

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

RESOLUTION 10-48

(Authorization to Accept an Easement from the Patels / The Cascades)

WHEREAS, SEMSWA has been organized to manage and maintain regional stormwater facilities within its boundaries; and

WHEREAS, The Cascades Lot #s 1, 2, 3, 4, and 5 are owned by 21 individual homeowners within the subdivision owning real property immediately adjacent to Lot #s 1, 2, 3, 4, and 5; and

WHEREAS, the Lot #s 1, 2, 3, 4, and 5 contain a detention pond; and

WHEREAS, Lot #1 (Property) contains the outfall structure for the detention pond; and

WHEREAS, the owner of the Property is responsible for stormwater maintenance and improvements to this outfall structure; and

WHEREAS, the detention pond serves the interests of the general public; and

WHEREAS, a permanent drainage easement on the Property would enable SEMSWA to maintain and construct improvements to the outfall structure more efficiently, and

WHEREAS, a permanent drainage easement on the Property would be conveyed to SEMSWA at no cost, and

WHEREAS, the owners of the Property have requested relief from the responsibility of having to maintain the outfall structure, and

WHEREAS, the Private Property Committee recommends acceptance of the Property.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Board agrees to accept a permanent drainage easement from the owners of the Property and authorizes the Executive Director to record the Permanent Drainage Easement prepared by SEMSWA's attorney in the records of the Clerk and Recorder of Arapahoe County, Colorado. A copy of the Permanent Drainage Easement is attached hereto.

SOUTHEAST METRO STORMWATER AUTHORITY
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Date: _____

ATTEST:

Secretary

Chairperson

APPROVED AS TO FORM:

Attorney for
Southeast Metro Stormwater Authority

By _____
Edward J. Krisor

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SEMSWA Standard Agreement.
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PERMANENT DRAINAGE EASEMENT

This PERMANENT DRAINAGE EASEMENT ("Easement") is granted this 7th day of December, 2010, by MEHUL S & TIFFANY L. PATEL, whose legal address is 7493 E Villanova Place Denver, Colorado ("The Grantor"), to the Southeast Metro Stormwater Authority, whose legal address is 76 Inverness Drive East, Suite. A, Centennial, CO, 80112 ("The Grantee").

- A. Grantor is the owner of the property referred to as 7493 E Villanova Place, Arapahoe County, Colorado also known as:

Lot 1, Block 1, The Cascades Filing No. 2
Arapahoe County, State of Colorado (the "Property").

- B. Presently the Property is an improved single-family residential tract, which contains a detention pond and outfall structure pursuant to the terms of the plat for "The Cascades Filing 2" filed in the office of the County Clerk and Recorder of Arapahoe County on February 24, 1994, in Book 904, Page 0224, at Reception No. B9040225.

For and in consideration of the sum of One Dollars (\$1.00) and other good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged by the Grantor, the Grantor hereby grants, bargains, sells and conveys to the Grantee, its transferees and successors in title or assigns, a Permanent Drainage Easement to construct, reconstruct, install, operate, use, maintain, repair, replace and/or remove drainage improvements including but not limited to a drainage outfall structure, in, on, to, through, over, under and across the Property, as more particularly described as a 15 foot-wide tract immediately adjacent to the entire length of the easterly Property line of the above described Property (the "Easement Parcel") pursuant to the following terms and conditions:

1. The Grantee, its contractors, agents, successors and permitted assigns shall have and exercise the right of perpetual ingress and egress in, to, through, over, under and across the Easement Parcel for any purpose necessary and, at any and all times necessary or convenient, for the full enjoyment of the rights granted it in the Easement.
2. The Grantee, its contractors, agents, successors and permitted assigns, shall have the right to enter upon the Easement Parcel and to survey, construct, reconstruct, operate, use, maintain, repair, upgrade, replace and remove the improvements made within the Easement, and to remove objects interfering therewith.

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3. The Grantee shall have and exercise the right of subjacent and lateral support to whatever extent is necessary or desirable for the operation and maintenance of the drainage improvements. The Grantor shall not take any action that would impair the lateral or subjacent support for the drainage improvements.
4. The Grantee shall have the right and authority to assign to any appropriate local governmental entity, or to any public utility provider, any and all rights to use, and all rights and obligations associated with, the Easement as are granted to and accepted by the Grantee herein.
5. The Grantee agrees that at such time and in the event that the Easement described herein be abandoned by the Grantee and any assignee, such Easement shall terminate and the real property interest represented by such Easement shall revert to the Grantor, their heirs, successors and/or assigns. Because of the potentially infrequent nature of the allowed use of the Easement, mere non-use of the Easement Parcel notwithstanding, the length of time of such non-use shall not constitute abandonment.
6. The Grantor warrants, covenants, grants, bargains and agrees that, to the best of their knowledge, the Grantor is well seized of the Easement Parcel above conveyed and has good, sure, perfect, absolute and indefeasible estate of inheritance, in law, in fee simple, and has good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and form as aforesaid, and that the same is free and clear from all former and other grants, bargains, sales, liens, taxes, assessments, encumbrances and restrictions of whatever kind or nature so ever, except matters of record.
7. Each and every one of the benefits and burdens of the Easement shall inure to and be binding upon the respective legal representatives, administrators, successors and permitted assigns of the Grantor and the Grantee.
8. The consideration set forth above includes full and just compensation.
9. In further consideration hereof, Grantor, for themselves and their transferees and successors in title or assigns, covenants and agrees that no building, structure, fill of soils or other materials, or other above or below ground obstruction that will interfere with the established drainage or the purposes of this Easement, will be placed, erected, or installed on behalf of the Grantor on the Easement Parcel or permitted by Grantor without written authorization of Grantee, which will not be unreasonably withheld. Nothing in this Paragraph shall prohibit Grantor from maintaining, repairing and replacing existing buildings, structures, fill of soils or other materials, or other above or

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below ground obstructions as long as the same does not interfere with the purposes of this Easement. Grantor covenants and agrees that in the event the terms of this paragraph are violated by Grantor, its transferees and successors in title or assigns, such violation shall be corrected and eliminated within ninety (90) calendar days after the receipt of notice from Grantee. If such corrections are not made or diligently pursued by Grantor, their transferees and successors in title or assigns, or whoever is the current owner of the fee title to the Easement Parcel, if different from Grantor, within said ninety day period, Grantee, after written notice to Grantor, shall have the right to correct and eliminate such violation, and Grantor, their transferees and successors in title or assigns, or whoever is the current owner of the fee title to the real property described as the Easement Parcel, if different from Grantor shall promptly pay the actual costs thereof.

10. Although Grantee is granted herein the authority to maintain drainage improvements on Grantor's property, that grant shall in no way be construed to require Grantee to perform any maintenance on such drainage improvements. It is specifically understood and agreed to by and between Grantor and Grantee that any such maintenance of drainage improvements is contingent upon the approval of and budgeting for such maintenance by the Board of Directors of Grantee, neither of which can be guaranteed. Notwithstanding anything herein, all rights and obligations as set forth on the plats for "The Cascades Filing 2, recorded on February 24, 1994, at Reception No. 94-2915, Arapahoe County records, shall remain in full force and effect.


[SIGNATURE ON FOLLOWING PAGE]

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GRANTOR:



Mehul S. Patel, Owner



Tiffany L. Patel, Owner

STATE OF COLORADO)
) ss.
County of Arapahoe)

The foregoing Permanent Drainage Easement was acknowledged before me this
7th day of December, 2010, by Mehul S. Patel and Tiffany L. Patel.
Witness my hand and official seal:

Notary Public D. Laine O'Kelly

My commission expires: 01/20/2014

