

ORDINANCE NO. 225

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE VALLECITOS WATER DISTRICT REPEALING ORDINANCE NO. 180 AND ADOPTING A REIMBURSEMENT AGREEMENT POLICY

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

Ordinance No. 180 defining and establishing the policy of the District with respect to extensions or enlargement of water and sewer facilities, and Facilities Reimbursement Agreements is hereby repealed.

Section 1: General Purpose.

This Ordinance outlines general terms and establishes eligibility requirements and conditions for Reimbursement Agreements (defined below) for construction of or enlargement of water and sewer facilities. A Facilities Reimbursement Agreement is an agreement under which an applicant is reimbursed by other benefitting property owners and may be considered when new facilities will benefit eligible properties, other than those owned by the applicant, that can be conveniently served by the proposed facilities and when adequate capacity exists in the facility as defined in Section 3.3 ("Facilities Reimbursement Agreement"). A Facilities Reimbursement Agreement for Oversized Facilities is an agreement under which an applicant is required to construct one or more oversized facilities and the District reimburses the applicant for all or a portion of the cost of the oversizing, and may be considered when a development is conditioned to construct facilities in accordance with the District's Master Plan, which provide additional capacity above what is required to serve a proposed development ("Facilities Reimbursement Agreement For Oversized Facilities"). Facilities Reimbursement Agreements and Facilities Reimbursement Agreements for Oversized Facilities may be collectively referred to herein as "Reimbursement Agreements."

Section 2: District Determination.

The District shall have the sole discretion to determine the following:

2.1. Whether a proposed extension or enlargement of water and/or sewer facilities by applicant(s) will be permitted.

2.2. Whether the proposed facilities will be constructed at the expense of the applicant, the expense of the District, or the joint expense of the applicant and the District.

2.3. In the event the District determines the proposed facilities are to be constructed solely at the applicant's expense, the District may allow the applicant to

proceed with construction of the facilities without a Reimbursement Agreement, provided the applicant enters into a Construction of Facilities Agreement with terms and conditions acceptable to the District and in conformance with this Ordinance.

2.4. In the event the District determines the proposed facilities should be financed in whole or part by reimbursements from other benefitting property owners or by District funds, the applicant shall enter into a Construction of Facilities Agreement as well as a Facilities Reimbursement Agreement or Facilities Reimbursement Agreement for Oversized Facilities with terms and conditions acceptable to the District and in conformance with this Ordinance.

Section 3: Facilities Reimbursement Agreement.

The applicant shall review this entire Ordinance and consult with District staff to determine if the project is eligible for a reimbursement prior to the initial request.

3.1 Initial Request: A request to enter into a Facilities Reimbursement Agreement pursuant to this Ordinance shall be submitted in writing by the applicant to the District prior to or concurrent with submittal of improvement plans for the proposed facilities. The request shall contain a map and a full legal description of the applicant's property, which service is being requested for, and other properties that could be conveniently served by the proposed facilities. The applicant shall also submit preliminary construction cost estimates of the proposed facilities for calculation of preliminary reimbursements. Section 6.1 identifies administrative costs associated with the initial request.

If approved, this map and preliminary reimbursement information will be used as the basis of the final benefit area and estimated reimbursement amounts.

3.2 Determination of Reimbursement Eligibility: Upon receipt of the initial request, and administrative deposit, the District will determine if the request is complete, eligible for reimbursement and verify the boundaries of the area that could be conveniently served by the proposed facilities.

3.3 Facility Eligibility: The District, in its sole discretion, will determine if the proposed facilities are eligible for a Facilities Reimbursement Agreement. Projects involving extensions of off-site water and sewer facilities, including facilities that front the project, which may reasonably benefit other properties, may be eligible for reimbursement from benefitting property owners when they connect to the proposed facilities installed by the applicant. On-site facilities are not eligible and shall not be included in any reimbursements.

In order to be eligible for a reimbursement, the proposed off-site facility must be designed and constructed with adequate capacity to provide service to the properties within the proposed Facilities Reimbursement Agreement boundary.

3.4 Eligible Property: For property, other than applicant's, to be included in the Facilities Reimbursement Agreement, the proposed facilities must physically (in fee) front the property or, at the District's discretion, be accessible through other legal means of access which may include but not limited to a utility easement.

3.5 Implementation: Upon determination by the District the project may qualify for a Facilities Reimbursement Agreement, the applicant shall submit plans and specifications for construction of the proposed facilities for review and approval by the District. The applicant's improvement plans shall contain a statement for signature by the District Engineer designating a Facilities Reimbursement Agreement may be executed for the applicant's project upon approval by the District Board of Directors. Applicant agrees to enter into a standard Facilities Reimbursement Agreement in conformance with this Ordinance.

3.6 Board Approval: Prior to Board approval of applicant's project for construction, the above referenced items shall be completed. The staff report for project approval shall include information on the proposed benefit area and preliminary reimbursement amounts for consideration by the Board of Directors.

The District representative shall give notice to the owner or owners, as shown by the latest assessment roll, within the potential benefit area that may be conveniently served by the proposed facilities. Said notice shall not be less than ten (10) days prior to the Board meeting for Construction of Facilities Agreement approval, by United States mail, postage prepaid, giving the date, time, and place of the Board meeting. Notice shall include the following items: estimated construction costs, a list of the benefitting properties, a sample of the Facilities Reimbursement Agreement and a copy of the corresponding Reimbursement Ordinance.

Section 4: Eligible Reimbursement Costs and Methodology for Facilities Reimbursement Agreement.

Reimbursement shall be in conformance with the following:

4.1 Reimbursement Report: Within 30 days after completion of the improvements and acceptance by the District Board of Directors, applicant shall provide District with a reimbursement report for review by the District. The report shall include an itemized accounting substantiating actual construction costs, allowed by this Ordinance, related to the construction of the facilities. In the event the required information is not provided within 30 days, the applicant will not be eligible for a Facilities Reimbursement Agreement.

4.2 Eligible Costs: The District shall determine, in its sole discretion, the total eligible construction cost of the facilities as well as the formula utilized for determining the reimbursement. Eligible construction costs shall not include applicant's costs for administrative, engineering, financing, surveying, permits, legal services, or inspection-related expenses, or for water services and sewer laterals serving or appurtenances

benefitting applicant's property. The amount of said costs eligible for reimbursement shall not exceed the sum total cost of the project.

4.3 Benefit Calculation Formula: The construction charge for each property within the benefited area may be determined, at the District's discretion, by either of the following formulas:

Each property's percentage of the total land within the benefited area; plus, each property's percentage of total facility frontages; divided by two. This average percentage will be multiplied by the total eligible construction costs to determine each property's reimbursement amount.

Alternatively, at the District's sole discretion, eligible construction costs may be evenly split between the total parcels within the benefited area. Alternative reimbursement formulas/methods may also be considered at the sole discretion of the District.

4.4 End of Line Benefit: The applicant shall not be entitled to any reimbursement from future extensions of the facilities identified in the Facilities Reimbursement Agreement.

4.5 Other Costs: The District may charge benefitted properties additional connection fees, capital facility fees, or other fees or charges for meters or sewer laterals connected to the facilities. Such additional charges shall not be included in the construction costs to be reimbursed to applicant.

Section 5: Reimbursements for Facilities Reimbursement Agreement.

5.1 Term of Agreement: Applicant shall be entitled to receive reimbursement payments until either all payments specified in the agreement have been made, or a maximum period of twenty (20) years from the effective date of the Facilities Reimbursement Agreement. The District agrees to reimburse applicant the amount received by the District from each benefited property for its proportionate share of eligible construction costs as calculated pursuant to Section 4.3 herein plus an escalator based upon the increase in the San Diego Consumer Price Index for All Urban Consumers (CPI-U), from the effective date of the agreement to the date of reimbursement. An escalator of zero percent increase will be used for periods when the cost index is negative.

Following reimbursement of all approved construction costs or automatic expiration or termination of the agreement, applicant shall not be entitled to any further reimbursements. In no case shall the District be responsible for payment of any outstanding reimbursements from any District funds or other source not specifically set forth in this Policy and shall be under no obligation to make payments for uncollected reimbursements.

5.2 Payment: All reimbursement payments shall be made to applicant at the mailing address designated in the Facilities Reimbursement Agreement only, at the frequency described in the Facilities Reimbursement Agreement, and shall not be assignable without the District's prior written consent. It is the applicant's responsibility to notify the District of changes in mailing address.

Section 6: Administrative Costs and Deposits for Facilities Reimbursement Agreement.

6.1 Deposit: Applicant shall deposit estimated expenses for District administrative costs for preparation of the Facilities Reimbursement Agreement. Additional administrative costs for monitoring payments to applicant during the term of the agreement incurred by the District shall be deducted from the subsequent reimbursement payments. Additional deposits amounts may be required to complete the Facilities Reimbursement Agreement. Balances shall be due and payable prior to final Board action identified in Section 7.

6.1.1 Initial Request Deposit:

2-5 parcels	\$1,000
6-10 parcels	\$1,500
More than 10 parcels	\$2,500

The applicant's project shall be included as one benefitting property and considered in the number of parcels referenced in Section 6.1.1.

Deposit amounts are subject to annual review and modification at the discretion of the General Manager without modification of this Ordinance.

6.2 Administration Costs: The District will retain 5% of the reimbursement amount when payment is received from any benefitting property to reimburse the District for costs associated with the preparation, completion, and administration of the Facilities Reimbursement Agreement, including but not limited to District expenses for engineering, legal services, management, and incidental expenses related to preparation and review of the Facilities Reimbursement Agreement.

Section 7: Public Notice For Facilities Reimbursement Agreement.

Prior to authorization of a Facilities Reimbursement Agreement, the District shall provide public notice to the owner or owners, as shown by the latest assessment roll, of the proposed benefit area that may be served by the proposed facilities not less than ten (10) days prior to the Board action. The notice regarding the approval of a Facilities Reimbursement Agreement shall provide the date, time, and place of said action. The Board may consider evidence presented by any and all persons who have a recognizable legal interest in the matter. The Board's decision shall be final regarding the Facilities Reimbursement Agreement.

Section 8: Facilities Reimbursement Agreement For Oversized Facilities.

8.1 Initial Request. A request to enter into a Facilities Reimbursement Agreement for Oversized Facilities pursuant to this Ordinance shall be submitted in writing by the applicant to the District prior to or concurrent with submittal of improvement plans for the proposed facilities. The request shall contain a preliminary construction cost estimate of the proposed facilities for calculation of preliminary reimbursements. Section 10.1 identifies administrative costs associated with the initial request.

8.2 Facility Eligibility: Upon receipt of the initial request and administrative deposit, the District, in its sole discretion, will determine if the proposed facilities are eligible for a Facilities Reimbursement Agreement For Oversized Facilities. Projects involving construction of facilities in accordance with the District's Master Plan, which provide additional capacity above what is required to serve a proposed development, may be eligible for partial reimbursement by the District.

8.3 Implementation: Upon determination by the District the project may qualify for a Facilities Reimbursement Agreement For Oversized Facilities, the applicant shall submit plans and specifications for construction of the proposed facilities for review and approval by the District. The applicant's improvement plans shall contain a statement for signature by the District Engineer designating a Facilities Reimbursement Agreement for Oversized Facilities may be executed for the applicant's project upon approval by the District Board of Directors. Applicant agrees to enter into a Facilities Reimbursement Agreement For Oversized Facilities in conformance with this Ordinance.

8.4 Board Approval: Prior to Board approval of applicant's project for construction, the above referenced items shall be completed. The staff report for the Construction Agreement and Facilities Reimbursement Agreement for Oversized Facilities approval shall include information for eligible reimbursement amounts in accordance with Section 9.2 for consideration by the Board of Directors.

Section 9: Eligible Reimbursement Costs for Facilities Reimbursement Agreement For Oversized Facilities.

Reimbursement shall be in conformance with the following:

9.1 Reimbursement Report: Within 30 days after completion of the improvements and acceptance by the District Board of Directors, applicant shall provide District with a reimbursement report for review by the District. The report shall include an itemized accounting substantiating actual construction costs, allowed by this Ordinance, related to the construction of the facilities. In the event the required information is not provided within 30 days, the applicant will not be entitled to reimbursement.

9.2 Eligible Costs: The District shall determine, in its sole discretion, the total eligible construction cost of the facilities as well as the formula utilized for determining the reimbursement. Eligible construction costs shall not include applicant's costs for administrative, engineering, financing, surveying, permits, legal services, or inspection-related expenses, or for water services and sewer laterals serving or appurtenances benefitting applicant's property.

9.3 Other Costs: The District may charge additional capital facility fees for meters or sewer laterals connected to the facilities. Such additional charges shall not be included in the construction costs to be reimbursed to applicant.

Section 10: Administrative Costs and Deposits for Facilities Reimbursement Agreement For Oversized Facilities.

10.1 Deposit: Applicant shall deposit estimated expenses for District administrative costs for preparation of the Facilities Reimbursement Agreement for Oversized Facilities. Additional deposit amounts may be required to complete the Facilities Reimbursement Agreement for Oversized Facilities. Balances shall be due and payable prior to final Board action identified in Section 8.

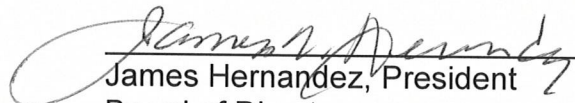
Initial Request Deposit: \$1,000

Deposit amounts are subject to annual review and modification at the discretion of the General Manager without modification of this Ordinance.

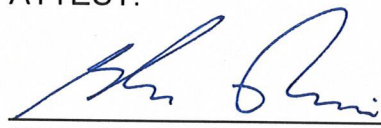
This Ordinance shall become effective immediately upon passage.

PASSED, APPROVED, AND ADOPTED by the Board of Directors of the Vallecitos Water District on the 6th day of September 2023, by the following vote:

- AYES: ELITHARP, GROSET, HERNANDEZ, PENNOCK
- NOES:
- ABSTAIN:
- ABSENT: BOYD-HODGSON


 James Hernandez, President
 Board of Directors
 Vallecitos Water District

ATTEST:



 Glenn Prui, Secretary
 Board of Directors
 Vallecitos Water District