

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

RESOLUTION NO. 13-13
Adoption of Transportation Project Funding Participation Policy

WHEREAS, the Board has authorized the development of a Transportation Project Funding Participation Policy to equitably address requests for participation in the funding of stormwater management structures and facility components of transportation public improvement projects; and

WHEREAS, a Policy has been developed pursuant to the Board's authorization; and

WHEREAS, the policy addresses the Board's desire to account for situations when it is worthwhile to participate in the funding of transportation projects as an investment in the stormwater system or for unique projects that provide a discernable benefit to the stormwater system or existing SEMSWA ratepayers; and

WHEREAS, the Transportation Project Funding Participation Policy fulfills the Board's desire to participate in funding of selected stormwater system components of a transportation project in a consistent, equitable, and fair manner.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Board of Directors of the Southeast Metro Stormwater Authority, acting by and through SEMSWA Water Activity Enterprise, hereby approves and adopts the attached Transportation Project Funding Participation Policy.
2. The Executive Director is authorized and directed to implement the Transportation Project Funding Participation Policy detailed therein as of May 1, 2013.

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

Date: _____

ATTEST:

Secretary

Chairperson

APPROVED AS TO FORM:

Attorney for
Southeast Metro Stormwater Authority

By: _____
Edward J. Krisor

POLICY INTENT

The intent of this policy document is to provide the basis for funding participation by the Southeast Metro Stormwater Authority (SEMSWA) in a public transportation project located in its Service Area based on a set of established criteria and procedures contained herein. SEMSWA recognizes that there are public transportation projects that may include drainage conveyance components that can assist SEMSWA in achieving its stormwater system management goals. Transportation projects primarily address improvements to road system capacity and functionality. However, there may be situations when a transportation project also improves drainage, channel or stream conveyance and/or reduces roadway overtopping. In these instances, the transportation project may provide a benefit to the stormwater management system that SEMSWA operates and maintains; and therefore, may warrant some level of funding participation.

STATEMENT OF PURPOSE

The purpose of this document is to establish SEMSWA's **Transportation Project Funding Participation Policy (Policy)**. Participation in the funding of a transportation project can encompass several opportunities, including:

- 1) **No Fee review and permit services for public transportation projects**, defined as an acknowledgment by SEMSWA that its ratepayers benefit from a favorable mutual exchange of public sector services. An example would be a City or County roadway expansion that would include drainage system components. *[Waiving of review and permitting fees with the City of Centennial has been established previously in the Implementation Intergovernmental Agreement and will govern SEMSWA interactions regarding fee assignments with the City].*
- 2) **Waiving of GESC Compliance and Public Improvement Completion security collateral for public transportation projects**, as defined by the *MS4 Security Agreement for Partner Agencies*, is an opportunity to recognize the collaboration between public service agencies in the construction of public infrastructure. The *MS4 Security Agreement for Partner Agencies* eliminates the requirement for the Contractor to provide collateral for a City or County-owned project. However, per the *MS4 Security Agreement for Partner Agencies*, the City or County is required to provide written assurances, that the project would be constructed per the approved construction documents.
- 3) **Funding or partial funding of a public transportation project's drainage component considered beneficial to SEMSWA ratepayers**, defined as SEMSWA participation in the cost of upsizing, upgrading or replacing a drainageway crossing structure in conjunction with a transportation project. An example would be SEMSWA funding the replacement of an undersized culvert at the same time the City or County completes a roadway project.
- 4) **Executive Director determination**, defined as an adjustment in the SEMSWA process or funding decision for a unique circumstance that provides a benefit to the SEMSWA ratepayers and meets a SEMSWA stormwater management goal. An example would be the utilization of an

innovative water quality treatment component for the transportation project that provides targeted treatment above and beyond requirements, and is of interest to SEMSWA.

POLICY DISCUSSION

SEMSWA provides stormwater management services to the City of Centennial (City) and the unincorporated developed areas of Arapahoe County (County). Stormwater management criteria for street drainage, pipes, culverts and bridges has been established in the SEMSWA Service Area via the approved SEMSWA and Arapahoe County Stormwater Management Manuals, and enforced through the Land Use Codes. These criteria establish that the principal function of a street is for traffic movement, and drainage considerations are subservient to that function and must not interfere with the traffic function of the street. Drainageway crossing structures are generally considered to be part of the transportation system. However, there are times when a transportation project benefits SEMSWA's ratepayers by the inclusion of a drainageway crossing structure which improves drainage, channel or stream conveyance and/or eliminates frequent roadway overtopping. This document establishes a policy of available participation options for transportation projects that include stormwater management components that benefit SEMSWA's existing ratepayers.

Transportation project participation opportunities are available to the City and County as follows:

1) **No Fee review and permit services for public transportation projects**

SEMSWA's formation agreements grant it the authority to manage stormwater in the City of Centennial and the urban unincorporated portions of Arapahoe County, and this is partially accomplished by a review, approval, and permitting process that ensures stormwater management facilities are constructed to meet criteria. For a typical public transportation project, **review fees** are associated with the review of the Drainage Report; the Grading, Sediment and Erosion Control (GESC) Plans and Report; the Construction Drawings; the Operation and Maintenance Manual; applicable floodplain studies; and those easements and agreements associated with the transportation project. The **Permit fees** are associated with the GESC Permit, the Floodplain Development Permit (FPDP) and the Stormwater Public Improvement Permit (SPIP).

In the instance of a City or County public transportation project, a request for waiving of the review and permit fees is reasonable and appropriate. Waiving of review and permitting fees with the City of Centennial has been established previously in the *Implementation Intergovernmental Agreement (IIGA)*, which governs interactions regarding fee assignments with the City. Although a corresponding agreement has not been finalized with the County, the waiving of review and permit fees for transportation projects will be instituted for all County public transportation projects.

2) **Waiving of security collateral for public transportation projects**

SEMSWA allows the five formation IGA Partners to construct public improvement projects without the posting of financial security. The *MS4 Security Agreement for Partner Agencies* is a contract between SEMSWA and the IGA Partner that ensures the construction of a project is in compliance with SEMSWA's Municipal Separate Storm Sewer System (MS4) Permit regulations and the approved

construction documents. This *MS4 Security Agreement for Partner Agencies* will be utilized with all public transportation projects.

3) Funding of a public transportation project component deemed of beneficial value to SEMSWA ratepayers

Stormwater management facilities associated with roadways normally include some or all of the following: drainageway crossing structures, pavement drainage systems including pipes, inlets, ditches, and the like, and water quality facilities. SEMSWA generally relies on regional master plans to identify drainageway crossing structures which have inadequate hydraulic capacity; and relies on its own inspections, to identify structures which may need replacement or rehabilitation due to poor physical condition. SEMSWA is committed to providing maintenance of the existing storm sewers, inlets and outfalls, which are part of an existing pavement drainage system, and maintenance of water quality facilities, which were constructed solely for the purpose of treating runoff from public roadways. However, it will not fund the construction of new pavement drainage system components or water quality facilities associated with existing, new or expanded roadways. SEMSWA participation in the funding of the replacement or upgrading of existing drainageway crossing structures will be evaluated with consideration given to several factors, including, but not limited to the following:

- The improvements for upsizing, replacing or otherwise upgrading the drainage system structure are identified in a SEMSWA approved regional Master Plan or other SEMSWA approved engineering analysis;
- A SEMSWA inspection has identified damage requiring repair;
- The extent that the proposed transportation project public improvement benefits the regional stormwater system;
- The timing of the transportation project design and construction with respect to other funding commitments identified in SEMSWA's 5-year CIP plan;
- The priority of the structure replacement/improvement as determined by SEMSWA's current prioritization criteria for the determination of funding commitments and scheduling for CIP projects.

SEMSWA will work closely with the City and County CIP departments to optimize the timing and construction aspects of any transportation project that includes a drainage component.

4) Executive Director Determination

The opportunity for funding participation to be based on an Executive Determination recognizes that there is the potential for an adjustment in the SEMSWA process or funding decision for a unique circumstance that provides a benefit to the SEMSWA ratepayers and meets a SEMSWA stormwater management goal. It is anticipated that this funding opportunity will be used infrequently, only when there is a unique but compelling circumstance. Funding participation levels will be evaluated with consideration given to several factors, including, but not limited to:

- A demonstration of an important ancillary or direct benefit to ratepayers or to the stormwater system that could be realized from the transportation project. This demonstration may include additional written documentation up to and including a professional engineer's analysis.
- An agreement that memorializes the benefit to the ratepayers and/or to the stormwater system, and formalizes the basis for the participation.
- SEMSWA is extensively involved in the project scoping, design and construction activities.

CONDITIONS FOR SEMSWA PARTICIPATION

Participation by SEMSWA in the funding of the eligible drainage related components of a transportation project will consist of the following:

No fee services.

The waiving of all review and permitting fees recognizes reciprocity in planning, plan review, permitting and inspection services for the construction of public improvements. All City/County transportation projects are public improvement projects and as such there will be no fee.

Waiving of MS4 Security Collateral

The execution of a *MS4 Security Agreement for Partner Agencies* between SEMSWA and the City/County recognizes the collaboration necessary for public improvement projects, and the partner relationship established in the Formation IGA. All financial security collateral for City or County transportation projects will be waived with the formal execution of the *MS4 Security Agreement for Partner Agencies*.

Funding of Transportation Project

Funding of a drainageway crossing structure associated with a transportation project may be allowed if one or more of the following conditions are met:

1. **The need for an existing structure improvement has been identified in a SEMSWA approved regional Master Plan or other SEMSWA approved engineering analysis.** This includes funding for the replacement or upgrading of existing drainageway crossing structures. The ability for SEMSWA to construct these master planned improvements during a roadway expansion or realignment project is of primary interest to SEMSWA. SEMSWA's funding participation for the structure will be limited to the construction cost SEMSWA would have incurred in replacing, improving, or rehabilitating the existing structure across the existing roadway at the existing location. Any reduction in construction costs related to the construction of regional master planned improvements during a roadway expansion or realignment project shall be recognized in SEMSWA's funding level.
2. **A SEMSWA inspection of the existing structure has identified the need for structure replacement or rehabilitation.** The drainage crossing structure may not have been identified as a master planned improvement, but condition assessment inspections or other engineering analysis of the existing structure identifies damage or poor condition, and there is a direct benefit to the stormwater system from replacement or rehabilitation of the structure.

SEMSWA's funding participation for the structure replacement or rehabilitation will be limited to the construction cost SEMSWA would have incurred in replacing, improving, or rehabilitating the existing structure across the existing roadway at the existing location. Any reduction in construction costs related to the construction of the structure replacement or rehabilitation during a roadway expansion or realignment project shall be recognized in SEMSWA's funding level.

3. **The replacement/improvement of an existing structure is warranted on the basis of SEMSWA's current prioritization criteria used to assist in the determination of the budgeting and scheduling of CIP projects.** SEMSWA will construct regional stormwater management components based on an analysis of the needs of the system as a whole, and the resulting benefits to the existing ratepayers. SEMSWA funding participation for the replacement/improvement of a structure will be limited to the construction cost SEMSWA would have incurred in replacing, improving, or rehabilitating the existing structure across the existing roadway at the existing location. Any reduction in construction costs related to the replacing, improving, or rehabilitating the existing structure during a roadway expansion or realignment project shall be recognized in SEMSWA's funding level.

Funding participation will require SEMSWA to be involved in the project scoping, design, review and approval, and during construction activities at a level to be determined for the conditions detailed above. Requests for SEMSWA's funding participation should be made as early as possible in the transportation project's planning process in order to provide adequate time for SEMSWA to accommodate the request in its 5-year CIP development process. The Executive Director will review all requests for funding. The Executive Director will ensure that any funding participation provides a benefit to existing SEMSWA ratepayers and the stormwater system, and that all participation will meet established criteria.

Executive Director Determination

Funding participation for a specific request to the Executive Director for a determination may be allowed if one or more of the following conditions are met:

1. The transportation project provides an important ancillary or direct benefit to SEMSWA's existing ratepayers or to the stormwater system. If the ancillary benefit of the roadway project provides a direct source of revenue to SEMSWA through developer-paid System Development Fees or through an increase in ratepayer Annual Fees due to a substantial increase in impervious area that benefits existing ratepayers, and there is a reasonable time for return on the initial stormwater infrastructure investment, SEMSWA may choose to participate in funding of the project, at a level to be determined.
2. The transportation project includes an innovative water quality facility for the treatment of the added roadway impervious surface that is of interest to SEMSWA. If the construction of the facility, and subsequent maintenance of the facility, provides SEMSWA with important insight and understanding of the role of state-of-the-art treatment technologies for a linear roadway project, SEMSWA may choose to participate in funding, at a level to be determined.
3. The transportation project includes an improvement to the long-term maintenance of a stormwater facility and resolves a significant maintenance issue. There must be a tangible

benefit to existing ratepayers in the form of reduced maintenance activity, and the funding participation level will be related specifically to the direct benefit received.

4. The transportation project includes an improvement which resolves a significant stormwater management program area issue or facilitates the implementation of a SEMSWA system enhancement goal. There must be a benefit to existing ratepayers by the resolution of the issue or the benefit of the goal being implemented, and the funding participation level will be related specifically to the resolution or implementation benefit.

An Executive Director determination for funding participation in a City or County transportation project is on a case-by-case basis. In all instances, SEMSWA will need to be involved up-front in the scoping, design, construction and monitoring activities, at a level to be determined. Requests for SEMSWA's funding participation should be made as early as possible in the transportation project's planning process in order to provide adequate time for SEMSWA to accommodate the request in its 5-year CIP development process. The Executive Director will ensure that any funding participation provides a benefit to existing SEMSWA ratepayers and the stormwater system, and that all participation will meet established criteria.

IMPLEMENTATION PROCEDURES

The City or County will contact the SEMSWA CIP Program Manager in the planning stages of the transportation project to discuss the stormwater management system components of the proposed project. Early communication on funding requests is critical since SEMSWA annually reviews and updates its 5-Year Capital Improvement Program. The SEMSWA CIP Program Manager begins the final prioritization and budget planning in July for the subsequent year's projects, and finalizes the CIP budget in September of each year.

In general, the implementation procedure for authorizing funding participation will include:

- ✓ Contacting the SEMSWA CIP Program Manager to identify the transportation project
- ✓ Meeting with the CIP Program Manager, the Land Development Program Manager, and other SEMSWA staff to discuss the stormwater management aspects of the project
- ✓ SEMSWA field verification of the project site conditions, if applicable
- ✓ SEMSWA determination of specific scope and project funding contribution amount
- ✓ Written request by partner entity for funding contribution from SEMSWA
- ✓ Funding approval by the Executive Director
- ✓ Inclusion in the CIP budget, as applicable
- ✓ Execution of the *MS4 Security Agreement for Partner Agencies*

POLICY EXEMPTIONS/LIMITATIONS

No public development shall receive funding participation for any transportation construction activity unrelated to SEMSWA's mission of providing regional stormwater management services. No private roadway projects will be funded.

APPEALS PROCESS

Appeals of funding participation decisions may be brought to the SEMSWA Board of Directors by sending a formal written Appeal of Transportation Project Funding Participation Determination to SEMSWA within thirty (30) days of the funding decision approved by the Executive Director. Such appeals shall include all reasons for the appeal and any supporting documentation available.