

SEMSWA Case No. \_\_\_\_  
City/County Case No. \_\_\_\_

## EXHIBIT A

### Approval of Standard Stormwater Maintenance Agreement and Authorization of Executive Director to Execute the Standard Stormwater Maintenance Agreement

Resolution No. 32, Series of 2007

#### STORMWATER FACILITY MAINTENANCE AGREEMENT

This Stormwater Maintenance Agreement is entered into by and between the SOUTHEAST METRO STORMWATER AUTHORITY, a political subdivision of the State of Colorado ("SEMSWA") and \_\_\_\_\_ (the "Owner").

#### RECITALS

WHEREAS, \_\_\_\_\_ is the Owner of that certain parcel of land known as:

Lot \_\_, Block\_\_  
Subdivision Name, Filing No.\_\_\_\_  
County of Arapahoe, State of Colorado

referred to as the "Property"; and

WHEREAS a Phase III Drainage Report and Plan have been recommended for approval by SEMSWA and approved by the City/County, referred to as the "Plan"; and

WHEREAS, said Plan provides for stormwater management facilities including drainage facilities intended to reduce, detain, convey, and manage stormwater runoff, "drainage facilities," and facilities intended to provide water quality benefits, "water quality facilities," within the confines of the property, (drainage facilities and water quality facilities are collectively referred to as "Facilities"); and

WHEREAS, SEMSWA requires that the Facilities shown on the Plan be constructed and adequately maintained by the Owner; and

WHEREAS, SEMSWA has required that the Owner submit an Operation and Maintenance Manual as specified in the Arapahoe County/City of Centennial Stormwater Management Manual, hereinafter referred to as the "O&M Manual,"

NOW THEREFORE, in consideration of mutual benefits and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

#### AGREEMENT

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1. The Owner shall provide maintenance for all the facilities as described on the Plan to ensure that the Facilities are and remain in proper working condition in accordance with the Arapahoe County/City of Centennial Stormwater Management Manual, and other applicable SEMSWA approved standards, and applicable legal requirements. Maintenance shall include routine landscaping, sediment removal, repair, reconstruction, or replacement of the Facilities as necessary to meet the requirements of this Agreement.
2. The maintenance of the Facilities shall be performed in accordance with the O&M Manual for the specified facility. In the event that an O&M Manual does not exist, the Owner will be required to prepare one in accordance with the specifications set forth in the Arapahoe County/City of Centennial Stormwater Management Manual, and submit to SEMSWA for recommendation of approval by the County/City.
3. The Owner shall cause inspections on the facilities to be conducted as follows:
  - A. The Owner agrees to cause inspection of the facilities, at the Owner's expense, by a person experienced in the inspection of stormwater facilities. Inspections shall occur at least once every calendar year.
  - B. An inspection report shall be submitted in writing to SEMSWA prior to January 15<sup>th</sup> of each year for the Facilities. The inspection report shall be in accordance with the requirements set forth in the O&M Manual.
  - C. The Owner agrees to perform promptly all needed maintenance and report maintenance activities in accordance with the requirements set forth in the O&M Manual.
4. The Owner, hereby grants, bargains and conveys to SEMSWA and its agents easements over the property for access from public rights-of-way, abutting private roadway, and/or private driveway, to the facilities for the purpose of inspecting, operating, installing, constructing, reconstructing, maintaining, repairing or replacing Facilities to the extent that Owner fails to do so and as necessary to ensure their proper working condition as provided in paragraphs one and two above.
5. In the event the Owner fails to inspect, report, or properly maintain the Facilities within fourteen (14) days after written notice by SEMSWA of such deficiencies to the owner, SEMSWA may enter upon the property and take whatever steps it deems necessary to maintain the Facilities. However, if the Owner's failures could cause damage to property, loss of life or a violation of a NPDES MS4 Permit, SEMSWA may take immediate action, without notice to the Owner, to alleviate that failure. It is expressly understood and agreed that SEMSWA is under no obligation to maintain or repair the Facilities and in no event shall this Agreement be considered to impose any such obligation on SEMSWA.

6. The Owner agrees that it will not at any time dedicate the Facilities to the public, to public use or to SEMSWA without SEMSWA's written consent, nor will it subdivide or convey the property without covenant providing that a proportionate share of the cost of maintenance and other costs associated with the obligations and duties contained herein runs with each subdivided part of the original tract or parcel of land.
7. In an event of emergency involving Facilities, SEMSWA or its agents may enter immediately upon the Property and take whatever reasonable steps it deems necessary to meet the emergency. SEMSWA shall notify the Owner of such emergency and entry as soon as possible but in no event later than twenty-four (24) hours after such entry. Alternatively, SEMSWA may notify the Owner by phone to take whatever reasonable action is necessary within a specified period of time. Should the Owner fail to respond, or should the Owner inform SEMSWA that it intends to not respond within the specified period of time, SEMSWA or its agents may enter immediately upon emergency.
8. SEMSWA shall not pay any compensation at any time for its use of the Property in any way necessary for the inspections and maintenance of the Facilities, including access to the Facilities.
9. In the event SEMSWA, pursuant to this Agreement, performs work or expends any funds reasonably necessary for the maintenance or construction of the Facilities, including labor, equipment, supplies and materials, the Owner shall reimburse SEMSWA within ten (10) days after SEMSWA gives the Owner written notice of such expenditures. If the Owner or its successor or assigns fail to make timely payment as required herein, Owner hereby authorizes SEMSWA to file a mechanic's lien on the Property in the amount of unpaid work, foreclose on that lien and request and be awarded its costs and attorney fees.
10. Any amounts owed to SEMSWA and not paid within ten (10) days of the date of notification shall be the joint and several obligation of any owner of record of the Property or any portion thereof served by the Facilities, on the date the liability arose and all of the successors of interest of such Owner.
11. The Owner, its successors and assigns shall indemnify and hold harmless SEMSWA, its agents and employees for any and all damages, accidents, casualties, occurrences or claims which might arise or be asserted against SEMSWA arising out of or resulting from the construction, presence, existence maintenance or use of the Facility.
12. The Owner shall notify SEMSWA when the Owner transfers its interest in Property or any portion thereof. The Owner shall supply SEMSWA with a duly executed copy of any document of transfer. The Owner agrees to notify SEMSWA upon any change of legal address.

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13. The responsibilities and obligations of the Owner shall constitute a covenant running with the land, and shall be binding upon all present and subsequent owners, their administrators, executors, assigns, heirs, and any other successors in interest so long as they own an interest in the Property of any portion thereof served by the Facilities.
  
14. The Owner recognizes that the executed Final Development Plan, Administrative Site Plan, Location and Extent, Use by Special Review, Engineering Case, or other case process determined by Arapahoe County/City of Centennial to be a final plan, includes the following language: “The property owner shall be responsible for maintenance of all permanent Best Management Practices (BMP’s) and Stormwater Facilities installed pursuant to the Subdivision Improvement Agreements and the Operations and Maintenance (O&M) Manual. Requirements include, but are not limited to, maintaining the specified BMP’s contained in the O& M Manual recorded at reception number \_\_\_\_\_, and the Stormwater Facilities shown in the approved Phase III Drainage Report and shown on the approved Construction Drawings. The Owners of this Subdivision, their successors and/or assigns in interest, or some entity other than SEMSWA, agree to the responsibility of maintaining all permanent BMP’s and/or Stormwater Facilities associated with this development. If the permanent BMP’s and Stormwater Facilities are not properly maintained, SEMSWA may provide necessary maintenance and assess the maintenance cost to the owner of the property.” Failure to abide by the note shall constitute a Zoning Violation, as defined in the Arapahoe County/City of Centennial Land Development Code.

If the Owner or its successors or assigns fail to make timely payment as required herein, Owner hereby authorizes SEMSWA to file a mechanic’s lien on the Property in the amount of unpaid work, foreclose on that lien and request and be awarded its costs and attorney fees.

In addition, any fines or assessments levied against SEMSWA as a result of the Owner’s or its successor’s or assign’s failure to comply with the terms of this Paragraph shall be the sole and absolute responsibility of the Owner or its successors or assigns.

15. This Agreement shall be recorded in the Arapahoe County Clerk and Recorder’s Office.

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For the Board of Southeast Metro Stormwater Authority

\_\_\_\_\_  
Executive Director Authorization pursuant to Resolution No.

Owner:

By: \_\_\_\_\_

Name: \_\_\_\_\_

STATE OF COLORADO    )  
  ) SS.  
COUNTY OF                    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_  
\_\_\_\_\_, 200 , by \_\_\_\_\_, as \_\_\_\_\_ of \_\_\_\_\_  
\_\_\_\_\_.

My commission expires \_\_\_\_\_. Witness my hand and official seal.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name of Notary

\_\_\_\_\_  
Address of Notary