

ORDINANCE NO. 180

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE VALLECITOS WATER DISTRICT RESCINDING ORDINANCE NO. 161 AND ESTABLISHING A REIMBURSEMENT AGREEMENT POLICY

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

Ordinance No. 161 defining and establishing the policy of the District with respect to extensions or enlargement of water and sewer facilities, and reimbursement agreements is hereby repealed.

Section 1: General Purpose.

This Ordinance outlines general terms and establishes eligibility requirements and conditions for reimbursement agreements for construction of or enlargement of water and sewer facilities. Reimbursements may be considered when new facilities benefit eligible properties, other than those owned by applicant, that can be conveniently served by the proposed facilities and when adequate capacity exists in the facility as defined in Section 3.3.

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 that the proposed facilities are to be constructed at the applicant's expense, the District may allow the applicant to proceed with construction of the facilities provided the applicant enters into a Development Agreement with terms and conditions acceptable to the District and in conformance with this Ordinance.

2.4. In the event the District determines that the proposed facilities should be financed in whole or part by District funds, the applicant shall enter into an agreement with terms and conditions acceptable to the District.

Section 3: Reimbursement Agreement.

The applicant should 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 Reimbursement Agreement pursuant to this Ordinance shall be submitted in writing by the applicant to the District prior to or concurrent with submittal of improvements plans for the proposed facilities. The request must 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 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 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. 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 reimbursement agreement boundary

3.4 Eligible Property: For property, other than applicant's, to be included in the reimbursement agreement, the proposed facilities must physically (in fee) front the property, or be accessible through legal access or utility easements, at the District's discretion.

3.5 Implementation: Upon determination by the District that the project may qualify for a 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 signed by the District Engineer designating that a 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 Reimbursement and Acquisition 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 Secretary 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, by United States mail, postage prepaid, giving the date, time, and place of the Board meeting.

Section 4: Eligible Reimbursement Costs and Methodology

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 entitled to a 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, inspection related expenses, or water services and sewer laterals serving or appurtenances benefitting applicants property.

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 properties percentage of the total land within the benefited area; plus each properties percentage of total facility frontages; divided by two. This average percentage will be multiplied by the total eligible construction costs to determine each properties 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 reimbursement agreement.

4.5 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 5: Reimbursements

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 reimbursement agreement expires. The District agrees to reimburse applicant the amount received by the District, for each benefited property, the proportionate share of eligible construction costs plus an escalator based upon the increase in the ENR-LA Construction Cost Index from the effective date of the agreement to the date of reimbursement.

Following reimbursement of all approved construction costs or automatic termination of the agreement, applicant shall not be entitled to any further reimbursements. In no case is the District responsible for payment of any outstanding reimbursements from District funds and is under no obligation make payments for uncollected reimbursements.

5.2 Payment: All reimbursement payments shall be made to applicant at the mailing address designated in the reimbursement agreement only, 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

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

6.1.1 Initial Request Deposit:

2-5 parcels	\$1,000.00
6-10 parcels	\$1,500.00
More than 10 parcels	\$2,500.00

The applicant's project shall be included as one benefited 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 benefiting property to reimburse the District for costs associated with the administration of the reimbursement agreement.

Section 7: Public Notice and Hearing.

Prior to authorization of a reimbursement agreement, the Board of Directors shall conduct a public hearing notifying the benefited properties of the proposed reimbursements. Not less than ten (10) days prior to the hearing, the District Secretary shall give written notice to the owner or owners of land within the proposed benefit area by United States mail, postage prepaid, a notice of a hearing before the Board of Directors, giving the date, time, and place of said hearing. The Secretary shall give notice to the owner or owners as shown by the latest assessment roll covering the proposed benefit area that may be served by the proposed facilities. The Board may consider evidence presented at the hearing by any and all persons who have a recognizable legal interest in the matter. The Board's decision shall be final regarding the reimbursement agreement.

This Ordinance shall become effective immediately upon passage.

PASSED, APPROVED, AND ADOPTED by the Board of Directors of the Vallecitos Water District on the 20th day of March 2013, by the following vote:

AYES: EVANS, FERGUSON, MARTIN, POLTL, HERNANDEZ
NOES:
ABSTAIN:
ABSENT:


James Hernandez, President
Board of Directors
Vallecitos Water District

ATTEST:

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