

REIMBURSEMENT FEES
EXCESS SEWER CAPACITY POLICY

1. Policy statement, findings, declaration of purpose and definitions.

A. It is the policy of the District that as to a Public Sewage Facilities (PSF) be designed and installed at the expense of the owner of the property first served, to provide wastewater utility service to the District treatment plant, the costs for such facilities be fairly and equitably distributed among those customers who will use the facilities.

B. The Board of Directors finds:

- i. That it is in the public interest for the District to require Installers to design and construct PSFs having capacity that exceeds the need attributable to and reasonably related to development of their property to avoid replacement of existing, or construction of additional parallel, PcSF to serve properties not provided capacity when the PSF are first constructed, as such replacement or additional construction results in:
 - a. Increased District capital, additional expense for operations and maintenance staff;
 - b. Public inconvenience;
 - c. Reduction in the efficiency of collection system operations; and
 - d. Potential public health hazards.
- ii. That construction of PSF that are sized and designed to provide wastewater utility service to properties other than those owned or to be developed by the Installer is necessary for orderly and proper extension of wastewater utility service to all such properties which could reasonably be served.
- iii. That it is therefore necessary to require installers to design and construct PSF having capacity that exceeds the need attributable to and reasonably related to development of their property.

- iv. That the cost of PSF should be fairly and equitably distributed among those customers that will ultimately use the facilities, so that the incremental costs to properly size and design such facilities does not prevent the installation of proper PS consistent with the policies, findings and purpose stated in this Section 1.
- C. The purpose of this chapter is to require that PSF have adequate capacity and are configured to handle the sewage flow from the property that could reasonably be served by the facilities, and to provide for fair and equitable distribution of the costs of such facilities through a reimbursement program to the District. The rules and procedures for establishment of reimbursements, and the collection and disbursement of reimbursement funds are governed by this Chapter and District Ordinances 44, and 2018-02,
- D. The following definitions apply to this chapter:
- i. “Public Sewage Facility” (herein sometimes PSF or plural PSFs) means public main, local street and collector sewers, public trunk sewers, interceptor sewers, pumping stations, that require ordinary, special and/or unconventional installation techniques and/or appurtenances, such as manholes and rodding inlets, tunnels, creek or channel crossings requiring bridges, trestles, culverts and/or channel modifications.
 - ii “Installer” means a property owner or developer that is financially responsible for installation of PSF, the capacity of which exceeds the need attributable to and reasonably related to development of his or her property.

1. Eligibility to establish reimbursement accounts.

- A. The Installer of a PSF may apply to establish a reimbursement account for the facility by making the post-construction submittals set out this Ordinance. Alternatively, the Installer may apply for early reimbursement of a reimbursement account by completing all of the pre-construction submittals set out in this Ordinance, including without limitation estimates of the costs of engineering, right-of-way, construction, completion bonds, and labor and materials bonds acceptable to the General Manager. In the case of such early establishing the Installer shall also complete post-construction submittal of contracts and receipts set out in this Ordinance documenting to the satisfaction of the General Manager the actual costs of engineering, right-of-way, construction and bonds for the PSF required by this Ordinance, no later than six months after the District's acceptance of a PSF, to remain eligible to receive reimbursements under this chapter.
- B. The General Manager will determine whether establishing a reimbursement account is justified by evaluating submittals from the Installer. If the General Manager determines that properties other than those owned or to be developed by the Installer could reasonably be physically connected directly to or reasonably served by the PSF, the Installer shall be eligible to establish a reimbursement account.

In addition, the Installer of a PSF shall be eligible to establish a reimbursement account prior to construction when properties that could reasonably be served by the PSF in the future receive interim service through use of temporary facilities.

2. Installer submittals.

- A. Pre-construction Submittals.. To provide for evaluation and approval of reimbursements for a PSF prior to construction, Installer shall submit all of the following to the General Manager.
 - i. Reimbursement account application;
 - ii. Appropriate account setup fees;
 - iii. An engineer's report providing the analysis used to determine proposed reimbursement fees.

- iv. A scale map delineating the PSF, as well as a list of all parcels that could reasonably be served by the PSF, including each owner's name, address, county assessor parcel number and current zoning.
- v. A statement disclosing any agreements regarding the sharing of the PSF costs that exist between the Installer and any other party or parties;
- vi. Estimates satisfactory to the General Manager of the costs of engineering, right-of-way, construction and bonds for the PSF

A copy of the agreement with the engineering firm providing construction management and inspection services that is acceptable to the General Manager, for inspection services to be conducted during construction of the PSF.

B. Post-Construction Submittals. No later than six months after the District's acceptance of a PSF, the Installer shall submit all of the following to the General Manager:

- i. A copy of approved job plans;
- ii. Reimbursement account application;
- iii. Appropriate account setup fees;
- iv. A statement disclosing any agreements regarding the sharing of the standard facility costs which exist between the Installer and any other party or parties.
- v. Contracts and receipts documenting to the satisfaction of the General Manager the actual costs of engineering, right-of-way, construction and bonds for the PSF.
- vi. Copies of the maps, parcel lists and statement regarding existing agreements for the sharing of the PSF submitted pursuant to pre-construction submittal requirements, updated to show any changes.

- vii. Copies of the construction inspection report and construction as-built plans demonstrating that the PSF was constructed in accordance with the approved plans and specifications.
- viii. Additional information requested by the General Manager required to satisfy requirements of this Ordinance.

3. Reimbursement fees and agreements.

A. All reimbursements for Installers pursuant to this Ordinance shall be set forth in a written agreement between the Installer and the District. Such agreements shall be signed by the Installer at or about the time of the creation of a reimbursement account. Reimbursement fees will be calculated by dividing the sum of all allowable costs of the PSF by the total number of connections or residential unit equivalents that could reasonably be physically connected directly to the PSF or could reasonably be served by the PSF. Reimbursement fees will be determined based on consideration of the following:

- i. Costs that are allowable to include in the calculation of reimbursement fees are those which are directly related to the planning, design and construction of the PSF, including payments to contractors and engineers, security bonds, and acquiring right-of-way for the project. Ineligible costs include, but are not limited to, attorneys' fees, financing costs, and the Installer's overhead and office expenses related to the coordination and supervision of contractors engaged to perform project work.
- ii. The total number of connections or residential unit equivalents that could reasonably be physically connected directly to the PSF or could reasonably be served by the PSF will be determined considering zoning regulations of the agency having jurisdiction for determining land use policy in the area to be served, the configuration of the District's existing sewage facilities, the character of development adjacent to the reimbursement area, and site topography

B. The Board of Directors recognizes that the above listed factors may not be the only basis for determining reimbursement fees in every case, and therefore authorizes the General Manager to exercise his or her judgment in determining the actual reimbursement fee that applies when, in his or her opinion, modifications are justified.

4. Adoption of reimbursement fees by ordinance.

The District Board of Directors shall adopt reimbursement fees for individual PSFs from time to time, by ordinance upon a two-thirds vote, after having conducted a properly noticed public hearing, at which oral or written presentations can be made, as part of a regularly scheduled meeting.

5. Notice to affected property owners.

At least fourteen days prior to the public hearing to receive comments regarding the adoption of reimbursement fees, the District shall notify (1) anyone filing a request for notice, and (2) the property owner or owners of record of the properties to which such reimbursement fees will be applicable, as identified on the last equalized assessment roll, by U.S. mail of the time and place of the public hearing. The notice shall include a general description of the District's reimbursement fee program, a description of the PSF installed or to be installed which give rise to the particular reimbursement fee proposed, and the initial amount of the proposed fee. At least ten days prior to the public hearing, District shall make available to the public the cost, or estimated cost required to provide the service for which the fees are charged and all revenue sources anticipated to provide the service, including the General Fund.

6. Effective date of reimbursement fees.

The reimbursement fees for a particular PSF shall become effective as provided in the ordinance adopting the fees.

7. Collection of reimbursement fee deposits.

To ensure that all property owners pay their fair and equitable share of the cost of PSFs, the General Manager may establish reimbursement fee deposit accounts, determine reimbursement fee deposit amounts, and collect such reimbursement fee deposits from property owners that apply to connect their property directly to a PSF, prior to adoption of a reimbursement fee for the PSF.

The amount of the reimbursement fee deposit shall be determined by the General Manager by the method at Section 4 hereof, substituting estimates of the costs of engineering, right-of-way, construction and bonds for the PSF in place of the actual costs therefore, when the reimbursement fee applicable to the PSF is adopted by the Board of Directors, the reimbursement fee deposit shall be used to pay the reimbursement fee applicable to the property. Any portion of the deposit, including interest calculated in accordance with California Government Code Section 53079, remaining after payment of the applicable reimbursement fee shall be returned to the

property owner. If the applicable reimbursement fee exceeds the deposit, the property owner shall be invoiced by U.S. mail for the difference, and shall pay such amount to the District within sixty days of receipt of such invoice. If no applicable reimbursement fee is adopted within one year of the date of the district's acceptance of the PSF, the deposit, including interest calculated in accordance with California Government Code Section 53079, shall be returned to the property owner.

8. Administration charges.

The Board may from time to time adopt reimbursement program administration charges payable to District, including but not limited to personnel and other charges for the creation of reimbursement accounts and transaction fees and other fees for tasks related to this Ordinance.

9. Apportionment of reimbursement funds when more than one Installer.

Where there is more than one Installer of a PSF, reimbursement funds collected shall be disbursed as set forth in the agreement between the Installer and the District.

10. Funds and accounts.

Funds collected by the District under this Ordinance shall be placed in segregated accounts for each project for which reimbursement fees or deposits are established. When funds are collected, the District shall send a written notice to the Installer's last known address. The District shall disburse funds only upon written request of the Installer.

Regardless of whether funds are collected, the District will annually review such account and send an account statement to the last known address of the Installer.

If a request or claim for disbursement of funds is not received from the Installer within three years, after reasonable efforts by the District to provide notice of the existence of such funds, the funds shall become the property of the District in accordance with general law. The District will close the reimbursement account and deposit said funds in the District's sewer construction fund. Said notice and deposit dissolves any and all claims the Installer may have had to the reimbursement funds, and the District's collection of reimbursement fees for the PSF shall cease.

12. Adjustment of reimbursement fees.

A. If at any time, the General Manager determines that the allowable costs or the total number of connections or residential unit equivalents which could reasonably be physically connected or reasonably served by a PSF the determinations used in calculating the reimbursement fees deviate from determinations/calculations

regarding amount of fees in place, the General Manager may recalculate the reimbursement fees to be collected from future connectors. If reimbursement fees are recalculated, future connectors may pay a reimbursement fee different from that paid by earlier connectors. In the case of such recalculation, the District will not be responsible for collecting additional reimbursement fees from or refunding excess reimbursement fees to previous connectors.

- B. The General Manager shall review reimbursement fees from time to time by considering the increase or decrease in the value of a PSF over time. The Engineering News Record Construction Cost Index shall be the basis for any adjustment and no other interest component will be considered.
- C. District shall also apply a straight-line depreciation adjustment for depreciation based on the useful life of a PSF. The useful life of standard or special facilities for purposes of this adjustment shall be seventy-five years for sewers and forty years for pumping stations.

13 Timing for payment of reimbursement fees and deposits.

Payment of applicable reimbursement fees and deposits shall be made prior to the time of the District's issuance of a contractor's or homeowner's permit to connect to a public sewer.

14 Expiration of reimbursement fees.

Each reimbursement fee adopted pursuant to this Ordinance shall automatically expire on the twentieth anniversary of the date of the District's acceptance of the PSF for which the reimbursement fee was established. The District's collection of reimbursement fees shall cease on the expiration date. Any funds remaining in an account as of the fee's expiration shall be processed pursuant to Section 11 hereof, and the reimbursement account shall be closed.

15 District not liable.

The District provides this reimbursement program as a convenience for Installers and shall not be liable to any person for failure to establish or collect reimbursements.

16. Effect of this Ordinance.

This Ordinance or any action taken pursuant hereto does not create any right, title or interest in real or personal property. The Board may change or repeal any portion of this Ordinance at any time. No property right becomes vested by operation of this Ordinance and the District is not liable for damage of any kind related to any change or repeal of any portion of this Ordinance.

17. Schedule of reimbursement fees.

All properties subject to reimbursement fees enacted pursuant to this Ordinance shall be kept on file with the District Secretary. Reimbursement fee application materials providing the basis for the fee calculation shall be maintained at the District's offices for review for so long as reimbursement fees are being imposed and collected for a particular project, and for a period following as may be required by law.

18. Customer reimbursement of District installation costs.

In certain cases, the public interest and public safety may require the District itself to design and construct a PSF for an existing or proposed development. In order to comply with applicable law concerning use of District revenues, the District shall adopt a reimbursement fee structure to provide for full reimbursement of any and all costs associated with installation of local street sewers. Reimbursement fees to reimburse the District for other PSFs may also be imposed. Reimbursement fees for District costs shall be calculated in the same or similar manner set forth in this chapter for Installers in order to provide for full recapture of strict costs. Such costs shall be placed in reimbursement accounts, pursuant to the same provisions required for Installers.