

POLICY INTENT

The Southeast Metro Stormwater Authority (SEMSWA) recognizes that there are situations when a fee reduction program for owners and developers may be justified. Although it is the intent to recover SEMSWA's cost to provide the required review and permit services to facilitate development, there may be special situations when a reduction in fees is a worthwhile investment by SEMSWA to optimize the stormwater system. The intent of this policy document is to provide the basis by which owners and developers can seek a reduction in project-specific review and permit fees charged for SEMSWA referral reviews and permitting activities based on a set of established criteria and procedures contained herein.

STATEMENT OF PURPOSE

The purpose of this document is to establish SEMSWA's **Review and Permit Fee Reduction Policy (Fee Reduction Program)**. SEMSWA has the authority to assess and collect reasonable fees to cover or offset the cost of its review and permit services in confirming compliance with stormwater management criteria. Stormwater management criteria has been established in the SEMSWA Service Area via the approved City of Centennial and the Arapahoe County Stormwater Management Manuals, their respective Grading, Erosion and Sediment Control (GESC) Manuals, and enforced through the respective Land Use Codes. This policy document establishes a system of available fee reductions for new development and redevelopment that require review and permit services as well as procedures for requesting fee reduction. Fee reductions that provide benefits to SEMSWA ratepayers will be available to owners and developers as follows:

- 1) **Reciprocity in review and permit services**, defined as a beneficial mutual exchange of public sector services, specifically a recognition by SEMSWA of the benefit to the ratepayers of another Land use Agency's planning, review, permitting and inspection processes for a SEMSWA construction project. An example would be the full reduction in review and permit fees for a Land Use Agency's construction project based on a mutual full reduction in review and permit fees for a SEMSWA CIP or Maintenance construction project in that Land Use Agency's jurisdiction. *[Reciprocity with the City of Centennial has been established previously in the Implementation Intergovernmental Agreement, so that will govern our interactions regarding fee assignments with the City]*
- 2) **Duplication in review and permit services**, defined as a duplicate or repetitive review or permitting service. An example would be a project that is partially in the City and partially in the County with minimal additional review required based on the change in jurisdiction.
- 3) **Beneficial Exchange in stormwater management services**, defined as a beneficial mutual exchange of services, specifically the benefit to ratepayers of an owner or developer's assistance in enhancing the stormwater system that are in excess of or upgrade what would be required for approval of the new development or redevelopment. Examples would be a developer funded pilot program to test new technology of interest to meeting SEMSWA's

stormwater management goals; an easement or ownership transfer that would support the construction of a SEMSWA regional public improvement project to benefit the stormwater system; a regional system construction effort by the owner or developer that is in place of a project SEMSWA would potentially have to do in the future; or an upgrade that meets new criteria that is not required for approval of new development or redevelopment.

- 4) **Executive Director Determination**, defined as an adjustment in the SEMSWA process or fee schedule for a unique circumstance. An example would be an owner or developer whose unique circumstances provide an alternate process that meets criteria and is consistent with providing benefit to the stormwater system and meeting SEMSWA's stormwater management goals.

Definitions of common terms contained in this Policy document are contained in **Appendix A**.

BACKGROUND

SEMSWA is as a referral agency that provides stormwater management services to the City of Centennial (City) and Arapahoe County (County). As a part of these services, SEMSWA reviews plans, reports and associated documents for land development and capital Improvement projects for compliance with the City's or County's established stormwater management criteria. SEMSWA also issues permits for construction disturbances in the City and the County; the installation of stormwater infrastructure in the City; and disturbances in flood prone areas in the City and the County.

SEMSWA's formation agreements grant it the authority to assess and collect reasonable fees to cover or offset the cost of its review and permit services. The review and permit fee rate structure of SEMSWA is the framework that describes how much each owner or developer pays in order to confirm compliance with the City's or County's established stormwater management criteria. In 2010, SEMSWA established its methodology for calculating review and permit fees (Resolution No.18, Series of 2010 "Adoption of Fee Schedule for Review and Permit Services"). The authorized Fee Schedule is available on-line at www.semswa.org.

For a typical development project, **review fees** are associated with the review of the Drainage Report; the Grading, Sediment and Erosion Control (GESC) Plans and Report; the Construction Documents; the Operation and Maintenance Manual; applicable floodplain studies; and those easements and agreements associated with the development site. The **permit fees** are associated with the GESC Permit, the Floodplain Development Permit (FPDP) and the Stormwater Public Improvement Permit (SPIP). With the exception of the SPIP and FPDP fees, the amount of the fees for the review and permit efforts are based on the area of the proposed development. The amount of the SPIP fee is a function of the construction cost of the proposed stormwater facilities. The FPDP is based on the complexity of the impact of the project to the floodplain. The City and the County compute their fees for these review and permit efforts on the same basis. All of these fees have been determined to directly relate to SEMSWA's level of effort in reviewing the documents associated with a typical development case.

There are several options to fund review services and permit issuance that SEMSWA provides to the development community (development is defined as the construction of structures and/or public

improvements). The option SEMSWA has chosen is to charge the developer the full cost of conducting the development review and approval process, including inspections associated with construction activities, installation of stormwater infrastructure, and floodplain protection. Fully recovering the costs of permit and review fees for new development can be justified as “development paying their share”. This is an equitable way of charging fees because those using the services pay for the services. SEMSWA fees have been determined based on the principle that development should pay its share of development-related costs.

In some instances, there may be a reasonable request for a fee reduction by an owner or developer; correspondingly, there may be an acknowledgement on the part of SEMSWA that it may be appropriate to accommodate an owner or developer project with an adjusted fee schedule. However, a fee reduction is anticipated to be a rare occurrence. SEMSWA’s annual ratepayers expect that fees reflect the policy that those using the services pay for the services. The purpose of this document is to establish the criteria that will govern situations where a fee reduction is requested.

CRITERIA

Criteria will be used to guide the decision for granting a fee reduction. Considerations to determine what conditions will be acceptable for the fee reduction are as follows:

RECIPROCITY IN SERVICES

A fee reduction that recognizes reciprocity in services may be allowed if one or more of the following conditions are met, and may apply to both review and permitting fees:

1. The owner or developer is another governmental entity that provides planning, plan review, permitting and inspection services for public sector components of the SEMSWA stormwater system.
2. The owner or developer is another governmental entity that provides a complimentary service for the stormwater system that meets SEMSWA’s goals and the value of the service is equitably comparable.

DUPLICATION OR REPLICATION IN SERVICES

A fee reduction that removes all or a portion of the review fees resulting from duplication or replication of services may be allowed if one or more of the following conditions are met:

1. A project is located in both the County and City and the SEMSWA review will cover the entire project. SEMSWA may get a referral from both the City and the County, but will not double-bill for this review. This may or may not include permit fees, as some permits will need to be separate for each jurisdictional MS4 Stormwater Quality Permit or floodplain regulations.
2. A component of an approved development plan is revised to meet upgraded criteria or enhanced to provide a benefit to the stormwater system and the review from SEMSWA’s perspective is limited to the revised stormwater system component only, and not the entire

development plan and its impact on the stormwater system. This upgraded component shall be above and beyond the minimum standards, and not required as a component of the development or redevelopment.

3. Expired Plans for an active site that do not need any revisions to be fully functional for the remainder of the construction schedule, are eligible for a fee reduction of the plan renewal fee, as there is no additional review time necessary. *[Expired plans must be renewed in order for work to continue]*

BENEFICIAL EXCHANGE IN SERVICES

A reduction in review and permit fees to recognize a beneficial exchange of services may be allowed if one or more of the following conditions are met:

1. The owner or developer constructs a stormwater improvement that is not required as a result of the owner or developer's proposed activity, which SEMSWA may have to construct at some time in the future, and which could be a regional, sub-regional, or general stormwater improvement. The stormwater facility provides a cost savings to SEMSWA by reducing the need for future projects, is of major interest to SEMSWA, and meets stormwater management goals. SEMSWA will need to be involved in the project scoping, design and construction activities at a level to be determined.
2. The owner or developer wants to provide an easement/transfer of ownership for a parcel that is necessary for the construction or maintenance of a SEMSWA stormwater improvement facility, and such easement/transfer of ownership is not necessitated by the owner or developer's development or redevelopment.
3. The owner or developer upgrades the development site to include water quality where it was not constructed or not required at the time of original construction and is not required now as a result of the owner or developer's proposed activity. SEMSWA will need to be involved in the project scoping, design and construction activities at a level to be determined. The project may also be eligible for Credit Policy Grant Program funding; participation in the Grant Program will automatically waive all SEMSWA review and permit fees.
4. The owner or developer wants to construct an enhanced water quality permanent Best Management Practice (BMP) that is of special interest to SEMSWA as an innovative approach to stormwater quality management. The BMP will need be monitored by the owner as a Pilot Program BMP and the BMP is not currently mandated as a condition of development or redevelopment. SEMSWA will need to be involved in the scoping, design, construction and monitoring activities at some level.

EXECUTIVE DIRECTOR DETERMINATION

There may be an owner or developer, or special project that was not contemplated by the adopted Fee Schedule and as such, will require a case-by-case review of the special conditions by the Executive Director to determine if there can be an adjustment applied to the case review or the regulatory permit process, or to the fees. The Executive Director will ensure that any reduced fee or adjusted process that results in reduced fees could be managed in such a way that all activities will meet established criteria. The following are some considerations for a reduced fee:

- a. There must be a demonstration of an important ancillary or direct benefit to ratepayers and to the stormwater system that could be realized from the owner or developer's construction project. This demonstration may include additional written documentation up to and including a professional engineer's analysis.
- b. An agreement with SEMSWA may be required that memorializes the benefit to the ratepayers and/or to the stormwater system, and formalizes the environmental stewardship contribution that is being demonstrated.
- c. SEMSWA will need to be involved in the project scoping, design and construction activities at a level to be determined.
- d. All reduced fees or adjusted process that results in reduced fees will be determined by the Executive Director. The amount of the reduction in fees shall be directly related to the cost savings to SEMSWA.

FEE REDUCTION

Fee reductions will include both the SEMSWA review fees and permit fees, and abbreviated processes, with the following considerations to assist in the determination of the amount of the reduction:

- **Review fees** have the highest potential for a reduction, in that the time represented in the comprehensive review effort can be considered part of the SEMSWA over-arching mission if the end product results in a project that benefits the stormwater system.
- **Review fees** can be waived entirely or adjusted to a certain percentage of the full review fee, depending on the type of review fee reduction applied, SEMSWA's prior experience with the owner or developer, and special and unique circumstances.
- **Permit fees** within a category have the least potential for a reduction, in that the regulatory nature of a permitted activity requires that the permit be tied to the specific activity, within a specific fee schedule category that represents the effort required to meet regulatory requirements. However, there are options if a permitted activity can meet the regulatory requirements of inspection oversight and compliance enforcement with a lesser category fee, if available. If the benefit of the project to SEMSWA is such that SEMSWA is directly involved during field work as an active participant/partner and aware of all field conditions, then a lower fee schedule category can still meet the implied regulatory requirements for the project.

- **Permit fees** will be reduced to a lesser category on the permit fee schedule, if available, depending on the type of fee reduction applied, SEMSWA's prior experience with the owner or developer, and special and unique circumstances.
- A meeting between the Applicant and the SEMSWA Technical Review Committee (TRC) will be required to adequately vet the project to determine applicability of any fee reduction. Additionally, design drawings and a field check may be required to properly evaluate the potential for a reduction. The TRC will make a recommendation to the Executive Director regarding the fee reduction request.

IMPLEMENTATION PROCEDURES

SEMSWA will require the owner or developer, who desires a fee reduction, to apply through a formal Fee Reduction Program Application process. The reduction is extended only to owners or developers that apply for, and demonstrate that they qualify for, the fee reduction. This means that a developer or owner must make an investment of time in order to obtain a fee reduction. The Application process includes an Application for Fee Reduction (**Appendix B**), a Right-of-Entry (**Appendix C**) to allow for a field verification of the project site considerations, if applicable, and a TRC Variance Request Form (**Appendix D**). Additionally, there will be a \$250 Application fee to offset the administrative review necessary to determine the applicability of the fee reduction request, and to process the request.

In general, the implementation procedure for authorizing a fee reduction will include:

- ✓ A completed Fee Reduction Program Application Form and \$250 fee
- ✓ A TRC Variance Request for Fee Reduction
- ✓ SEMSWA field verification of the project site considerations, if applicable

Review fees are assigned to an owner or developer's project at the Pre-submittal Meeting. The Applicant may decide to request a Variance for Fee Reduction and a TRC meeting will be scheduled when all supporting documentation is made available to SEMSWA along with the Application Form. The Applicant has the choice to either pay the assigned review fees upon the first submittal of plans for review and be reimbursed for that portion that is determined to meet the Fee Reduction Program criteria after consideration by the TRC and authorization by the Executive Director, or they can wait for the authorization and then submit plans for review, with associated reduced review fees provided by the Applicant.

Permit fees are conveyed to the Applicant at the time of plan approval. The Applicant may request a Variance for Fee Reduction and a TRC meeting will be scheduled when all supporting documentation is made available to SEMSWA along with the Application Form. In order for the Applicant to begin construction, permit fees need to be paid, so the Applicant has the choice to either pay the assigned permit fees prior to a determination by the TRC and authorization by the Executive Director and be reimbursed for that portion that meets the Fee Reduction Program criteria after authorization, or they can wait for the TRC determination and then request permit issuance, with associated reduced permit fees provided by the Applicant at that time.

In order to integrate 'best practices' as part of the justification for a reduced review or permit fee under the "Beneficial Exchange of Services" category of the Fee Reduction Policy, an analysis of the fiscal impact of the fee reduction as compared to the beneficial exchange resulting from the reduction will be estimated. This will assist in determining the overall benefits to the ratepayers and the stormwater system of having a Fee Reduction Policy in place. In addition, an evaluation of the utilization and effectiveness of all criteria categories in the Fee Reduction Policy will be prepared annually. This compilation of fee reduction data will be provided to the Board to assist in a determination of whether the Fee Reduction Policy should be modified, continued, or discontinued.

POLICY EXEMPTIONS/LIMITATIONS

No public or private development shall receive any reductions to offset or reduce fees for any condition or activity unrelated to SEMSWA's mission of providing stormwater management services.

APPEALS PROCESS

Appeals of fee reduction decisions by the Executive Director may be brought to the SEMSWA Board of Directors by sending a formal written Appeal of Stormwater Fee Reduction Program Determination to SEMSWA within thirty (30) days of the fee reduction decision by the Executive Director. Such appeals shall include all reasons for the appeal and any supporting documentation available. If the SEMSWA Board of Directors makes an alternate fee reduction determination, adjustment of fees will be made retroactive.

Appendix A: Definitions

Development is any change in the use of land that creates additional demand on the stormwater system and need for public facilities.

Detention Facility is a facility constructed for the purpose of mitigating stormwater runoff from a developed site to control the peak discharge rates (normally maintained as a dry basin).

Fee Reductions are reductions in the fee assessment to an owner or developer based on the provisions of this Fee Reduction Policy.

Maintenance is cleaning, spraying, removing obstructions from and making repairs to a drainage facility so that it will perform the functions for which it was designed and constructed. Maintenance expectations are included in the Maintenance Agreement for the facility.

Permits are issued by SEMSWA and used to authorize earthwork, work in the floodplain and installation of stormwater improvements.

Pre-submittal Meeting is a technical meeting held by the County, City or SEMSWA for the purpose of providing an overview of the processes required for proposed development.

Regional Facility is a facility that serves several developments, has a tributary area greater than 160 acres, is typically on-line, and is part of a stormwater system that is master planned for optimization of quality and quality controls.

Requirements are the minimum standards as established by SEMSWA.

Stormwater Facilities are all ditches, channels, conduits, retention/detention systems, swales, sewers, all associated appurtenances, and other natural or artificial means of managing stormwater.

Stormwater Improvements are site improvements and facilities that are planned and designed to provide service for development resulting from a development activity and are necessary for the use and convenience of the occupants or users of development.

Sub-regional Facility is a facility that serves more than one parcel, and may or may not be master planned.

Water Quality Facility is a facility constructed for the purpose of treating stormwater runoff from a developed site.

Technical Assistance is provided to appropriately design or construct a stormwater facility.

APPENDIX B - Application for Fee Reduction**General Information**Applicant Information (Financially Responsible Person)

Company: _____
Name/ Title: _____
Address: _____
City: _____ State: _____ Zip Code: _____
Phone: _____
Email: _____

Owner's Representative (Engineer/ Architect, Planner, etc)

Company: _____
Name/ Title: _____
Address: _____
City: _____ State: _____ Zip Code: _____
Phone: _____
Email: _____

Project Description

Name of Project: _____
Property Parcel ID#(s): _____
Property Address/ Description of Address: _____

Brief Project Description: _____

I hereby request SEMSWA to review this application for a Review and/or Permit fee reduction. I further authorize SEMSWA to inspect the above identified project for the purpose of assessment for a fee reduction. I certify that I have authority to make such a request and grant such authority for this property. The attached information is true and correct to the best of my knowledge and belief. (This form must be signed by the financially responsible person if an individual or if not an individual by an authorized representative including but not limited to an officer or partner, with authority to execute instruments for the financially responsible person). I agree to provide corrected information should there be any change in the information provided herein.

Type or print name Title or Authority

Signature Date

Appendix C - Right-of-Entry

_____ Hereinafter "Owner" and Southeast Metro Stormwater Authority, hereinafter "SEMSWA" in consideration of the mutual promises of the Owner and SEMSWA hereinafter contained, agree upon the following terms for the entry of SEMSWA and its representatives as set forth herein upon the real estate hereinafter described:

Owner hereby grants SEMSWA, its employees, agents, consulting engineers, contractors and other representatives the right to enter upon the above described real estate on and after _____, _____, _____, for the purpose of inspection.

Owner hereby covenants with SEMSWA that it/he/she/they are the true and lawful owner of the above described real estate and are lawfully seized of the same in fee simple and has/have the right and full power to grant this right of entry, which right of entry shall automatically terminate on completion of the above described inspections.

Owner will not charge SEMSWA rent or other compensation during the period of time SEMSWA utilizes the said real estate for purposes aforesaid under the provisions of this Right of Entry.

IN WITNESS WHEREOF, the parties have caused their respective names to be signed hereto on the ____ day of _____, 20____.

Owner

SEMSWA Representative