

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

RESOLUTION 25-37

Authorization to Enter into a Reimbursement Agreement for
a Southgate Corporate Center Pond Maintenance

WHEREAS, SEMSWA was formed in part to plan, construct, acquire, operate, and maintain various public drainage and flood control facilities and manage the stormwater quality within its Service Area; and

WHEREAS, the detention pond located at 7336 S Yosemite Street (the "Property") has been inadequately maintained, resulting in impacts to offsite properties, including flooding within the South Yosemite Street right-of-way; and

WHEREAS, a Notice of Noncompliance was issued to the Property owners ("Owners") requiring corrective actions ("Corrective Maintenance") that includes vegetation management and sediment removal to maintain the approved detention volume and cleaning the outlet structure to ensure flows pass in accordance with the approved design, in accordance with the Final Plat recorded with the Arapahoe County Clerk and Recorder at Reception No. A6159448; and

WHEREAS, the Owners lack the necessary funds to complete the required Corrective Maintenance and have requested financial assistance from SEMSWA; and

WHEREAS, SEMSWA has agreed to coordinate and fund the Corrective Maintenance through its on-call maintenance contract, subject to the Owners fully reimbursing SEMSWA in accordance with the terms of a Reimbursement Agreement.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Executive Director is hereby authorized to execute the Reimbursement Agreement with the Owners of 7336 S Yosemite Street for the purpose of managing and initially funding the Corrective Maintenance, attached as Exhibit A.
2. SEMSWA is hereby authorized to provide initial funding not to exceed \$57,410.00 provided that such \$57,410.00 shall be fully reimbursed by the Owners as specified in the Reimbursement Agreement.

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Date: November 19, 2025

ATTEST:

Secretary

Chairperson

APPROVED AS TO FORM:
Attorney for
Southeast Metro Stormwater Authority

By _____
Edward J. Krisor

EXHIBIT A

REIMBURSEMENT AGREEMENT – MAINTENANCE OF A SOUTHGATE CORPORATE CENTER POND

This Reimbursement Agreement (the **“Agreement”**) is entered into as of the ____ day of _____, 2025, by and among **Colorado Realty Holding LLC** and **Maniatitis Medical Properties LLC** (collectively, the **“Owners”**), and the **Southeast Metro Stormwater Authority**, a political subdivision and public corporation of the State of Colorado (**“SEMSWA”**) (each, a **“Party”** and collectively, the **“Parties”**).

This Agreement concerns the reimbursement for maintenance of the Southgate Corporate Center Pond, located at 7336 South Yosemite Street, more particularly described as *Hillside Park at Southgate Corporate Center, Filing No. 2, Lot 2* (the **“Property”**) and as further described In Exhibit A.

RECITALS

WHEREAS, pursuant to the Final Plat recorded with the Arapahoe County Clerk and Recorder at Reception No. A6159448, the Owners are responsible for the maintenance of all drainage facilities located within the Pond Easement and Storm Easement on the Property, including, without limitation, detention volumes, outlet structures, flow restriction devices, and facilities necessary to convey flow to the basins; and

WHEREAS, Colorado Realty Holding LLC and Dry Creek Business Park LLC are the Owners of the Property; and

WHEREAS, on June 9, 2025, SEMSWA issued a Notice of Noncompliance to the Owners for failure to provide adequate drainage maintenance at the Property in accordance with the Final Plat, specifically the inadequate maintenance of the detention pond located within the Pond Easement; and

WHEREAS, the Notice of Noncompliance required the Owners to perform certain corrective actions, including vegetation management and sediment removal to maintain the approved detention volume, cleaning the outlet structure to ensure flows pass in accordance with the approved design, and implementation of an ongoing routine maintenance program for the detention pond (**“Maintenance Project”**); and

WHEREAS, the Owners have expressed a willingness to comply with the Notice of Noncompliance but do not presently have sufficient funds to complete the required maintenance, and have therefore requested financial assistance; and

WHEREAS, SEMSWA is willing to coordinate and fund the required maintenance through its on-call maintenance contract, subject to full reimbursement by the Owners to SEMSWA for the Maintenance Project as set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants, promises, and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

COVENANTS AND AGREEMENTS

1. Definitions and Recitals. Except as otherwise defined herein, all bolded or capitalized terms used in this Agreement shall have the meanings ascribed to them herein. The Recitals set forth above are incorporated into and made a substantive part of this Agreement.

2. Purpose. The purpose of this Agreement is to establish the terms and conditions governing the funding and reimbursement obligations of the Parties with respect to the Maintenance Project.

3. Project Funding. The scope of work associated with the Maintenance Project has been bid as separate construction line items. The estimated cost is as follows:

Maintenance Project: **\$57,410.00** (the “*Maintenance Project Cost*”), based on the bid submitted by SEMSWA’s selected on-call contractor.

4. Reimbursement.

- a) SEMSWA shall initially fund the entire Maintenance Project Cost.
- b) Owners shall reimburse SEMSWA for the actual costs of the Maintenance Project Cost, not to exceed the Maintenance Project Cost, subject to adjustments arising during construction.
- c) Owners shall remit reimbursement payments no later than thirty (30) days following receipt of invoices from SEMSWA. Payment shall be made in five quarterly installments through December 31, 2026. The anticipated repayment schedule is December 2025, March 2026, June 2026, September 2026, and December 2026, with each installment representing a proportionate share of the Maintenance Project Cost. For budgeting purposes, Owners may assume five equal payments of **\$11,482.00**.
- d) If either Owner fails to timely make the payments set forth above, SEMSWA may file a lien against the real property described in Exhibit B for the unpaid payments including reasonable attorney fees and may foreclose the lien.

5. Maintenance Project Administration.

- a) **Contractor and Administration.** SEMSWA has awarded the Maintenance Project to L&M Enterprises (the “*Contractor*”). SEMSWA shall cause the Maintenance Project to be performed in accordance with the approved as-built plans for the drainage facility. All payments to the Contractor shall be subject to customary retention and made in accordance with SEMSWA’s construction administrator’s recommendations.
- b) **Costs Exceeding Maintenance Project Cost.** If SEMSWA reasonably determines that the Maintenance Project will exceed **\$57,410.00**, SEMSWA shall be responsible for any such excess costs, and the Owners shall not be required to contribute additional funds.
- c) **Project Completion.** Unless otherwise agreed by the Parties, within ninety (90) days following substantial completion of the Maintenance Project, SEMSWA shall deliver to the Owners a final accounting of the Maintenance Project Cost (the “*Final Accounting*”). For purposes of this Agreement, the Maintenance Project shall be

deemed substantially complete upon inspection and conditional acceptance by SEMSWA.

6. Miscellaneous.

- a) **Governing Law; Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado. Venue for any action arising out of or relating to this Agreement shall lie exclusively in the District Court of Arapahoe County, Colorado.
- b) **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors, assigns, and legal representatives.
- c) **No Third-Party Beneficiaries.** Nothing contained herein shall be construed to create rights in, or grant remedies to, any third party. The obligations of the Parties with respect to third parties shall remain as provided by law.
- d) **Entire Agreement; Amendments.** This Agreement, together with any exhibits, constitutes the entire agreement between the Parties concerning its subject matter and supersedes all prior agreements or understandings. This Agreement may be amended only by a written instrument executed by all Parties or their respective successors or assigns.
- e) **Notices.** All notices required or permitted under this Agreement shall be in writing and delivered personally, sent by certified mail (return receipt requested), or sent by a recognized overnight courier service with delivery confirmation, addressed as follows (or to such other address as either Party may later designate by written notice):

If to the Owners:

Colorado Reality Holdings, LLC
7336 S Yosemite St, Suite 100
Centennial, CO 80112

Maniatis Medical Properties LLC
7336 S Yosemite St, Suite 200
Centennial, CO 80112

If to SEMSWA:

Dan Olsen, Executive Director
Southeast Metro Stormwater Authority
7437 S. Fairplay St.
Centennial, CO 80112

With a copy to:

Edward J. Krisor, Esq.
3900 South Wadsworth Blvd., Suite 320
Lakewood, CO 80235

Notices shall be deemed effective upon receipt by the intended recipient.

- f) **Default; Remedies.** In the event of a default under this Agreement, the non-defaulting Party may pursue all remedies available at law or in equity, including specific performance and/or monetary damages. In any litigation, arbitration, or other proceeding to enforce this Agreement, the prevailing Party shall be entitled to recover its reasonable attorneys' fees and costs.
- g) **Force Majeure.** Any deadline for performance hereunder shall be extended to the extent delayed by acts of God, labor disputes, material shortages, fire, casualty, or other events beyond the reasonable control of the affected Party.
- h) **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which shall constitute one instrument.
- i) **Severability.** If any provision of this Agreement is held invalid, illegal, or unenforceable, the remaining provisions shall remain in full force and effect. Any such invalid, illegal, or unenforceable provision shall be replaced with a valid and enforceable provision most closely approximating the intent of the original.
- j) **Governmental Immunity.** Nothing herein shall be construed as a waiver of SEMSWA's rights, privileges, or protections under the Colorado Governmental Immunity Act, §§ 24-10-101, et seq., C.R.S., as amended.

Made and entered into as of the date and year first above written.

OWNER
DRY CREEK BUSINESS PARK LLC

By: _____
Name, Title

OWNER
DRY CREEK BUSINESS PARK LLC
COLORADO REALTY HOLDINGS LLC

By: _____
Name, Title

SOUTHEAST METRO STORMWATER
AUTHORITY

By: _____
Dan Olsen, Executive Director

Exhibit A to Reimbursement Agreement Drainage Facility



Exhibit B to Reimbursement Agreement

Legal Description of Ownership

UNIT NO. 100, 7336 SOUTH YOSEMITE COMMERCIAL CONDOMINIMUMS, ACCORDING TO THE CONDOMINIUM MAP OF THE 7336 SOUTH YOSEMITE COMMERCIAL CONDOMINIMUMS RECORDED ON AUGUST 24, 2001, AS RECEPTION NO. B1143632, AND AS DEFINED BY THE CONDOMINIUM DECLARATION OF THE 7336 SOUTH YOSEMITE COMMERCIAL CONDOMINIUM RECORDED ON AUGUST 24, 2001 AT RECEPTION NO. B1143633, IN THE OFFICE OF THE COUNTY CLERK AND RECORDED COUNTY OF ARAPAHOE, STATE OF COLORADO.

ALSO KNOWN AS: 736 SOUTH YOSEMITE ST. #100,
CENTENNIAL CO 80112-2340

AND

UNIT NO. 200, 7336 SOUTH YOSEMITE COMMERCIAL CONDOMINIMUMS, ACCORDING TO THE CONDOMINIUM MAP OF THE 7336 SOUTH YOSEMITE COMMERCIAL CONDOMINIMUMS RECORDED ON AUGUST 24, 2001, AS RECEPTION NO. B1143632, AND AS DEFINED BY THE CONDOMINIUM DECLARATION OF THE 7336 SOUTH YOSEMITE COMMERCIAL CONDOMINIUM RECORDED ON AUGUST 24, 2001 AT RECEPTION NO. B1143633, IN THE OFFICE OF THE COUNTY CLERK AND RECORDED COUNTY OF ARAPAHOE, STATE OF COLORADO.

ALSO KNOWN AS: 736 SOUTH YOSEMITE ST. #200,
CENTENNIAL CO 80112-2340