



Board Summary Report

To: Board of Directors

From: Monica Bortolini, SEMSWA Floodplain and Master Planning
Program Manager

Date: July 11, 2013

Re: LOMR Collateral

Board Meeting Date: July 24, 2013

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It has come to my attention, that although the floodplain development permits (FPDP) for the City of Centennial and for Arapahoe County include a line item for collateral for Letters of Map Revision (LOMRs), LOMR collateral is not collected through any established process and is not part of the collateral collected for the Stormwater Public Improvement Permit (SPIP).

A recent case within unincorporated Arapahoe County highlighted the need to collect collateral for LOMRs. After the completion of the Joint Water Purification Plant (JWPP) on Happy Canyon Creek in 2008, a LOMR was required and was included in the comments section of the County's Floodplain Development Permit. However, the sponsors of the project (ACWWA and IWSD) could not agree on how to fund the LOMR and it was never completed. LOMRs are required to be submitted to FEMA within 6 months after completion of the project.

SEMSWA started the Happy Canyon master plan and Flood Hazard Area Delineation (FHAD) study in 2011 and through the data collection process for the master plan it became clear that the LOMR was needed to document the resulting floodplain limit changes from the JWPP project to be included in the FHAD. Again, the sponsors of the JWPP were approached and couldn't agree on how to fund the LOMR or the as-built survey needed for the FHAD. The master plan project sponsors had to pick up this cost to complete the FHAD.

After this incident, it became clear that the FPDP process does not have any financial way to ensure compliance with the permit upon completion of the project. There is no incentive beyond keeping a floodplain development permit open indefinitely to complete a LOMR and there is no financial penalty for keeping a floodplain development permit open.

Another case in point is the recent Cherry Creek projects near Tagawa's. The floodplain development permit for the open space trail head parking area has never been closed because that project was not built to plan which resulted in an increase of the floodplain onto the Tagawa's house. This is a FEMA violation. Thankfully, the PJCOS project CLOMR showed that the flood increase from the parking lot project could be mitigated with the drop structure and channel improvements at the downstream end of the park project. If the PJCOS project sponsors had not agreed to fund the LOMR, the City would stay in violation until it was complete. There was no financial incentive for the sponsors to submit the LOMR to FEMA other than the desire to close out the FPDP for the project and to finalize the

floodplain limits through the park. The worst case scenario would be that SEMSWA would have had to fund the LOMR.

Therefore, there will be some instances where collecting enough collateral for SEMSWA to complete a LOMR are warranted to guarantee that we remain in compliance with FEMA. I have been keeping track of how much the Floodplain Program at SEMSWA has paid for LOMRs for our own projects over the last 6 years and have found that LOMRs for our projects that did not seek conditional approval from FEMA before the project was constructed (CLOMR) cost more money to complete than those projects that received FEMA approval with a CLOMR before the project was built. On average a LOMR that follows a CLOMR has cost SEMSWA around \$15,000 including surveying the completed project. Currently FEMA charges around \$5000 to review a LOMR submittal, therefore I estimated that a LOMR following a CLOMR would cost SEMSWA about \$20,000 to complete. The average cost for a LOMR without a CLOMR is around \$25,000 (with surveying) and adding in FEMA's current review fee, I have estimated this cost to be about \$30,000.

In conclusion, for non-SEMSWA sponsored projects that will require a LOMR to be submitted upon completion, collateral in the amount of \$20,000 for a LOMR following a CLOMR and \$30,000 for a LOMR without a CLOMR should be required to be collected from the applicant before a Floodplain Development Permit will be approved for the project. The LOMR collateral will be returned to the applicant when the LOMR has been submitted to and approved by FEMA. The collateral amount collected may have to be revised from time to time as costs to complete LOMRs and FEMA fees change.

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

RESOLUTION 13-26
Approval of Collateral Amounts for Letters of Map Revision (LOMRs)

WHEREAS, the Southeast Metro Stormwater Authority (SEMSWA) has authority through the City of Centennial's Land Development Code (Section 12-14-206 Floodplain Development Permit) to collect collateral to assure completion of a project that includes modification to a floodplain; and

WHEREAS, SEMSWA because of past experience has determined that it is necessary to collect collateral for LOMRs; and

WHEREAS, SEMSWA has determined that again, based upon past experience, the appropriate amount of collateral should be \$20,000 for LOMRs for projects with a FEMA approved CLOMR and \$30,000 for LOMRs for projects without a FEMA approved CLOMR; and

WHEREAS, SEMSWA will return the LOMR collateral to the applicant when the map change is approved, in writing, by FEMA.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Board of Directors of SEMSWA acting by and through SEMSWA Water Activity Enterprise hereby approves and adopts the following collateral fee amounts for LOMRs:
 - a. \$20,000 for LOMRs for projects with a FEMA approved CLOMR; and
 - b. \$30,000 for LOMRs for projects without a FEMA approved CLOMR.
2. The Executive Director is authorized and directed to implement an amended SEMSWA Project Closeout Document that includes collateral for LOMRs as of August 1, 2013.

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

Date: _____

ATTEST:

Secretary

Chairperson

Resolution 13-26
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APPROVED AS TO FORM:
Attorney for
Southeast Metro Stormwater Authority

By _____
Edward J. Krisor