



## System Development Fee Policies and Procedures

**Prepared for:**

SEMSWA  
76 Inverness Drive East, Suite A  
Englewood, CO 80112

**Prepared by:**

AMEC Earth & Environmental  
355 S. Teller Street, Suite 300  
Lakewood, CO 80226

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## Introduction

### ***Purpose***

The purpose of this document is to establish Southeast Metro Stormwater Authority (SEMSWA) System Development Fee (SDF) policies and procedures. These policies establish stormwater system development fees within the Service Area for new development. The process allows for consistent, fair and equitable fees for new development construction that places an impact on SEMSWA's stormwater system.

This memorandum is guidance for implementing the SDF.

### ***Background and Summary***

#### **Public Involvement**

A public Task Force was formed to identify SDF issues within the SEMSWA service area. Members of the community were notified of the Task Force meetings and invited to attend. As of January 31, 2009 five Task Force meetings have been held at SEMSWA offices. Two more are anticipated.

- October 22, 2007
- December 4, 2007
- January 8, 2008
- December 8, 2008
- January 13, 2009
- *February 10, 2009 (scheduled)*
- *March 3, 2009 (scheduled)*

Public comment also takes place at regularly scheduled Board meetings. Specific concerns may be addressed outside of the public meetings.

## ***Definitions***

System Development Fees are one-time charges paid by new development to finance the construction of public facilities needed to serve it.

Project Improvements – 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 resulting from a development activity.

System Improvements are improvements and facilities that provide service to more than one development that are intended to provide service to the Service Area, such as regional benefits or UDFCD master plan projects.

Percent impervious is the impervious area of a parcel divided by the total area of a parcel, or in the case of this appeal, the total impervious area of the contiguous parcels divided by the total (gross) area of the contiguous parcels.

Development Activity means any construction or expansion of building, structure or use, any change in use of building or structure, or any change in the use of land that creates additional demand and need for public facilities.

Proportionate Share of the cost of public facility improvements means an amount that is roughly proportionate and reasonably related to the service demands and needs of a development activity.

Impact that would preclude a developer from a refund may include any impact reasonably identified by SEMSWA, including, but not limited to: SEMSWA having sized facilities and/or paid for, installed and/or caused the installation of facilities based in whole or part upon the developer's planned development activity even though that capacity may, at some future time, be utilized by another development.

### ***System Development Fee Determination***

In calculating the SDF, SEMSWA has included the capital improvement costs, the percent developable, the developer share, and the remaining developable impervious acres, as defined below.

- **CIP Costs:** Total costs of projects identified in the current master plans for the basin. Costs updated to 2008 dollars using ENR cost indexes.
- **Developer Share:** The developer share of the regional projects is the total cost of the projects in a basin multiplied by the percent developable.
- **Remaining Developable Impervious Acres:** The remaining part of a basin that can be developed based on the potential percentage as determined by the Arapahoe County Comprehensive Plan and the City of Centennial Comprehensive Plan and the land use type per the Arapahoe County/ UDFCD criteria.
- **Percent Developable:** The estimated percentage of the basin remaining to be developed. Includes the areas of public and private site development. Excludes public streets, right-of-way, dedicated open space, golf courses, and other areas that are estimated to not have impervious surfaces or structures.
- **Fee per Impervious Acre:** Developer share of project costs divided by the remaining developable impervious acres.
- **Total Potential Fee Revenue:** Fee per Impervious Area multiplied by the Remaining Developable Impervious Area. The potential revenue equals the developer share in basins with identified improvement costs. Assumes total build out.

***Fee Calculation***

The developer pays fees for the specific basin the project is located in; however, in basins with no identified projects, the basin fee equals the basin group fee. The SDF is in units of impervious developed acre.

The developer fee per impervious acre is calculated as follows:

- **Basins Fee (for Basins with identified projects)**
  - Step 1: “Total Cost of Identified Projects” per Basin multiplied by “Percent Developable Area” per Basin equal the “Developer Share” per Basin.
  - Step 2: “Developer Share” per Basin divided by “Remaining Developable Impervious Area” equals the “Fee per Impervious Acre”.
- **Basin Group Fee (for Basins without projects)**
  - Step 1: The “Fee per Impervious Acre” equals the “Total Developer Share for the Basin Group” divided by the “Total Remaining Developable Impervious Area in Basins with Projects”. The Basin Group does not include the acreage of basins without projects.
  - Step 2: The fee per impervious acre is applied to all basins with no projects.

A detailed example calculation is attached in [Appendix A](#).

## ***Basin Groups***

Basins have been separated into 5 Basin Groups. As identified below. The basin groups share common features such as watershed, age, and level of development activity. A map of the basin groups is attached as Appendix A.

**Table 1: Basins in each Basin Group**

<b>Basin Group 1</b>	<b>Basin Group 2</b>	<b>Basin Group 4</b>
Bear Creek	Antelope Creek	Coal Creek
Big Dry Creek	Cottonwood Creek	First Creek
Coon Creek	Dove Creek	Murphy Creek
Dutch Creek	Happy Canyon Creek	Sand Creek
Greenwood Gulch	Lone Tree Creek	Lower Senac Creek
Lee Gulch	Piney Creek	Upper Senac Creek
Little Dry Creek	Saddle Rock Ranches	
Little's Creek	Sampson Gulch	
SJCD(N)	UDFCD ID 4406	<b>Basin Group 5</b>
SJCD(S)	Upper Cherry Creek	5000
Slaughterhouse Gulch	Upper Goldsmith Gulch	Harvard Gulch
UDFCD ID 66	Windmill Creek	Lower Cherry Creek
UDFCD ID 67		Lower Goldsmith Gulch
Willow Creek		Lower Goldsmith Gulch
	<b>Basin Group 3</b>	Westerly Creek
	East Toll Gate Creek	
	Unnamed Creek	
	West Toll Gate Creek	

## Proposed Policies and Procedures

### ***System Development Fee Accounting***

SEMSWA will establish separate **accounts** for each of the five (5) Basin Groups. Fees collected within a Basin Group may be used to build projects within that Basin Group, regardless of which Basin the fees were collected in. Funds may be transferred or loaned from one Basin Group to another if:

- 1) No reimbursements are due, and
- 2) All projects are built within that Basin, or
- 3) Priorities warrant that the money be spent in another Basin Group as approved by the Board.

The SDF accounts will be used for only new development activity. SDF money collected prior to the effective date will be transferred into the correct Basin Group. Funds are currently tracked by individual basin.

### ***Annual Adjustments to SDFs***

- 1) Annual inflation adjustments to the SDF may be assessed by SEMSWA upon approval of the Board.
- 2) Annual inflation adjustments to SDFs will be directly related to the average of the following cost indexes from July 1 to June 30: **DRCOG, State of Colorado, and ENR Construction Cost Index for the Denver area.**
- 3) Annual adjustments will be applied to the SDF in September of each year and take effect January 1 of the following year.
- 4) Annual adjustments will apply to all basins and basin groups uniformly. In the case where a reimbursement agreement takes precedence, refer to the terms of the reimbursement agreement.

### ***Updating Fees with New Information***

SDFs will be updated when new information becomes available. Situations which may institute an updated fee include:

- 1) Completed Master Plan or update to a Master Plan
- 2) Completed Outfall System Plan (OSP) or update to an OSP
- 3) Constructed master planned project
- 4) Constructed regional stormwater facility that has an impact on master planned projects
- 5) New information regarding the projects or cost of projects identified in the master plan that were used to calculate the SDF for a particular basin.
- 6) Updated zoning information which changes the developer share of new projects.
- 7) Updated zoning information which changes the remaining developable acres within a basin.
- 8) Other information which affects the project costs, remaining acres, or developer share for a particular basin.
- 9) Changes for one basin within a basin group will affect the entire basin group.



Fees will be updated annually, in September of each year. New or additional information which may affect the fee calculation must be submitted to SEMSWA by July 1.

## ***Reimbursement Agreements***

### **Existing Agreements**

SEMSWA will honor the following existing reimbursement agreements in place as of the effective date of this policy.

- 1) ACWWA has existing reimbursement agreements in place for the basins of Dove Creek, Lone Tree Creek, and Windmill Creek. The fees in those basins, as established by ACWWA are \$14,540 per impervious acre. The ACWWA fees will remain in effect until the reimbursement agreements in the affected basins are paid. At that time, SEMSWA will evaluate those basins and basin groups to establish the new fee.
- 2) IWS has existing reimbursement agreements in place for the portion of Cottonwood Creek within their jurisdiction. The IWS fees will remain in effect until the reimbursement agreements in the affected basins are paid. At that time, SEMSWA will evaluate those basin and basin groups to establish the new fee.
- 3) The development of Tallgrass and Copperleaf are excluded from the SEMSWA SDF as documented in the formation IGA.

### **New Agreements**

Reimbursement agreements may be established for specific developments when:

- 1) The costs of the regional improvements required are more than the calculated fees, minus any credits received.
- 2) The developer is paying more than the developer's share for a regional project.

Reimbursement agreements will be established by the Board and legal council.

The terms of repayment of the reimbursement agreements will generally follow:

- 1) The developer will be reimbursed as new development occurs within the same basin group and SDFs are collected.
- 2) The term for reimbursement will be no more than 10 years. If after 10 years, the amount of fees collected in the basin group does not meet the reimbursement amount, the remaining reimbursement is forfeited by the developer.
- 3) Reimbursement amounts will not accrue any interest.
- 4) Reimbursements will follow a first in – first out priority system. **Reimbursements approved during a calendar year will have the same priority number.**
- 5) If more than one reimbursement is due within a Basin Group, the repayment will be proportioned based on priority. It is not required that the first priority number be reimbursed in full before the next priority numbers can receive full or partial repayment.

- 6) The approved reimbursement amount will be determined by SEMSWA. Developers are required to certify their costs of eligible improvements with copies of paid receipts by October 1 to be included with that year's priority number. The approved reimbursement amount may be less than the total cost of construction of the regional stormwater facility.
- 7) Reimbursement agreements are void if transferred or sold to a third party. Reimbursement agreements are valid only between SEMSWA and the original developer.
- 8) Reimbursements will occur once per year by December 31.

## ***Collection of Fees***

### **System Development Fee Collections**

- 1) System Development Fees shall be determined from the fee schedule in effect at the time of formal submittal of plans to the City of Centennial or Arapahoe County.
- 2) Fees will be estimated by SEMSEWA at the pre-submittal meeting, to be reviewed with the developer. Fees shall be collected in association with the Subdivision Improvement Agreement (SIA) for the development, prior to approval of the site civil Construction Drawings.
- 3) The impervious area for each development will be determined with the same guidelines and policies used to determine the impervious area for the annual fees. The guidelines are attached in [Appendix C](#).
- 4) Projects that are delayed beyond their plan expiration date may be assessed additional SDFs if the current fee schedule at the time of expiration has resulted in an increased fee for the basin or basin group the project is located in.
- 5) SEMSWA reserves the right to assess and adjust fees to respond to unusual circumstances to ensure that fees are equitably assessed. No adjustment of fees will occur without legal posting of the change and a public hearing of the Board of Directors.

### **Refunds**

SEMSWA shall refund a SDF (in whole or part) paid by a developer when all of the following conditions are met:

- 1) The developer does not proceed with the development activity and files a written request for a refund;
- 2) The fees have not been spent or encumbered; and
- 3) No impact has resulted. (see definitions)

An impact that would preclude a developer from a refund from SEMSWA may include any impact reasonably identified by SEMSWA. Developers must submit a written refund request prior to October 1. Developers granted a refund either

through the items listed above or through the overpayment of SDF, will be issued a check for the refund amount prior to December 31 of the year the refund is granted.

### **Negotiated Fees**

To the extent allowed by law, the Board may negotiate or otherwise impose SDF and other fees different from those currently charged. Those charges may, at the discretion of the Board, include but not be limited to reductions or increases in SDF, all or part of which may be reimbursed to the developer who installed improvements with the service area. This includes the situation when the most cost-efficient method to construct a regional improvement is to have the developer complete the construction (i.e. a road that serves as a detention embankment).

### **Additional Fees and Costs**

The SDF authorized hereby are separated from and in addition to annual user fees, permit and review fees, and other charges lawfully imposed by SEMSWA or other entities with dual jurisdiction. In charging any such fees as a condition of development approval, SEMSWA recognizes that the fees must be a reasonable charge for the services provided.

### **Developer Credits**

A developer may be allowed a credit against SDF as detailed in the Credit Policy.

### **Appeal Procedure**

The SDF may be appealed based on updated information that affects the fee calculation. Updated information must be submitted by July 1 in order to be reviewed by SEMSWA prior to implementing the fee schedule in September to take effect in January of the next year.

SEMSWA's decision is final with regards to the final fee calculation including the site's total impervious acres.

## **APPENDIX A: Example Calculation**

**Insert SEMSWA's Right-of-Entry  
Southeast Metro Stormwater Authority  
Basin Development Fees  
Example Calculations**

**Individual Basin Fee Calculation with CIP Costs**

	Example	Cottonwood Creek
CIP Costs	\$1,000,000	\$15,424,000
Percent Developable	25%	34%
Developer Share	\$250,000	\$5,278,160
Remaining Developable Impervious Acres	100	958
<b>Fee per Impervious Acres</b>	<b>\$2,500</b>	<b>\$5,510</b>

**System Development Fee:** A one time charge paid by new development to finance the construction of public facilities needed to serve it.

**CIP Costs:** Total costs of projects identified in the current master plans for the basin. Costs updated to 2008 dollars using ENR cost indexes.

**Percent Developable:** The percentage of the basin remaining to be developed. Removes right-of-way, dedicated open space, golf courses, etc.

**Developer Share:** The developer share of the regional projects is the total cost of the projects in a basin multiplied by the percent developable.

**Remaining Developable Impervious Acres:** The remaining part of a property that can be developed based on the potential percentage as determined by the Arapahoe County Comprehensive Plan and the City of Centennial Comprehensive Plan and the land use type per the Arapahoe County/ UDFCD criteria.

**Fee per Impervious Acre:** Developer share of project costs divided by the remaining developable impervious acres.

**Total Potential Fee Revenue:** Fee per Impervious Area multiplied by the Remaining Developable Impervious Area. The potential revenue equals the developer share in basins with identified improvement costs. Assumes total build out.

Basin	# of Projects	Total Cost of Identified Projects (2008\$)	Percent Developable Area (outside ROW)	Developer Share (2008\$)	Remaining Developable Impervious Area (outside ROW) (acres)	Fee per Impervious Acre (\$)	Potential Fees Assessed (\$)
East Toll Gate Creek	1	\$905,000	15%	\$135,750	146	\$930	\$135,750
Unnamed Creek	7	\$6,876,000	3%	\$206,280	63	\$3,274	\$206,280
West Toll Gate Creek			6%	\$-	115	\$1,637	\$188,198
<b>Total</b>	<b>8</b>	<b>\$7,781,000</b>		<b>\$342,030</b>	<b>209</b>		<b>\$530,228</b>

Developer Share =  
Total Cost of Identified Projects \*  
Percent Developable

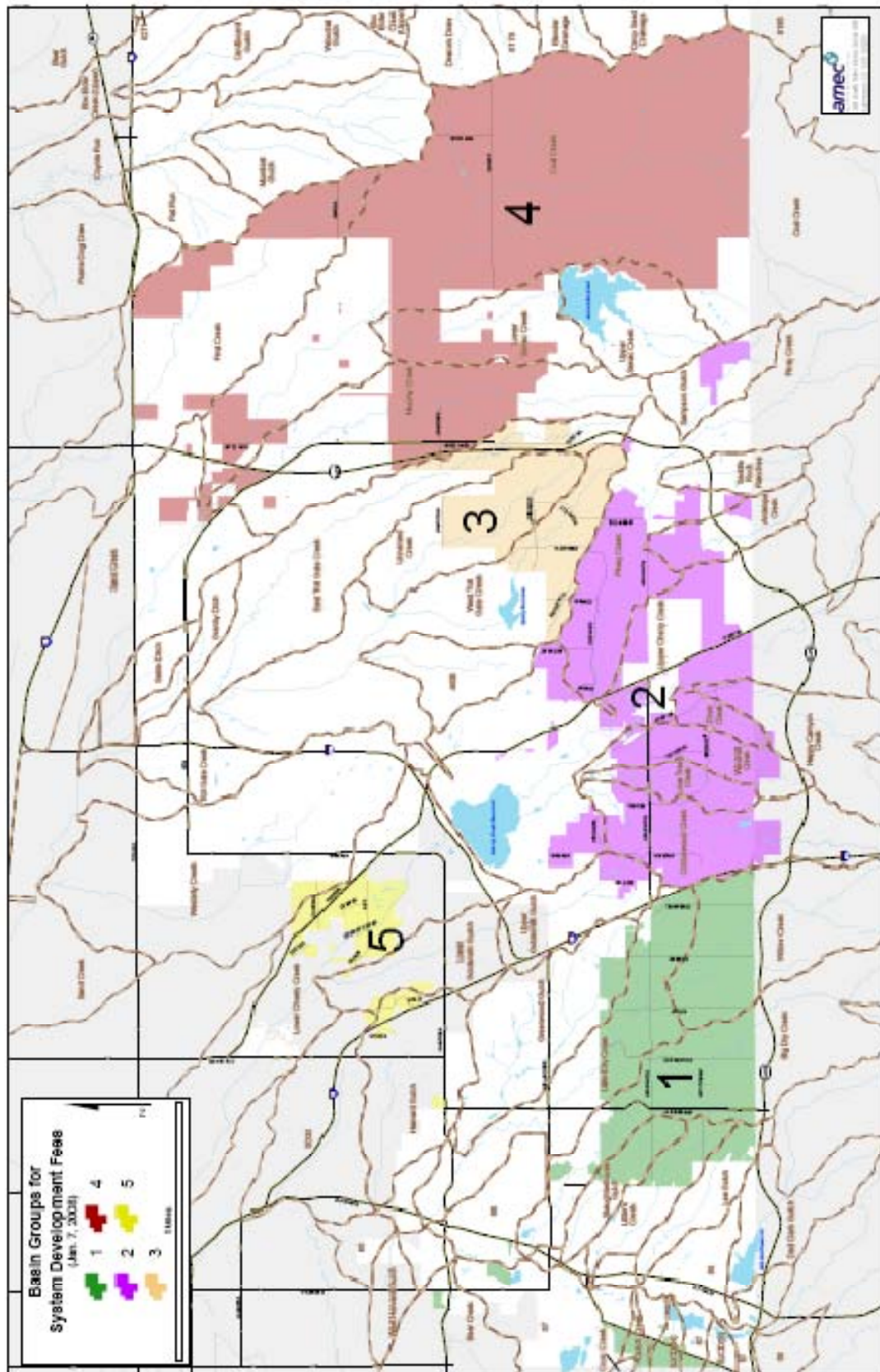
Fee per Impervious Acre =  
Developer Share /  
Remaining Developable  
Impervious Area

Potential Fees  
Assessed = Fee per  
Impervious Area \*  
Remaining  
Developable  
Impervious Area

Total Remaining Developable  
Impervious Acres in Basins with  
Identified Projects

Basin Group Fee per Impervious Acre =  
Total Developer Share Costs for the  
Basin Group / Remaining Developable  
Impervious Acres from Basins with  
Identified Projects

## **APPENDIX B: Basin Group Map**



## **APPENDIX C: Impervious Area Guidelines**



## Impervious Area Guidelines

Areas that should be identified as **impervious** are:

- 1) Hardened surfaces on or near the ground: Sidewalks, driveways, private roads, private streets, parking lots, walkways, patios, concrete slabs, runways, taxiways, aprons or other hardened surfaces consisting of asphalt, concrete, or other paving material.
- 2) Hardened surfaces above ground: Buildings, foundations, storage tanks, rooftops, athletic courts and tracks.

Areas which should be identified as **pervious** are:

- 1) Features small than 100 square feet
- 2) Landscaped areas (grass, gardens, mulch, plants, pea-gravel, sand, xeriscape, etc.)
- 3) Natural rock formations
- 4) Wood decks if over a pervious surface
- 5) Gravel
- 6) Dirt
- 7) Public right-of-way including streets and sidewalks

Areas that **may not** be impervious include the following materials set in porous fill such as sand, gravel, grass, or dirt. *Documentation to determine if these surfaces should be identified as impervious or pervious includes the submission of pictures, designs, and specifications, by the customer and possible field investigations by SEMSWA.*

- 1) Bricks
- 2) Pavers
- 3) Wood
- 4) Stone

Additional areas which **may not** be impervious include porous pavements and similar surfaces that allow water to infiltrate. *Documentation to determine if these surfaces should be identified as impervious or pervious includes the submission of pictures, designs, and specifications, by the customer and possible field investigations by SEMSWA.*