

# Staff Report

**TO:** Board of Directors

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

**DATE:** March 23, 2022

**SUBJECT:** District Financed Waterline Extension Program

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***ENGINEERING DEPT***

**RECOMMENDATION:**

Review and discuss the District Financed Waterline Extension program, and direct staff as necessary.

**BACKGROUND:**

Staff will provide a presentation explaining the evolution of the District Financed Waterline Extension (DFWLE) program and provide overall information relative to connections and costs. The DFWLE provides a mechanism for financing the design and construction of District owned waterlines to allow for water service to be provided to parcels that currently do not have water service. This program is provided for in the District's Rules and Regulations Section 10.20. Over the past six months, the Board has expressed concerns regarding the program related to the overall cost benefit of the program.

Currently, the District funds/finances 100% of project costs as long as there is financial commitment from at least 50% of property owners that can be served. The participating parcel owners are required to enter into an agreement with the District for repayment of their fair share of the project over a 30 year repayment period. For example, if 20 parcels can be served from the new length of pipe, commitment must come from at least 10 of those property owners. The District would then fund 50% of the program and finance the remaining 50% for the participating parcels.

This is an internal program; payback is not collected through County tax rolls but is billed along with the customers' water bill. This program has evolved over the

years as the District gets feedback from property owners and/or by staff suggesting improvements, all of which are taken to the Board for consideration.

The DFWLE program is meant for existing neighborhoods, not for new developments such as subdivisions or commercial projects. There are soft targets that have been established to provide some structure to the program including a minimum of 6 to a maximum of 40 parcels with no more than 20% being undeveloped. This is a voluntary program but as previously mentioned, there is a minimum participation requirement of at least 50% to have a successful project. Those who participate by executing a Funding Agreement receive financing with the following terms: based on a not to exceed estimate for the project, they will pay a 10% deposit at the beginning of the project and finance the remaining 90% of costs over 30 years. There is a surcharge which compensates the District for loss of interest earnings, currently 1.16%. Funding Agreements are recorded with the appropriate County Recorder's office. At the conclusion of construction, the District reconciles all project costs and payback is calculated based on actual expenses of the project or the not to exceed estimate, whichever is less. Non-participating property owners have until the end of project to participate under these terms. Once the project is complete, any non-participating property owner can request a meter in the future and pay the current meter connection fees as well as escalated project costs but does not have the financing option.

There are several areas of concern associated with the current program that are identified below:

1. The interest rate charged to the participants for the finance portion of the program is established at the interest rate associated with the Local Agency Investment Fund (LAIF), which is much lower than the returns associated with the district's investment portfolio. This reduced interest rate could be considered a gift of public funds.
2. The program is only available to those that live near an existing waterline and is not available to parcels that are not within a reasonable distance from an existing waterline. This has created a program that is only available to a select number of parcels.
3. The current program only requires for 50 percent of the parcels to participate in a project, and then allows for the District to pay for the remaining project costs. Over time, this has resulting in the District making significant investments in water distribution line construction and that have only benefited a small number of customers/tax payers.

There are currently 3 potential waterline extension projects that have been recognized and are on the DFWLE list. In addition to the approved 2022 Budget not including any funds for the Community Investment Program, the Board placed the DFWLE program on hold and requested a workshop to review its details.

This program was a product of Strategic Planning and Objective 1 (expanding water system) approved by the Board of Directors in 2006.

**CONCLUSION:**

Staff requests input from the Board of Directors regarding the existing DFWLE program and any proposed revisions to the current rules and regulations.

**BUDGETARY IMPACT:** None at this time.

Attachments: (3)

- Presentation dated 3/23/2022
- Rules and Regulations Section 10.20
- Process Flowchart

DR/SW

# District Financed Waterline Extension Program



History and Evolution of Program  
Current Program Details  
Overall Totals – Connections & Cost  
All DFWLE Projects: Completed vs Unsuccessful  
Alternatives

Board of Directors Meeting  
March 23, 2022

# History: 2006-2012

- 04/26/2006 BOD approved Pilot DFWLE Program and selects Hoskin Lane as first pilot project
- 03/25/2009 BOD Minutes reference DFWLE Program as “temporarily on hold”
- 4/14/2010 BOD reinstates program for 1 project, which includes:
  - Participants finance all costs/No District advance
  - 20 year term
  - 10% deposit
  - Maximum finance amount \$30k
  - Surcharge modifier equal to 4%
- 2/22/2012 BOD Modifications Approved
  - Added due on sale clause
  - Removed “pilot” status

# History: 2013-2018

- 11/13/2013 BOD Modifications Approved
  - Established:
    - 50% participation requirement
    - District advances funds for non-participating parcels
    - Mapping of area to identify parcels potentially served
  - Elimination of credit check
- 3/12/2014 BOD Modifications Approved
  - Implemented process flowchart
  - Increased to 60% participation requirement
  - Established limit of 20% of parcels undeveloped
- 1/24/2018 BOD Modifications Approved
  - Increased to 30 year term
  - Removed \$30k maximum finance amount
    - Participants finance up to 90% of total costs
  - Decreased to 50% participation requirement

# History: 2018-Current

- 5/23/2018 BOD Modifications Approved
  - Established procedure to adjust surcharge modifier annually April 1 for the following 12 months
- 12/8/2021 BOD – DFWLE Program on Hold for Review
- Current Program Highlights
  - 50% participation
  - Good-faith deposit of 10%
  - Participants finance 90% of costs
  - 30 year term
  - Surcharge modifier – Compensates the District's loss of interest earnings (Currently 1.16%)
  - Mapped area to include no more than 20% undeveloped parcels
  - Due on sale clause

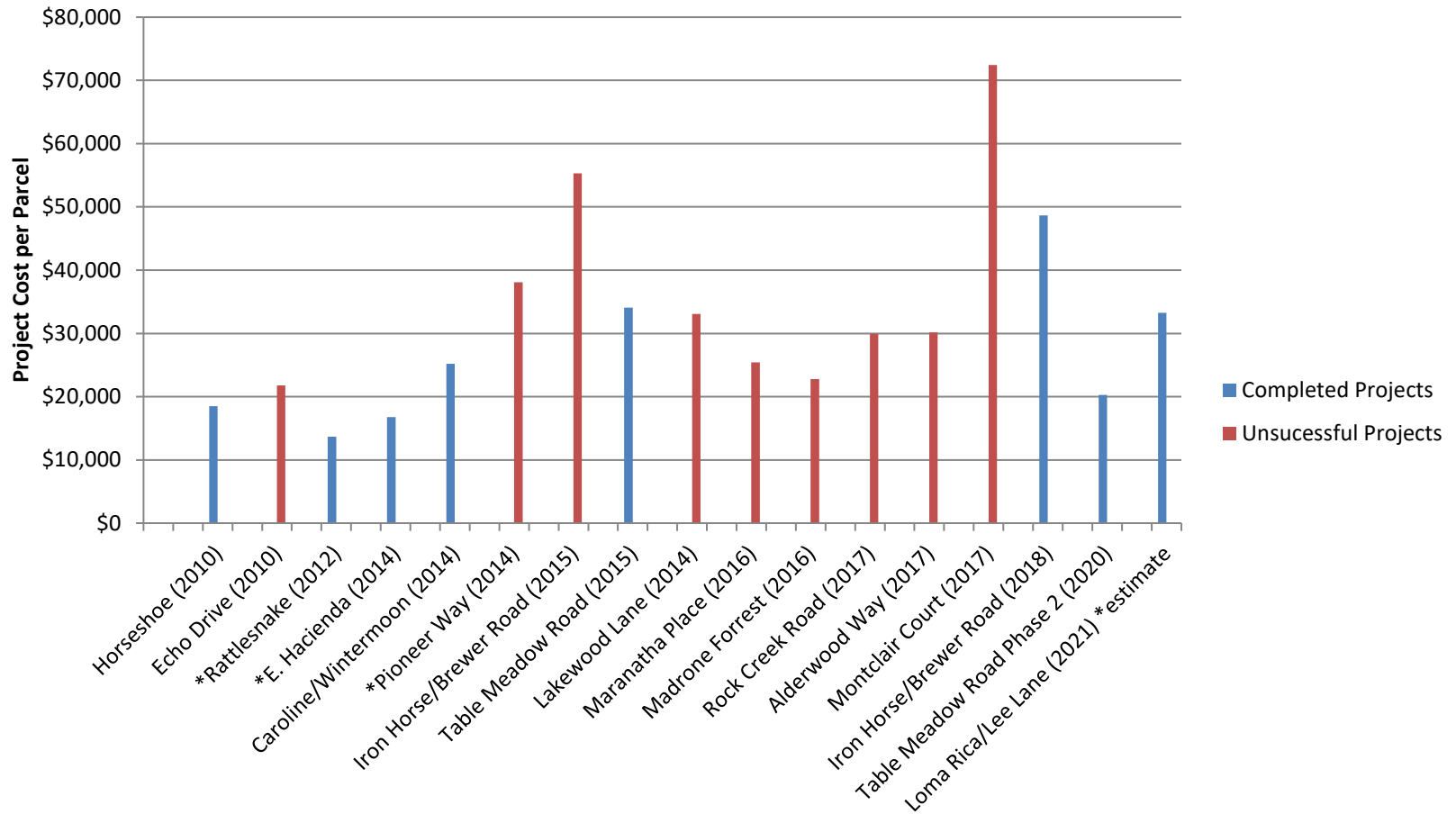
# Overall Totals – Connections & Cost

- 2010-2022
  - Eight completed projects
  - Total # of parcels that could be served = 186
  - Total # of participants = 101
  - Connections after completed projects = 4
  - Total dollars spent to benefit participants = \$4,475,000
  - Capacity Charges deferred over terms = \$908,083
  - Beginning Balance Financed by Participants =
    - \$2,870,500
  - Approximate Remaining Balance =
    - \$2,196,000



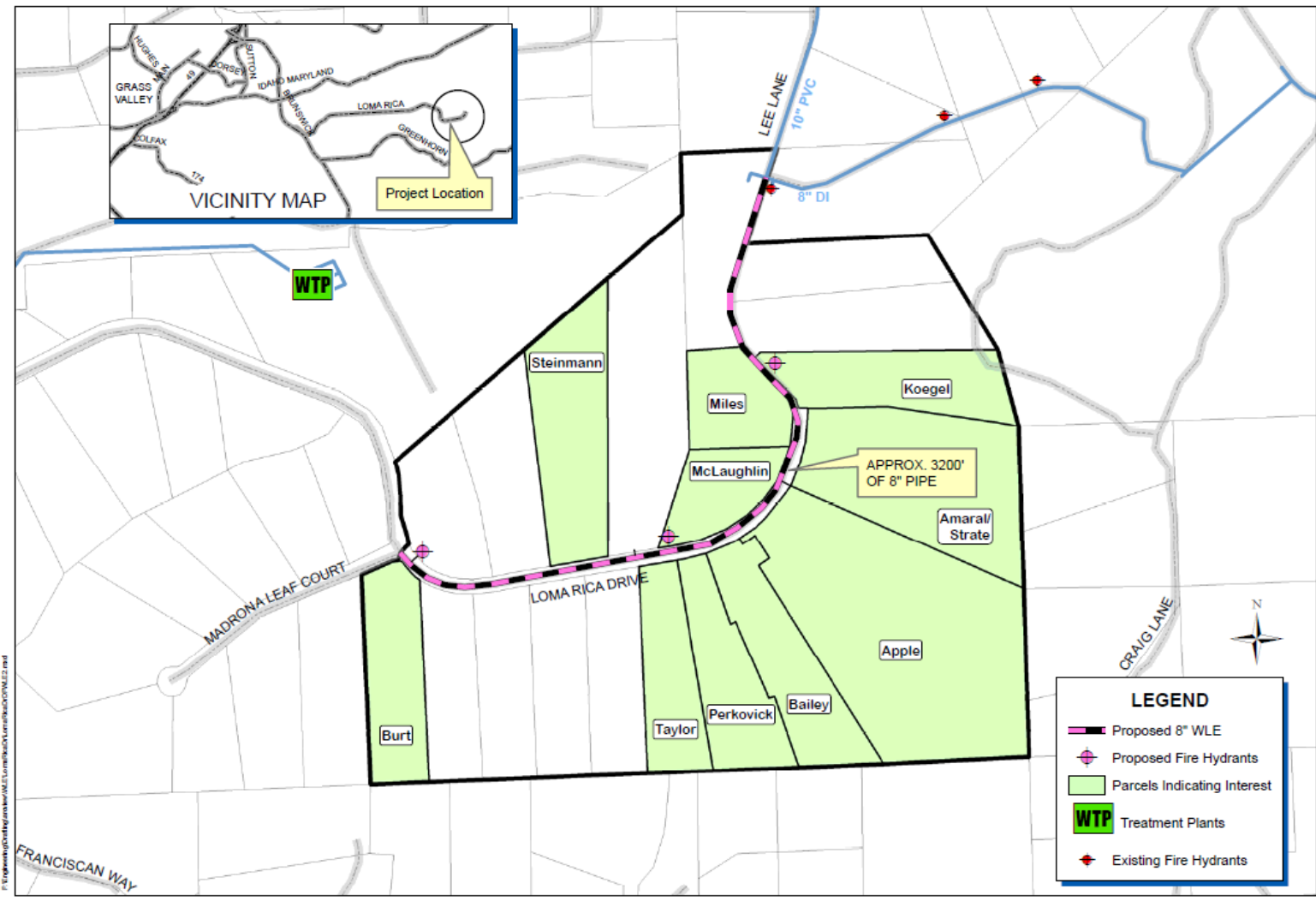
# All DFWLE Projects: Completed vs. Unsuccessful

## DFWLE Project Costs w/out Connections Fees



\* Project included District participation due to upsizing waterline

# Project Map - Example



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**NEVADA IRRIGATION DISTRICT**  
 NEVADA COUNTY -- PLACER COUNTY  
 GRASS VALLEY, CALIFORNIA

**LOMA RICA DRIVE DFWLE**  
 Drawn By: L. HAMMER      Date: 7/1/2021      Scale: 1"=500'@11x17      Sheet: 1 of 1

# Alternatives

- Community Facilities District (CFD)
  - Mello-Roos – Special Tax District
  - Process
    - Initiation of CFD
    - Adoption of Local Goals and Policies/Rate and Method of Apportionment
    - Proposal of Resolution of Intention
    - Public Hearing
    - Adoption of Resolution of Formation
    - Election (a two-thirds affirmative vote of property owners is required if there are no more than 12 registered voters living within the proposed district. However, if more than 12 registered voters are living in the district, a two-thirds vote of registered voters is required)
    - Issue Debt
  - Specialized consultant to administer CFD
- District Designed & Inspected
  - NID Engineer designs improvement plans
  - Group of property owners hire & pay for contractor to install waterline
  - NID Inspection
- Benefit Assessment District (AD)
  - Property tax mechanism used to fund public improvements (Assessment - not a tax, not a fee)
  - Established for a specific geographical area receiving the special benefit
  - Charge is proportional to the special benefit received by each property
  - Process:
    - Petition or resolution
    - Engineer's report
    - Apportioning benefits
    - Public meeting
    - Mailed ballots (approval on a weighted majority of the affected property owners' ballots)
    - Public hearing
    - Levy assessments
  - Specialized consultant to administer AD
- Other Funding Sources
  - State Revolving Fund (SRF)
  - Grants
  - ???

refund the remaining funds. The recipient of the refund shall be to the property owner(s) on title to the subject parcel at the time of disbursement.

## **10.20 DISTRICT FINANCED WATERLINE EXTENSIONS**

The goal of this Section is to permit expansions of residential water service to new customers by authorizing planning services and an advance of District funds to eligible neighborhood groups actively seeking the extension of treated water line(s) into their community. Assistance offered by this program includes informative group meetings, providing project design and construction services, providing advanced project funding, and providing a means for recovering project costs advanced by the District from the neighborhood over time. A project implemented through this Section shall be referred to as “District Financed Waterline Extension, or DFWLE.

### **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 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. 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, and a target maximum of 40 parcels. The minimum participation level will be at least 50% of the total parcels that the District determines 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

## **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.

Priority will be established based on the date of addition to the Eligibility List, and on active participation. As shown on the flowchart, 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 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.

Rev. 2/24/21

## **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 of funding available for all DFWLE projects on the Eligibility List on at least a yearly basis.

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 recover the funds advanced through the application of the Service Extension Charge (SEC).

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.

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.

The applicant shall complete and submit an Application, Form 10-E, requesting to participate in the District Financed 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.

#### **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 Water Service Study**

The District will complete a 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

#### **10.20.07 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 Good-Faith Deposit**

Should the neighborhood group demonstrate a willingness to proceed with the DFWLE project 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 must be received from at least 50% of the benefitted parcels as calculated in accordance with Section 10.20.01 and will be applied against the total project cost so as 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.

Once a good-faith 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 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.

#### **10.20.09 Easements - Subordination of Agreement/Easements**

Concurrent with the submission of the good faith deposit, owners 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 initiate proceedings in eminent domain to acquire any easement or subordination required for the DFWLE. 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

#### **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 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, 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.

#### **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 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.

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.

#### **10.20.14 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.

#### **10.20.15 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

# DISTRICT FINANCED WATERLINE EXTENSION FLOW CHART

