

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

RESOLUTION NO. 5, SERIES OF 2006
(Adoption of Level of Service and Fix Rates and Rate Structure)

WHEREAS, the Southeast Metro Stormwater Authority was formed by Intergovernmental Agreement to plan, fund, construct, acquire, operate, and maintain drainage and flood control facilities as well to manage stormwater quality and, in some instances, comply with the requirements of the National Pollutant Discharge Elimination System ("NPDES MS4 Stormwater") within its boundaries, hereinafter "Purposes"; and

WHEREAS, the Southeast Metro Stormwater Authority established the SEMSWA Water Activity Enterprise to carry out those Purposes; and

WHEREAS, the Board of Directors of the Southeast Metro Stormwater Authority acting by and through SEMSWA Water Activity Enterprise has hired AMEC Earth & Environmental to assist it in both determining the level of service that SEMSWA should and can provide within its boundaries in regard to those Purposes as well as the rates and rate structures necessary to fund that level of service in regard to those Purposes; and

WHEREAS, the Board of Directors has held numerous board meetings at which AMEC has presented its findings and recommendations in regard to levels of service, rates and rate structures; and

WHEREAS, Southeast Metro Stormwater Authority is authorized pursuant to 29-1-204.2 (3)(d) C.R.S. "to acquire, construct, manage, maintain, or operate . . . drainage facilities, or any interest therein;" and is further authorized pursuant to 29-1-204.2 (3 (j) C.R.S. "to fix, maintain, and revise fees, rates, and charges for functions, services, or facilities provided by the entity;" and

WHEREAS, SEMSWA Water Activity Enterprise, pursuant to 37-45.1-103 (1) C.R.S. "is excluded from the provisions of section 20 of article X of the state constitution."; and

WHEREAS, the Board of Directors has further considered whether to impose its rates on all users of its stormwater management system including parcels owned by governmental entities and tax exempt organizations and parcels within the Authority boundaries located in Douglas County, Colorado as well as methods by which it could collect those fees; and

WHEREAS, the Board of Directors has studied and concluded that the rates charged users should be proportional to the demand on the stormwater system by each property owner; and

WHEREAS, finally the Board of Directors has considered whether it should establish a policy addressing credits, exemptions and appeals. The credit policy would establish a

procedure whereby users of SEMSWA's stormwater management system may apply for a modification in the user's rate or fee because of factors such as an error in the calculation of the rate or an activity on, or improvements to the parcel or other special conditions which will reduce the impact of the parcel's runoff on the SEMSWA stormwater system.

NOW, THEREFORE, BE IT RESOLVED THAT:

The Board of Directors of the Southeast Metro Stormwater Authority acting by and through SEMSWA Water Activity Enterprise hereby:

1. Adopts the attached *Proposed Level of Service with Initial Rate \$6.50 per Month, Annual Increases 5%* dated 10-18-06.

2. Adopts the following rate structure for all parcels upon which a single family residential (detached) structure is located:

| Tier | Impervious Area / square feet | Annual Fee |
|------|-------------------------------|------------|
| 1 | 100 – 2,000 | \$45.00 |
| 2 | 2,001 – 2,900 | \$60.00 |
| 3 | 2,901 – 3,900 | \$78.00 |
| 4 | 3,901 – 7,500 | \$105.00 |
| 5 | 7,501 – 50,000 | \$228.00 |

The impervious area calculated for each parcel upon which a single family residential (detached) structure is located will be rounded to the nearest 100 square feet.

Less than 100 square feet, no fee.

3. Adopts the following rate structure for all parcels which do not contain a single family residential (detached) structure:

| Tier | Impervious Percent Range | Monthly Rate per square foot of Impervious Area |
|------|--------------------------|---|
| 6 | 2% - 40% | 0.001280 |
| 7 | 41% - 70% | 0.001970 |
| 8 | 71% - 100% | 0.002659 |

Less than 2% impervious percent or less than 251 square feet, no fee.

Rate shall be determined using the following process: 1) determine impervious area on parcel (nearest 500 s.f.); 2) determine total area of

parcel (nearest 500 s.f.); 3) determine impervious percent of parcel (equal to the impervious area divided by the total area); 4) find impervious percent range in the table and the monthly rate per square foot per month for the range; 5) multiply the impervious area times the rate from the table to determine the monthly fee and 6) multiply the monthly rate by twelve (12) to determine the annual fee.

Tiers 6, 7 and 8 shall apply to all non single family residential (detached) structures including all parcels owned by governmental entities and tax exempt organizations.

4. The fees established for each parcel shall automatically increase 5% per year, beginning January 1, 2008, unless otherwise suspended or modified by the Board of Directors. Such annual increase will account for inflation and increases in levels of service.

5. Fees for all parcels located in Arapahoe County, Colorado shall be collected by the Arapahoe County, Colorado Treasurer for a fee of no more than 1.5% of the fees collected.

6. Fees for all parcels located in Douglas County, Colorado or those that can not be billed by the Arapahoe County Treasurer shall be collected by separate billings issued by SEMSWA Water Activity Enterprise.

7. A policy addressing credit, exemptions and appeals shall be adopted by the Board of Directors prior to February 1, 2007. The credit policy shall establish a procedure for users of SEMSWA's stormwater management system to apply to SEMSWA for a modification in the user's rate or fee because of factors such as an error in the calculation of the rate or an activity on, or improvement to, the parcel or other conditions which will reduce the impact of the parcel's runoff on the SEMSWA stormwater system.

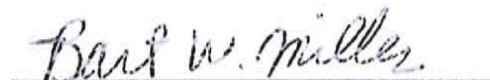
(SEAL)

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

Date: 10/25/2006

ATTEST:


Secretary


Chairperson

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

RESOLUTION NO. 13, SERIES OF 2007
(Approval of Factual Dispute Resolution Process)

WHEREAS, SEMSWA through their consultant, AMEC, identified the impervious surfaces for over 60,000 parcels within SEMSWA's jurisdiction; and

WHEREAS, SEMSWA adopted in Resolution No. 5, Series of 2006, a fee and rate structure for all parcels within SEMSWA's jurisdiction based on the amount of impervious surface area on each parcel; and

WHEREAS, the Board in Resolution No. 5, Series of 2006 stated that "A policy addressing credit, exemptions and appeals shall be adopted by the Board of Directors prior to February 1, 2007. The credit policy shall establish a procedure for users of SEMSWA's stormwater management system to apply to SEMSWA for a modification in the user's rate or fee because of factors such as an error in the calculation of the rate or an activity on, or improvement to, the parcel or other conditions which will reduce the impact of the parcel's runoff on the SEMSWA stormwater system."; and

WHEREAS, this resolution addresses only errors in the calculation of rates and does not address other rate adjustments such as credits for other activities cited in the previous Whereas; and

WHEREAS, where impervious surface areas potentially have been improperly calculated or determined, the fee should be adjusted based on the proper impervious surface amount; and

WHEREAS, four categories of potentially improperly calculated fees have been identified which in effect constitute an error in the calculation of the rate:

- a. Incorrect identification of impervious area. For example, incorrectly identifying a landscaped area, wood deck, or area with separated brick pavers set on sand as impervious.
- b. Impervious area calculation is incorrect. For example, the addition of the amounts of all identified impervious areas on a parcel is not totaled correctly.
- c. Incorrect SFR tier used. For example, wrong table value used for single family residential tiers.
- d. Incorrect commercial fee calculated. For example, wrong table value used for calculating commercial percent impervious; and

WHEREAS, the incorrect fees described in the four categories cited above are issues of factual dispute and the fees should be corrected if the evidence demonstrates that the fees were improperly calculated.

NOW, THEREFORE, BE IT RESOLVED THAT:

The Board authorizes Executive Director and staff pursuant to the Executive Director's direction, to make adjustments in the fees in those situations where it can be demonstrated that impervious areas were improperly determined or fees improperly calculated.

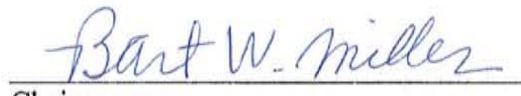
(SEAL)

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

Date: January 24, 2007

ATTEST:


Secretary


Chairperson