

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

RESOLUTION NO. 09-48

(Approval of Non-Standard Easement Deed and Revocable Storm Drainage License Agreement)

WHEREAS, the Board of the Southeast Metro Stormwater Authority (SEMSWA) in Resolution No. 08-19 has approved a Standard Easement Deed and Revocable Storm Drainage License Agreement and authorized the Executive Director of SEMSWA to execute the Agreements on behalf of SEMSWA as long as they adhere to the Standard Easement Deed and Revocable Storm Drainage License Agreement with minor non-substantive modifications; and

WHEREAS, Boston Smoky Hill, LLC (Developer) owns certain real property in fee simple in the City of Centennial and within the SEMSWA service area as more particularly described in the Agreement; and

WHEREAS, Developer desires to develop the Property and has submitted to the City of Centennial for approval and execution a Final Development Plan designated the Key Bank Centennial Final Development Plan, Case No. LU-0808-010/D08-1047 (hereinafter referred to as the "FDP"), a copy of which is on file in the Land Use Services Office of the City of Centennial; and

WHEREAS, Developer agrees that the development of the Property as specified in the FDP will require increased stormwater management services from SEMSWA and will require the installation of certain public stormwater Improvements primarily of benefit to the proposed development; and

WHEREAS, Program 5, Permanent Stormwater Facilities Including Post-Construction Best Management Practices (BMPs), of the MS4 stormwater discharge permit requires that post construction BMPs be constructed for all new development, redevelopment, or added impervious area within the City Of Centennial for the purpose of providing water quality treatment; and

WHEREAS, the City has adopted the City of Centennial Stormwater Management Manual (Manual) that sets forth the criteria for the design of post-construction BMPs and stormwater improvements; and

WHEREAS, SEMSWA currently requires developers to enter into an Easement Deed and Revocable Storm Drainage License Agreement for the purpose of permitting SEMSWA to access, inspect and maintain, if necessary, the associated public improvements, including post-construction BMPs and stormwater improvements and to assure SEMSWA that only approved flows of clean stormwater are being discharged into SEMSWA's storm drainage collector facility; and

WHEREAS, it is necessary for SEMSWA to enter into an Easement Deed and Revocable Storm Drainage License Agreement with developers that commit to constructing post-construction BMPs and stormwater improvements; and

WHEREAS, it was necessary to deviate from the Standard Easement Deed and Revocable Storm Drainage License Agreement due to the fact that the Developer wants assurances that the property will continue to be allowed to discharge the quantity of stormwater runoff to the sub-regional detention facility that it has discharged in the past and thus limiting the Revocable Storm Drainage License Agreement to clean stormwater matters only; and

WHEREAS, a non-standard Easement Deed and Revocable Storm Drainage License Agreement has been prepared by SEMSWA staff and legal counsel.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Board approves the Easement Deed and Revocable Storm Drainage License Agreement attached hereto and authorizes the Executive Director of SEMSWA to execute the attached Agreement.

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Date: _____

ATTEST:

Secretary

Chairperson

APPROVED AS TO FORM:

Attorney for
Southeast Metro Stormwater Authority

By _____
Edward J. Krisor