

Article 190 Developer Project Requirements

Sec. 190.1 **Policy.** It is the general policy of the Valley Center Municipal Water District ("District") to assist in meeting the water and wastewater demands of the greatest possible number of its inhabitants, within its service area, by facilitating the orderly construction of a) water distribution; b) wastewater collection, treatment and disposal; and c) reclaimed water distribution facilities. It is also the policy of the District to accept title to water distribution, wastewater collection, wastewater treatment and reclaimed water distribution facilities only when such facilities are constructed in accordance with the District's Administrative Code Article 280 – Design and Construction Standards – Policies and Procedures ("Standards"). The following section of Article 190 establishes the procedures and requirements for all privately funded projects to be accepted by the District for ownership, operation, and maintenance.

Sec. 190.2 **Review and Approval Process.** A property owner or other person (applicant) desiring to design and construct water, wastewater and/or reclaimed water facilities for acceptance by the District for ownership, operation and maintenance shall comply with the procedures and requirements set forth in this Article. The review and approval process shall consist of the following phases: Preliminary Conference, Initial Review and Concept Approval, Plan Review and Approval, Construction, and Warranty Inspection.

Sec. 190.3 **Preliminary Conference.** District's personnel are available to landowners and others without charge for the purpose of discussing the feasibility of any particular development or project and, in general terms, the required facilities and their approximate construction costs, any requirements for oversizing, or requests for reimbursement agreements. In addition, the design requirements, procedures, fees and deposits required by District would also be discussed.

Sec. 190.4 **Preliminary Design Report.** The applicant shall submit a written Preliminary Design Report prepared by a Civil Engineer registered in the State of California describing the project, the proposed facilities, estimated cost, easement requirements, and requests for oversizing and/or reimbursement agreements as appropriate.

(a) **Project Description** - The project description shall include the location, size, and physical conditions of the property to be developed. The applicant shall also describe the proposed development indicating the service area of all proposed facilities and anticipated water, wastewater, and reclaimed water demands.

Per Ordinance No. 98-07 Adopted 7/20/98 [Article 190]

Per Ordinance No. 2020-02 Adopted 1/21/2020 [Sec. 190.1]

Article 190 Developer Project Requirements (Cont'd.)

Sec. 190.4 Preliminary Design Report (Cont'd.)

- (b) Proposed Facilities - The applicant shall describe the proposed facilities including not only proposed water, wastewater, and reclaimed water improvements, but also proposed grading, road and drainage improvements. The preliminary design report shall identify any off-site facilities required for the project. The District may require, at its discretion, offsite improvements depending upon the size and anticipated impact of the new development upon the District's facilities. The applicant shall include calculations used in sizing the facilities and shall show the proposed materials and locations of all facilities. Draft specifications should be provided for any work, equipment, materials, etc. not included in the District's Standards.
- (c) Cost Estimate - A preliminary construction cost estimate for all proposed water, wastewater, and reclaimed water facilities shall be included.
- (d) Easement Requirements - The preliminary design report shall identify all on-site and off-site easements required for construction of the proposed facilities.
- (e) Oversizing Agreements - The District shall advise the applicant during the Preliminary Conference if any facilities will need to be over sized to serve areas other than the applicant's property. The applicant shall indicate in the preliminary design report all facilities to be over sized, as required by the District.
- (f) Reimbursement Agreements - The preliminary design report shall include a description of any facility proposed for a reimbursement agreement. The description shall include the service area and proposed cost allocations.
- (g) Low Income Housing - The applicant shall indicate if the project qualifies as a lower income housing development as defined by the California Health and Safety Code.

Sec. 190.5 Initial Review and Concept Approval. The applicant shall submit a preliminary design report for the proposed facilities in accordance with this Article for review by the District. Staff shall review the submitted material and either request modifications or make a favorable recommendation to the Board for Concept Approval. The applicant shall pay all review costs incurred by the District and comply with the following requirements:

Per Ordinance No. 2007-06 Adopted 4/16/07 [Sec. 190.4 (g)]

Per Ordinance No. 2020-02 Adopted 1/21/2020 [Sec. 190.4(b)]

Article 190 Developer Project Requirements (Cont'd.)

Sec. 190.5 Initial Review and Concept Approval (Cont'd.)

- (a) The applicant shall submit the Initial Review Deposit as required by this Article. The minimum deposit amount is non-refundable and is the minimum fee for review of the preliminary design report. Additional deposits may be required depending upon the complexity and magnitude of the project.
- (b) Upon satisfactory completion of the Initial Review, payment of all outstanding review costs and execution of a District Facilities Agreement, staff shall submit the Preliminary Design Report (PDR) for the proposed facilities to the Board of Directors for concept approval.
- (c) The applicant shall submit six (6) copies of the completed PDR for submittal to the Board.
- (d) Concept Approval shall be for a one year period. Requests for one year extension of the Concept Approval shall be considered upon receipt of a written request and payment of the minimum Initial Review Deposit. Any changes to the original concept may require additional review fees.

Sec. 190.6 Plan Review and Approval. All plans and specifications for the construction of facilities to be dedicated to the District for ownership, operation and maintenance shall be reviewed and approved by District staff. The District shall review the plans and specifications and either request modifications or approve the plans and specifications for construction. The applicant shall pay all review costs incurred by the District. The applicant shall comply with the following requirements:

- (a) Unless otherwise approved by the General Manager, the applicant shall be responsible for preparation of the plans and specifications.
- (b) The plans and specifications shall be prepared by a registered civil engineer licensed in the State of California.
- (c) The plans and specifications shall be prepared in accordance with all applicable procedures and policies of the District, including reference to all applicable District Standards. Supplemental details and specifications shall be included for projects not adequately covered by the District's Standards.

Article 190 Developer Project Requirements (Cont'd.)

Sec. 190.6 Plan Review and Approval (Cont'd.)

- (d) The plans and specifications for construction of the facilities shall be in compliance with the concept approval and approved Preliminary Design Report. The applicant shall notify the District of any deviations from the approved Preliminary Design Report. District staff may require, at their discretion, all or portions of the Preliminary Design Report to be revised and resubmitted for approval.
- (e) Prior to preparing the plans and specifications, the applicant may request a pre-design meeting with District staff.
- (f) The applicant shall submit a Plan Review Deposit, as required by this Article, with the first plan review submittal. All expenses incurred by the District associated with the review and approval of the plans and specifications shall be deducted from this deposit. Additional deposits may be required depending upon the complexity and magnitude of the project.
- (g) Three sets of plans and an updated construction cost estimate shall be provided for each plan review.
- (h) Prior to the approval of the plans and specifications, the applicant shall convey to the District all easements, rights-of-way, and/or property required for the project by the District that will not be dedicated by the map.
- (i) Approval of the plans and specifications shall be valid for a one-year period. If construction of the facilities has not begun within one year of the date the plans and specifications were approved, the applicant shall request in writing that the approvals be extended for an additional one year period. The District shall have the opportunity to require the plans and specifications be modified to comply with any revisions made to the District Standards or changes in the service requirements in the area of the project.

Per Ordinance No. 2001-03 Adopted 2/20/01 [Sec. 190.6(h)]

Per Ordinance No. 2020-02 Adopted 1/21/2020 [Sec. 190.6(i)]

Article 190 Developer Project Requirements (Cont'd.)

Sec. 190.7 **Conservation and Local Supply Use Requirements:** The requirements of this section apply to all new residential and commercial developments or redevelopments. The landscape requirements also apply to any re-landscaping that is subject to review by the District and/or the County of San Diego.

(a) **Indoor Fixtures and Appliances.** All water fixtures and appliances installed, including the ones in the following list, must be high-efficiency:

- Toilets and urinals
- Faucets
- Showerheads
- Clothes Washers
- Dishwashers

“High-efficiency” means fixtures and appliances that comply with the most efficient specifications under the EPA WaterSense or Energy Star programs⁽¹⁾ in effect at the time installation commences.

(b) **Landscape Requirements.** Only “Smart” irrigation controllers⁽²⁾ may be installed and only low-water use plants may be used in non-recreational landscapes. All landscapes must also be designed and managed consistent with requirements of the County of San Diego and/or local agency having jurisdiction within which the property is located.

1. Installed smart irrigation controllers shall be properly configured and programmed and irrigation times scheduled according to the manufacturer’s instructions and for site specific conditions based on soil type, plant type, irrigation type, weather and available evapotranspiration data.
2. Two irrigation schedules shall be prepared, one for the initial establishment period of three months or until summer hardened, and one for the established landscape, which incorporates the specific water needs of the plants and turf throughout the calendar year. The schedules shall be continuously available on site to those responsible for the landscape maintenance and posted at the smart controller.

⁽¹⁾ Certified EPA WaterSense products, and Energy Star products, are at least 20% more efficient than the applicable federal standards.

⁽²⁾ Smart Irrigation Controller means a controller that uses real time, soil moisture or weather data to automatically adjust irrigation run-times. Furthermore, to qualify as a Smart Irrigation Controller, the device must be certified by the Irrigation Association and/or the EPA WaterSense program.

Sec. 190.7Conservation and Local Supply Use Requirements (Cont'd.)

3. Any Covenants, Conditions, and Restrictions (CC&Rs) pertaining to a new subdivision/development shall not limit or prohibit the use and maintenance of low water use plant materials and the use of artificial turf, and shall require property owners to design and maintain their landscapes consistent with the County's, or applicable local agency having jurisdiction, regulations.

4. Dedicated irrigation meters shall be installed in all parks, common areas and commercial sites with irrigated landscape.

5. In compliance with the District's Administrative Code Article 160.20, pressure regulators must be installed when and where appropriate to maximize the life expectancy and efficiency of the irrigation system.

6. New commercial development must install separate, dual-distribution systems for potable and recycled water.

(c) Local Supply Use Requirements. It is the policy of the District that other local sources of water, such as reclaimed water and groundwater, shall be used within its jurisdiction to reduce the demand for imported potable water for any appropriate use when it is economically, financially and technically feasible, and consistent with legal requirements, preservation of public health, safety and welfare and the environment. Appropriate uses shall be determined by the District and are shown in Section 175.1(a)(2). Use of potable water for non-domestic uses shall be contrary to District policy, shall not be considered the most beneficial use of a natural resource and shall be avoided to the maximum extent possible.

(d) Domestic Meter Requirements. A separate water meter is required for each residential unit, including townhouses, condominiums and apartments, in accordance with Administrative Code Article 160.

(e) Compliance with Other Regulations. The requirements of this Section shall not be interpreted in any way to limit the owner's obligation to comply with any other applicable federal, state, or local laws or regulations.

Sec. 190.8

Construction. The applicant shall be responsible for construction of the proposed facilities and shall pay all costs associated with the construction of the facilities, including but not limited to, materials, labor, installation, inspection and testing. District shall not be liable for any construction costs or damages.

- (a) Contractor License Requirements – The construction of any District improvements to be accepted by the District must be performed by a licensed contractor having an appropriate license for the project. Pipelines require a C-34 or General Engineering A license. Pump stations and reservoirs require a General Engineering A license.
- (b) Performance Bond – Prior to issuing a Notice to Proceed, and unless otherwise approved or required by the District Engineer, the applicant shall provide a Performance Bond, or other acceptable form of security, for not less than 100% of the construction contract amount of any proposed facilities to be installed off site of the applicant's property. Said Performance Bond, or other financial security provided, shall remain in full effect until final acceptance of the project and formal release by the District.
- (c) Inspection & Testing - The applicant shall also pay for all inspection and testing required during the construction of the facilities. Inspection of work in progress shall be accomplished by District Engineer or his designated representative. Unless otherwise required for execution of a joint bonding agreement, the applicant shall provide the required District Inspection Deposit prior to start of construction. All expenses incurred by the District for inspection shall be deducted from the deposit.
- (d) Insurance - No work shall be performed by the contractor unless the insurance coverage required by the approved plans and specifications is in effect and certificates of insurance have been provided and approved by the District. The contractor shall not allow any subcontractor to commence work until all insurance coverage required of the contractor has been obtained and approved.
- (e) Oversizing of Facilities - District participation in the cost of facilities oversized to serve properties other than the applicant's shall be in accordance with these Articles and the terms and conditions of an oversizing agreement between the District and the applicant.

Article 190 Developer Project Requirements (Cont'd.)

Sec. 190.8 Construction (Cont'd.)

(f) As Built Drawings - After completion of the construction, the applicant shall modify the approved drawings to reflect the facilities as constructed.

(g) Conditional Acceptance. District requires all components of the project to be fully and satisfactorily completed to District requirements for final completion prior to initiating services from the public water or wastewater system. The applicant may be eligible for water or wastewater service to be activated through the newly constructed facilities prior to final acceptance under the following conditional acceptance criteria:

1. Applicant must petition to the District Engineer for variance, at which time the District Engineer may grant conditional acceptance under certain written terms and conditions specific to the project.
2. Applicant shall be solely responsible for maintenance and repairs of the conditionally accepted facilities until final acceptance is granted.
3. The warranty period for the conditionally accepted facilities shall not begin until final acceptance is granted.
4. District reserves the right to operate the facilities as the Director of Operations deems necessary.
5. Conditional acceptance shall be valid for one year from issuance. If applicant does not satisfy final acceptance by that time, District may elect to perform the remaining work required for final acceptance at the cost of the applicant.
6. District may terminate water and/or wastewater service to the facilities at any time if applicant fails to satisfy the terms and conditions set forth in the conditional acceptance.
7. Applicant shall be responsible for all District costs and expenses associated with the operation and maintenance of conditionally accepted facilities prior to final acceptance being granted.

Per Ordinance No. 2020-02 Adopted 1/21/2020 [Sec. 190.8(g)]

Article 190 Developer Project Requirements (Cont'd.)

Sec. 190.8 Construction (Cont'd.)

(h) Final Acceptance - District shall accept title to said system after compliance with the following:

1. Satisfactory completion of the project, as evidenced by written certification by District personnel charged with inspection, District Engineer and Director of Operations;
2. Posting of a Warranty Bond or equivalent security, for not less than 25% of the construction contract amount to warranty materials and workmanship of the facility construction for a period of not less than one year after acceptance by the District; and
3. Satisfactory completion and submittal of the As-Built drawings.

Sec. 190.9 Warranty Inspection. Prior to the end of the warranty period, the District shall inspect the facilities. If any deficiencies due to materials and workmanship are detected the District shall issue a warranty claim to the applicant. If the applicant does not make the necessary repairs by the end of the warranty period, the warranty bond, or other financial guarantee provided, will be called and the District will make the necessary repairs.

Sec. 190.10 Reimbursement Agreements. When the minimum design requirements exceed the needed capacity and the proposed facilities will benefit property other than that represented by the applicant, the applicant may exercise the option of entering into a reimbursement agreement with the District as follows:

- (a) The reimbursement agreement shall be for the sole purpose of collecting a portion of the construction costs from those property owners who benefit from the facilities but did not initially contribute toward their installation.
- (b) A request to enter into a reimbursement agreement must be submitted in writing during the Initial Review Period and be included in the concept approval.
- (c) District administrative costs to prepare, review and approve the reimbursement agreement shall be added to costs associated with the initial review and concept approval phase of the project.

Per Ordinance No. 2012-09 Adopted 10/15/12 [Sec. 190.8, 190.9 & 190.10]

Per Ordinance No. 2020-02 Adopted 1/21/2020 [Sec. 190.8(h)]

Sec. 190.10 Reimbursement Agreements (Cont'd.)

- (d) The District shall collect for a period of twenty (20) years from the date of final acceptance, a Special Service Connection Charge (SSCC) from properties within the designated service area prior to allowing connection to the reimbursement facility. The Special Service Connection Charge would include the properties pro rata share of the construction cost of the reimbursement facility. The Special Service Connection Charge thus collected will be returned in full to the individual who entered into the agreement.
- (e) The service area shall be designated on a map and included in the preliminary design report. The service area map shall become part of the reimbursement agreement.
- (f) The applicant shall describe in the preliminary design report the method by which the construction cost is to be allocated to each property in the service area. A list of all parcels included in the service area and their pro rata share of the construction cost shall be prepared and included as an attachment to the reimbursement agreement. All property owners within the service area shall be notified of project concept approval and the estimated SSCC. Properties participating in the cost of installation of the proposed facilities would be exempt from the Special Service Connection Charge. These properties shall be shown on the service area map as within the service area but exempt from the Special Service Connection Charge.
- (g) Properties outside the service area are exempt from the Special Service Connection Charge.
- (h) The amount of the SSCC will be determined from actual costs at the time of completion of construction and final project acceptance by the District.
- (i) Where a line extension is enlarged at District expense, the Special Service Connection Charge is determined after deducting the District contribution from the construction cost.
- (j) The District will make a reasonable effort to locate the applicant who initiated the agreement, his successors, or assigns, and make the appropriate reimbursement. Any funds collected on a reimbursement agreement not claimed by the applicant within one calendar year of the agreement's termination shall revert to the District.

Article 190 Developer Project Requirements (Cont'd.)

Sec. 190.10 Reimbursement Agreements (Cont'd.)

(k) If more than one landowner is entitled to reimbursement, an agent representing all property owners participating in the construction of the line must be designated. This representative shall be the only person to correspond with the District for the purpose of receiving payments. The District's responsibility shall not extend beyond reimbursement to the designated agent.

Sec. 190.11 Procedure for District Participation in Oversized Facilities. The District may from time to time require the applicant to install facilities with capacity greater than that which is required for only the applicant's property (minimum facilities). In this case, the District may pay certain costs toward the required oversized facilities. The District contribution shall be based on the difference between the cost of materials and installation for the minimum facilities and the cost of materials and installation for the required oversized facilities. The applicant shall enter into an oversizing agreement with the District clarifying the process for determining the District contribution amount. The applicant shall provide an estimate of this amount in the preliminary design report. The District will calculate the District contribution upon submittal of documents showing the actual material and installation costs by the applicant. The applicant may apply for payment following final acceptance of the project.

Sec. 190.12 Termination of Project. The applicant may terminate the project at any time by submittal of a written request to the District. The District may terminate the project only after one year of inactivity by the applicant and notification by the District. Any approvals issued by the District shall be voided upon termination of the project and the remaining balance of the deposit account shall be refunded to the applicant per the requirements of this Article.

Sec. 190.13 Fees and Charges. The applicant shall pay all District costs associated with planning, designing, constructing, inspecting and testing the proposed facilities. Prior to commencing work on a specific review and approval phase of the project, the applicant shall provide the District the fees and deposits as defined in this Article.

Sec. 190.13 Fees and Charges (Cont'd.)

(a) Summary of Fees and Initial Deposits - Fee and deposit requirements for each phase of the project are summarized as follows (all deposit amounts shall be rounded up to the nearest \$50 increment):

1. Preliminary Conference - no charge.
2. Initial Review and Concept Approval - Initial Review Deposit - 0.5% of estimated construction cost, minimum initial deposit - \$500, maximum initial deposit - \$2,500. Additional deposits may be required depending on the magnitude and complexity of the project.
3. Plan Review and Approval - Plan Review Deposit - 2% of estimated construction cost, minimum deposit - \$2,000, maximum initial deposit - \$10,000. Additional deposits may be required depending on the magnitude and complexity of the project.
4. Construction - Inspection Deposit - 5% of estimated construction cost, minimum deposit - \$5,000, plus additional deposits as required.
5. Warranty Inspection - no charge unless repairs are required.

(b) Additional Deposits - If the initial deposit does not provide sufficient funds to complete the project phase, the Applicant shall deposit with the District additional funds upon written request.

(c) Project Accounting - An accounting of District costs on the project and remaining balance on deposit shall be provided to the applicant 1) upon request for additional deposits, 2) upon final acceptance by the District, and 3) upon termination of the project by the applicant.

(d) Interest on Deposits - Deposits shall earn interest as required by Government Code Section 53079.

(e) Balances and Refunds - The balance of the deposit account shall consist of any unused portion of the deposit. The balance at the end of the Initial Review Phase or at the end of the Plan Review and Approval Phase shall be applied to the next phase of the project. Upon final acceptance of the project by the District or termination of the project by the applicant, the balance of the deposit account shall be refunded including interest earned, if any.

(f) Deposit Forfeiture - Deposits unclaimed by the applicant shall be forfeited to the District after one year of inactivity.