

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

RESOLUTION 21-04

Authorization for the Executive Director to Enter into Right of Entry Agreements
with the Board of Water Commissioners, City and County of Denver

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 City and County of Denver, acting by and through its Board of Water Commissioners ("Board") has determined to repurpose the High Line Canal ("Canal") for the purpose of stormwater conveyance and stormwater quality and to retain its additional purposes as a natural resource, regional greenway and recreational amenity over its 70-mile length; and

WHEREAS, the Board will retain ownership of the Canal and local jurisdictions will be offered the opportunity to enter into right of entry agreements (REA) for use of the Canal for the purposes of constructing, installing, operating and maintaining outfalls, water quality facilities and conveyance of stormwater in the Canal; and

WHEREAS, these REAs will require the jurisdiction utilizing the Canal for stormwater purposes to maintain the canal for channel stability and to remove debris and obstructions within the canal that could prevent the free flow of stormwater at that jurisdiction's cost; and

WHEREAS, the recreation portions of the Canal i.e. trail, trees and open space will be maintained by parks departments of a jurisdiction or a parks and recreation district; and

WHEREAS, it is estimated that the cost of Canal stormwater maintenance will range between \$5,000 to \$8,000 per mile annually; and

WHEREAS, there are currently two pending projects within SEMSWA's Service Area that require outfalls into the Canal since there are no other viable alternatives to the conveyance of stormwater from these projects; and

WHEREAS, these projects are the expansion of Franklin Elementary School and an improved pedestrian crossing at Orchard Road; and

WHEREAS, there are many existing outfalls into the Canal along its length in all jurisdictions. These outfalls will be candidates in the future for improved stormwater management utilizing the capacity available in the Canal for future projects such as Big Dry Creek and Littles Creek within SEMSWA's Service Area; and

WHEREAS, SEMSWA Staff has negotiated with the Board's Staff regarding a right of entry to the Canal for a limited length of the Canal between approximately the intersection of South Marion Street and East Peakview Avenue at approximately Big Dry Creek for the purpose of stormwater management; and

WHEREAS, as part of the right of entry SEMSWA will be required to perform certain preliminary maintenance to a limited portion of the Canal, cost of which is estimated at approximately \$30,000. However, The High Line Canal Conservancy has committed to providing financial assistance regarding this effort in no less than the amount of \$15,000 and two sponsored significant debris clean up events in 2021; and

WHEREAS, this right of entry would allow the Franklin Elementary School project to go forward; and

WHEREAS, the improved pedestrian crossing at Orchard Road project will require a similar right of entry agreement; and

WHEREAS, both Staffs believe that the right of entry is fair to both parties and protects the interests and purposes for which each was formed; and

WHEREAS, entering into a right of entry agreement with the Board will further the purpose and mission of SEMSWA and will be in the best interests of SEMSWA's inhabitants.

NOW, THEREFORE, BE IT RESOLVED THAT:

The Executive Director is authorized to enter into a right of entry agreement with the City and County of Denver, acting by and through its Board of Water Commissioners for the purposes of managing stormwater within SEMSWA's Service Area regarding the Franklin Elementary School project and a similar right of entry agreement in the future in regard to the improved pedestrian crossing at Orchard Road project.

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Date: January 20, 2021

ATTEST:

Secretary

Chairperson

APPROVED AS TO FORM:
Attorney for
Southeast Metro Stormwater Authority

By _____
Edward J. Krisor