

ORDINANCE NO. 175

AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE VALLECITOS WATER DISTRICT
MODIFYING WATER CAPITAL FACILITY FEES
IN FISCAL YEAR 2012-2013

BE IT ORDAINED by the Board of Directors of the Vallecitos Water District ("District") as follows:

Section 1. Declaration of Policy and Background. On August 3, 2011, the District Board of Directors adopted the 2008 Water, Wastewater, and Water Reclamation Master Plan ("2008 Master Plan"). Concurrent with the adoption of the 2008 Master Plan, and in compliance with the California Environmental Quality Act ("CEQA"), the Board of Directors certified the Final Program Environmental Impact Report for the 2008 Master Plan ("2008 Master Plan PEIR"). The District used information and data from the 2008 Master Plan and PEIR to prepare a Water, Wastewater Capital Facility Fee and Wastewater Density Impact Fee Study ("Study") and calculated a reasonable Water Capital Facility Fee structure and methodology that reflects the costs of financing and construction of the proposed facilities in the 2008 Master Plan. The Study analyzes the capital facilities needed by the District to serve the growing demands of new development, and the proposed Water Capital Facility Fees do not exceed the reasonable costs of financing and constructing the needed improvements.

The Study was approved by the Board of Directors at a public meeting on March 21, 2012 and an Updated Study is approved as part of this ordinance. The Updated Study substantiating the proposed fees was made available for public inspection and review ten (10) days prior to the public meeting and notice was given in compliance with Government Code section 66016.

During the period from January 2010 through February 2012, the District held over 20 workshops and meetings with interested parties including representatives from the development community, the Building Industry Association of San Diego, and consulting engineers to review, discuss, and receive input on the 2008 Master Plan, the Master Plan PEIR, the Draft Study, and the basis and methodology substantiating the proposed Water Capital Facility Fees.

The District, by this ordinance, desires to adopt the Water Capital Facility Fee Schedule which is attached hereto as Exhibit "A" and incorporated herein by reference for fiscal year 2012-2013 and reflects the information and data taken from the 2008 Master Plan and Updated Study.

The Board of Directors of the District considered modifying the Water Capital Facility Fee Schedule after conducting a public hearing at a public meeting on April 18, 2012, in accordance with Government Code section 66018.

Section 2. Findings. The Board of Directors of the District finds and determines as follows:

(a) Purpose of the Fee. The purpose of the Water Capital Facility Fee is to provide an adequate water supply and distribution system to serve new development within the District's service area and to provide adequate funding for future financing and construction of facilities described in the 2008 Master Plan.

(b) Use of Fees. All Water Capital Facility Fees as listed on the Water Capital Facility Fee Schedule, shall be used to finance and construct the applicable storage and transmission facilities described in the 2008 Master Plan, including debt service. Water Capital Facility Fees shall not be used for repair, maintenance, replacement or operational expenses.

(c) Relationship Between Use of Fee and Type of Development. Water Capital Facility Fees will be charged to new development projects and existing users increasing capacity as measured by Equivalent Dwelling Units ("EDU's) and meter size, which takes into consideration land use designations in the 2008 Master Plan and the amount of the demands.

(d) Relationship Between Need for Capital Facilities and Type of Project. In order to provide adequate water service, all new development within the District's service area will require the capital facilities specified in the 2008 Master Plan.

(e) Relationship Between Amount of Fee and Cost to Particular Projects. Water Capital Facility Fees for each new development project shall be based upon the demand of a particular project on the District's water system through the analysis of land designation, size of property to be served, and type of use.

(f) Reasonable Relationship. Water Capital Facility Fees do not exceed the estimated reasonable cost of providing the service for which the charge is imposed and the Water Capital Facility Fee Schedule insures that each user will pay a fair share of new facility construction based upon actual demands upon the water system.

(g) Environmental Review. In accordance with the California Environmental Quality Act Guidelines Section 15061, the Board of Directors ordains that the Water Capital Facility Fees established by this ordinance are exempt from CEQA for the following reasons:

1. The Water Capital Facility Fees are not a "project" as defined by Guidelines Section 15378;
2. The project is exempt in accordance with Guidelines Sections 15273(1), 15273(3), and 15274(4); and
3. The activity will not have any significant impact upon the environment pursuant to Guidelines Section 15061(b)(3).

The Board of Directors of the District orders and directs that the foregoing exemptions and reasons be made a part of the Notice of Exemption and that the Notice of Exemption be filed with the County Clerk of the County of San Diego.

(h) Cost Estimates. The cost estimates set forth in the 2008 Master Plan and Study are reasonable estimates for the financing and construction of capital facilities shown and the development fees expected to be generated by new demand will not exceed a total of these estimated costs.

Section 3. Segregated Accounts and Their Accounting. The District has established separate accounts in its accounting records segregating water capacity fee revenue and related interest accrued thereon from other revenue and funds of the District. For each separate account, the District's finance officer shall, within one hundred eighty (180) days after the last day of each fiscal year, make available to the public and present to the District's Board of Directors a written report containing all of the information required by Government Code section 66013(d).

Section 4. Water and Wastewater Study. All development projects at the sole expense of the developer shall be required to complete a Water and Wastewater Study which analyzes and calculates the impacts of the development project on the water system. The Water and Wastewater Study shall also provide the basis for local benefit impacts and improvements.

Section 5. Commitment of Capital Facility Fees. All Water Capital Facility Fees collected and remaining unexpended on the effective date of this ordinance and all future development fees collected pursuant to this ordinance and related interest thereon are committed by appropriation to the District's capital improvement program and the facilities described in the 2008 Master Plan and Study.

Section 6. Water Capital Facility Fee Schedule and Inflationary Increases. On January 1 of each calendar year, the District will adjust the Water Capital Facility Fee Schedule based on the annual percentage change in the Engineering News Record Construction Cost Index.

Section 7. Effective Date. This ordinance shall be effective immediately upon passage by the Board of Directors. The secretary of the District shall publish a summary of this ordinance two (2) times on successive weeks in an adjudicated newspaper of general circulation within the District. The Water Capital Facility Fees established by this ordinance shall be effective at 12:00 a.m. on July 1, 2012, more than sixty (60) days after adoption of this ordinance in accordance with Government Code section 66017.

Section 8. San Diego County Water Authority Capacity Fees. The District shall collect the capacity fees established by the San Diego County Water Authority in accordance with their requirements as set forth from time to time. Any increases in San Diego County Water Authority capacity fees shall automatically be passed through and all protests or objections to the San Diego County Water Authority capacity fees should be directed to: San Diego County Water Authority, 4677 Overland Avenue, San Diego, CA 92123.

Section 9. Time of Payment of Water Capital Facility Fees. Water Capital Facility Fees shall be due and payable prior to commitment of service pursuant to the provisions of Resolution No. 1343.

Section 10. Non-Refundable. To assure availability for proper planning and to meet obligations incurred by the District to develop capacity in the District's water system in a timely manner, all Water Capital Facility Fees collected shall be non-refundable and non-transferable.

Section 11. Interpretation and Severability. Each and every section, subsection, sentence, clause, phrase, part, or portion of this ordinance shall be construed at all times so as to be in

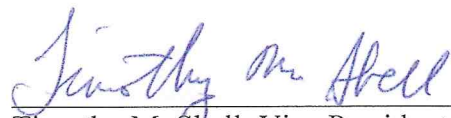
compliance with all federal, state, and local laws, roles, and regulations governing development fees. If any section, subsection, sentence, clause, phrase, pan, or portion of this ordinance as so interpreted is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Directors of the District hereby declares that this measure, and each section, subsection, sentence, clause, phrase, part, or portion of this ordinance would have been adopted or passed irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, parts, or portions of this ordinance are declared invalid or unconstitutional. In the event a court of competent jurisdiction determines that any sentence, clause, subsection, section, phrase, or any part or portion of this ordinance is invalid or unconstitutional, the Board of Directors of the District hereby expressly requests that the court sever the invalid portion of this ordinance and declare the balance of the ordinance to be valid.

Section 12. Limitation on Judicial Review. Any judicial action or proceeding to attack, review, set aside, void, or annul this ordinance or any water capital facility fee increase adopted as a result of this ordinance shall be brought no later than one hundred twenty (120) days following the date this ordinance has been adopted by the Board of Directors of the Vallecitos Water District. Any action not filed within the 120-day period shall be forever barred.

ALL OTHER ORDINANCES, ARTICLES, OR SECTIONS OF ORDINANCES, OR AMENDMENTS IN CONFLICT HEREWITH ARE HEREBY REPEALED.


PASSED, APPROVED, AND ADOPTED by the Board of Directors of the Vallecitos Water District at a regular meeting this 18th day of April 18, 2012, by the following roll call vote:

AYES: FERGUSON, POLTL, SHELL
NOES:
ABSENT: GENTRY, HERNANDEZ
ABSTAIN:



Timothy M. Shell, Vice President
Board of Directors
Vallecitos Water District

ATTEST:



Dennis O. Lamb, Secretary
Board of Directors
Vallecitos Water District

EXHIBIT A

Vallecitos Water District
Water Capital Facility Fee Schedule
Adopted: April 18, 2012
Effective: January 1, 2024

1. The Equivalent Dwelling Unit (EDU) is established as 500 gallons per day (GPD). A 3/4" meter is equal to one EDU. Meters larger than 3/4" are equal to a base of 1 EDU times the incremental increase in meter continuous flow rate in gallons per day (see schedule below).
2. Water meter size and amount of capacity to be purchased is determined by using 2018 Master Plan criteria, land use, information submitted by the applicant, and the project's Water and Wastewater Study, if applicable. The minimum capacity shall be based on the 2018 Master Plan land use designations. Purchase of additional capacity may be required, and separate landscape meters are required except for single family residences. One meter shall not serve more than one APN.
3. Residential and small commercial applicants for service on lots smaller than one acre are subject to the purchase of water capacity for 3/4" (1 EDU) meter.
4. All other applications for water service must be submitted to the District for analysis and determination of meter size and amount of capacity to be purchased, with a minimum capacity of 1 EDU. After service has commenced, accounts will be monitored for usage and if the purchased capacity is exceeded based on the most recent twelve-month average, the customer will be notified by the District and be given the option to purchase additional capacity or to have a surcharge on water consumption over the purchased capacity added to the monthly bill, or the customer must significantly reduce consumption within three months.
5. Water Capital Facility Fees are modified to **\$10,036** per EDU to be adjusted annually per Section 6 of this ordinance.
6. The Water Capacity Surcharge is established as **\$3.33** per unit (hundred cubic feet).
7. The Water Meter Base Capacity Schedule is established as minimum for each meter size:

Meter Size	2024		
	EDU	GPD	Base Capital Facility Fee
3/4"	1.0	500	\$ 10,036
1"	2.5	1,250	\$ 25,090
1 1/2"	6.0	3,000	\$ 60,216
2"	8.0	4,000	\$ 80,288
3"	17.5	8,750	\$ 175,630
4"	25.0	12,500	\$ 250,900

(Meters larger than 4" are restricted to fire service purposes unless request is submitted to the Board of Directors for consideration.)