

Staff Report

for the Board of Directors' Meeting of January 24, 2017

TO: Board of Directors

FROM: Chip Close, Water Operations Manager
Shannon Wood, Business Services Technician

DATE: January 11, 2018

SUBJECT: Developer Reimbursement Agreement and Section 10.6 District Rules and Regulations Modifications (Consent)

OPERATIONS

RECOMMENDATION:

Approve an amendment to Section 10.6 (Developer Reimbursement Fee) of the Districts Rules and Regulations and the Reimbursement Agreement for developers as recommended by the Administrative Practices Committee.

BACKGROUND:

The District partakes in a reimbursement agreement with developers following waterline extensions that allow non developer owned properties to connect. The reimbursement policy charges connection fees to these parcels based upon the length of pipeline fronting their property. This methodology has led to reimbursement fees that have drastically different pricing based on parcel size and location.

In an effort to make the developer reimbursement policy more equitable, staff is proposing a change in the fee calculation to a per parcel rate as opposed to front footage. The change will lead to equal costs for connecting parcels and will mirror the District installed pipeline reimbursement policy.

The proposed agreement will establish a reimbursement fee by dividing the eligible waterline extension costs by the number of parcels that could be served by the extension. The designation of the parcels to be served from the new extension will be determined solely by the District.

The last proposed revision includes a change of signatory level in the developer reimbursement agreement from the Board President to the General Manger. The agreements intent is a simple pass through of funds back to the developer as customers connect. It does not involve District funding thus staff is recommending

execution of the agreement at the General Manger level. The Board will continue to be informed of developer projects as it authorizes conveyance agreements.

The proposed changes to the Districts Rules and Regulations and the developer agreement are attached for review. In addition, a map depicting a theoretical developer waterline extension comparing the current reimbursement policy costs vs the proposed policy cost is attached for informative purposes.

Staff has worked with legal counsel to ensure the proposed policy meets the necessary legal standards.

BUDGETARY IMPACT:

None at this time

Attachments (4):

- Current Developer Reimbursement Agreement / Rules and Regulations
- Proposed Developer Reimbursement Agreement / Rules and Regulations
- Current policy mapping example
- Proposed policy mapping example

Current Agreement & Rules and Regulations

Being Requested by

Nevada Irrigation District

When Recorded, Mail To

Nevada Irrigation District
1036 W. Main Street
Grass Valley, CA 95945

REIMBURSEMENT AGREEMENT

THIS REIMBURSEMENT AGREEMENT, made and entered into this _____ day of _____, by and between [Click **here** and type name], hereinafter referred to as "Applicant", and the NEVADA IRRIGATION DISTRICT, hereinafter referred to as "District".

RECITALS

WHEREAS, Applicant has caused to be constructed, at its sole cost and expense, a water main and appurtenances thereto on, over, and across the frontage of that property as shown in Exhibit "A" attached hereto and made a part hereof (Improvement plans for which are on file in District office as "[Click **here** and type filename]"); and

WHEREAS, said water main and appurtenances thereto have been approved by District as having been constructed of the size and dimension and located according to the requirements of, and under the inspection of the District; and

WHEREAS, Applicant is willing to convey said water main and appurtenances to the District in accordance with the District's Regulations; and

WHEREAS, the intent of this Reimbursement Agreement is to provide Applicant with a mechanism to assist it being reimbursed for a portion of the cost of constructing approximately [Click **here** and type description] lying along a portion of [Click **here** and type location], all as shown on Exhibit "A", and

WHEREAS, such reimbursement is allowed by District Regulations, specifically Section 10.06 "Reimbursement Fee", a copy of which is marked Exhibit "B", attached hereto, and made a part hereof.

NOW, THEREFORE, in consideration of the covenants and conditions contained herein, the parties hereto mutually agree as follows:

ARTICLE 1 - RECITALS. The recitals contained herein are an integral part of this Agreement.

ARTICLE 2 - APPLICANT ENTITLED TO REIMBURSEMENT. District agrees that Applicant is entitled to reimbursement for a portion of the cost of constructing that part of the

water main and appurtenances lying along [Click **here** and type location], all as shown in Exhibit "A".

ARTICLE 3 - COLLECTION OF REIMBURSEMENT FEES FOR APPLICANT. District shall attempt to collect and recover a reimbursement fee in the amounts and at the times prescribed herein. After receiving monies, District shall disburse said monies to Applicant, his heirs, successors, or assigns at the mailing address listed for Applicant in this Agreement.

It is understood and agreed by the parties hereto that District shall not be liable or responsible for any reimbursement to Applicant, but that District shall act whenever possible as a collection facility for Applicant to aid and assist in acquiring monies for the reimbursement from individuals having properties fronting the water main.

ARTICLE 4 - ELIGIBLE COST OF IMPROVEMENTS. It is hereby agreed that the costs of construction of the water main and appurtenances shown in Exhibit "A" and allowed by District Regulations for calculation of the front footage charge totals \$[Eligible Cost of Improvements].

ARTICLE 5 - APPLICANT'S DECLARATION OF OPTION. Section 10.06 "Reimbursement Fee" of District Regulations, attached hereto as Exhibit "B", allows Applicant to select Option A, Option B, or Option C in combination with Option A or Option B, all as specified in District Regulations attached hereto as Exhibit "B", for purposes of determining the eligible front footage and the front footage charge. The Applicant hereby selects Option A, B, or A in combination with Option C, or B in combination with Option C.

ARTICLE 6 - ELIGIBLE FRONT FOOTAGE. It is hereby agreed that the eligible front footage of parcels identified in Exhibit "A", lying along the water main and allowed by Option A, B, or A in combination with Option C, or B in combination with Option C of District Regulations for calculation of the front footage charge, totals [Eligible Front Footage from Exhibit "A"] feet which includes 125 feet for each of _____ parcels not shown in Exhibit "A" that may obtain water service by formal variance and which service assembly, upon approval of the variance, is tapped directly onto the extension.

ARTICLE 7 - FRONT FOOTAGE CHARGE. The front footage charge is calculated by dividing the eligible costs of improvements by the eligible front footage and rounding off to the nearest cent. It is hereby agreed that the front footage charge for this Agreement is \$_____ per foot of frontage. The calculations are shown in Exhibit "C" attached hereto.

ARTICLE 8 - CALCULATION OF REIMBURSEMENT FEE CHARGES. Reimbursement fee charges shall be determined by multiplying the front footage of subject parcel by the front footage charge.

ARTICLE 9 - REIMBURSEMENT FEES CHARGED FOR SERVICE TO PARCELS WITH FRONTAGE. Developer has selected and declared Option [Click **here** and type A or B] from Section 10.06 "Reimbursement Fee" of District Regulations; therefore, and further subject to the limitations included in this Agreement, owners of property {[use the following wording if Option A was declared] shown in Exhibit "A" as having their property's frontage included in the eligible front footage, shall be charged a reimbursement fee as prescribed herein at the time of application for water service or a private fire service.} {[use the following wording if Option B was declared] fronting the improvements and may be served directly from the extension, either as the parcel presently exists, or in the future due to a parcel split, shall be charged a reimbursement fee as prescribed herein at the time of application for water service or a private

fire service. Existing parcels fronting the extension which were receiving service at the time the Agreement was executed will only be charged a reimbursement fee if that service is expanded or upsized, or if that parcel is split. In case of a parcel split, the existing service will be assigned, at the sole discretion of the District, to one of the newly created parcels. The remaining new parcel(s) that lie along and may be served directly from the extension will be subject to the reimbursement based on that parcel(s) front footage along the extension at the time of application for water service or private fire service.}

ARTICLE 10 - (Optional) REIMBURSEMENT FEES CHARGED FOR SERVICE TO PARCELS THAT MAY OBTAIN WATER SERVICE BY FORMAL VARIANCE. Developer has selected and declared Option C from Section 10.06 "Reimbursement Fee" of District Regulations; therefore, and further subject to the limitations included in this Agreement, owners of property that may obtain water service by formal variance and which service assembly is tapped directly onto the extension, up to a maximum of _____ parcels, shall be charged a reimbursement fee as prescribed herein at the time of application for water service or a private fire service.

ARTICLE 11 - REIMBURSEMENT FEE CHARGE LIMITATIONS. The calculated reimbursement fee charge for any one parcel shall be limited to fifty percent (50%) of the total eligible cost of improvements as stated herein.

ARTICLE 12 - FRONT FOOTAGE CHARGE LIMITATIONS. The front footage charge shall be applied only once to any frontage of any parcel.

ARTICLE 13 - MAXIMUM REIMBURSEMENT DUE APPLICANT. It is expressly agreed by the parties that the maximum reimbursement Applicant and its successors is entitled to receive under this Reimbursement Agreement shall be \$_____ as shown on Exhibit "C".

ARTICLE 14 - NO REIMBURSEMENT FOR EXTENSIONS. It is understood and agreed by the parties hereto that no reimbursement will be made to Applicant for water service connections made to future extensions of the water main shown in Exhibit "A".

ARTICLE 15 - DISTRICT'S FEES AND REGULATIONS. It is agreed by the parties hereto that nothing in this Agreement shall be construed to relieve new connectors to the water main from paying all connection fees and other authorized charges of District, including capacity fees, required by District and from complying with the then current District Regulations. If fees paid by any connector are not adequate to pay all District fees and charges and the amount set forth in the Reimbursement Agreement, amounts received shall be first credited to District fees and charges due and owing upon connection.

ARTICLE 16 - DURATION AND TERMINATION. It is understood and agreed by the parties hereto that no reimbursement shall be made to Applicant after the expiration of ten years from the date of this Agreement at which time this Agreement shall terminate and be of no further affect.

ARTICLE 17 - NOTICES. The mailing addresses of District and Applicant for purposes of giving any notices required pursuant to this Agreement are as follows:

DISTRICT

Nevada Irrigation District
1036 W. Main Street
Grass Valley, CA 95945

APPLICANT

[Click **here** and type name]
[Click **here** and type address]
[Click **here** & type City/State/ZIP]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

Attach Notary Here

NEVADA IRRIGATION DISTRICT

By _____
President

By _____
Secretary

Attach Notary Here

APPLICANT

By _____

GOVERNMENT BUSINESS: FREE

This is to certify that the recordation of this document is being requested by NEVADA IRRIGATION DISTRICT, a political subdivision of the State of California, pursuant to Government Code Section 6103.

NEVADA IRRIGATION DISTRICT

Date _____

By _____

Title _____

10.06 REIMBURSEMENT FEE

The District will collect a reimbursement fee, where applicable, before granting a water service, including a private fire service, to a parcel that lies along and may be served directly from any pipeline extension installed under the provisions of these Regulations. The reimbursement fee for any parcel shall be determined by multiplying the front footage charge by the lineal feet of property frontage that lies along the extension. The reimbursement fee for an extension shall be in effect for a period of 10 years from the date of execution of the Reimbursement Agreement between the Developer and the District. All monies collected will be returned to the Developer.

No reimbursement fees will be collected unless the Developer has signed a Reimbursement Agreement prior to District acceptance of the extension in the case of a Developer-constructed extension. In the case of a District-constructed extension, reimbursement provisions will be included in the initial Agreement.

The Developer will select, at the time a Reimbursement Agreement is signed, one of the following options for determining the front footage charge and parcels subject to a reimbursement fee.

Option A. The front footage charge will be determined by dividing the cost of the extension by the front footage along the extension of all parcels that may be served directly from the extension. Parcels already receiving District treated water, at the time a Reimbursement Agreement is signed, will be excluded in determining the front footage charge, even though future service may be made from the extension. All parcels whose front footage was utilized in the calculation described above, will be subject to the reimbursement fee.

Option B. The front footage charge will be determined by dividing the cost of the extension by the front footage along the extension of all parcels that may be served directly from the extension. An existing parcel fronting the extension, and not currently receiving District treated water, will be subject to the reimbursement fee. An existing parcel fronting the extension, which currently receives District treated water, will only be required to pay a reimbursement fee if that current service is expanded or upsized, or if that parcel is split. In case of a parcel split, the existing service will be assigned, at the sole discretion of the District, to one of the newly created parcels. The remaining new parcel(s) which lie along and may be served directly from the extension will be subject to the reimbursement based on that parcel(s)' front footage along the extension.

Under either option, the front footage charge shall not be applied more than once to any parcel, and no one parcel will be required to pay a reimbursement fee in excess of fifty percent of the cost of the extension. The cost of the extension shall be considered to be the Developer's out-of-pocket expenses directly and solely related to the installation of the extension, as determined by the District. The Developer's on-site improvements will be excluded from the cost of the extension.

Option C. The Developer may elect to provide for reimbursement from parcels that, in the future, may obtain water service by formal variance and which service assembly is tapped directly onto the water main that is the subject of the Reimbursement Agreement. The Developer must request Option C in combination with Option A or B, in writing and, in the same request, state the number of desired future variances to be accommodated in the Reimbursement Agreement. The number shall be considered empirical in nature and not in any

way assigned to, or attached to, any one parcel or future parcel. District acceptance of the Developer's request shall in no way indicate or influence the probability of variances that might be approved in the future.

Each of the variances requested for accommodation in the Reimbursement Agreement shall be assigned a length of front footage equal to 125 feet, but not more than 50 percent, of the total length of the waterline extension. This length shall be multiplied by the number of future variances requested by the Developer to be accommodated in the Reimbursement Agreement. This amount shall be added to the front footage as determined by either Option A or B. The front footage charge will be determined by dividing the cost of the extension by the sum of front footages including frontages assigned to variances as determined above.

REIMBURSEMENT AGREEMENT

Summary Page for

[Click [here](#) and type name]

Eligible Cost of Improvements	\$_____
Eligible Front Footage from Exhibit "A"	_____
Front Footage Charge (\$ECOI / Eligible Front Footage from Exhibit "A")	_____
Developer's Share ([length]' x Front Footage Charge)	_____
Maximum Reimbursement Due Applicant (see Summary) ([length]' x Front Footage Charge)	_____
Total Eligible Cost	\$_____

SUMMARY of Parcels Included in Reimbursement

<u>Parcel</u>	<u>Condition</u>
AP _____ presently [length]' of frontage	Developer's parcel as shown on Exhibit "A". Not subject to reimbursement.
AP _____ presently [length]' of frontage	Only if split, then any newly created parcel requesting service from pipe as shown on Exhibit "A".
	and/or
AP _____ presently [length]' of frontage	Parcel as a whole or any newly created parcel requesting service from pipe shown on Exhibit "A".

Proposed Agreement & Rules and Regulations

When Recorded, Mail To

Nevada Irrigation District
1036 W. Main Street
Grass Valley, CA 95945

This is to certify that the recordation of this document is being requested by NEVADA IRRIGATION DISTRICT, a political subdivision of the State of California, pursuant to Government Code Section 6103.

REIMBURSEMENT AGREEMENT

THIS REIMBURSEMENT AGREEMENT, made and entered into this _____ day of _____, by and between [Click **here** and type name], hereinafter referred to as "Applicant", and the NEVADA IRRIGATION DISTRICT, hereinafter referred to as "District".

RECITALS

WHEREAS, Applicant has constructed, at its sole cost and expense, a water main and appurtenances thereto on, over, and across the frontage of that property as shown in Exhibit "A" attached hereto and made a part hereof (Improvement plans for which are on file in District office as "[Click **here** and type filename]"); and

WHEREAS, said water main and appurtenances thereto have been approved by District as having been constructed of the size and dimension and located according to the requirements of, and under the inspection of the District; and

WHEREAS, Applicant is willing to convey said water main and appurtenances to the District in accordance with the District's Regulations; and

WHEREAS, the intent of this Reimbursement Agreement is to provide Applicant with a mechanism to assist it in being potentially reimbursed for a portion of the cost of constructing approximately [Click **here** and type description] lying along a portion of [Click **here** and type location], all as shown on Exhibit "A", and

WHEREAS, such reimbursement is allowed by District Regulations, specifically Section 10.06 "Reimbursement Fee", a copy of which is marked Exhibit "B", attached hereto, and made a part hereof.

NOW, THEREFORE, in consideration of the covenants and conditions contained herein, the parties hereto mutually agree as follows:

ARTICLE I - RECITALS. The recitals contained herein are an integral part of this Agreement.

ARTICLE 2 - APPLICANT ENTITLED TO REIMBURSEMENT. District agrees that Applicant is entitled to reimbursement for a portion of the cost of constructing that part of the water main and appurtenances lying along [Click **here** and type location], all as shown in Exhibit "A", and as set forth in this Agreement.

ARTICLE 3 - COLLECTION OF REIMBURSEMENT FEES FOR APPLICANT. District shall attempt to collect and recover a reimbursement fee in the amounts and at the times prescribed herein. After receiving monies, District shall disburse said monies to Applicant, his heirs, successors, or assigns at the mailing address listed for Applicant in this Agreement.

It is understood and agreed by the parties hereto that District shall not be liable or responsible for any reimbursement to Applicant, but that District shall act as a collection facility for Applicant to aid and assist in acquiring monies for the reimbursement from individuals having properties fronting the water main that wish in the future to connect to the facilities set forth in Exhibit A and receive District services.

ARTICLE 4 - ELIGIBLE COST OF IMPROVEMENTS. It is hereby agreed that the costs of construction of the water main and appurtenances shown in Exhibit "A" and allowed by District Regulations for calculation of the parcel reimbursement fee totals \$[Eligible Cost of Improvements].

ARTICLE 5 - Section 10.06 "REIMBURSEMENT FEE" The District Regulations, attached hereto as Exhibit "B", provides the specifics on the parcel reimbursement fee.

ARTICLE 6 - ELIGIBLE PARCELS SERVED. It is hereby agreed that parcels eligible for service from the extension are identified in Exhibit "A", and are utilized for calculation of the parcel reimbursement fee, totals [insert # of parcels].

ARTICLE 7 - PARCEL REIMBURSEMENT FEE. The parcel reimbursement fee is calculated by dividing the eligible costs of improvements by the parcels that will be served by the extension (including newly created parcels by developer) and rounding off to the nearest cent. It is hereby agreed that the parcel reimbursement fee for this Agreement is \$_____ per parcel. The calculations are shown in Exhibit "C" attached hereto.

ARTICLE 8 - MAXIMUM REIMBURSEMENT DUE APPLICANT. It is expressly agreed by the parties that the maximum reimbursement Applicant and its successors is entitled to receive under this Reimbursement Agreement shall be \$_____ as shown on Exhibit "C".

ARTICLE 9 - NO REIMBURSEMENT FOR EXTENSIONS. It is understood and agreed by the parties hereto that no reimbursement under this Agreement will be made to Applicant for water service connections made to future extensions of the water main shown in Exhibit "A". Nothing herein shall prohibit the parties from negotiating and potentially executing future reimbursement agreements for future water main extension projects by Applicant.

ARTICLE 10 - DISTRICT'S FEES AND REGULATIONS. It is agreed by the parties hereto that nothing in this Agreement shall be construed to relieve new connectors to the water main from paying all connection fees and other authorized charges of District, including capacity fees, required by District and from complying with the then current District Regulations. If fees paid by any connector are not adequate to pay all District fees and charges and the amount set forth in the Reimbursement Agreement, amounts received shall be first credited to District fees and charges due and owing upon connection.

ARTICLE 11 - DURATION AND TERMINATION. It is understood and agreed by the parties hereto that no reimbursement shall be made to Applicant after the expiration of twenty years from the date of this Agreement at which time this Agreement shall terminate and be of no further affect.

ARTICLE 13 - NOTICES. The mailing addresses of District and Applicant for purposes of giving any notices required pursuant to this Agreement are as follows:

DISTRICT
Nevada Irrigation District
1036 W. Main Street
Grass Valley, CA 95945

APPLICANT
[Click **here** and type name]
[Click **here** and type address]
[Click **here** & type City/State/ZIP]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

[Attach Notary Here](#)

NEVADA IRRIGATION DISTRICT

By _____
General Manager

By _____
Secretary

[Attach Notary Here](#)

APPLICANT

By _____

GOVERNMENT BUSINESS: FREE

This is to certify that the recordation of this document is being requested by NEVADA IRRIGATION DISTRICT, a political subdivision of the State of California, pursuant to Government Code Section 6103.

NEVADA IRRIGATION DISTRICT

Date _____

By _____

Title _____

10.06 REIMBURSEMENT FEE

The District will collect a reimbursement fee, where applicable, before granting a water service, including a private fire service, to a parcel that lies along and may be served directly from any pipeline extension installed under the provisions of these Regulations. The reimbursement fee for any parcel shall be determined by dividing the eligible costs of the improvement by the number of parcels to be served by the extension. The reimbursement fee for an extension shall be in effect for a period of 20 years from the date of execution of the Reimbursement Agreement between the Developer and the District. All monies collected will be returned to the Developer.

No reimbursement fees will be collected unless the Developer has signed a Reimbursement Agreement prior to District acceptance of the extension in the case of a Developer-constructed extension.

The District will, at its sole discretion, determine the parcels that may be served from the extension and therefore subject to a reimbursement fee. Parcels already receiving District treated water at the time a Reimbursement Agreement is signed will be excluded in determining the parcel reimbursement fee.

In case of a parcel split, the existing service will be assigned, at the sole discretion of the District, to one of the newly created parcels. The remaining new parcel(s) which may be served from the extension will be subject to the reimbursement.

The parcel reimbursement fee shall not be applied more than once to any parcel, of the cost of the extension. The cost of the extension shall be considered to be the Developer's out-of-pocket expenses directly and solely related to the installation of the extension, as determined by the District. The Developer's on-site improvements will be excluded from the cost of the extension.

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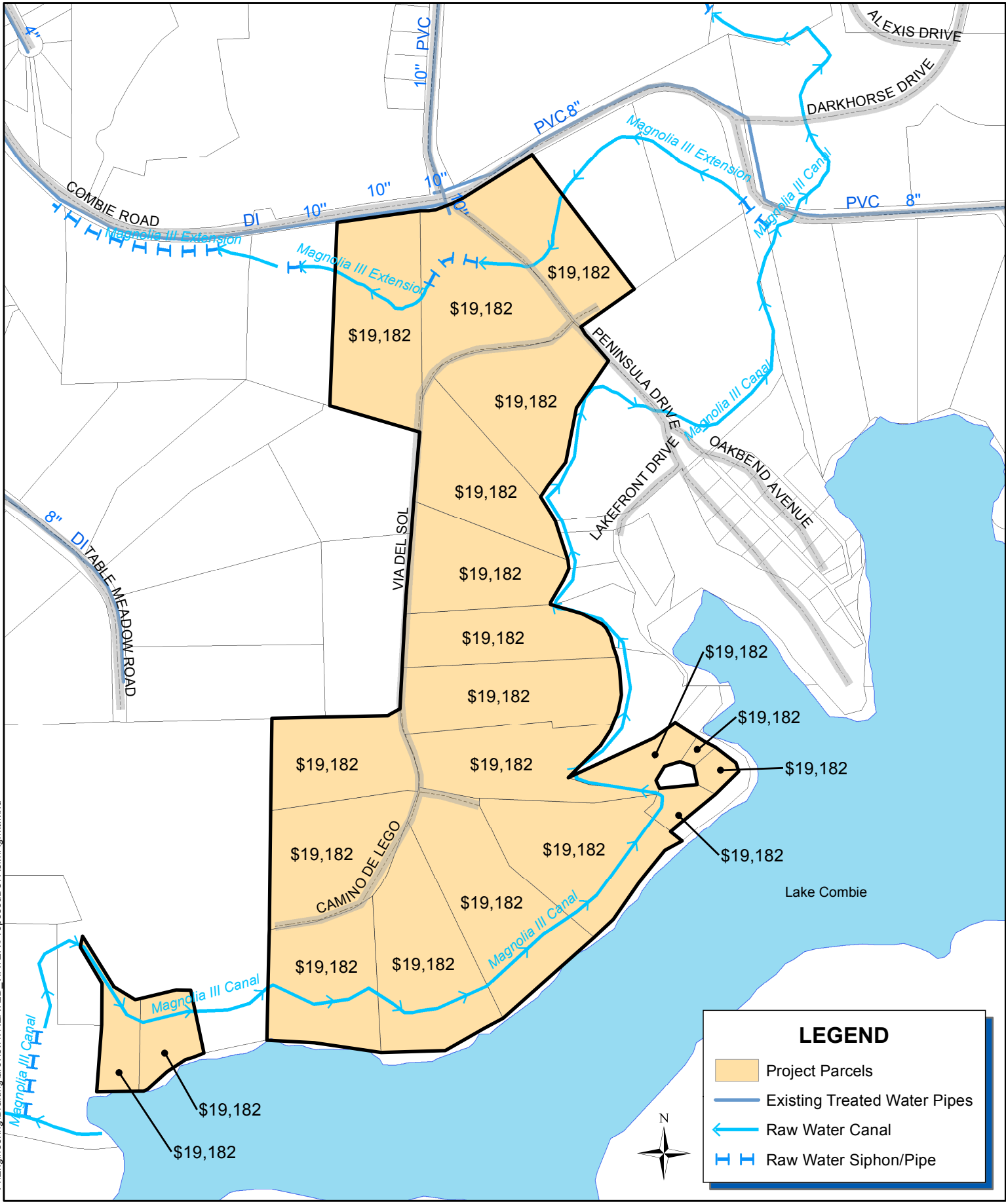
EXHIBIT C
REIMBURSEMENT AGREEMENT
Summary Page for
 [Click [here](#) and type name]

Eligible Cost of Improvements	\$ _____
Eligible Reimbursement Parcels from Exhibit "A"	_____
Parcel Fee (\$ECOI / Eligible Reimbursement Parcels from Exhibit "A")	_____
Developer's Share (# of developer parcels x Parcel Fee)	_____
Maximum Reimbursement Due Applicant (see Summary) (# of Reimbursement Parcels x Parcel Fee)	_____
Total Eligible Cost	\$ _____

SUMMARY of Parcels Included in Reimbursement

<u>Parcel</u>	<u>Condition</u>
AP _____	Developer parcels as shown on Exhibit "A". Not subject to reimbursement.
AP _____	Parcels as a whole or any newly created parcel requesting service from pipe shown on Exhibit "A" and subject to reimbursement

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LEGEND

- Project Parcels
- Existing Treated Water Pipes
- Raw Water Canal
- H H Raw Water Siphon/Pipe

PROPOSED DEVELOPER REIMBURSEMENT AGREEMENT



Date: 1/12/2018

Drawn By: L. CANNON

NEVADA IRRIGATION DISTRICT

NEVADA COUNTY - PLACER COUNTY
GRASS VALLEY, CALIFORNIA

Scale: 1"=500' @ 8 1/2 x 11

Sheet: 2 of 2