

Staff Report

TO: Board of Directors

FROM: Doug Roderick, P.E., Engineering Manager
Shannon Wood, Business Services Technician

DATE: July 13, 2022

**SUBJECT: District Financed Waterline Extension Program -
Proposed Modifications (Consent)**

ENGINEERING DEPT

RECOMMENDATION:

Approve modifications of the District Financed Waterline Extension program.

BACKGROUND:

The District's Water Service Regulations currently includes section 10.20, District Financed Waterline Extensions, which provides for a program in which eligible neighborhood groups actively seeking the extension of treated water lines into their community can obtain assistance from the District to do so.

Staff was directed by the Board of Directors to modify the existing program for the following reasons:

- The program is not equally available to all parcels within District. Some parcels are not able to participate in the program because it is not feasible due to distance from a water treatment plant and/or mainline, and raw water customers and multi-parcel developers are not eligible.
- It would not be financially feasible for the District to partially fund and/or finance water line extension projects for all parcels that are located within District boundaries and pay property taxes.
- The program currently allows for private individuals to prioritize expenditure of ratepayer and taxpayer funds without consideration of other capital priorities that provide greater benefit to the ratepayer/taxpayer base. The District has a large amount of deferred maintenance and replacement that needs to be completed.

- The program currently allows for District to pay for the non-participating parcel's fare-share cost of a proposed DFWLE. With the idea being that these funds would be recovered when/if a parcel decided to connect in the future. To date, there have only been 4 parcels connected after project completion. This indicates that the funds expended for the non-participating parcels are likely non-recoverable.
- The revenue associated with the below-market interest rate allowed by the program does not equal the revenue the District could receive if the funds were invested. Revenue received from the District's investments benefits all parcels within the District.

For the program moving forward, water line extension projects will be paid for entirely by the project proponent outright, through the use of Community Facilities District (CFD) or Assessment District (AD) for a bond issuance or to secure a loan from a public entity, or through the use of other non-district funds, such as grant funding. This would allow the District to still assist property owners with obtaining treated water service but would relieve the District of any financial obligation in doing so.

Staff envisions this process starting with a group of owners that comes to the District wanting to get treated water service. Staff will review/determine how the project would best be served and develop a preliminary cost estimate. If the owners want to move forward, then staff would bring the proposed project to the Board for consideration to be added to the eligibility list. When the project is ready to move forward, staff solicit proposals from consultants to determine the cost required to go through the CFD/AD process. The property owners would then submit the deposit, staff would explore the funding opportunities and bring the project back to the Board. At this time, staff would be recommending that the Board approve the consulting contract and adopt a resolution showing the Board's commitment to approving the CFD/AD assuming it passes the necessary voting requirements. At this time, staff would begin charging expenses against the project for inclusion in the total costs.

If the CFD/AD minimum approval requirements are not met, then the project will stop and any remaining deposit not spent will be returned to the individuals and staff would then move on to the next potential project.

If the CFD/AD is approved, then the Board would formally approve the CFD/AD. Staff would develop final design drawings/specifications and send them out to bid. The project would be constructed and final costs would be determined and levied per the requirements of the approved CFD/AD. During this time the required funding would be finalized.

The only potential out of pocket costs to the District is the initial staff time necessary to get the process to a point where property owners will be committing monetarily to move forward with approval of the CFD/AD.

Staff believes that the recommended changes to the program address the Board's concerns/issues with the original program. With this program no longer being financed by the District, staff is recommending that the program now be called the District Facilitated Waterline Extension Program.

BUDGETARY IMPACT: Staff would not anticipate any budgetary impacts moving forward with the CFD/AD approach.

DR/SW

Attachments: (2)

- Section 10.20 District Facilitated Waterline Extension - Clean Copy
- Section 10.20 District Facilitated Waterline Extension - Redline Copy

10.20 DISTRICT FACILITATED WATERLINE EXTENSIONS

The goal of this Section is to assist with the expansions of residential water service to new customers of existing neighborhood groups actively seeking the extension of treated water line(s) into their community. Assistance offered by this program includes facilitating informative group meetings, contracting for special consulting services, contracting for project design and construction services, securing funding, and providing a means for recovering project costs through County tax rolls over time via an Assessment District (AD) or Community Facilities District (CFD). A project implemented through this Section shall be referred to as “District Facilitated Waterline Extension, or DFWLE.

rev. 07/13/2022

10.20.01 DFWLE Eligibility

Neighborhood groups representing existing single-family residential dwellings, including duplex units, and to a limited extent, unimproved lots are eligible for the DFWLE program. The DFWLE program will not be used to expand treated water facilities for commercial or industrial land uses, or for lands under development through a use permit or for subdivisions, including planned unit or similar developments. The intent of the DFWLE policy is to provide treated water to existing developed neighborhoods.

An eligible DFWLE must contain a minimum of 6 parcels, of which at least 5 must be improved. A request must be submitted in writing and must include: 1) a contact person and telephone number, 2) parcel number of each parcel requesting water service, 3) owner(s) name and address for each parcel, and 4) signatures from each owner. The District will determine the proposed project boundaries or limits identifying all parcels that could potentially be served by the DFWLE.

rev. 09/18/2020, 07/13/2022

10.20.02 DFWLE Program Eligibility List

The District will maintain a list (Eligibility List) of neighborhoods requesting participation in the DFWLE program. To be placed on the Eligibility List, the written request as described in Section

10.20.01 shall be brought before the Board of Directors for consideration to be added to the eligibility list.

Priority will be established based on the date of addition to the Eligibility List, and on active participation. The Board of Directors will determine the next neighborhood group eligible under the DFWLE program. All DFWLE projects shall be subject to the discretion of the Board and to limitations imposed by the Board of Directors as part of its budgeting authority, and may be reduced or restricted as the Board deems necessary given the other financial demands on the District.

Once a project is deemed eligible as a DFWLE project, the District will incorporate the general program provisions, complete a Water Service Study, and solicit neighborhood commitment through an informative group meeting.

rev. 2/24/21, 07/13/2022

10.20.03 General Program Provisions

DFWLE project costs will be allocated equally among all parcels with potential service from the water line extension. The Board of Directors will determine the type of funding available for DFWLE projects on the Eligibility List on a case by case basis as the projects move forward.

The District will secure funding through mechanisms such as State Revolving Fund loans, Grants and Bonds, and shall recover the funds through County tax rolls over time via an AD or CFD.

In general, AD's are a "property tax" mechanism that requires formal initiation of the formation by the Board of Directors. There are several resolutions necessary, preparation of an assessment engineer's report, and public hearings. Property owners within the AD boundary have the opportunity to vote by ballot. An AD is approved by the property owners if the total assessment amount represented by ballots received against the assessment does not exceed the total assessment amount represented by ballots received in favor of the assessment, a majority protest vote. Assuming successful approval, assessments are charged on the secured property tax bills for the term prescribed in the assessment engineer's report and adopted resolutions. In general, CFDs, also

known as Mello-Roos Districts, are special tax districts to obtain additional public funding and financing for various services and infrastructure improvements. CFDs have a seven step process: 1)Initiation of the CFD, 2) Adoption of Local Goals and Policies, 3) Proposal of Resolution of Intention, 4) Public Hearing, 5) Adoption of Resolution of Formation, 6) Election, and 7)Debt Issuance. Once the formation process is complete, a special tax is imposed on all property within the CFD. A two-thirds affirmative vote of property owners is required if there are no more than 12 registered voters living with the proposed district. If more than 12 registered voters are living within the CFD, a two-thirds vote of registered voters is required.

The applicant shall complete and submit an Application, Form 10-E, requesting to participate in the District Facilitated Waterline Extension Program, and the District will charge an administrative processing fee as shown on the application. The processing fee is non-refundable regardless of completion of the waterline extension project.

rev. 07/13/2022

10.20.04 Preliminary Water Service Study

The District will complete a Preliminary Water Service Study for the DFWLE project. Prior to beginning the study, the District will investigate the area surrounding the core neighborhood group to map the parcels which could potentially receive water service from the DFWLE. Should the District determine that expansion of the project to other parcels is necessary for the orderly expansion of the distribution system; the District will add the parcels to the DFWLE group.

The Water Service Study will include at least:

- a. Project location map and preliminary facility layouts
- b. Delineation of potential parcels served from DFWLE
- c. Project costs; including preliminary design, compliance with CEQA, design, rights-of-ways, facilities construction, construction management, and contingencies.
- d. District participation in facility costs if appropriate, pursuant to District policy (including the Capacity Charge Study).
- e. Capacity and Meter Installation charges for a minimum-size water meter.

rev. 2/24/21, 07/13/2022

10.20.05 Initial Group Meeting

Upon completing the Water Service Study, the District will notify the group contact person and arrange for an initial group meeting. The District will present the findings of the study and answer questions.

10.20.06 Deposit

Should the neighborhood group demonstrate a willingness to proceed with the DFWLE project, the applicants shall complete and submit a deposit equivalent to the cost of contracting with a special consultant to prepare the documents required for AD/CFD formation. and the deposit will be applied against the total project cost, including but not limited to consultant fees for administration and formation of the AD/CFD, compliance with CEQA, design, rights of ways, construction, construction management, and capacity and meter installation charges for a domestic meter.

If, during development but after receipt of the deposit, the project fails due in whole or in part to the actions or inactions of the property owners, the DFWLE will be discontinued and if there is an amount of deposit that remains unused, it will be split proportionately among those who submitted deposits and returned.

Once the deposit has been collected, the District will adopt a Resolution showing commitment to the DFWLE project and authorize the District to contract with a special consultant for services to form an AD or CFD, whichever is appropriate for the project. The District will also begin charging expenses against the project for inclusion in the Total Charge.

rev. 07/13/2022

10.20.07 Easements

Property owners that voted affirmatively for the AD/CFD formation must agree that before the commencement of construction by District, they will, when requested, convey to the District easement(s), in the form prepared by the District, that the District determines are necessary for installation and maintenance of the waterline extension project. Owners must also agree to seek and obtain subordination from any mortgagor or holder of deed of trust or other lien holder of a security interest in the parcel, subordinating their security interest(s) to the District easement. For any necessary easements required for the waterline extension over property owned by other persons or entities, which are not participating parties but from whom an easement is required, the participating owner will seek to facilitate, in cooperation with other participating owners, the subordination of any mortgagors, trustors, or lien holders in favor of the District's easement. The District could initiate proceedings in eminent domain to acquire any easement or subordination required for the DFWLE, if necessary. All required right of way documentation, including subordinations necessary for a pipeline extension project must be executed and effective prior to the start of construction.

In the event that a prospective participating owner cannot obtain subordination, they may submit a written request for waiver to the General Manager. The General Manager may modify or waive the requirement to obtain subordination including title insurance, in those circumstances where it is determined that the value of the District's interest is so small as to render such documentation economically unreasonable; the risk of foreclosure is so small that it is not considered a realistic risk; and/or the lender or senior lienholder provides the District with alternative assurance satisfactory to the General Manager, that the District's easement will not be disturbed by a senior lienholder. The General Manager's determination can be appealed by written request to the Board of Directors, who may by unanimous action grant the appeal or deny the appeal. The decision of the Board of Directors shall be made in its sole and unlimited discretion and will not be subject to appeal.

rev. 2/24/21, 07/13/2022

10.20.08 Project Cost

Following completion of construction of the DFWLE facilities, project costs will be compiled and a final Total Charge will be calculated. The District will analyze the project costs and issue a project completion Cost Accounting Report. The report will calculate, based on actual project costs and all program variables.

rev. 07/13/2022

10.20.09 Pre-Payment of Project Costs and Charges

Requests may be made in writing to the District for a current year payoff amount at any time after the Project Cost Reconciliation is complete. The property owner would be required to pay the administrative fees and expenses associated with the payoff quote which will be prepared by the consultant. Once payment is received, the District will coordinate with the consultant to provide the prepayment calculation.

rev. 07/13/2022

10.20.10 Subdivision of a Parcel

Upon the subdivision of a parcel, the District will assign the existing treated water service account to one of the newly created parcels or units. All other parcels or units created by the subdivision will be subject to the appropriate special tax or assessment as defined in the AD or CFD documents.

rev. 07/13/2022

10.20 DISTRICT ~~FINANCED~~ FACILITATED WATERLINE EXTENSIONS

The goal of this Section is to ~~permit~~ assist with the expansions of residential water service to new customers ~~by authorizing planning services and an advance of District funds to eligible of existing~~ neighborhood groups actively seeking the extension of treated water line(s) into their community. Assistance offered by this program includes facilitating informative group meetings, ~~providing~~ contracting for special consulting services, contracting for project design and construction services, ~~providing advanced project fundings~~ securing funding, and providing a means for recovering project costs ~~advanced by the District from the neighborhood through County tax rolls~~ over time via an Assessment District (AD) or Community Facilities District (CFD). A project implemented through this Section shall be referred to as “District ~~Financed~~ Facilitated Waterline Extension, or DFWLE.

rev. 07/13/2022

10.20.01 DFWLE Eligibility

Neighborhood groups representing existing single-family residential dwellings, including duplex units, and to a limited extent, unimproved lots are eligible for the DFWLE program. The DFWLE program will not be used to ~~finance~~ expand treated water facilities for commercial or industrial land uses, or for lands under development through a use permit or for subdivisions, including planned unit or similar developments. The intent of the DFWLE policy is to provide treated water to existing developed neighborhoods.

~~The intent of the DFWLE policy is to provide treated water to existing developed neighborhoods. Unless otherwise authorized, the number of unimproved parcels eligible for inclusion with any recognized neighborhood group will be limited to 20% of total potentially served parcels. A parcel shall be considered improved if a building permit has been issued for a residence on that parcel.~~

An eligible DFWLE must contain a minimum of 6 parcels, of which at least 5 must be improved. A request must be submitted in writing and must include: 1) a contact person and telephone number, 2) parcel number of each parcel requesting water service, 3) owner(s) name and address for each parcel, and 4) signatures from each owner. ~~and a target maximum of 40 parcels. The~~

~~minimum participation level will be at least 50% of the total parcels that the~~ The District will
~~determines the proposed project boundaries or limits identifying all parcels that~~ could potentially
be served by the DFWLE, ~~rounded to the nearest whole number. Participation will be implemented~~
~~through the execution of a DFWLE Funding Agreement as described in Section 10.20.10.~~
rev. 09/18/2020, 07/13/2022

10.20.02 DFWLE Program Eligibility List

The District will maintain a list (Eligibility List) of neighborhoods requesting participation in the DFWLE program. To be placed on the Eligibility List, ~~a neighborhood must submit its request in writing. The request must include 1) a contact person and telephone number, 2) parcel number of each participating parcel, 3) owner(s) name and address for each parcel, and 4) signatures from each owner.~~ the written request as described in Section 10.20.01 shall be brought before the Board of Directors for consideration to be added to the eligibility list.

Priority will be established based on the date of addition to the Eligibility List, and on active participation. ~~As shown on the flowchart, the~~ The Board of Directors will determine the next neighborhood group eligible ~~for funding~~ under the DFWLE program, ~~and the will evaluate funding. At that time, the Board of Directors will consider encumbering DFWLE allocated funds and assignment of a rate of interest representing interest foregone by the District had the funds allocated for the DFWLE project been otherwise invested. Upon determination of the interest rate, the Board of Directors will assign a surcharge modifier to the DFWLE project. (The surcharge modifier is calculated as determined elsewhere in this Section.) Funds encumbered for an individual DFWLE and funds allocated for a~~ All DFWLE projects shall be subject to the discretion of the Board and to limitations imposed by the Board of Directors as part of its budgeting authority, and may be reduced or restricted as the Board deems necessary given the other financial demands on the District.

Once a project is deemed eligible as a DFWLE project, the District will incorporate the general program provisions, complete a Water Service Study, ~~establish the maximum charge for~~

~~recovering project costs,~~ and solicit neighborhood commitment through an informative group meeting.

~~r~~Rev. 2/24/21, 07/13/2022

10.20.03 General Program Provisions

~~Participation in the DFWLE program is voluntary.~~ DFWLE project costs will be allocated equally among all parcels with potential service from the water line extension. The Board of Directors will determine the level type of funding available for ~~all~~ DFWLE projects on the Eligibility List on ~~at least a yearly~~ a case by case basis as the projects move forward.

~~The District will advance the funds necessary to meet the costs for eligible DFWLE project(s) approved by the Board of Directors, less the total amount of good faith deposits received.~~ The District will secure funding through mechanisms such as State Revolving Fund loans, Grants and Bonds, and shall recover the funds ~~advanced through the application of the Service Extension Charge (SEC) through County tax rolls over time via an AD or CFD.~~

~~District funds advanced to the DFWLE program for participating parcels which submit a good faith deposit will be recovered through the application of a Service Extension Charge (SEC). The maximum cost recovery time period will be 30 years. The SEC will be collected as part of the participating parcel's treated water bill. The SEC will include a surcharge modifier to compensate the District for the loss of interest earnings as a result of funding participating parcel's share of the DFWLE costs. DFWLE costs allocated to parcels without an executed funding agreement will be subject to the Districts Reimbursement Policy #3175. In general, AD's are a "property tax" mechanism that requires formal initiation of the formation by the Board of Directors. There are several resolutions necessary, preparation of an assessment engineer's report, and public hearings. Property owners within the AD boundary have the opportunity to vote by ballot. An AD is approved by the property owners if the total assessment amount represented by ballots received against the assessment does not exceed the total assessment amount represented by ballots received in favor of the assessment, a majority protest vote. Assuming successful approval, assessments are charged on the secured property tax bills for the term prescribed in the assessment engineer's report and adopted resolutions.~~

~~Costs eligible for advance by District under the DFWLE program include preliminary design, compliance with CEQA, design, rights of ways, construction, construction management, and capacity and meter installation charges for a domestic meter. The maximum amount of financeable project facility costs, including capacity and meter installation charges, is 90% of the total cost per participating parcel. In general, CFDs, also known as Mello-Roos Districts, are special tax districts to obtain additional public funding and financing for various services and infrastructure improvements. CFDs have a seven step process: 1) Initiation of the CFD, 2) Adoption of Local Goals and Policies, 3) Proposal of Resolution of Intention, 4) Public Hearing, 5) Adoption of Resolution of Formation, 6) Election, and 7) Debt Issuance. Once the formation process is complete, a special tax is imposed on all property within the CFD. A two-thirds affirmative vote of property owners is required if there are no more than 12 registered voters living with the proposed district. If more than 12 registered voters are living within the CFD, a two-thirds vote of registered voters is required.~~

The applicant shall complete and submit an Application, Form 10-E, requesting to participate in the District ~~Financed-Facilitated~~ Waterline Extension Program, and the District will charge an administrative processing fee as shown on the application. The processing fee is non-refundable regardless of completion of the waterline extension project.

~~rev. 07/13/2022~~

~~10.20.04 — Service Extension Charge (SEC)~~

~~A Service Extension Charge (SEC) will be used to recover over time District funds advanced for DFWLE project costs from participating parcels that have paid a good faith deposit. The SEC will be added to, and become part of the water bill for each of the participating parcels. The maximum SEC required to support project costs allocated to each participating parcel (“Total Costs”) will be determined in the Water Service Study as defined in Section 10.20.06. The SEC will appear on the water bill and will be calculated following compilation of all project costs. The SEC will be calculated as 1) the total project costs, 2) divide by the number of potentially served parcels, 3) add the total capacity and meter installation charges, 4) subtract the total good faith deposits~~

~~received, 5) divide by the total number of anticipated billing periods within the cost recovery period, and 6) multiply by the surcharge modifier as determined elsewhere in this Section.~~

~~The SEC will be the same for all participating parcels within a particular DFWLE project and will not change once it first appears on the water bills.~~

~~10.20.05~~ **Surcharge Modifier**

~~A surcharge will be used to compensate the District for the loss of interest earnings as a result of lending on District projects. The modifier will be determined by the Finance Manager/Treasurer and based on the United States 5 Year Agency Bond Rates published by the District's Investment Broker on April 1. The surcharge modifier will be calculated as 1) the Capital Recovery Factor 2) multiplied by the number of billing periods within the project cost recovery period.~~

~~— eff. 01/24/18, 5/23/18~~

~~10.20.06~~10.20.04 **Preliminary Water Service Study**

The District will complete a Preliminary Water Service Study for the ~~next eligible~~ DFWLE project, ~~as determined by the Board of Directors~~. Prior to beginning the study, the District will investigate the area surrounding the core neighborhood group to map the parcels which could potentially receive water service from the DFWLE. Should the District determine that expansion of the project to other parcels is necessary for the orderly expansion of the distribution system; the District will add the parcels to the DFWLE group.

The Water Service Study will include at least:

- a. Project location map and preliminary facility layouts
- b. Delineation of potential parcels served from DFWLE
- c. Project costs; including preliminary design, compliance with CEQA, design, rights-of-ways, facilities construction, construction management, and contingencies.
- d. District participation in facility costs if appropriate, pursuant to District policy (including the Capacity Charge Study).
- e. Capacity and Meter Installation charges for a minimum-size water meter.

~~f. Maximum Total Charge~~

~~g. Maximum Service Extension Charge (SEC) required to amortize the Maximum Total Charge.~~

~~The cost estimates and SEC quoted in the Water Service Study will be honored for a minimum of 12 months, giving time to complete formation of the group, and execution of a Funding Agreement with each participating parcel.~~

~~The District will perform the Water Service Study without charge to the neighborhood group.~~

~~Rev. 2/24/21, 07/13/2022~~

~~10.20.07~~10.20.05 **Initial Group Meeting**

Upon completing the Water Service Study, the District will notify the group contact person and arrange for an initial group meeting. The District will present the findings of the study and answer questions.

~~10.20.08~~10.20.06 **Good Faith Deposit**

Should the neighborhood group demonstrate a willingness to proceed with the DFWLE project, ~~the applicants shall complete and submit based on the maximum SEC quoted during the initial group meeting; the District will request an application and a good faith deposit from each of the participating parcels. A good faith deposit equivalent to the cost of contracting with a special consultant to prepare the documents required for AD/CFD formation. must be received from at least 50% of the benefitted parcels as calculated in accordance with Section 10.20.01 and~~ the deposit will be applied against the total project costs cost, including but not limited to consultant fees for administration and formation of the AD/CFD, compliance with CEQA, design, rights of ways, construction, construction management, and capacity and meter installation charges for a domestic meter to reduce the SEC for each participating parcel.

~~The deposit amount will be at least 10% of each participating parcel's share of the estimated project cost, including capacity and meter installation charges.~~

~~As established in the flowchart, after the District's request to all participating parcels to execute an application and make a good faith deposit, each participating parcel must sign and return a letter containing the terms and conditions of the deposit, and return the deposit with the letter. Should one or more prospective participating parcels fail to return the deposit amount and a countersigned deposit letter; the non-responsive parcel(s) will be removed from the neighborhood group list. If this process results in less than the minimum participation from the potentially served parcels as calculated in accordance with Section 10.20.01 within the allowed solicitation period, all deposits will be returned and the project will be removed from the eligibility list. If, during development but after receipt of the deposit, the project fails due in whole or in part to the actions or inactions of the property owners, the DFWLE will be discontinued and if there is an amount of deposit that remains unused, it will be split proportionately among those who submitted deposits and returned.~~

~~Once a good faith the deposit and executed letter have been collected from at least 50% of the potentially served parcels as calculated in accordance with Section 10.20.01, the District will adopt a Resolution showing commitment to the DFWLE project and authorize the District to contract with a special consultant for services to form an AD or CFD, whichever is appropriate for the project. ~~request the owner(s) of each participating parcel to enter into a Funding Agreement.~~ The District will also begin charging expenses against the project for inclusion in the Total Charge. ~~Retroactive charges, representing costs incurred to that date by the District will not be applied to the Total Charge to be recovered under the Funding Agreement.~~~~

~~If, during development, but after receipt of the requisite number of good faith deposits, the project fails due in whole or in part to the actions or inactions of the participating parcels, the DFWLE will be discontinued and the amount of good faith deposit that remains unused at the time will be split equally among participating parcels and returned. If the project fails due solely to the actions or inactions by the District, the total amount of good faith deposits will be returned.~~

rev. 07/13/2022

10.20.0910.20.07 Easements - ~~Subordination of Agreement/Easements~~

~~Concurrent with the submission of the good faith deposit, Property owners that voted affirmatively for the AD/CFD formation of participating parcels~~ must agree that before the commencement of construction by District, ~~and in no event later than the date of execution of a Funding Agreement,~~ they will, when requested, convey to the District easement(s), in the form prepared by the District, that the District determines are necessary for installation and maintenance of the waterline extension project. Owners must also agree to seek and obtain subordination from any mortgagor or holder of deed of trust or other lien holder of a security interest in the parcel, subordinating their security interest(s) to the District easement, ~~the Funding Agreement, and the lien authorized under the Funding Agreement.~~ For any necessary easements required for the waterline extension over property owned by other persons or entities, which are not participating parties but from whom an easement is required, the participating owner will seek to facilitate, in cooperation with other participating owners, the subordination of any mortgagors, trustors, or lien holders in favor of the District's easement. ~~The Funding Agreement will specify that the District may refuse to execute the Funding Agreement, or if executed, cease the design and implementation of the pipeline extension financing project, with no further rights or obligations between the parties, in the event the District determines, at its sole discretion, that any failure to subordinate by a participating property owner's lender or the lender for a parcel owned by another person or entity renders the project not in the best interest of the District.~~ The District ~~is not required to~~could initiate proceedings in eminent domain to acquire any easement or subordination required for the DFWLE, if necessary. All required right of way documentation, including subordinations necessary for a pipeline extension project must be executed and effective prior to the start of construction.

In the event that a prospective participating owner cannot obtain subordination, they may submit a written request for waiver to the General Manager. The General Manager may modify or waive the requirement to obtain subordination including title insurance, in those circumstances where it is determined that the value of the District's interest is so small as to render such documentation economically unreasonable; the risk of foreclosure is so small that it is not considered a realistic risk; and/or the lender or senior lienholder provides the District with alternative assurance

satisfactory to the General Manager, that the Districts easement will not be disturbed by a senior lienholder. The General Managers determination can be appealed by written request to the Board of Directors, who may by unanimous action grant the appeal or deny the appeal. The decision of the Board of Directors shall be made in its sole and unlimited discretion and will not be subject to appeal.

Rev. 2/24/21, 07/13/2022

10.20.10 Funding Agreement

~~The owner(s) of each participating parcel must enter into a Funding Agreement, subject to approval by the Board of Directors, as found in Form 10-F attached to these regulations. Special provisions may be added to, or other revisions made to the Funding Agreement form as found necessary by the District under the circumstances of each transaction. A DFWLE Funding Agreement, fully executed by the interested landowner(s), must be delivered to the District and approved by the Board before it is effective. The Funding Agreement will be recorded against the participating parcel.~~

~~The Funding Agreement, once recorded, will authorize a lien by the District on the participating parcel for the purpose of collecting all delinquent water account charges, including the accumulated SEC.~~

~~Project design work will not begin until at least 50% of the potentially served parcels as calculated in accordance with Section 10.20.01 have executed a Funding Agreement, returned it to the District, and the agreement has been recorded with the County Clerk.~~

~~Fully executed DFWLE Funding Agreements and good faith deposits, as outlined in section 10.20.08, will be accepted up to 30 days from written notice of completion of a new treated water line as defined in Section 4.02.01. Funding Agreements received~~

~~more than 30 days from the date of notice or without a good faith deposit shall be deemed invalid.~~

~~_____~~
~~_____rev. 09/18/2020~~

~~10.20.11~~10.20.08 ~~Project Cost~~ **Compilation and SEC Adjustment**

Following completion of construction of the DFWLE facilities, project costs will be compiled and a final Total Charge will be calculated. The District will analyze the project costs and issue a project completion Cost Accounting Report. The report will ~~recalculate~~, based on actual project costs, and all program variables, ~~including the SEC.~~

~~If the Cost Accounting Report indicates that the Total Charge requires an SEC greater than the maximum SEC appearing in the Funding Agreement, the SEC will remain unchanged and the District will pay the overrun. The District will not place further claim on participating parcels for the amount of the overrun.~~

~~If the Cost Accounting Report indicates that total project costs allow an SEC less than the maximum SEC appearing in the Funding Agreement, the District will adjust the SEC accordingly to the lower amount appearing in the report. The revised SEC and associated monthly payment will be included with the next water bill for each of the participating parcels.~~

~~rev. 07/13/2022~~

~~10.20.12~~ ~~Failure to Pay Treated Water Bill~~

~~Failure to pay a treated water bill as required in the Funding Agreement, including the SEC, will result in a delinquent account and, if not paid in accordance with District rules, a subsequent notice of turn off, followed by turn off. Upon issuance of a turn off notice, whether or not the service is actually discontinued, all delinquent amounts will become due and payable. Treated water service will remain off and the SEC will continue to accrue, along with all other appropriate and customary charges, until the account has been paid in full. Unpaid balances shall constitute a lien against the participating parcel.~~

~~10.20.13~~10.20.09 Pre-Payment of Project Costs and Charges

~~Upon completion of construction, compilation of project cost, and final SEC adjustment (if required), a participating parcel may pre-pay all or a portion of its Total Charge, including capacity and meter installation charges. Multiple pre-payments will be accepted without penalty from each participating parcel during the cost recovery period. Requests may be made in writing to the District for a current year payoff amount at any time after the Project Cost Reconciliation is complete. The property owner would be required to pay the administrative fees and expenses associated with the payoff quote which will be prepared by the consultant. Once payment is received, the District will coordinate with the consultant to provide the prepayment calculation.~~

~~Upon receiving a pre-payment from a participating parcel, the time allocated for cost recovery will be reduced. The number of billing periods by which the cost recovery period will be reduced will be determined by 1) dividing the pre-payment amount by the SEC amount, 2) multiplying the results by the surcharge modifier declared by the Board of Directors, and rounding down to the nearest whole number. The fraction remaining, if present, will be 1) multiplied by the SEC, 2) divided by the surcharge modifier, and 3) the resulting dollar amount will be credited to the participating parcel's treated water account.~~

~~Upon any sale, conveyance, assignment, or other transfer of the parcel, excluding transfer to a spouse, immediate family member, or to a living trust for estate planning purposes established by the current property owners, the Funding Agreement will terminate and any unpaid portion of the Total Charge will be immediately due and payable in full.~~

~~rev. 07/13/2022~~

~~10.20.14~~10.20.10 Subdivision of a **Participating** Parcel

Upon the subdivision of a **participating** parcel, the District will assign the existing treated water service account ~~(including the SEC)~~ to one of the newly created parcels or units. All other parcels or units created by the subdivision will be subject to the ~~District Installed Waterline Reimbursement Policy when applying for a new service~~appropriate special tax or assessment as defined in the AD or CFD documents.

rev. 07/13/2022

~~10.20.15~~10.20.11

Reimbursement

~~The District will collect the proportionate share of the DFWLE cost as reimbursement from any parcel that did not execute a Funding Agreement as a condition of connection to the DFWLE pipeline. These parcels will be subject to the District Installed Waterline Reimbursement Policy #3175. The District will not collect reimbursement from non-participating parcels that have been granted a temporary service location (TSL). (Reference is made to the District's TSL policy.)~~

~~eff. 11/13/13, rev. 03/12/14, 01/24/18, 2/24/21~~

10.20 DISTRICT FACILITATED WATERLINE EXTENSIONS

The goal of this Section is to assist with the expansions of residential water service to new customers of existing neighborhood groups actively seeking the extension of treated water line(s) into their community. Assistance offered by this program includes facilitating informative group meetings, contracting for special consulting services, contracting for project design and construction services, securing funding, and providing a means for recovering project costs through County tax rolls over time via an Assessment District (AD) or Community Facilities District (CFD). A project implemented through this Section shall be referred to as “District Facilitated Waterline Extension, or DFWLE.

rev. 07/13/2022

10.20.01 DFWLE Eligibility

Neighborhood groups representing existing single-family residential dwellings, including duplex units, and to a limited extent, unimproved lots are eligible for the DFWLE program. The DFWLE program will not be used to expand treated water facilities for commercial or industrial land uses, or for lands under development through a use permit or for subdivisions, including planned unit or similar developments. The intent of the DFWLE policy is to provide treated water to existing developed neighborhoods.

An eligible DFWLE must contain a minimum of 6 parcels, of which at least 5 must be improved. A request must be submitted in writing and must include: 1) a contact person and telephone number, 2) parcel number of each parcel requesting water service, 3) owner(s) name and address for each parcel, and 4) signatures from each owner. The District will determine the proposed project boundaries or limits identifying all parcels that could potentially be served by the DFWLE. rev. 09/18/2020, 07/13/2022

10.20.02 DFWLE Program Eligibility List

The District will maintain a list (Eligibility List) of neighborhoods requesting participation in the DFWLE program. To be placed on the Eligibility List, the written request as described in Section

10.20.01 shall be brought before the Board of Directors for consideration to be added to the eligibility list.

Priority will be established based on the date of addition to the Eligibility List, and on active participation. The Board of Directors will determine the next neighborhood group eligible under the DFWLE program. All DFWLE projects shall be subject to the discretion of the Board and to limitations imposed by the Board of Directors as part of its budgeting authority, and may be reduced or restricted as the Board deems necessary given the other financial demands on the District.

Once a project is deemed eligible as a DFWLE project, the District will incorporate the general program provisions, complete a Water Service Study, and solicit neighborhood commitment through an informative group meeting.

rev. 2/24/21, 07/13/2022

10.20.03 General Program Provisions

DFWLE project costs will be allocated equally among all parcels with potential service from the water line extension. The Board of Directors will determine the type of funding available for DFWLE projects on the Eligibility List on a case by case basis as the projects move forward.

The District will secure funding through mechanisms such as State Revolving Fund loans, Grants and Bonds, and shall recover the funds through County tax rolls over time via an AD or CFD.

In general, AD's are a "property tax" mechanism that requires formal initiation of the formation by the Board of Directors. There are several resolutions necessary, preparation of an assessment engineer's report, and public hearings. Property owners within the AD boundary have the opportunity to vote by ballot. An AD is approved by the property owners if the total assessment amount represented by ballots received against the assessment does not exceed the total assessment amount represented by ballots received in favor of the assessment, a majority protest vote. Assuming successful approval, assessments are charged on the secured property tax bills for the term prescribed in the assessment engineer's report and adopted resolutions. In general, CFDs, also

known as Mello-Roos Districts, are special tax districts to obtain additional public funding and financing for various services and infrastructure improvements. CFDs have a seven step process: 1)Initiation of the CFD, 2) Adoption of Local Goals and Policies, 3) Proposal of Resolution of Intention, 4) Public Hearing, 5) Adoption of Resolution of Formation, 6) Election, and 7)Debt Issuance. Once the formation process is complete, a special tax is imposed on all property within the CFD. A two-thirds affirmative vote of property owners is required if there are no more than 12 registered voters living with the proposed district. If more than 12 registered voters are living within the CFD, a two-thirds vote of registered voters is required.

The applicant shall complete and submit an Application, Form 10-E, requesting to participate in the District Facilitated Waterline Extension Program, and the District will charge an administrative processing fee as shown on the application. The processing fee is non-refundable regardless of completion of the waterline extension project.

rev. 07/13/2022

10.20.04Preliminary Water Service Study

The District will complete a Preliminary Water Service Study for the DFWLE project. Prior to beginning the study, the District will investigate the area surrounding the core neighborhood group to map the parcels which could potentially receive water service from the DFWLE. Should the District determine that expansion of the project to other parcels is necessary for the orderly expansion of the distribution system; the District will add the parcels to the DFWLE group.

The Water Service Study will include at least:

- a. Project location map and preliminary facility layouts
- b. Delineation of potential parcels served from DFWLE
- c. Project costs; including preliminary design, compliance with CEQA, design, rights-of-ways, facilities construction, construction management, and contingencies.
- d. District participation in facility costs if appropriate, pursuant to District policy (including the Capacity Charge Study).
- e. Capacity and Meter Installation charges for a minimum-size water meter.

rev. 2/24/21, 07/13/2022

10.20.05 Initial Group Meeting

Upon completing the Water Service Study, the District will notify the group contact person and arrange for an initial group meeting. The District will present the findings of the study and answer questions.

10.20.06 Deposit

Should the neighborhood group demonstrate a willingness to proceed with the DFWLE project, the applicants shall complete and submit a deposit equivalent to the cost of contracting with a special consultant to prepare the documents required for AD/CFD formation. and the deposit will be applied against the total project cost, including but not limited to consultant fees for administration and formation of the AD/CFD, compliance with CEQA, design, rights of ways, construction, construction management, and capacity and meter installation charges for a domestic meter.

If, during development but after receipt of the deposit, the project fails due in whole or in part to the actions or inactions of the property owners, the DFWLE will be discontinued and if there is an amount of deposit that remains unused, it will be split proportionately among those who submitted deposits and returned.

Once the deposit has been collected, the District will adopt a Resolution showing commitment to the DFWLE project and authorize the District to contract with a special consultant for services to form an AD or CFD, whichever is appropriate for the project. The District will also begin charging expenses against the project for inclusion in the Total Charge.

rev. 07/13/2022

10.20.07 Easements -

Property owners that voted affirmatively for the AD/CFD formation must agree that before the commencement of construction by District, they will, when requested, convey to the District

easement(s), in the form prepared by the District, that the District determines are necessary for installation and maintenance of the waterline extension project. Owners must also agree to seek and obtain subordination from any mortgagor or holder of deed of trust or other lien holder of a security interest in the parcel, subordinating their security interest(s) to the District easement. For any necessary easements required for the waterline extension over property owned by other persons or entities, which are not participating parties but from whom an easement is required, the participating owner will seek to facilitate, in cooperation with other participating owners, the subordination of any mortgagors, trustors, or lien holders in favor of the District's easement. The District could initiate proceedings in eminent domain to acquire any easement or subordination required for the DFWLE, if necessary. All required right of way documentation, including subordinations necessary for a pipeline extension project must be executed and effective prior to the start of construction.

In the event that a prospective participating owner cannot obtain subordination, they may submit a written request for waiver to the General Manager. The General Manager may modify or waive the requirement to obtain subordination including title insurance, in those circumstances where it is determined that the value of the District's interest is so small as to render such documentation economically unreasonable; the risk of foreclosure is so small that it is not considered a realistic risk; and/or the lender or senior lienholder provides the District with alternative assurance satisfactory to the General Manager, that the District's easement will not be disturbed by a senior lienholder. The General Manager's determination can be appealed by written request to the Board of Directors, who may by unanimous action grant the appeal or deny the appeal. The decision of the Board of Directors shall be made in its sole and unlimited discretion and will not be subject to appeal.

rev. 2/24/21, 07/13/2022

10.20.08 Project Cost

Following completion of construction of the DFWLE facilities, project costs will be compiled and a final Total Charge will be calculated. The District will analyze the project costs and issue a

project completion Cost Accounting Report. The report will calculate, based on actual project costs and all program variables.

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10.20.09 Pre-Payment of Project Costs and Charges

Requests may be made in writing to the District for a current year payoff amount at any time after the Project Cost Reconciliation is complete. The property owner would be required to pay the administrative fees and expenses associated with the payoff quote which will be prepared by the consultant. Once payment is received, the District will coordinate with the consultant to provide the prepayment calculation.

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10.20.10 Subdivision of a Parcel

Upon the subdivision of a parcel, the District will assign the existing treated water service account to one of the newly created parcels or units. All other parcels or units created by the subdivision will be subject to the appropriate special tax or assessment as defined in the AD or CFD documents.

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10.20.11 Reimbursement