

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

RESOLUTION 21-19  
Authorization to Enter into a Memorandum of Understanding  
Regarding the High Line Canal Collaborative

WHEREAS, SEMSWA was formed to plan, construct, acquire, operate and maintain various drainage and flood control facilities and manage stormwater quality within its boundaries; and

WHEREAS, over the last five years, SEMSWA and the other entities with stormwater management responsibilities in jurisdictions within which the High Line Canal (the Canal) is located together with the Mile High Flood District and the High Line Canal Conservancy (the Parties), have worked together to develop The Plan For The High Line Canal (The Plan) for the repurposing of the Canal to convey stormwater and to provide stormwater quality; and

WHEREAS, the Parties desire to work cooperatively in developing further plans, programs and services consistent with The Plan, uses and purposes of the Canal and associated land, and applicable federal laws, state laws and city, district and county ordinances and regulations as well as the approved plans and policies of each of the Parties; and

WHEREAS, the Parties further desire to develop the organizational infrastructure to develop projects and programs that will be collaboratively prioritized and implemented over time; and

WHEREAS, a Memorandum of Understanding (MOU) regarding management and governance of the High Line Canal and establishment of the Canal Collaborative structure has been prepared (Exhibit 1); and

WHEREAS, the MOU states that participation in the Canal Collaborative and its projects is voluntary, where the Parties are free to decide whether or not to enter into agreements for shared projects and financial cooperation; and

WHEREAS, the MOU will not affect or extend legal responsibilities, create or change pre-existing legal responsibilities or obligations of any of the Parties; and

WHEREAS, participation in the Canal Collaborative will allow SEMSWA to have representatives on the various committees including the Collaborative Forum, the Leadership Team and Technical Advisory committees that will guide priority and funding for future projects in the Canal within SEMSWA's service area.

NOW, THEREFORE, BE IT RESOLVED THAT:

The Board authorizes the Chairman to enter into the MOU to establish and participate in the High Line Canal Collaborative.

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

Date: August 18, 2021

ATTEST:

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Chairperson

APPROVED AS TO FORM:  
Attorney for  
Southeast Metro Stormwater Authority

By \_\_\_\_\_  
Edward J. Krisor



**Memorandum of Understanding Regarding  
The Canal Collaborative  
July 2021**

This Memorandum of Understanding regarding management and governance of the High Line Canal and establishment of The Canal Collaborative structure (this “MOU”) is made and entered into as of the date upon which all parties have signed it (the “Effective Date”) by and among the County of Arapahoe, Colorado (“Arapahoe County”), the City of Aurora, Colorado (“Aurora”), the City of Littleton, Colorado (“Littleton”), the City of Cherry Hills Village, Colorado (“Cherry Hills”), the City and County of Denver, Colorado, **by and through the Department of Parks and Recreation (“Denver Parks”)**, the City and County of Denver, acting by and through its Board of Water Commissioners (“Denver Water”), the County of Douglas, Colorado (“Douglas County”), South Suburban Park and Recreation District (“SSPRD”), the Southeast Metro Stormwater Authority (“SEMSWA”), the City of Greenwood Village, Colorado (“Greenwood Village”), the Highlands Ranch Metropolitan District (“Highlands Ranch Metro”), Mile High Flood District (“MHFD”) and the High Line Canal Conservancy (the “Conservancy”). The entities listed above shall each be referred to as a “Party” and collectively as the “Parties.”

**Recitals**

This MOU, which is intended to create and set forth the understanding of the Parties regarding The Canal Collaborative structure, is made with respect to the following understandings:

A. The High Line Canal and the trail adjacent to the Canal (the “Canal”) is a 71-mile linear corridor that spans over eleven governmental jurisdictions in the Denver metropolitan area from Waterton Canyon in Douglas County to Green Valley Ranch in Northeast Denver. Denver Water holds ownership rights and property interests in the Canal.

B. Over the last five years, the Parties have worked cooperatively, engaging over 5,000 community members and civic leaders to develop The Plan for the High Line Canal (“The Plan”), which lays out clear guidance for repurposing the Canal, improving the health of people and the environment, and increasing accessibility and enjoyment for generations to come.

C. Now that The Plan is complete, the Parties desire to work cooperatively in developing further plans, programs and services consistent with The Plan, uses and purposes of the Canal and associated land, and applicable federal laws, state laws and city, district and county ordinances and regulations as well as the approved plans and policies of each of the Parties.

D. The Parties further desire to develop additional financial and organizational infrastructure to develop services and programs that will be collaboratively prioritized and implemented over time.

E. The Parties would benefit through greater efficiency and cost savings derived from cooperative planning, programming, fundraising and resource stewardship, signage, project management and implementation, education and outreach.

F. The public who enjoy the Canal, volunteers and local constituents experience the Canal as a single regional trail resource, and a collective vision to preserve, protect, enhance and interpret the Canal will galvanize public support, volunteerism and philanthropy.

G. The Parties conclude that due to the connectivity of the Canal corridor, the similar missions of each Party and the mission and purposes for the Canal as described in The Plan, all would benefit from engaging in a collaborative effort to enhance the common protection of the Canal and its resources, monitoring and stewardship of its natural and cultural resources, and appropriate enjoyment of the public.

H. The Parties recognize the importance of collaboration to achieve the following goals:

i. To preserve, protect and enhance the Canal as a regional greenway and stormwater management system.

ii. To connect the public to the value of the Canal and the conservation of its natural resources and multiple benefits.

iii. To improve the enjoyment of the Canal by the visiting public and provide a more seamless visitor experience across the Canal corridor.

iv. To establish the needed infrastructure to transform parts of the Canal into green infrastructure for stormwater management.

v. To recognize the contributions of the varied partners including local governments, stormwater managers, Denver Water and the Conservancy.

vi. To facilitate cooperative resource management initiatives as desired.

vii. To promote, advance and secure philanthropic donations, governmental grants and other sources of funds to implement The Plan.

viii. To promote, advance and secure volunteer support for the benefit of the Canal.

I. To achieve the stated goals, the Parties desire to enter into this MOU to establish The Canal Collaborative as a structure for enhanced coordination and collaboration.

### **Agreement**

NOW THEREFORE, the Parties understand and agree as follows:

1. Establishment of The Canal Collaborative. The Parties hereby establish The Canal Collaborative (the “Canal Collaborative”) as a structure for enhanced coordination and collaboration. The Canal Collaborative is not intended to be a separate legal entity but rather a mechanism for the Parties to achieve the goals set forth in this MOU.

2. Goals and Principles of The Canal Collaborative. The goal of The Canal Collaborative is to formalize member collaboration, coordination, and communication in the implementation of The Plan and to make recommendations on the expenditure of public and private funding towards that effort. The Canal Collaborative shall function according to the following principles:

a. Parties retain their existing legal, regulatory and land use authority. Further, The Canal Collaborative’s recommendations will not impede a Party’s ability to operate, manage, construct, maintain, and repair any public infrastructure improvements needed to provide for the health, safety, and welfare of the general public.

b. As the holder of ownership rights and property interests in the Canal, Denver Water retains all of its rights, privileges, and uses afforded by such ownership. Further, Denver Water may delegate selected functions, duties, and responsibilities to others through mutual agreement.

c. Participation in The Canal Collaborative and its projects is voluntary. A Party, through its participation in The Canal Collaborative, is free to decide whether or not to enter into agreements for shared projects and financial cooperation.

d. The Canal Collaborative’s focus is to advance the community vision for the Canal as presented in The Plan, and jointly implement plans and priorities developed by a diversity of stakeholders including elected officials, professional staff from local jurisdictions and organizations, subject matter experts, and members of the public.

e. No monies dedicated for projects of The Canal Collaborative by a Party will be spent in any other jurisdiction along the Canal, unless authorized by the Party dedicating the monies.

f. Funds raised by the High Line Canal Conservancy from individuals, corporations and foundations will be prioritized for projects (capital improvements and maintenance) through agreements reached in The Canal Collaborative’s work plans as described in the Operating Procedures described in Section 3 below. The High Line Canal Conservancy maintains final determination on whether to proceed with funding acquired from private philanthropy.

3. Operating Procedures. The Parties shall establish operating procedures (the “Operating Procedures”) through written agreement, which will define the responsibilities of the Parties. In the event of a conflict between the Operating Procedures and this MOU, this MOU shall control. The Operating Procedures shall be reviewed annually by the Canal Collaborative

Leadership Team (described in Section 5(a) below) and may be modified at any time upon written agreement by all Parties.

4. Denver Water

a. Denver Water reserves the right to approve or reject all proposed special uses of Denver Water-owned lands within the Canal corridor. Whenever a special use on Denver Water land is proposed, it must be presented to the High Line Canal Conservancy for review and comment, and then brought forward to Denver Water for approval. If the special use is approved as described above, Denver Water may authorize the specific special use.

b. Denver Water has delegated the right to approve or reject all proposed special events on Denver Water-owned lands within the Canal corridor to the High Line Canal Conservancy. Whenever a special event on Denver Water-owned lands within the Canal corridor is proposed, it must be presented to the High Line Canal Conservancy for approval and the Conservancy will coordinate with Parties when the event is in their jurisdiction. Parties shall have the right to impose special conditions on any special event within their jurisdiction with regard to health, safety and welfare if they reasonably determine the need.

c. Any improvement or installation on the Denver Water-owned lands within the Canal corridor must be approved by Denver Water in writing pursuant to a license, easement, or other agreement at Denver Water's discretion.

d. Denver Water allows for use of or improvements to the Denver Water-owned lands within the Canal corridor through leases and intergovernmental agreements (IGAs) with local jurisdictions and agencies. These agreements, as they may be amended or modified from time to time, will continue to be a mechanism that Denver Water uses to authorize certain uses of the Canal by local governments and others.

5. Organizational Structure; Meetings

a. The Canal Collaborative will be comprised of three levels of engagement which include: (i) a policy forum, the Canal Collaborative Forum (CCF); (ii) an executive leadership team, the Canal Collaborative Leadership Team (CCLT); and (iii) Technical Advisory Committees (TACs), consisting of professional staff, subject matter experts and agency representatives. Two standing TACs include the Natural Resources and Recreation TAC and the Stormwater TAC and additional TACs can be convened as directed by the CCLT. This structure will ensure relevant members of The Canal Collaborative are included in appropriate decision-making with checks and balances within the structure.

b. Each Party is required to appoint one representative to both the CCF and CCLT, and these appointees will be included in decision-making processes. However, these meetings will be open to any staff from the Party, and appointees may delegate their decision-making authority to an alternate/proxy. Each Party may provide one appointee to any TAC. Similar to the meetings of the CCF and CCLT, these meetings will be open to any staff from the Parties, and appointees may delegate their decision-making authority to an alternate/proxy. While

there can be multiple attendees from one Party, each Party will speak with one voice in decision-making processes. Consistent meetings will be mutually scheduled and are essential to ensure full participation by all Parties.

6. Subsequent Agreements and Plans. The Parties agree that any specific plans, programs and services agreed upon by the Parties to achieve the objectives of this MOU will be executed or implemented in accordance with this MOU and the Operating Procedures. These plans, programs and services will be further described in yearly or multi yearly operating plans, permits or cooperative agreements among the Parties. The Parties also acknowledge that other agreements or documents may be needed to further authorize these plans, programs and services.

7. Funding

a. The Parties acknowledge that the operations of the Canal Collaborative will rely on the Parties to provide annual financial support. Within thirty (30) days after the Effective Date, the Parties, **excluding the City and County of Denver and its Department of Parks and Recreation**, each will contribute the amount of Ten Thousand and no/100 Dollars (\$10,000.00) to the Conservancy for administration of The Canal Collaborative for 2021. Thereafter, the Parties shall establish the amount required for operation of the Canal Collaborative during each year of this MOU, and each Party shall request such amount from its governing body in accordance with its customary processes, recognizing that any such future funds must be appropriated and budgeted annually by each Party. **The Conservancy and the City and County of Denver, and its Department of Parks and Recreation, will confer and negotiate in good faith separate agreements for financial and other support of the Conservancy and the operations of the Collaborative.**

b. Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the Parties is subject to annual appropriation, and thus any obligations of such Parties shall extend only to monies currently appropriated and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year.

8. Miscellaneous Provisions

a. The Parties agree that any Party may propose amendments to this MOU. Such amendments shall not be effective unless authorized through a written amendment to this agreement signed by all Parties.

b. This MOU shall become effective only upon execution by all Parties, and it shall remain in force for twenty-five (25) years from its Effective Date. This MOU may be terminated at any time upon mutual agreement of the Parties.

c. Any Party may withdraw from this MOU after giving 120 day's written notice to all other Parties. Upon the effective date of a Party's withdrawal, that Party's responsibilities and obligations under this MOU shall cease. Withdrawal from this MOU shall in no way prejudice or impair a Party's contract rights or entitlements arising out of future agreements between or among the Parties.

d. The Parties to this MOU that are governmental entities, their officers, and their employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended (“CGIA”), or otherwise available to the Parties, their officers, and their employees.

e. This MOU is not intended to, nor should it be understood to, affect or extend the legal responsibilities or obligations of any of the Parties, create or change pre-existing legal responsibilities or obligations, nor to create or extend any legal rights to any person or entity not a party to this MOU.

IN WITNESS WHEREOF, the Parties have executed this MOU as of the dates noted on the signature pages.

[SIGNATURE PAGES FOR EACH PARTY FOLLOW ON SUBSEQUENT PAGES]



# Canal Collaborative

