

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

RESOLUTION NO. 08-06

(Regarding Authorization to Execute an Implementing Intergovernmental Agreement (IIGA) with the Arapahoe County Water and Wastewater Authority (ACWWA) to address the transfer of ACWWA's Stormwater Management Activities and Non-standard NPDES MS4 Permit to SEMSWA)

WHEREAS, pursuant to 29-1-204.2, C.R.S., the Southeast Metro Stormwater Authority ("SEMSWA") was established on September 19, 2006, by the Intergovernmental Agreement (the "Original IGA") *Concerning the Formation of a Drainage Authority Amongst County of Arapahoe, City of Centennial, Arapahoe County Water and Wastewater Authority, East Cherry Creek Valley Water and Sanitation District and Inverness Water and Sanitation District Pursuant to Section 29-1-204.2, C.R.S.*; and,

WHEREAS, the SEMSWA Water Activity Enterprise was established by SEMSWA on September 28, 2006, pursuant to 37-45.1-101, C.R.S., *et.seq.*; and,

WHEREAS, Section I.5(a) of the Original IGA requires SEMSWA to manage stormwater quality and to comply, to the degree legally required, with provisions and permit requirements of National Pollutant Discharge Elimination System ("NPDES") MS4 Stormwater Permits transferred to SEMSWA by the parties to the IGA as well as those obtained in the name of SEMSWA; and,

WHEREAS, ACWWA currently holds a non-standard NPDES MS4 Stormwater permit issued by the State of Colorado (State) and intends to transfer that permit to SEMSWA and for SEMSWA to apply for its own non-standard MS4 stormwater permit within the stormwater service areas of ACWWA for the permit period beginning on or about March 9, 2008; and,

WHEREAS, the State, in order for it to issue a non-standard MS4 Stormwater permit to SEMSWA within the service areas of ACWWA, is requiring that SEMSWA and ACWWA have in place an IIGA setting forth the respective rights and responsibilities of each entity in regard to the non-standard MS4 Stormwater permit to be held by SEMSWA; and

WHEREAS, ACWWA holds interests in land and drainage improvements necessary for the accomplishment of SEMSWA's purposes and intends to promptly transfer such interests to SEMSWA; and

WHEREAS, ACWWA and SEMSWA agree that SEMSWA should proceed with construction of Pond W – 4 and agree on a process for the construction of Pond D1 and D2 located in the ACWWA service area; and

WHEREAS, ACWWA and SEMSWA agree that SEMSWA shall assume certain obligations of ACWWA with regard to the payment of obligations associated with the properties being transferred to SEMSWA which obligations are set forth on Exhibit "A" attached hereto and incorporated herein by reference; and

WHEREAS, in consideration of SEMSWA assuming the Exhibit "A" obligations, ACWWA will cease collecting stormwater system development fees on March 31, 2008; and

WHEREAS, in order to have income to make the payments required under the assumed obligations listed in Exhibit "A", it will be necessary for SEMSWA to begin to collect stormwater system development fees beginning on April 1, 2008 in the service area of ACWWA located within the SEMSWA boundaries; and

WHEREAS, SEMSWA is in process of studying the amount of stormwater development fees that should be collected within its boundaries but has not completed that study as of yet; and

WHEREAS, ACWWA has been collecting stormwater development fees in the service area of ACWWA located within the SEMSWA boundaries and, it is appropriate, until SEMSWA has formally adopted its stormwater system development fees that SEMSWA continue to collect the same fees that have been collected by ACWWA such fees being set forth on Exhibit "B" attached hereto and incorporated herein by reference; and

WHEREAS, ACWWA and SEMSWA desire to enter into an Implementing Intergovernmental Agreement to provide for ACWWA to convey to SEMSWA the necessary interests in land and improvements to enable SEMSWA to administer stormwater programs in ACWWA's stormwater service area and,

WHEREAS, ACWWA and SEMSWA desire to provide for the coordination of activities between ACWWA and SEMSWA to facilitate SEMSWA's administration of stormwater programs in accordance with the MS4 permit requirements and other stormwater to management activities and, to that end, such coordination of activities is addressed in the Implementing Intergovernmental Agreement.

NOW, THEREFORE, it is mutually understood and agreed by the parties as follows:

1. The Board authorizes the Chairman of the Board to execute the Implementing Intergovernmental Agreement with the Arapahoe County Water and Wastewater Authority to transfer the administration of stormwater management programs, including ACWWA's non-standard NPDES MS4 permit from ACWWA to SEMSWA.
2. The Board authorizes the Executive Director of SEMSWA to take all actions necessary to permit the transfer of ACWWA's non-standard NPDES MS4 Permit from ACWWA to SEMSWA; to apply, in the name of SEMSWA, to CDPHE for a non-standard NPDES MS4 permit to be issued in SEMSWA's name and to assume responsibility for

ACWWA's non-standard MS4 permit responsibilities as defined in the Implementing Intergovernmental Agreement.

3. The Board agrees to accept interests in land and improvements from ACWWA necessary for carrying out its stormwater management activities within ACWWA.
4. The Board assumes certain ACWWA obligations as set forth on Exhibit A which provides for payments associated with stormwater agreements to be transferred to SEMSWA.
5. The Board adopts and authorizes the collection of the stormwater system development fees in the ACWWA service area located within the SEMSWA boundaries as set forth on Exhibit B until SEMSWA formally adopts its own stormwater development fees within ACWWA's service area located within the SEMSWA boundaries.

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Date: _____

ATTEST:

Secretary

Chairperson

APPROVED AS TO FORM:

Attorney for
Southeast Metro Stormwater Authority

By _____
Edward J. Krisor