

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

RESOLUTION NO. _____, 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)

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Date: _____

ATTEST:

Secretary

Chairperson