

**ORDINANCE NO. 42**  
**SOUTH SUBURBAN SANITARY DISTRICT**  
**REIMBURSEMENT OF PUBLIC**  
**IMPROVEMENT ACT**

WHEREAS, South Suburban Sanitary District (hereinafter "the District") constructs sewer lines and infrastructure for the public benefit, and,

WHEREAS, the Board of Directors (hereinafter "the Board") of the District desires to recapture the cost of such public improvement from benefiting landowners, and,

WHEREAS, the Board desires to establish this Ordinance No. 42 to establish an orderly and equitable reimbursement to the District for the District's expenditures for the public benefit, and,

NOW, THEREFORE, it is hereby adopted as follows:

**ARTICLE 1**  
**DEFINITIONS**

The following words and phases for the purpose of this Act and for the purposes of any public improvement infrastructure by the District and reimbursement as authorized by this Ordinance shall have the following meanings as set out below:

1. Advanced Financing. A method of recapturing costs by the District where the District installs public improvements and where such public improvements may be utilized by neighboring properties.

2. Development. The real property being developed by the District and for which property this recapture agreement is adopted.

3. Benefiting Property. The real property that would benefit from the public improvement established by the District.

4. Owner. The fee holder of record or the legal title to the real property in question. For such real property being purchased under a recorded land sales contract, then such purchasers shall also be deemed owners.

5. Public Improvement. The construction or upgrading of any sanitary sewer infrastructure and any other public improvement authorized and designated by the District. This term does not include improvements that solely benefit the District.

## **ARTICLE 2 ANALYSIS**

Upon the construction of the public improvement by the District, the Board shall make an analysis of the costs of the improvement to the District and shall cause the manager of the District to prepare a report submitted to the Board for discussion at a public hearing. Such report shall include a map showing the location of the improvement, the public improvement constructed and the benefiting properties. The report shall also include the total cost of the public improvement and the real property benefiting therefrom.

## **ARTICLE 3 PUBLIC HEARING**

Prior to adopting reimbursement amounts, the Board shall hold a public hearing at which all benefiting property owners shall be notified of and the purpose thereof. Such notification shall not be made less than ten (10) days or more than fifty (50) days prior to the public hearing. Such notification shall be accomplished by regular mail according to the address on file with the county assessor. Notification is accomplished by mail, notice shall be deemed made on the date that said letter of notification is post marked. Failure of any owner of benefiting properties to be so notified shall not invalidate or otherwise affect any resolution or ordinance or the Board's action to approve the reimbursement from the benefiting properties.

## **ARTICLE 4 DECISION BY BOARD**

After the public hearing and the analysis of reimbursement has been completed, an informational public hearing shall be held before the Board in which all parties and the general public shall be given the opportunity to express their views and ask questions pertaining to the proposed reimbursement of the District for the public improvements. The Board has the sole discretion after the public hearing to decide whether or not the reimbursement shall be adopted, what property constitutes

benefiting properties and the appropriate level of reimbursement to be imposed on each benefiting property.

**ARTICLE 5**  
**ADOPTION OF ORDINANCE AND RESOLUTION**

After the public hearing, if the Board desires to proceed, it shall adopt, by resolution or by ordinance, the reimbursement to the District for the public improvement. The ordinance shall designate the improvement as an advanced financed improvement and provide for reimbursement by benefiting property owners. Such resolution shall include what the Board deems best to protect the public improvement and interested properties and may make other provisions as the Board determines necessary and proper. All reimbursement assessments entered into must contain and have distributive costs to all future and intervening properties. A copy of the agreement must be filed with the secretary of the District.

**ARTICLE 6**  
**PROPERTIES AFFECTED**

A reimbursement resolution to reimburse the District for public improvements shall be imposed on all benefiting properties for projects that utilize the public improvement. Such reimbursement is made at the time of utilization of the public improvement by the benefiting property owner pursuant to this Ordinance.

**ARTICLE 7**  
**CALCULATING OF REIMBURSEMENT TO**  
**BENEFITING PROPERTIES**

For all improvements the relative areas benefited shall be used to calculate the acreage unit cost for reimbursement. In addition, the District may use any other method of apportioning on those properties specifically benefited that are just and reasonable. If inequities are created through the strict implementation of this methodology, the Board may modify the impact on a case-by-case basis so that equity is achieved throughout all benefiting properties.

**ARTICLE 8**  
**INTEREST APPLIED TO REIMBURSEMENTS**

Reimbursements will be increased by an annual interest rate as set forth by the Board in the resolution or ordinance

establishing the reimbursement for the public improvement. The interest will be calculated from the date the Board adopts the resolution or ordinance from the date of collection of the reimbursement.

**ARTICLE 9  
COLLECTION OF REIMBURSEMENT**

The reimbursement is immediately due and payable to the District by the benefiting property owners upon their utilization of any financed public improvement. If the connection is made or construction commenced without the proper permits then the reimbursement is immediately due and payable upon the earliest date that any such permit was required.

No permit for connection or construction shall be issued until the reimbursement is paid in full to the District. Whenever the full and correct reimbursement for public improvement has not been paid and collected for any reason, the secretary for the District shall docket the unpaid and uncollected reimbursement in the real property ad valorem records for the county of Klamath; and upon completion of the docketing the District shall have a lien against the described benefiting property for the full amount of the unpaid reimbursement, interest, and the District's actual cost of serving notice upon the benefiting property owner. The lien shall be enforced in the manner as provided by law in the collection of ad valorem taxes in the county.

**ARTICLE 10  
DISPOSITION OF REIMBURSEMENT**

The Board shall apply the sums received under this Ordinance to the District as reimbursement for expenses for the construction of the public improvement. Such sums shall be credited to the District general ledger in accordance with accepted accounting principles and with guidance from the District's accountant and auditor.

**ARTICLE 11  
RECORDING**

All ordinances and resolutions of the District for reimbursement of the public improvement shall be recorded as a memorandum in the real property records for the county of Klamath, State of Oregon. The resolution or ordinance and the sums contained therein shall contain the full legal description

of the benefiting properties. The failure of the District to make such recordings shall not affect the legality of any ordinance or resolution affecting the benefiting properties.

**ARTICLE 12  
PUBLIC IMPROVEMENTS**

The public improvements installed pursuant to this Ordinance shall become and remain the sole property of the District pursuant to this Ordinance. All reimbursements, plus interest, not paid to the District within ten (10) years of the resolution or ordinance establishing the reimbursement amount and identifying the benefiting properties shall still be paid to the District but shall be used for related system improvements as authorized from time to time by the Board.

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 2005.

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By: \_\_\_\_\_  
Board of Director

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By: \_\_\_\_\_  
Board of Director

\_\_\_\_\_  
By: \_\_\_\_\_  
Board of Director

ATTESTED BY:

\_\_\_\_\_  
Robert McDaniel  
Secretary of South Suburban  
Sanitary District