

POLICY MANUAL

Date Adopted: September 9, 1997

Classification: PROGRAMS

Date Last Amended: 03/22/2000; 04/26/2006

Subject: Modification of FMFCD Systems and Recovery of Costs

Approved By:

Bob Van Wyk

I. Policy:

When development interests propose modification of the District Master Plan, the District shall require the proponent of such change to deposit funds with the District, or otherwise guarantee payment, to pay all costs associated with analysis of the modification. Such costs include, but are not limited to, staff time, material costs, and outside legal and consultant fees. District staff shall estimate costs associated with the analysis of such proposals and the proponent shall deposit with the District that amount in advance of commencement of any such work by the District or consultant. If the analysis results in increased system costs, pursuant to subsection IV (H), the proponent shall enter into a written agreement with the District to compensate the District for those increased costs to initiate such modification. If the result is a savings to the District, those analysis costs approved by the Board (not to exceed the amount of such savings) shall be credited to the proponent. However, if the savings exceeds analysis costs, the developer shall not be allowed credit other than against the analysis costs.

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II. Purpose:

The purpose of this Policy is to provide opportunity for modifications to the Master Plan when desired by a proponent, without adversely affecting system design or increase in public cost, while avoiding duplicate public expense for the analysis, engineering, design, construction, operation or maintenance of system components which are proposed for revision by development interests.

III. Definitions:

- A. Modifications - proposals to relocate or modify the shape or design of a basin when the purpose is to accommodate the purposes of the proponent; proposals to realign or otherwise modify the storm drainage collection system when proposals are determined by the General Manager or District Engineer to constitute more than the normal modifications necessary to accommodate new development; and, proposals to change or modify other existing District systems or facilities for the purpose of accommodating interests of the proponent.
- B. Exemptions – The Board of Directors may exempt from this Policy proposals submitted by other public entities and/or non profit organizations, when it is determined that such proposals will result in additional benefits to the general public consistent with the objectives and purposes of the District.

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IV. Procedure:

- A. Prior to the District initiating work on a modification proposal, the proponent must submit to the District a written project description, including the proposed District impact, role and responsibilities, the project time line, other project participants and relevant issues; and must receive written conceptual approval of the District's participation. The District General Manager or the District Engineer shall have the authority to give conceptual approval of modification proposals that meet District criteria and involve engineering costs of \$10,000 or less. Modification proposals that require engineering costs that exceed \$10,000 shall be presented for review and approval or disapproval to the Board of Directors.
- B. Prior to the District initiating work on a proposal subject to this Policy, the proponent must deposit an amount determined by the General Manager or the District Engineer necessary to cover the analysis of the proposal (and related accounting thereto) and its impact on District systems, facilities and plans. As work progresses, the proponent shall deposit additional funds as necessary to maintain a positive deposit balance.

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- C. The District shall provide an accounting of the expenditures to the proponent as determined appropriate by the General Manager or District Engineer. Reimbursements received for District staff time and for outside service providers shall be deposited to the District's General Fund. Once work is completed or the proposal terminated, any unexpended funds deposited by the proponent shall be returned to the proponent.
- D. The District retains the right to deny proposals if the General Manager or District Engineer determines such work will interfere with processing development entitlements that are complying with the Storm Drainage Master Plan (see Paragraph G). Also, the District retains the right to terminate work at any time. Termination of work on a proposal is not a basis for refund to the proponent of expended funds, and no refund shall be made for such expenditures without the approval of the Board.
- E. All work is undertaken at the risk of the proponent and no warranties are made, or obligations, or liabilities assumed by the District as to the outcome of the analysis.

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- F. To the extent practical, the District shall encourage the proponent to secure its own analysis and designs by qualified professionals for presentation to the District for review and consideration. The District shall select or review and approve the professional prior to the professional initiating any work. Prior approval of the professional and prior conceptual approval of the modification proposal by the District is a prerequisite for the proponent to receive credit for the design work by the proponent's professional pursuant to Section I.
- G. Regular District service program work, services and responsibilities shall be given priority over proposals undertaken pursuant to this Policy.
- H. If implementation of the proposed project will result in additional costs to the District for system modification, including but not limited to land, easements, pipelines, construction, extraordinary maintenance expenses, etc., the proponent shall enter into a written agreement with the District to reimburse the District for said expenses.