

DRAINAGE AREA CREDIT AND REIMBURSEMENT POLICY

Adopted June, 1989
Revised December 1999

The following policy adopted by the Board of Supervisors, as the governing body of the Contra Costa County Flood Control and Water Conservation District, shall be used to determine credits and reimbursements as provided for in various Drainage Area Fee Ordinances.

I. Definitions:

1. Drainage Area Plan: The engineering plan, which shows and lists the size, length, and location of drainage facilities adopted for a Drainage Area.
2. Drainage Area Fee Ordinance: An ordinance adopted for a Drainage Area specifying the drainage fee necessary to complete construction of the planned facilities.
3. Drainage Area Fee Obligation: The drainage fee due on a development as determined from the Drainage Fee Ordinance.
4. Eligible Costs: The cost of installing drainage facilities, which are part of the Drainage Area Plan.
5. In-tract Drainage Facilities: Drainage facilities required within the limits of the development.
6. Off-tract Drainage Facilities: Drainage facilities required outside the limits of the development.
7. Credit: When a Drainage Fee Ordinance allows construction of drainage facilities in lieu of the payment of drainage fees, the eligible construction costs may be applied as a credit against the drainage area fee obligation.
8. Reimbursement: Payment to the developer for the eligible cost of installing drainage area facilities in excess of the drainage area fee obligation.

- II. GENERAL: Installation of drainage facilities required as a condition of property development can be very costly, and in many cases benefits other properties within the watershed. A Drainage Fee Ordinance spreads the costs of the drainage facilities to all of the benefiting properties and ensures, through a system of fees, credits, and reimbursements, equitable financial participation.

The drainage fee ordinance creates a fee obligation on all properties within the Drainage Area. The ordinance becomes operative upon a request to develop or improve a parcel of land. The drainage area fee obligation is limited to the fee due and is payable either in the form of cash or the installation of a portion of the drainage facilities shown on the adopted drainage plan.

When a condition of development requires the construction of drainage facilities with a cost in excess of the drainage fee obligation imposed by the fee ordinance, a portion of the excess cost may be eligible for reimbursement.

III. Eligible Costs: A portion of the cost to install drainage facilities shown on the adopted drainage area plan may be eligible for credit against the required drainage fees and for reimbursement of costs in excess of the drainage fee obligation. Credit or reimbursement shall be limited to the following eligible costs:

1. Actual in-tract and off-tract construction costs plus a fixed amount of 7 percent of the in-tract construction cost and 14 percent of the off-tract construction cost for allowance of miscellaneous developer's costs, including contract preparation, engineering, bonding, etc. Construction costs do not include utility relocations or the acquisition of rights of way.
2. Actual public agency project inspection fees for only those drainage area facilities shown on the adopted drainage plan.
3. Actual off-tract utility relocation costs.
4. Actual off-tract right of way acquisition costs needed for the installation of drainage area facilities, provided the developer does not have a beneficial interest in the off-tract property.

The determination of construction cost will be based on at least three independent bids. The developer shall submit said bids to the District for review and concurrence. Upon District concurrence with the bids, the lowest bid shall be the basis for determination of the credit and reimbursement amount.

The District reserves the right to reject the developer's bids or any other proposed value of said eligible costs and to calculate said costs and the fixed markups using then current prices.

If the developer elects to install a more costly drainage system than shown on the adopted drainage area plan, the District reserves the right to calculate said eligible costs using the then current prices for only the facilities shown on the adopted plan.

IV. Credit: The developer may apply as a credit toward the drainage fee obligation the eligible costs to construct drainage area facilities.

V. Reimbursement:

A. Where the amount of said eligible costs exceed the drainage fee due, the developer, upon entering into a reimbursement agreement with the District, shall be eligible for a percentage reimbursement on the amount of the eligible costs determined by Section III above, in excess of the drainage fee due as follows:

Off-tract work:	100% (One hundred percent)
In-tract work :	50% (Fifty percent)

Prior to the application of the above percentages, the eligible costs in excess of the drainage fee due shall be prorated between off-tract work and in-tract work in the same proportion as the total eligible costs for off-tract work and in-tract work are to the total eligible costs.

B. The reimbursement shall be subject to the following limitations:

1. Reimbursements shall be paid only from drainage fees collected pursuant to a Drainage Fee Ordinance.
2. If more than one reimbursement agreement is in effect in a Drainage Area, the reimbursement payment to each agreement shall be based on the ratio of each agreement's original amount to the total original amount of all outstanding reimbursement agreements.
3. The District reserves the right to utilize not more than 80 percent of the drainage fees collected annually, on a fiscal year basis, for the purpose of making reimbursement payments.
4. Reimbursement payments shall be made quarterly, except that, during any quarter the District reserves the right not to make said payments if the amount of available funds to be disbursed is less than \$5000.00.
5. Reimbursement agreements shall remain in effect for a base period of ten years (forty quarters). The first quarter shall be the one following the quarter in which the first reimbursement payment is made. The developer shall forfeit any outstanding balance owed at the end of the ten years if 80% or more of the money has been reimbursed. If at the end of the ten years, less than 80% of the money has been reimbursed, the agreement shall be extended for five years. If after a period of five years the developer has not been reimbursed 80% of the amount due, the agreement shall be extended for another period of five years. Any remaining balance owed after twenty years shall be forfeited.
6. Reimbursement agreements executed subsequent to a government loan(s) shall have payments "calculated" using the pro-rata basis of paragraph B.2. above. However, in order to accelerate repayment of the government loan(s), the "calculated" payment shall be applied to repayment of the government loan(s), rather than be disbursed to the subsequent reimbursement agreement(s). Upon full repayment of the government loan(s), reimbursement payments shall commence to the subsequent reimbursement agreement(s). The 40 quarter time limit for a subsequent reimbursement agreement shall not start until the date the first payment is made to the reimbursement agreement.

VI. Applicability: Upon adoption by a drainage area, this policy shall be the basis for all subsequent reimbursement agreements in that drainage area. This policy will not alter any reimbursement agreement executed pursuant to a different policy.