBIT A

