

ORDINANCE NO. 96-2

**AN ORDINANCE OF THE SUNNYSLOPE COUNTY WATER DISTRICT
AMENDING TITLE 3, SECTION 3.16.090 ENTITLED
"FACILITIES EXCEEDING APPLICANT'S NEEDS - COSTS"**

WHEREAS, Section 3.16.090 of the District Code provides that the cost of excess size of development facilities are to be borne by the District unless the increase in size is necessary to serve the applicant, and

WHEREAS, it is the District's desire to further define the obligations of the District and the developer relating to improvement reimbursements.

NOW THEREFORE, THE BOARD OF DIRECTORS OF THE SUNNYSLOPE COUNTY WATER DISTRICT does ordain as follows:

Section 1. Section 3.16.090 of Title 3 of the Sunnyslope County Water District Code is hereby amended to read as follows:

"Should the water department desire to install facilities greater than are needed to meet the applicant's needs, the cost of the excess size of the facilities shall be borne by the District unless the Board determines that the increased size is necessary to serve the applicant.

In the event the District requires a developer to oversize water facilities so that the District may better serve future developments and the District in general such a determination shall be made by the District at or before the time the developer requests a water service contract. At the time the standard water service contract is presented to the Board for review and approval it shall contain provisions for reimbursement to the developer in an amount based upon three bids showing a unit cost for the facility required for the development and the cost of the oversized facility. The reimbursement shall not in any case exceed the actual cost to the developer. The contract shall further provide that the developer shall not be reimbursed until such time as the District has formally accepted the completed facility.

Circumstances may develop in which the District requires a developer to expand or to otherwise oversize District water facilities for the general benefit of the District and its inhabitants as opposed to the benefit of a subsequent developer or development. Under such circumstances the District's requirement for expanded improvements shall be included in the developer's water service agreement provided such a requirement is known or reasonably anticipated by the District at the time of the water

service contract. If the District did not know or anticipate that such improvements would be required at the time of signing the water service agreement but determines at a later time that the expanded or oversized facilities are necessary for the general benefit of the District the Board of Directors shall be advised of same at the earliest opportunity and shall review and approve of a reimbursement agreement with the developer prior to construction of the improvements. The amount of the reimbursement shall be based upon three bids showing a unit cost for the facility required for the development and the cost of the oversized facilities but shall not in any case exceed the actual cost to the developer. Reimbursement shall be paid upon acceptance by the District of completed facility."

Section 2. Invalidity. In the event that any portion or provision of this ordinance shall be determined by a court of law or other tribunal to be invalid or unconstitutional, such a finding of invalidity or unconstitutionality shall not affect the validity of the remaining provisions of this ordinance which shall remain in full force and effect.

Section 3. The foregoing Ordinance was introduced at a regular meeting of the Board of Directors of the Sunnyslope County Water District held October 10, 1996;

Section 4. This Ordinance, within 15 days after its passage and adoption, shall be published once in a newspaper of general circulation published and printed in the County of San Benito, State of California, and shall be in full force and effect 30 days after its passage and adoption.

Passed and adopted by said Board of Directors at a regular meeting of said District held on November 14, 1996, by the following vote:

AYES: DIRECTORS: Nelson, Hailstone, R. Anderson, D. Anderson
NOES: DIRECTORS: Guerra
ABSENT: DIRECTORS: None

BOARD OF DIRECTORS,
SUNNYSLOPE COUNTY WATER DISTRICT

ATTEST:

Bryan M. Yamaoka

Bryan M. Yamaoka, Secretary

Marchel Nelson

Marchel Nelson, President