

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

RESOLUTION NO. 09-08

(Authorization to Utilize the Powers of Eminent Domain in Regard to the Acquisition of Easements on
East Tollgate Creek at the Dove Hill Subdivision)

WHEREAS, East Tollgate Creek flows through the Dove Hill subdivision in unincorporated Arapahoe County; and

WHEREAS, three culverts are undersized within the subdivision, and would be overtopped during flood events; and

WHEREAS, SEMSWA has prepared a Project design and construction contract documents to bring the culverts into compliance with the existing Arapahoe County Stormwater Management Manual; and

WHEREAS, Project costs for design, construction and right-of-way acquisitions are estimated to be \$650,000; and

WHEREAS, the SEMSWA Board in Resolutions No. 47, Series of 2007 and No. 08-18 authorized the \$650,000 to design the Project, negotiate for the right-of-way needed, and construct the Project; and

WHEREAS, the Project requires both temporary construction easements as well as permanent easements at the location of each of the culverts to be replaced; and

WHEREAS, SEMSWA Staff has been negotiating for some time with the various real property owners for the needed real property as well as attending two Homeowners Association meetings for those residents in the neighborhood to explain the need for the Project as well as the specifics of the Project; and

WHEREAS, SEMSWA Staff through these efforts have acquired fifteen of the eighteen needed easements; and

WHEREAS, SEMSWA, pursuant to 29-1-204.2 (3)(f) C.R.S., possess the power of eminent domain; and

WHEREAS, it may be necessary for SEMSWA to use its powers of eminent domain to condemn real property for its use as right-of-way for this Project in the form of easements; and

WHEREAS, the needed easements are necessary for the construction and maintenance of the Project which is for the public use. Specifically, the Project's purpose is the protection of people and property.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Board of SEMSWA authorizes the filing of eminent domain actions for the acquisition of the necessary easements in order to construct and maintain the Project after good faith negotiations have been completed or attempted by SEMSWA Staff or SEMSWA's right-of-way agent.
2. Just compensation, as required by law, shall be offered and paid to all real property owners whose real property is taken by virtue of an eminent domain action filed by SEMSWA in regard to the Project.

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Date: _____

ATTEST:

Secretary

Chairperson

APPROVED AS TO FORM:

Attorney for
Southeast Metro Stormwater Authority

By _____
Edward J. Krisor